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SEP 19 2007
MICHAEL K. JEANES, CLERK
M. SIMPSON
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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 In re Lenox Financial Mortgage, LLC, a
foreign limited liability company,
11
12 Respondent.

Case No: **CV2007-017383**
ASSURANCE OF DISCONTINUANCE

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15 The Attorney General of the State of Arizona and Respondent, Lenox Financial
16 Mortgage, Inc., agree to the entry of the following Assurance of Discontinuance pursuant to
17 Arizona Revised Statutes (“A.R.S.”) § 44-1530, a provision of the Arizona Consumer Fraud
18 Act.

19 1. Respondent Lenox Financial Mortgage, LLC (“Lenox Financial”) is a Georgia
20 limited liability company whose primary business is that of a mortgage broker. Lenox
21 Financial advertises home loans in Arizona and brokers loans for Arizona consumers.

22 2. Lenox Financials business model revolves around its promotion of what it
23 terms “no closing costs” mortgage loans to consumers, for both initial home purchases and to
24 refinance existing home loans. Lenox Financial uses its “no closing costs” theme to
25 distinguish it from other mortgage brokers and emphasizes it in its advertising.

26 3. Since at least February 2004, Lenox Financial has had its advertisements

1 broadcast thousands of times over various radio stations throughout the Phoenix metro area.
2 Each of Lenox Financial's advertisements features a "no closing costs" message. Some of
3 the various "no closing costs" representations that Lenox Financial makes in its
4 advertisements are:

5 Lenox will pay all of your closing costs.

6 No closing costs. Do it for free.

7 We've refinanced some guys five times and they didn't pay a nickel.

8 We're not going to roll them [closing costs] into the loan.

9 If your payoff is \$300,000.00, your new loan is \$300,000.00.

10 We pay everything for you.

11 We pay for appraisals, attorneys fees, everything.

12 4. The large majority of mortgage loans brokered by Lenox Financial are for the
13 refinancing of existing home loans, and many of its "no closing costs" advertisements target
14 consumers who have existing loans and are hoping to refinance those loans.

15 5. None of Lenox Financial's "no closing costs" advertisements contain any
16 disclaimer or other qualifying language stating that the availability of a "no closing costs"
17 loan through Lenox Financial depended on the consumer's credit score, income level, debt
18 load, or other indicia of credit-worthiness.

19 6. Although the vast majority of Lenox Financial's customers are offered "no
20 closing costs" loans and the vast majority of the loans it brokers are "no closing costs" loans,
21 Lenox Financial does not broker such loans for every consumer who replies to its advertising
22 and who is otherwise eligible for a home loan.

23 7. The Attorney General has reason to believe and therefore alleges that Lenox
24 Financial's "no closing costs" advertisements are misleading given their lack of disclaimer or
25 other qualifying language regarding consumers' eligibility for a "no closing costs" loan
26 through them. Accordingly, the Attorney General alleges that each of Lenox Financial's "no

1 closing costs” advertisement constitutes a violation of the Arizona Consumer Fraud Act,
2 A.R.S. § 44-1521 *et seq.*

3 **NOW, THEREFORE**, Respondent, its respective agents, servants, employees,
4 attorneys, successors, assignees and all persons in active concert or participation with it,
5 agrees, undertakes and assures:

6 8. Respondent shall comply with the Consumer Fraud Act, A.R.S. § 44-1521, *et*
7 *seq.*, as it is currently written, or as it may be amended.

8 9. Respondent shall not advertise or otherwise represent the availability of “no
9 closing costs” loans without accompanying disclaimers or other qualifying information
10 regarding consumers’ eligibility for such loans, unless Lenox Financial does in fact make
11 such loans available to all consumers who are otherwise eligible for a mortgage loan.

12 10. Respondent shall pay to the Attorney General’s Office the amount of ninety-
13 five thousand dollars (\$95,000.00) for attorneys’ fees and costs of investigation, pursuant to
14 A.R.S. § 44-1530. The payment described herein shall be made by cashier’s check, payable
15 to the Office of the Arizona Attorney General and is to be delivered to this office upon
16 execution of this Assurance.

17 11. The parties understand and agree that this Assurance of Discontinuance shall
18 not be construed as an approval of or sanction by the Attorney General of Respondent’s
19 business or of Respondent’s past, present or future business practices.

20 12. Respondent understands that a violation of this Assurance of Discontinuance
21 within six (6) years of the filing thereof constitutes *prima facie* evidence of a violation of
22 A.R.S. § 44-1522. This court therefore retains jurisdiction over the parties and the subject
23 matter for purposes of enabling the State of Arizona to apply to this court for the
24 enforcement of and Respondent’s compliance with the Assurance of Discontinuance.

25 13. The parties agree that this Assurance of Discontinuance shall not be considered
26 an admission of a violation for any purpose.

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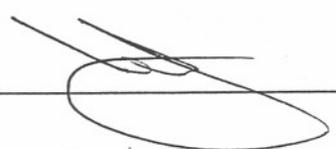
14. The person signing this Assurance on behalf of Respondent represents and declares that he or she is authorized to sign below on behalf of Respondent Lenox Financial Mortgage, L.L.C.

DATED this 13th day of September, 2007.

TERRY GODDARD, Attorney General

BY: 
CHERIE L. HOWE
Assistant Attorney General

Lenox Financial Mortgage, L.L.C

By: 
Its: President

Approved as to Form and Content:


Grant Woods
Attorney for Respondent

MICHAEL K. JEANES, CLERK
BY *M. Simpson* DEP
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**APPROVAL OF ASSURANCE OF
DISCONTINUANCE**

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13 Respondent.
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18 Pursuant to A.R.S. § 44-1530, the attached Assurance of Discontinuance is approved
19 by the Superior Court of the State of Arizona in and for the County of Maricopa.

20 Dated this 18th day of Sept, 2007.

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24 
JUDGE OF THE SUPERIOR COURT

25 The foregoing instrument is a full, true and correct copy
26 of the original on file in this office.

Attest **SEP 19 2007** 20
MICHAEL K. JEANES, Clerk of the Superior Court of the
State of Arizona, in and for the County of Maricopa.

By *M. Simpson* Deputy