

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made as of this 6<sup>th</sup> day of February 2012, by, between, and among the following undersigned parties:

Plaintiff, Federal Deposit Insurance Corporation, as Receiver of Ravenswood Bank, Chicago, Illinois (“FDIC-R”) on the one hand, and Defendants, Edward and Annette Parzygnat (jointly the “Parzygnats”); Heidi Weitmann Coleman and Law Office of Heidi Weitmann Coleman P.C. (jointly “Coleman”); and Fidelity National Title Insurance Company (“Fidelity”) , on the other hand (collectively, “Settling Defendants”). Individually, the FDIC and the Settling Defendants may be referred to herein as a “Party” and, collectively, as the “Parties.”

### RECITALS

WHEREAS:

1. Prior to August 5, 2010, Ravenswood Bank (“Bank”) was a depository institution.
2. Edward and Annette Parzygnat were the sellers of real estate at 5833 West Irving Park Road, Chicago, Illinois (“Irving Park Property”). Coleman (“Coleman”) was their attorney.
3. In December 2005, the Parzygnats and Tomasz Grzeszczak (“Grzeszczak”) signed a contract for the Parzygnats to sell the Irving Park Property to Grzeszczak
4. Grzeszczak applied for a loan from the Bank to finance his purchase of the Irving Park Property. The Bank ultimately provided a loan of \$483,750 to Grzeszczak to purchase the Irving Park Property.

5. The Irving Park Property sale closed on May 22, 2006. Republic Title Company (“Republic”) was retained to handle the closing of the sale of the Irving Park Property.

6. Republic, as Fidelity’s agent, issued a lender’s title insurance policy to the Bank. At the Bank’s request, Fidelity also issued a Closing Protection Letter (“CPL”) to the Bank prior to the closing, which provided the Bank with certain protections in conjunction with Republic’s handling of the closing.

7. After the closing, Grzeszczak defaulted on his payment obligations to the Bank. On July 3, 2008, the Bank obtained a judgment of foreclosure and sale against the Irving Park Property. On January 15, 2009, the Bank obtained a deficiency judgment against Grzeszczak for \$300,134, which remains unsatisfied.

8. On January 23, 2009, the Bank filed a lawsuit for money damages against the Parzygnats in the Circuit Court for Cook County, Illinois styled *Ravenswood Bank v. Edward and Annette Parzygnat*, Case No. 09 CH 0 2276 (the “Parzygnat Lawsuit”). The Bank generally alleged that the Parzygnats had engaged in a conspiracy to defraud the Bank by assisting Grzeszczak in misrepresenting certain facts to the Bank concerning the sale transaction and the loan transaction. Thereafter, the Parzygnat Lawsuit was amended to add Coleman as a Defendant. Coleman denied all material allegations made against her in the Parzygnat Lawsuit.

9. On May 11, 2009, the Bank filed a lawsuit for money damages against Republic in the Circuit Court for Cook County, Illinois in a case styled *Ravenswood Bank v. Republic Title Company*, Case No. 09 L 05554 (the “Republic Lawsuit”). The Bank generally alleged that Republic had breached its closing instruction by failing to fax the

Bank, before disbursing the funds, a signed copy of the Escrow Instructions, a signed Settlement Statement, and a Distribution Statement.

10. On August 5, 2010, the Illinois Department of Financial and Professional Regulation, Division of Banking, closed the Bank and appointed the FDIC-R as its receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC-R succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets.

11. The Bank's assets now belong to the FDIC-R including any and all of the Bank's claims, demands, and causes of actions against its former directors, officers, and employees, and any third parties that may have caused a loss to the Bank.

12. The Parzygnat Lawsuit and the Republic Lawsuit were each removed by the FDIC-R to the United States District Court for the Northern District of Illinois after the FDIC was appointed Receiver and the FDIC-R was substituted as the plaintiff in the Parzygnat Lawsuit and the Republic Lawsuit. After removal to federal court, the Parzygnat Lawsuit was assigned Case No. 10 CV 7038, and the Republic Lawsuit was assigned Case No. 10 CV 6242.

13. On May 24, 2011, the FDIC-R filed a lawsuit against Fidelity in the United States District Court for the Northern District of Illinois in a case styled *FDIC v. Fidelity National Title Insurance Company*, Case No. 11-CV-3464 (the "Fidelity Lawsuit"). FDIC-R alleged Fidelity was liable because it issued a Closing Protection Letter that provided indemnification to the Bank for certain errors by Republic in handling the real estate closing of the Irving Park Property.

14. On September 23, 2011, Fidelity filed a third party complaint in the Fidelity lawsuit against Republic claiming any amount Fidelity is required to pay under the Closing Protection Letter must be repaid to Fidelity by Republic.

15. On December 31, 2011, Republic filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code in the bankruptcy court for the United States District Court for the Northern District of Illinois in a case styled *In re Republic Title Company*, Case No. 11-52255.

16. The undersigned parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of further litigation.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the undersigned Parties agree, each with the other, as follows:

**SECTION I: Payment to FDIC-R.**

A. The following payments will be made by the following parties to the FDIC-R: (i) Coleman will pay to the FDIC-R, Fifty Thousand Dollars (\$50,000); (ii) Fidelity will pay to the FDIC-R, Sixty-Three Thousand Dollars (\$63,000); (iii) the Parzygnats will pay to the FDIC-R Two Thousand Dollars (\$2,000), as stated in SECTION I.B., for a total of \$115,000 in payments to the FDIC-R (in aggregate, the "Settling Defendant Payments"). The Settling Defendants shall use their best efforts to deliver their payments within 30 days after receiving a fully executed copy of this Agreement.

B. The Parzygnats shall pay the FDIC as Receiver, One Hundred Fifty Dollars (\$150.00) per month due on the first of each month beginning on the first day of

the month after 30 days from the date the FDIC-R shall execute this agreement and continuing thereafter on the first of each month by payment of One Hundred Fifty Dollars (\$150.00) until the \$2000 referenced in Section I, Paragraph A above shall be paid in full.

**SECTION II: Stipulation and Dismissal.**

As to each Settling Defendant, within ten days after the latter of full execution of this Agreement by each of the Parties, or receipt of such Settling Defendant's Settlement Payment, the FDIC-R and such Settling Defendant shall file a stipulation of dismissal with prejudice of the above-referenced lawsuit between the FDIC-R and such Settling Defendant, with each Party thereto to bear its own costs, executed by the attorneys for such Parties.

**SECTION III: Releases.**

A. FDIC-R's Release.

As to each Settling Defendant, upon receipt of such Settling Defendant's Settlement Payment and except as provided in SECTION III.C., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges such Settling Defendant and its, his or her respective employees, officers, directors, agents, representatives, attorneys, heirs, executors, administrators, successors and assigns, from any and all claims, demands, contracts, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity (hereinafter, "Claims") belonging to the FDIC-R, arising out of, or connected with the Irving Park Property ; and

B. The Settling Defendants' Release.

As to each Settling Defendant, effective simultaneously with the release in PARAGRAPH III.A. above, such Settling Defendant, on behalf of itself, himself or

herself, individually, and its, his or her respective heirs, executors, administrators, agents, representatives, attorneys, successors and assigns, hereby releases and discharges the FDIC-R and its employees, officers, directors, agents, representatives, attorneys, successors and assigns, from any and all Claims of each settling Defendant that arise from or relate to the Irving Park Property

C. Exceptions from Releases by FDIC-R.

1. Notwithstanding any other provision of this Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if this Agreement had not been executed, any claims or causes of action:

- a. against the Settling Defendants for claims unrelated to the Irving Park Property; and
- b. against any person or entity not expressly released by the FDIC-R in this Agreement.

**SECTION IV: Insolvency.**

A. Insolvency.

Each Settling Defendant warrants as to payments made by or on his or her behalf that at the time of such payment, he or she is not insolvent nor will the payment made by or on his or her behalf render him or her insolvent within the meaning and/or for the purposes of the United States Bankruptcy Code. This warranty is made by each Settling Defendant and not by his or her counsel.

B. Preferences.

In the event that the FDIC-R is required to return any portion of a Settlement Payment due to a final order by a court that the transfer of the Settlement Payment or any

portion thereof constituted a preference, voidable preference, fraudulent transfer or similar transaction, then, in its sole discretion, the FDIC-R may, without waiver of any other rights it may have in law or equity, pursue any of the rights and remedies permitted by law and against the Party whose settlement payment the FDIC-R has been required to return (in whole or in part).

**SECTION V: Notices.**

Any notices required hereunder shall be sent by registered mail, first class, return receipt requested, and may also be sent by email, to the following:

If to the FDIC-R:

Craig Penrose  
Senior Attorney  
Professional Liability Group  
Federal Deposit Insurance Corporation  
200 N. Martingale Road  
Schaumburg, Ill, 60173

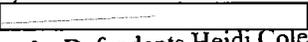
(b)(4),(b)(6)



If to the Settling Defendants:

John E. Trepel  
Thomas J. Polinski & Associates, Ltd.  
5844 W. Irving Park Road  
Chicago, IL 60634  
Email:   
Attorney for Defendants Edward and Annette Parzygnat

(b)(4),(b)(6)

Chad William Main  
Meckler Bulger Tilson Marick & Pearson LLP  
123 North Wacker Drive, Suite 1800  
Chicago, IL 60606  
Email:   
Attorney for Defendants Heidi Coleman and Heidi Coleman P.C.

(b)(4),(b)(6)

Ronald A. Damashek  
Stahl, Cowen, Crowley LLC  
55 West Monroe Street  
Suite 1200  
Chicago, IL 60603

(b)(4), (b)(6)  
(b)(4), (b)(6)  
(b)(4), (b)(6)

Email [REDACTED]  
Attorney for Defendant Fidelity National Title Insurance Company

**SECTION VI: Other Matters.**

**A. No Admission of Liability.**

The undersigned parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed and doubtful claims and defenses, that this Agreement is not an admission or evidence of liability or infirmity by any of them regarding any claim or defense, and that the Agreement shall not be offered or received in evidence by or against any party hereto except to enforce its terms.

**B. Execution in Counterparts.**

This Agreement may be executed in counterparts by one or more of the parties named herein and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the party or parties subscribed thereto upon the execution by all parties to this Agreement.

**C. Binding Effect.**

All of the undersigned persons represents and warrants that they are a party hereto or are authorized to sign this Agreement on behalf of the respective party, and that they have the full power and authority to bind such party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the

undersigned parties and their respective heirs, executors, administrators, representatives, attorneys, successors and assigns.

D. Entire Agreement.

This Agreement constitutes the entire agreement and understanding between and among the undersigned parties concerning the matters set forth herein and supersedes any prior agreements or understandings. No representations, warranties or inducements have been made to or relied on by any party concerning this Agreement and its exhibits other than those contained therein.

E. Amendments.

This Agreement may not be amended or modified, nor may any of its provisions be waived, except in writing by the party or parties bound thereby.

F. Reasonable Cooperation.

The undersigned Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing, or causing their agents and attorneys to do, whatever is reasonably necessary to effectuate the signing, delivery, execution, filing, recording, and entry, of any documents necessary to perform the terms of this Agreement.

G. Choice of Law.

This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the internal laws of the State of Illinois, without regard to its conflicts of laws.

H. Forum.

Any legal action brought to enforce this Agreement shall be brought in the United States District Court for the Northern District of Illinois.

I. Advice of Counsel.

Each party hereby acknowledges that he, she or it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that party by his, her or its counsel.

J. Severability.

If any provision of this Agreement is held unenforceable, then such provision will, if possible, be modified to be enforceable but still reflect the parties' intentions. In any event, the remaining provisions of this Agreement shall remain in full force and effect.

K. Title, Recitals and Captions.

All recitals, section titles and captions contained in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

**SECTION VII: Confidentiality.**

The Parties agree and promise that although the Settling Defendants may disclose the terms of their own settlement to third parties, with respect to the other Settling Defendants, they will not disclose, discuss or release in any fashion any information relating to this Agreement or the settlement of the claims described herein with or to any person or entity other than their attorneys, tax advisors or financial advisors, as may be reasonably necessary for legal, tax or financial advise purposes; except as may be required by law. Provided, however, the Parties agree that this Agreement may be

disclosed to the Illinois Attorney Registration and Disciplinary Commission and may be discussed with that Commission, if necessary. The Parties further agree to instruct all such individuals whom they inform of the nature, terms and/or conditions of this Agreement or the settlement of the confidential nature of the Agreement and settlement and to obtain a pledge from those individuals to maintain confidentiality. In response to an inquiry from a third person or entity not otherwise referred to in this paragraph concerning this Agreement, the settlement or the claims, the Parties agree to limit their responses solely to a statement that the matter has been resolved and settled, or words of similar effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION  
As Receiver for Ravenswood Bank

(b)(6)

BY:   
Title: FDIC Attorney  
Print Name: CRAIG PENROSE  
Date: 2/22/12

HEIDI WEITMANN COLEMAN AND HEIDI WEITMANN COLEMAN P.C.

BY: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name \_\_\_\_\_  
Date: \_\_\_\_\_

disclosed to the Illinois Attorney Registration and Disciplinary Commission and may be discussed with that Commission, if necessary. The Parties further agree to instruct all such individuals whom they inform of the nature, terms and/or conditions of this Agreement or the settlement of the confidential nature of the Agreement and settlement and to obtain a pledge from those individuals to maintain confidentiality. In response to an inquiry from a third person or entity not otherwise referred to in this paragraph concerning this Agreement, the settlement or the claims, the Parties agree to limit their responses solely to a statement that the matter has been resolved and settled, or words of similar effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION  
As Receiver for Ravenswood Bank

BY: \_\_\_\_\_  
Title:  
Print Name:  
Date: \_\_\_\_\_

HEIDI WEITMANN COLEMAN AND HEIDI WEITMANN COLEMAN P.C.

(b)(6) \_\_\_\_\_

Title:  
Print Name *Heidi Weitmann Coleman*  
Date: *2/10/12*

(b)(6)

EDWARD PARZYGNAT

BY

Print Name

Date: 7-20-12

(b)(6)

ANNETTE PARZYGNAT

BY

Print Name

(b)(6)

Date: 2-20-12

FIDELITY NATIONAL TITLE INSURANCE COMPANY

BY: \_\_\_\_\_

Title: \_\_\_\_\_

Print Name \_\_\_\_\_

Date: \_\_\_\_\_

EDWARD PARZYGNAT

BY: \_\_\_\_\_  
Print Name  
Date: \_\_\_\_\_

ANNETTE PARZYGNAT

BY: \_\_\_\_\_  
Print Name  
Date: \_\_\_\_\_

FIDELITY NATIONAL TITLE INSURANCE COMPANY

(b)(6)

BY: \_\_\_\_\_  
Title: <sup>(b)</sup> <sub>(6)</sub> Vice President  
Print Name *Jennifer Gayton*  
Date: *2-8-12*