### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

WOUNDED WARRIOR PROJECT, INC.,

*Plaintiff*,

v.

HELP INDIANA VETS, INC. and DEAN M. GRAHAM,

Defendants.

Civil Action No.: 1:14-cv-00075-PPS-CAN

MOTION FOR ENTRY OF CONSENT JUDGMENT AND PERMANENT INJUNCTION

COMES NOW the Plaintiff Wounded Warrior Project, Inc. ("WWP"), by and through its counsel of record, and respectfully moves this Court for the entry of the attached Proposed Consent Judgment and Permanent Injunction. Both parties have agreed to the relief sought in this Motion, as reflected by their signatures on the Proposed Consent Judgment and Permanent Injunction.

WHEREFORE, WWP respectfully requests that the Court grant this Motion and enter the Proposed Consent Judgment and Permanent Injunction executed by the parties.

Dated: May 29, 2014 .

Respectfully submitted,

By:<u>/s/Jessica M. Lindemann</u> Jessica M. Lindemann (31058-49) BARNES & THORNBURG LLP 11 South Meridian Street Indianapolis, Indiana 46204-3535 Phone: (317) 236-1313 Fax: (317) 231-7433 jessica.lindemann@btlaw.com

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<u>Counsel for Plaintiff</u>: Wounded Warrior Project, Inc.

#### **CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2014, a copy of the foregoing was filed electronically. I further certify that on May 29, 2014 a copy of the foregoing was served by email, with a copy to follow by first-class U.S. Mail, postage prepaid and properly addressed to the following:

Help Indiana Vets, Inc. 10720 Gathering Drive Acton, Indiana 46259

Dean M. Graham 10720 Gathering Drive Acton, Indiana 46259

> <u>s/ Jessica M. Lindemann</u> Jessica M. Lindemann

# IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

WOUNDED WARRIOR PROJECT, INC.,	Case No.: 1:14-cv-00075
Plaintiff,	
v. Help Indiana Vets, Inc. and Dean M. Graham, <i>Defendants</i> .	PROPOSED CONSENT JUDGMENT AND PERMANENT INJUNCTION

Plaintiff Wounded Warrior Project, Inc. ("WWP") and Defendants Help Indiana Vets, Inc. ("HIVI") and Dean M. Graham ("Graham") (collectively, "Defendants"), having agreed to resolve the claims between them in this action on terms mutually agreeable and evidenced by an agreement including the entry of the following Consent Judgment and Permanent Injunction, the Court finds and orders as follows:

 This is an action for false advertising in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), criminal deception in violation of the Indiana Crime Victims Act, Ind. Code § 3543-53, and defamation, unfair competition, tortious interference with business relationships, and unjust enrichment in violation of the common law of the State of Indiana. This Court has jurisdiction over the subject matter pursuant to 28 U.S.C. §§ 1331 and 1338, because this is a civil action arising under Acts of Congress, 15 U.S.C. § 1125(a); and under the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367.
WWP is a Virginia nonprofit corporation having its principal place of business and headquarters at 4899 Belfort Road, Suite 300, Jacksonville, Florida 32256. WWP is an Internal Revenue Service ("IRS") registered 501(c)(3) nonprofit organization.

3. HIVI is an Indiana nonprofit corporation having its place of business at 7945 North Brown Road, Columbia City, Indiana 46725.

4. Graham is the incorporator of, and a principal of, HIVI. Graham resides at 7945 North Brown Road, Columbia City, Indiana 46725.

5. HIVI and Graham currently operate the following website: http://www.helpindianavets.com/ ("the HIVI website").

6. This Court has personal jurisdiction over Defendants based upon their presence within the judicial district and their transaction of business and other activities within the Northern District of Indiana.

7. Venue is proper before this Court under 28 U.S.C. § 1391(c) and (d) because the Northern District of Indiana is the judicial district in which (i) Graham is domiciled, and (ii) HIVI maintains its principal place of business.

Based upon the foregoing, it is ORDERED, ADJUDGED and DECREED that:

WWP is hereby granted permanent injunctive relief enjoining and restraining Defendants and their agents, employees, representatives, affiliates, successors, and those persons in active concert or participation with them, from making, either directly or

indirectly, false and/or misleading statements of fact regarding WWP and/or its programs, services, financial information, supporters, donors, business relationships, and/or business conduct.

WWP is hereby granted permanent injunctive relief enjoining and restraining Defendant Graham and his agents, employees, representatives, affiliates, successors, and those persons in active concert or participation with him, from making, either directly or indirectly, defamatory statements regarding WWP and/or its programs, services, financial information, supporters, donors, business relationships, and/or business conduct.

Any content regarding WWP and/or its programs, services, financial information, supporters, donors, business relationships, and/or business conduct on the HIVI website shall be removed from such website by Defendants upon notice of this Consent Judgment and Permanent Injunction.

Defendants shall issue a retraction within 30 days of this Consent Judgment and Permanent Injunction on the HIVI website, and any other websites in which Defendants' false, defamatory, and misleading statements have been republished, expressly stating that their false, misleading, and defamatory statements published therein are incorrect. Such retraction shall provide as follows:

The content I, Dean M. Graham, authored and published on behalf of myself and Help Indiana Vets, Inc. regarding Wounded Warrior Project, Inc. and its programs, services, financial information, supporters, donors, business relationships, and business conduct is not substantiated by any factual information, and is false, misleading, and defamatory. I retract all such statements, including my statement that Wounded Warrior Project, Inc. is a fraudulent organization. The truth is that Wounded Warrior Project, Inc. does provide services to warriors, it does not receive government funds, and it does not pay its board members. I apologize to Wounded

- Warrior Project, Inc. and acknowledge my publication of false, misleading, and defamatory content regarding Wounded Warrior Project, Inc. was a disrespectful and inappropriate action on my behalf. Furthermore, I apologize for the loss of donations I have caused and continue to cause Wounded Warrior Project, Inc. because of my publication of such false, misleading, and defamatory statements.
- Judgment shall be entered in favor of WWP, and this Court shall retain jurisdiction over the subject matter hereof and the parties hereto for the purposes of enforcing this Consent Judgment and Permanent Injunction.
- This Consent Judgment and Permanent Injunction constitutes a final judgment pursuant to Fed. R. Civ. P. 54. Each party shall bear its own costs and attorney's fees incurred in connection with this case.

## **CONSENTED AND AGREED TO:**

WOUNDED WARRIOR PROJECT, INC. Plaintiff

/s/ Jessica M. Lindemann By:

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HELP INDIANA VETS, INC and DEAN M. GRAHAM, Defendants

By:

Jessica M. Lindemann (31058°49)<sup>14-cv-00075-PPS-CAN document 65-1 filed 05/29/14 page 3 of 3 BARNES & THORNBURG LLP 11 South Meridan Street Indianapolis, Indiana 46204-3535 Phone: (317) 231-7441 Fax: (317) 231-7433 jessica.lindemann@btlaw.com</sup>

-and-

John P. Passarelli (pro hac vice) Matthew S. Noren (pro hac vice) Maggie L. Cox (pro hac vice) KUTAK ROCK LLP The Omaha Building 1650 Farnam Street Omaha, Nebraska 68102-2186 Phone: (402) 346-6000 Fax: (402) 346-1148 john.passarelli@kutakrock.com matthew.noren@kutakrock.com

## **IT IS SO ORDERED.**

Dated United States District Court Judge for the Northern District of Indiana

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