

1 CALIFORNIA DEPARTMENT OF INSURANCE  
2 LEGAL DIVISION – ENFORCEMENT BUREAU  
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8 Attorneys for the  
9 California Department of Insurance

10 **BEFORE THE INSURANCE COMMISSIONER**  
11 **OF THE STATE OF CALIFORNIA**  
12 **SAN FRANCISCO**

13 In the Matter of the License and Licensing  
14 Rights of:

File No. DISP-2007-00347

15 **FIDELITY NATIONAL TITLE**  
16 **COMPANY,**

STIPULATION AND WAIVER

17 Respondent.

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25 Respondent, FIDELITY NATIONAL TITLE COMPANY, and the California Department  
26 of Insurance, stipulate as set forth herein:  
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1           1.       Respondent, FIDELITY NATIONAL TITLE COMPANY ("FIDELITY"), is  
2 licensed by the Insurance Commissioner to act as an Underwritten Title Company in the State of  
3 California, pursuant to §12389 of the California Insurance Code. FIDELITY is licensed to  
4 transact the business of title insurance in the counties of Alameda, Contra Costa, Fresno, Kern,  
5 Los Angeles, Marin, Monterey, Napa, Orange, Riverside, Sacramento, San Bernardino, San  
6 Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma,  
7 and Ventura.

9           2.       In September 2002, the California Department of Insurance ("Department") began  
10 examining the operations of FIDELITY, pursuant to California Insurance Code §12407, after the  
11 Department received written complaints alleging illegal rebating activities by FIDELITY. These  
12 complaints raised the issue of whether certain activities implemented by FIDELITY, between  
13 April 4, 2000 and August 20, 2002, constituted violations of California's insurance laws. The  
14 examination occurred in FIDELITY'S Orange County office. The investigation included an  
15 examination of the books and records of FIDELITY and interviews with employees of  
16 FIDELITY, as authorized by California Insurance Code §12407.

18           3.       On or about February 17, 2009, the Department caused to be served upon  
19 FIDELITY an Accusation, Notice of Noncompliance, and Demand for Monetary Penalty  
20 ("Accusation"), denominated "In the Matter of the License and Licensing Rights of: FIDELITY  
21 NATIONAL TITLE COMPANY, Respondent," File No. DISP-2007-00347, incorporated herein  
22 by reference. Said Accusation alleged that between April 2000 and August 2002, FIDELITY  
23 provided cash, gift certificates, gift cards, and miscellaneous gifts and merchandise to 12404  
24 persons as an inducement for the referral and placement of title business; paid for advertising and  
25 promotional materials and furnished other business support expenses of 12404 persons, which  
26 were unrelated to the business of title insurance; paid the accommodations and entertainment  
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1 expenses of 12404 persons, which were unrelated to the business of title insurance; paid the food  
2 and beverage expenses of 12404 persons; and paid transportation expenses for the benefit of  
3 12404 persons, in violation of California Insurance Code §§12404, 12405, 12405.7, and 12408.5  
4 et seq.;

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6 4. FIDELITY and the Department, in order to avoid the expense, uncertainty and  
7 distractions of litigation, have undertaken discussions to resolve the issues in this proceeding and  
8 now wish to resolve those issues without the need for a hearing or further administrative action.  
9 Therefore, by this Stipulation and Waiver, FIDELITY waives any and all rights to a hearing in  
10 this matter, and any and all other rights related to this proceeding which may be accorded  
11 pursuant to Chapter 5, Part 1, Division 3, Title 2 (commencing with §11500) of the California  
12 Government Code, and by the California Insurance Code; and,

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14 5. This Stipulation and Waiver does not constitute an admission of liability,  
15 violation, or wrongdoing by FIDELITY and shall not be used as evidence of the truth of the facts  
16 alleged by the Insurance Commissioner; and,

17 6. FIDELITY agrees to and shall Cease and Desist from engaging in activities which  
18 may be in violation of, or noncompliant with, Article 6, Chapter 1, Part 6, Division 2  
19 (commencing with §12404) of the Insurance Code upon written order of the Insurance  
20 Commissioner to be made and filed herein and without further notice to FIDELITY; and,

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22 7. FIDELITY agrees to and shall comply with the provisions of California Insurance  
23 Code §§12404, 12405, 12405.7, and 12408.5 prohibiting illegal rebate/inducement activities upon  
24 written Order of the Insurance Commissioner to be made and filed herein and without further  
25 notice to FIDELITY; and,

26 8. FIDELITY agrees to and shall pay the amount of three hundred forty-five  
27 thousand dollars (\$345,000.00) to the California Department of Insurance, in three installments,  
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1 as a monetary penalty pursuant to California Insurance Code §§12409 and 12976 upon written  
2 Order of the Insurance Commissioner to be made and filed herein and without further notice to  
3 FIDELITY. The first penalty payment installment of one hundred seventy-five thousand dollars  
4 (\$175,000.00) shall be paid within ten (10) days after receiving an invoice from the California  
5 Department of Insurance, Division of Accounting; the second penalty payment installment of  
6 eighty-five thousand dollars (\$85,000.00) shall be paid on June 15, 2009; and the final penalty  
7 payment installment of eighty-five thousand dollars (\$85,000.00) shall be paid on September 15,  
8 2009; and,

9  
10 9. FIDELITY agrees to and shall pay, within ten (10) days after receiving an invoice  
11 from the California Department of Insurance, Division of Accounting, the amount of twenty  
12 thousand dollars (\$20,000.00) to the California Department of Insurance for reimbursement of  
13 attorneys fees and costs upon written order of the Insurance Commissioner to be made and filed  
14 herein and without further notice to FIDELITY; and,  
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16 10. This Stipulation and Waiver resolves fully the matters alleged or arising out of the  
17 allegations in the Accusation, File No. DISP-2007-00347; and,  
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19 11. Neither this Stipulation and Waiver nor the Order approving this Stipulation and  
20 Waiver are in any way intended to limit or waive the Commissioner's authority to bring further  
21 disciplinary action against FIDELITY for violations not covered by the Accusation or this  
22 Stipulation and Waiver, whether such violations occurred prior to or subsequent to the date of this  
23 Stipulation and Waiver; and,  
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25 12. Nothing contained in this Stipulation and Waiver or the Order approving this  
26 Stipulation and Waiver shall prevent the Department from taking action at any time to enforce  
27 this Stipulation and Waiver or the Order approving this Stipulation and Waiver if the Department  
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1 believes that FIDELITY is not in compliance with the terms and conditions of the herein  
2 Stipulation and Waiver and/or the Order approving this Stipulation and Waiver; and,

3 13. The Insurance Commissioner retains jurisdiction to ensure that FIDELITY  
4 complies with the provisions and terms of this Stipulation and Waiver and/or Order approving  
5 this Stipulation and Waiver; and,

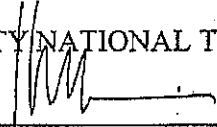
6 14. FIDELITY represents and warrants that the persons executing this Stipulation and  
7 Waiver on behalf of FIDELITY are authorized to enter into and execute this Stipulation and  
8 Waiver; and,

9 15. FIDELITY acknowledges that California Insurance Code §12921 requires the  
10 Insurance Commissioner to approve the final settlement of this matter. Both the settlement terms  
11 and conditions contained herein and the acceptance of those terms and conditions are contingent  
12 upon the Commissioner's approval, which shall be evidenced and memorialized by the issuance  
13 of the Order provided for herein; and,

14 16. This Stipulation and Waiver is a compromise within the meaning of California  
15 Evidence Code §§1152 and 1154.

16 Dated: February 17, 2009

FIDELITY NATIONAL TITLE COMPANY

Signed: 

Name: KEVIN R. CHIARELLO

Title: Senior Vice President

17 Dated: February 17, 2009

STEVE POIZNER  
Insurance Commissioner

By: 

Mary Ann Shulman  
Senior Staff Counsel