

# Clawback process begins at Agape

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Nick Cosmo allegedly ran a Ponzi scheme.

The search is on for the \$400 million accused swindler Nicholas Cosmo allegedly lost as part of a Ponzi scheme that collapsed earlier this year.

Kenneth Silverman, Agape World's bankruptcy trustee, has sent out applications to anyone who made money under Cosmo's scheme as the attempt to recover money and pay back victims begins.

And because the statute of limitations for Ponzi schemes in New York is six years, every investor could be on the hook if they made money with Agape World.

Silverman has sent out applications to about 280 former Agape investors, asking for copies of checks, wire transfers, account statements, invoices, bills, delivery tickets, correspondence including e-mail, contracts, loan agreements and any other books or records.

The list includes Agape brokers, sub-brokers and their family members, developers of a housing complex in Mexico, mortgage brokers, financial managers and real estate agents.

Among them is Gerald Geller, a real estate agent in Massapequa, who got involved with Cosmo because a friend of his wife's best friend worked at Agape.

They convinced him to invest, stating he would receive a 12 percent return on his money in 60 to 90 days.

"It sounded legitimate," said Geller, who was involved during the last year of the scheme. He said his investments did not make any money; he wouldn't disclose how much he lost.

He added that he read a magazine article touting the company, which made him believe it was legitimate.

“I don’t think there’s any money there now,” he said, adding that he has nothing that could be clawed back. “I lost a nice piece of change. I lost it all, interest and principal.”

Tom Ciliotta, owner of Old Country Ceramic Tile, also received a subpoena from Silverman and answered it a few weeks ago. He was told to hand over his documentation and leave without ever sitting down to discuss his involvement.

Ciliotta got involved in the scheme because one of the contractors he worked with was an Agape agent. In all, he said he lost about \$500,000 and together with friends and coworkers, they lost about \$3 million.

He did, however, receive one check from Agape after demanding his money from Cosmo shortly before the scheme was uncovered.

“I started smelling something was wrong,” Ciliotta said. “He was jerking me around a little too much.”

Eric Assouline, a South Florida-based attorney who handles clawback defense cases, said it’s not the likes of Geller and Ciliotta who Silverman is after. But Assouline said Silverman must question anyone who received any money from Agape.

“If it looks kosher, then he’ll leave you alone,” Assouline said, adding that the trustee in the Bernie Madoff bankruptcy has said he would not go after anyone who made a net loss on their investments. Silverman has yet to make that same commitment.

Silverman, who would not comment on the applications, had previously told LIBN that he is very sensitive to the issue of clawbacks.

“It is my job to marshal assets,” he said at the time.

Investor Tom Cesare is hoping his assets are not marshaled.

Cesare, who lives in Atlantic Beach, said he lost about \$30,000 investing with Cosmo for about 2 ½ years. He said he did at some point make some money from Agape World, but later invested again to buy a second home in Montauk.

He said he received an application from Silverman and isn’t sure what he’s going to do.

“I just want to walk away,” Cesare said. “Nick Cosmo is gone. He’s history. I just want it all to go away now.”

*LIBN reporter David Winzelberg contributed to this report.*