

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4 \* \* \*

5 In re:

6 Fidelity Escrow & Collections, Design  
7 Management, Inc. dba Fidelity Escrow &  
8 Collections, Fidelity Escrow and  
9 Collections, Inc., Royce Capital dba  
10 Royce and John Royce, an individual,

11 Respondents.

12 STIPULATED SETTLEMENT AGREEMENT

13 The licensing and regulation of mortgage brokers in the State of Nevada is governed  
14 by Chapter 645B of the Nevada Revised Statutes (hereinafter, "NRS") and Chapter 645B of  
15 the Nevada Administrative Code. The State of Nevada, Department of Business and  
16 Industry, Division of Mortgage Lending (hereinafter, the "Division") has the general duty to  
17 exercise supervision and control over mortgage brokers and mortgage brokering activity.  
18 See, NRS 645B.060 (1), NRS 645B.690 (1)(a) and NRS 645B.670. Pursuant to that  
19 authority, as well as NRS 645B.610(6), the Division hereby enters into the following Stipulated  
20 Settlement Agreement ("Agreement") with Fidelity Escrow & Collections, Design  
21 Management, Inc. dba Fidelity Escrow & Collections, Fidelity Escrow and Collections, Inc.,  
22 Royce Capital dba Royce, John Royce, an individual (the "Respondents") (each a "Party" and  
23 collectively, the "Parties"), as follows:

24 **RECITALS**

25  
26 WHEREAS, Design Management, Inc. dba Fidelity Escrow & Collections (hereinafter  
27 "Fidelity") was a licensed escrow agency operating within the State of Nevada, and was  
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1 issued an escrow agency license on August 31, 2001 pursuant to Chapter 645A of the NRS  
2 through license number 908. John F. Royce (hereinafter "Mr. Royce") owned Fidelity and  
3 served as an escrow agent associated with Fidelity. Fidelity failed to renew its license by  
4 June 30, 2007 and the license was canceled; and

5 WHEREAS, Royce Capital dba Royce was a licensed mortgage broker operating within  
6 the State of Nevada, and was issued a mortgage broker license on January 5, 1999 pursuant to  
7 Chapter 645B of the Nevada Revised Statutes through license number 149. The licensed  
8 address was 1281 Terminal Way, Ste 201, Reno, NV. Royce Capital failed to renew its license  
9 by June 30, 2008 and the license was canceled; and

10  
11 WHEREAS, John F. Royce owns Design Management, Inc. dba Fidelity Escrow &  
12 Collections and Royce Capital and served as the qualified employee for Royce Capital; and

13 WHEREAS, On November 4, 2008, the Division received a complaint from Charles B.  
14 Johnson (hereinafter "Johnson") regarding a mortgage loan made to Shadowbrook, LLC  
15 through Royce Capital in which Johnson invested as a fractionalized investor; and

16 WHEREAS, the investigation into Johnson's complaint found that remittances made to  
17 Johnson and other investors from payments on the Shadowbrook, LLC loan were drawn on a  
18 Bank of America account tilted Royce Collections Trust, Royce Escrow & Collections; all checks  
19 are dated after the cancellations of Royce Capital and Fidelity's licenses and all checks appear  
20 to be signed by Mr. Royce; and

21  
22 WHEREAS, based on the findings of the investigation, the Division issued Subpoena  
23 Duces Tecum and Cease and Desist Orders and Notice of Right to Request Hearing to  
24 Respondents pursuant to chapters 645B and 645A of the Nevada Revised Statutes on  
25 December 31, 2008; and

1 WHEREAS, information provided by Respondents in response to the subpoenas  
2 supported that the Shadowbrook loan was the loan Respondents were servicing and this loan  
3 is currently in forbearance; and

4 WHEREAS, Respondents thought that the Shadowbrook LLC loan could be serviced  
5 since John Royce held an interest in Shadowbrook LLC and with this understanding was  
6 utilizing bank accounts and left over check stock from Respondents' prior licensed entities for  
7 economy reasons; and

8 WHEREAS, Respondents transferred the servicing of the Shadowbrook loan and is no  
9 longer servicing the loan; and

10 WHEREAS, Respondents and the Division agree that while Respondents' above-  
11 described actions may have been inconsistent with the intent of NRS Chapter 645B and NRS  
12 Chapter 645A, these actions were neither willful nor intentional.

13 NOW, THEREFORE, in consideration of the representations, covenants and  
14 conditions set forth herein, IT IS HEREBY STIPULATED AND AGREED by the Division and  
15 Respondents (parties) that the matters, as specified above and referenced herein, shall be  
16 settled on the following terms and conditions:  
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18 1. Respondents hereby acknowledge and agree, with full knowledge, to waive their  
19 rights to a hearing in this matter.

20 2. Respondents agree that they will not perform third party servicing of loans  
21 secured by real property until such time as they are properly licensed pursuant to the  
22 provision of NRS 645A.

23 3. Respondents further acknowledge and agree that in the event Respondents  
24 violates any of the provision of the Agreement, the Division shall retain any and all remedies  
25 available to it in accordance with NRS Chapter 645B.

26 4. The Parties agree and acknowledge that this Agreement shall constitute the  
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1 complete and final resolution of any issues arising out of the Division's investigation into  
2 Respondents' conduct as specified herein.

3 5. This Agreement is intended to resolve all issues related to the Johnson complaint  
4 as they relate to the alleged unlicensed activity pursuant to NRS 645B and NRS 645A.  
5 However, this Agreement shall not prevent the Division from filing administrative actions  
6 against Respondents in the future, for new acts or allegations which may constitute new  
7 violations whether or not the same or similar to those disposed of by this Agreement. In  
8 addition, the Division may utilize the findings of the Johnson complaint, as they relate to  
9 Respondents' activities, as well as this agreement as evidence in any future administrative  
10 actions.  
11

12 6. The parties hereto represent and warrant that the person executing this Agreement  
13 on behalf of each party has full power and authority to enter into this Agreement and has the  
14 legal capacity to conduct the legal obligations assigned to it under this Agreement.

15 7. Respondents further acknowledge and agree that the Division shall keep the  
16 original of this Agreement.  
17

18 8. This Agreement, as well as the rights and obligations of the parties hereto, shall be  
19 interpreted, governed and construed pursuant to the laws of the State of Nevada, and any  
20 action to enforce the instant Agreement shall be brought in the Second Judicial District Court  
21 of the State of Nevada in and for Washoe County.

22 9. If the Division is the prevailing party to any action brought to enforce this  
23 Agreement, the Division shall be entitled to reasonable costs and attorney's fees. It is  
24 specifically agreed that reasonable attorney's fees for State-employed attorneys shall be  
25 \$125.00 per hour.  
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1           10. If any provision contained in this Agreement is held to be unenforceable by a  
2 court of law or equity, this Agreement shall be construed as if such a provision(s) did not exist  
3 and the non-enforceability of such provisions(s) shall not be held to render any other  
4 provision(s) of this Agreement unenforceable. The Failure to declare a breach or the actual  
5 waiver of any particular breach of this Agreement or its material terms, by either party, shall  
6 not operate as a waiver by such party of any of its rights or remedies as to any other breach.

7           11. In consideration for the execution of this Agreement, Respondents, for  
8 themselves, their heirs, executors, administrators, successors and assigns, hereby releases  
9 and forever discharges the State of Nevada, the Division, the Nevada Attorney General, and  
10 each of their members, agents and employees in their individual and representative  
11 capacities, from any and all manner of actions, causes of action, suits, debts, judgments,  
12 executions, claims and demands whatsoever known or unknown, in law and equity, that  
13 Respondents ever had, now has, may have or claim to have against any and all of the  
14 persons or entities named in this paragraph arising out of, or by reason of, the investigation of  
15 the allegations in the complaint referenced above, this action or any other matter relating  
16 thereto.  
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18           12. In consideration for the execution of this Agreement, Respondents hereby  
19 indemnifies and holds harmless the State of Nevada, the Division, the Nevada Attorney  
20 General, and each of their members, agents and employees in their individual and  
21 representative capacities, against any and all claims, suits and actions, brought against any of  
22 the persons named in this paragraph by reason of the investigation of the allegations in the  
23 complaint referenced above, this action and all other matters relating thereto, and against any  
24 and all expenses, damages, charges and costs, including court costs and attorney fees which  
25 may be sustained by any of the persons and entities named in this paragraph as a result of  
26 said claims, suits and actions.  
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1           13. Respondents enter into this Agreement freely and voluntarily. Respondents  
2 acknowledge that this agreement is not the product of force, threats, or any other form of  
3 coercion or duress, but is the product of discussions between Respondents and the Division  
4 and the attorney for the Division. This Agreement constitutes the entire agreement of the  
5 parties, and it is intended as complete and exclusive statement of the promises,  
6 representations, negotiations, and discussions of the parties. Unless otherwise expressly  
7 authorized by its terms, this Agreement shall be binding upon the parties unless any  
8 modification of the same is in writing, and signed by the respective parties hereto. The  
9 Respondent(s) are aware that it/he may retain an attorney at its own cost and expense to  
10 review this Agreement but has freely and voluntarily chosen not to do so.  
11

12           14. Respondents and the Division acknowledge that this Agreement is made to avoid  
13 possible administrative action and to economize resources.

14           15. **NOTICE TO RESPONDENTS:** By executing this Agreement, you hereby agree  
15 that you are waiving certain rights as set forth herein. As the Respondent, you are specifically  
16 informed that you would have the right to request that the Division file an administrative  
17 complaint against you, at any hearing on such a complaint you have the right to appear and  
18 be heard in your defense, either personally or through your counsel of choice. If the Division  
19 were to file a complaint, at the hearing, the Division would have the burden of proving the  
20 allegations in the complaint and would call witnesses and present evidence against you. You  
21 would have the right to respond and to present relevant evidence and argument on all issues  
22 involved. You would have the right to call and examine witnesses, introduce exhibits, and  
23 cross-examine opposing witnesses on any matter relevant to the issues involved.  
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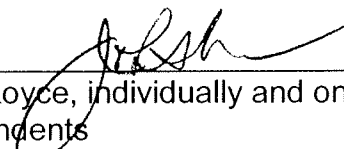
25           You would have the right to request that the Commissioner of the Division issue  
26 subpoenas to compel witnesses to testify and/or evidence to be offered on your behalf. In  
27 making this request, you may be required to demonstrate the relevance of the witness's  
28

1 testimony and/or evidence. Other important rights you have are listed in NRS Chapter 645B  
2 and NRS Chapter 233B.

3 16. The parties agree and understand that this agreement is intended to operate as a  
4 full and final settlement of the above referenced issues related to the Cease & Desist Orders  
5 and the Subpoena Duces Tecum as they related to Respondents' activities as specified  
6 herein and in that regard the Cease and Desist orders previously entered are hereby  
7 rescinded. The Respondents are aware that they may retain an attorney at their own cost and  
8 expense to review this Agreement but have freely and voluntarily chosen not to do so.

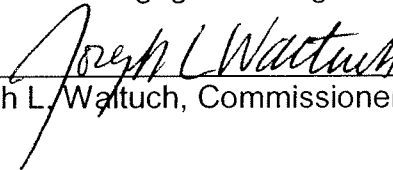
9  
10 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed  
11 and intend to be legally bound thereby.

12 DATED this 31 day of July, 2009.

13 By:   
14 John Royce, individually and on behalf of all  
15 Respondents

16 DATED this 6<sup>th</sup> day of August, 2009.

17 State of Nevada  
18 Department of Business and Industry  
19 Division of Mortgage Lending

20 By:   
21 Joseph L. Wattuch, Commissioner  
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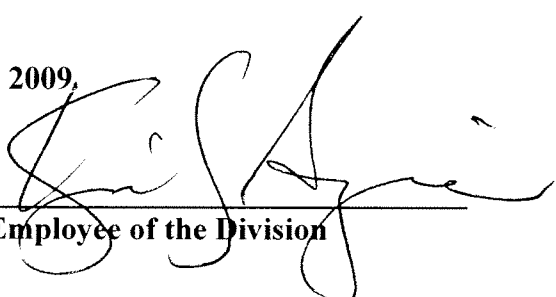
**CERTIFICATE OF SERVICE**

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2  
3 **I certify that I am an employee of the State of Nevada, Department of Business and Industry,**  
4 **Division of Mortgage Lending, and that on August 11, 2009, I deposited in the U.S. mail, postage**  
5 **prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of**  
6 **the foregoing, STIPULATED SETTLEMENT AGREEMENT for FIDELITY ESCROW &**  
7 **COLLECTIONS, FIDELITY ESCROW & COLLECTIONS INC AND JOHN ROYCE,**  
8 **addressed as follows:**  
9

10  
11 **John Royce**  
12 **Fidelity Escrow & Collections**  
13 **1281 Terminal Way, Ste. 201**  
14 **Reno, NV 89502**

15 **Certified Receipt Number: 7006 2760 0000 0876 2858**  
16

17 **DATED this 11th day of August, 2009,**

18  
19  
20 **By:**   
21 **Employee of the Division**  
22  
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