

ATTORNEY GENERAL OF THE STATE OF NEW YORK
CIVIL RIGHTS BUREAU

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In the Matter of)
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LOEWS CINEPLEX ENTERTAINMENT)
CORPORATION)
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**ASSURANCE OF
DISCONTINUANCE
PURSUANT TO
EXECUTIVE LAW 63(15)**

WHEREAS, pursuant to the provisions of Section 63(12) of the Executive Law, Eliot Spitzer, Attorney General of the State of New York, has made an inquiry into the policies, procedures and practices of Loews Cineplex Entertainment Corporation (“Loews”) regarding the accessibility of its movies to people who are deaf, hard-of-hearing and visually impaired;

WHEREAS, Loews owns and operates numerous movie theaters throughout New York State;

WHEREAS, Loews’ theaters are public accommodations, subject to the New York Human Rights Law, New York Executive Law §§ 290 et seq., the New York City Human Rights Law, New York City Administrative Code §§ 8-101 et seq., and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., which require, *inter alia*, that public accommodations make their services accessible to people with disabilities;

WHEREAS, the OAG alleges that Loews failed to provide sufficient access to its movies to people who are deaf, hard-of-hearing and visually impaired, in violation of relevant laws;

WHEREAS, the Office of the Attorney General (“OAG”) and Loews share the common goal of assuring that all people with disabilities have meaningful access to the movies shown by Loews;

WHEREAS, Loews expressly denies any wrongdoing or liability in this matter;

WHEREAS, the parties herein desire to obviate further investigation or litigation, and it is expressly understood that, with respect to the OAG’s investigation, this is a compromise settlement entered into solely for the purposes of avoiding the expense and inconvenience of further investigation and litigation;

WHEREAS, in consideration of the covenants and understandings set forth herein and intending to be legally bound thereby, Loews and the OAG hereby agree as follows

I.
DEFINITIONS

- 1.1 "Assurance" means this Assurance of Discontinuance.
- 1.2 "Rear Window Closed Caption System" or "RWC" shall mean a system that displays reversed captions on a light-emitting diode text display which is mounted in the rear of a movie theater.
- 1.3 "DVS Theatrical System" or "DVS" shall mean a system that delivers descriptive narration via infrared or FM listening systems, enabling blind and visually impaired moviegoers to hear the descriptive narration on headsets.
- 1.4 "Assistive Listening Device" shall mean a receiver that increases the volume of the soundtrack of a movie by picking up signals from an infrared or FM listening system.
- 1.5 "RWC/DVS Theaters" shall mean the following eight Loews theaters:
- a. Kips Bay, New York City
 - b. Lincoln Square, New York City
 - c. Magic Johnson, New York City
 - d. Rotterdam Square, Schenectady
 - e. Stony Brook, Long Island
 - f. Loews Towne Square, Vestal
 - g. Webster Twelveplex, Webster
 - h. Palisades Center, West Nyack
- 1.6 "Effective Date" means the date this Assurance is executed by the parties hereto.

II.
INSTALLATION OF RWC AND DVS SYSTEMS

- 2.1 Within thirty (30) days of the Effective Date, Loews shall order or take from inventory eight (8) RWC systems and eight (8) DVS systems.
- 2.2 Within sixty (60) days after delivery of the new RWC and DVS systems described in paragraph 2.1, Loews shall install those systems in one auditorium in each of the RWC/DVS Theaters. Units taken from inventory shall be installed within sixty (60) days of the Effective Date.
- 2.3 Loews shall purchase and maintain a minimum of ten (10) seat reflector screens for each

RWC system installed in an RWC/DVS Theater.

- 2.4 Loews shall use its best efforts to circulate movies through the auditoriums in which the RWC and DVS systems have been installed to maximize the movie choices of individuals who are deaf, hard-of-hearing or visually impaired.

III.

ASSISTIVE LISTENING DEVICES

- 3.1 Within thirty (30) days of the Effective Date, Loews shall order one hearing-aid compatible induction loop ALD for every screen that it operates in New York. Loews shall make such ALDs available for use by patrons within sixty (60) days of their delivery.
- 3.2 In the event that the United States Department of Justice adopts regulations that would require Loews to maintain hearing-aid compatible ALDs in a number greater than that required under paragraph 3.1 of this Assurance, Loews shall increase the number of hearing-aid compatible ALDs in compliance with those regulations.

IV.

TRAINING

- 4.1 Loews shall implement the written protocols for the maintenance of its RWC and DVS systems, and the maintenance of its ALDs, attached hereto as part of Exhibit 1.
- 4.2 Loews shall train employees who work in movie theaters equipped with RWC and DVS systems in the use, operation and maintenance of those systems. Loews shall train employees in all of its theaters on the use, operation and maintenance of ALDs.
- 4.3 Loews shall use the written training materials attached hereto as part of Exhibit 1 in the training sessions conducted pursuant to paragraph 4.2.

V.

ADVERTISING, SIGNAGE AND MARKETING

- 5.1 Loews shall advertise the schedule and location of its RWC and DVS accessible movies on its own website, and on any pre-recorded telephone messages played when callers contact a Loews theater.
- 5.2 In any advertising or publication that is controlled or otherwise directed by Loews, and that identifies the schedule and location of Loews films, Loews shall ensure that such advertisement or publication identifies, in a conspicuous fashion, the show times and locations of its RWC and DVS accessible films.

- 5.3 For any newspapers, websites or other media outlets not controlled by Loews but for whom Loews provides its schedule of movie showings, Loews shall advise those media of the schedule and location of movies that it offers for which RWC and DVS technologies are available, and shall use its best efforts to ensure that such information be included in any movie clocks and/or advertisements.
- 5.4 Loews shall post written notices in prominent locations within its RWC/DVS Theaters advising patrons of the schedule of movies for which RWC and DVS technologies are available. Loews shall also post written notices, in conspicuous print and locations, within all its New York theaters advising patrons of the availability of ALDs. Such notice shall specify that hearing-aid compatible ALDs are available. Examples of such appropriate notices are attached hereto within Exhibit 1.
- 5.5 Within sixty (60) days of installation of the RWC and DVS systems described in Part II of this Assurance, Loews shall develop a publicity and marketing program designed to inform deaf, hard-of-hearing and blind persons about the availability and proper use of RWC, DVS and ALDs. The program will include advertising, instructional brochures and outreach sessions, and publicity events as appropriate.

VI. MONITORING

- 6.1 Loews shall maintain data on the number of patrons who use seat reflector screens at each showing of each film for which RWC is available in the RWC/DVS Theaters.
- 6.2 Loews shall maintain data on the number of patrons who use ALDs at each showing of each film shown in the theaters listed in paragraph 1.5 of this Assurance.

VII. REPORTING REQUIREMENTS

- 7.1 Loews shall provide the OAG with written notice of the installation of RWC and DVS systems in its RWC/DVS Theaters and the receipt of new ALD devices as contemplated by Paragraphs 2.2 and 3.1 of this Assurance.
- 7.2 Twelve (12) months following the Effective Date, and every year thereafter for the duration of this Assurance, Loews shall provide the OAG with the data collected pursuant to Section VI of this Assurance. If the OAG concludes that the reports indicate a need for additional RWC and/or DVS systems, Loews and the OAG shall engage in good faith negotiations regarding the installation of additional systems.

VIII.
JURISDICTION AND OTHER PROVISIONS

- 8.1 This Assurance, when fully executed and performed to the reasonable satisfaction of the OAG, shall resolve all claims by the OAG against Loews regarding accessibility for the hearing and visually impaired to its movie offerings in New York. This Assurance does not apply to any other issues or other matters, and nothing in this Assurance is intended to, nor shall, limit the OAG's investigatory or compliance review powers provided by law.
- 8.2 This Assurance shall expire three (3) years after the Effective Date.
- 8.3 The obligations assumed by Loews pursuant to this Assurance apply only to its operation of theaters located in New York State.
- 8.4 The signatories to this Assurance warrant and represent that they are duly authorized to execute this Assurance and that they have the authority to take all appropriate action required or permitted to be taken pursuant to the Assurance to effectuate its terms.
- 8.5 Notwithstanding any provision of this Assurance to the contrary, the OAG may, in its sole discretion, grant written extensions of time for Loews to comply with any provision of this Assurance.
- 8.6 The parties may seek judicial enforcement of this Assurance to the full extent of the law, however, in the event of a dispute among the parties regarding any issue arising hereunder, the parties shall attempt in good faith to resolve the dispute before seeking court intervention.
- 8.7 The failure by the OAG to enforce this entire Assurance or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of the right of the OAG to enforce other deadlines and provisions of this Assurance.
- 8.8 This Assurance constitutes the entire agreement between Loews and the OAG on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by either party or agents of either party that is not contained in this Assurance shall be enforceable.
- 8.9 Nothing in this Assurance is intended to confer any right, remedy, obligation or liability upon any person or entity other than the parties hereto.
- 8.10 This Assurance may be executed in one or more counterparts, all of which shall be deemed one and the same instrument.

- 8.11 This Assurance shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto, provided, however, that no assignment by any party hereto shall operate to relieve such party of its obligations hereunder.
- 8.12 All of the terms of this Assurance are contractual and not merely recitals, and none may be amended or modified except by a writing executed by all parties hereto.
- 8.13 This Assurance supersedes and renders null and void any and all written or oral prior undertakings or agreements between the parties regarding the subject matter hereof.
- 8.14 The parties hereby waive and shall not have any right to appeal any of the terms of this Assurance or in any way challenge the validity of any of the terms of this Assurance in any forum.
- 8.15 If any of the provisions, terms, or clauses of this Assurance are declared illegal, unenforceable, or ineffective in a legal forum, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Assurance shall remain valid and binding on the parties.
- 8.16 Nothing in this Assurance is intended to confer any right, remedy, obligation or liability upon any person or entity other than the parties hereto and their respective successors or assignees.
- 8.17 Except where otherwise noted, the use of the word "day" in this Assurance refers to calendar not a business day.
- 8.18 All communications and notices regarding this Assurance shall be sent by first class mail and facsimile, if twenty-five (25) pages or less in length, to:

OAG
Dennis Parker, Bureau Chief
Office of the NYS Attorney General
Civil Rights Bureau
120 Broadway, 3rd Floor
New York, New York 10271

Tel. (212) 416-8240
Fax(212) 416-8074

Loews Cineplex Entertainment Corporation
Michael Politi
Senior Vice President and General Counsel
Loews Cineplex Entertainment Corporation
711 Fifth Avenue
New York, NY 10022

Tel. (646) 521-6279
Fax(646) 521-6267

- and-

Steven John Fellman
Galland, Kharasch, Greenberg,
Fellman & Swirsky, P.C.
1054 Thirty-First Street, N.W., Suite 200
Washington, D.C. 20007-4492
Tel. (202) 342-5294
Fax(202) 342-5219

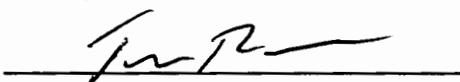
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound thereby, have caused this Assurance to be executed, by their duly authorized attorneys or representatives, as of the date and year written below.

ELIOT SPITZER
New York State Attorney General
120 Broadway
New York, New York 10271

By: 
Dennis D. Parker
Chief
Civil Rights Bureau

Dated: 10/14/05

**LOEWS CINEPLEX
ENTERTAINMENT CORPORATION**
711 5th Ave.
New York, NY 10022

By: 
Travis Reid
President and CEO

Dated: 10/24/05