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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

WOUNDED WARRIOR PROJECT, INC.,

Civil Action No. 1:13-cv-1857

Plaintiff,

v.

COMPLAINT

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

Defendants.

COMES NOW Plaintiff, Wounded Warrior Project, Inc. (“WWP”), by and through its counsel of record, pursuant to Rule 3 of the Federal Rules of Civil Procedure and, for its Complaint against Defendants Help Indiana Vets, Inc. (“HIVI”) and Dean M. Graham (“Graham”) (collectively, HIVI and Graham are referred to herein as the “Defendants”), states and alleges as follows:

THE PARTIES

1. 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.

2. Upon information and belief, HIVI is an Indiana nonprofit corporation having its place of business at 10720 Gathering Drive, Acton, Indiana 46259.

3. Upon information and belief, Graham is the incorporator of, and a principal of, HIVI. Further, upon information and belief, Graham resides at 10720 Gathering Drive, Acton, Indiana 46259.

JURISDICTION AND VENUE

4. This Court may exercise subject matter jurisdiction over the claims set forth in this Complaint 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. Subject matter jurisdiction is still further founded upon 28 U.S.C. § 1332 in that the matter in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs and is between citizens of different states.

5. This Court may exercise personal jurisdiction over Defendants based upon their presence within the judicial district and, upon information and belief, their transaction of business and other activities within the Southern District of Indiana.

6. Venue in this Court is proper under 28 U.S.C. § 1391(b) because a substantial portion of the events giving rise to the claims set forth in this Complaint occurred within this judicial district and Defendants reside in this judicial district.

STATEMENT OF FACTS

I. WWP's Background Information

7. WWP was founded in 2003 as a small nonprofit corporation to provide comfort items to service members injured in combat post-

September 11, 2001. In just over a decade, WWP has grown into a complete rehabilitative effort to assist injured service members, with both visible and invisible (such as post-traumatic stress disorder, combat and operational stress, and depression) injuries sustained in combat, as they recover and transition back to civilian life.

8. WWP's mission is to honor and empower injured service members. WWP's purpose is to raise awareness and enlist the public's aid for the needs of injured service members; to help injured service members assist each other; and to provide unique programs and services which are specifically tailored to meet the needs of injured service members. WWP's vision is to foster the most successful, well-adjusted generation of injured veterans in the history of the United States.

9. Since its inception in 2003, WWP has experienced increasingly rapid expansion. WWP currently employs 427 employees at 15 office locations across the United States and in Germany and is currently planning to open additional offices to provide injured service members and their families with greater accessibility to the services and programs WWP provides. WWP has earned the Better Business Bureau's ("BBB") seal of approval as a BBB Accredited Charity. As of October 2012 (the last Charity Review conducted by the BBB), WWP met all 20 of the BBB's Standards for Charity Accountability.

10. WWP receives no government funding for the services and programs it provides to injured veterans, but rather relies on the generous support of private individuals, foundations, and corporate donors to sustain

such services and programs. Supporters of WWP run over 4,000 events annually to assist WWP in its fundraising efforts. These supporters hold sports tournaments, walks/runs, benefit dinners, motorcycle and car events, and concerts in an effort to raise support for WWP. The increase in support from corporate partners continues as WWP becomes more prominent in the media and in the corporate giving arena. WWP finds that existing corporate partners encourage their corporate affiliates and partners to support WWP.

II. WWP's Programs and Services

11. WWP offers more than 40,000 injured service members, who WWP refers to as "Alumni," and their caregivers support through nineteen different WWP programs divided into four major program categories (Mind, Body, Economic Empowerment, and Engagement) uniquely designed to support the needs of injured service members and their families. WWP does not charge any membership dues for its programs and services because WWP believes the Alumni paid their dues on the battlefield. In fiscal year 2013 alone, WWP served more than 30,000 injured service members and their family members through its various programs and services.

A. Mind Programs and Services

12. WWP's Combat Stress Recovery program aims to ease readjustment for returning warriors through mental health resources and access to care, while addressing interpersonal relationship issues. Through Project Odyssey, an outdoor rehabilitative program that promotes peer connection, challenging outdoor experiences, and healing with other veterans,

participants develop new coping skills and are likely to seek out future counseling. WWP's Restore Warriors website provides resources and self-help strategies for injured service members living with the invisible wounds of war, such as post-traumatic stress disorder, combat and operational stress, and depression. The Restore Warriors website offers tools and self-help strategies, including videos of other injured service members sharing their personal experiences with combat and operational stress-related problems, along with the useful coping strategies they used to overcome these issues. In fiscal year 2013, WWP served a total of 2,098 injured veterans and family members of injured veterans through its Combat Stress Recovery program.

13. Through its Family Support program, WWP supports those who take care of veterans. WWP's Family Support staff reaches out to family members and caregivers of injured service members living with physical and/or mental health conditions to ensure they receive the full range of support and benefits of WWP's programs. WWP offers weekend respite Caregiver Retreats to injured service members and their families at numerous locations throughout the United States. Each retreat provides participants with the opportunity to enhance their coping and stress management skills with small group activities led by trained and licensed counselors.

B. Body Programs and Services

14. WWP also offers programs and services which (a) help injured service members physically adjust to life back home; (b) provide injured service members with the ability to achieve and maintain an active, healthy, and fit

lifestyle; and (c) provide injured service members with essential care and comfort items designed to make their hospital stays as comfortable as possible.

15. WWP's Physical Health & Wellness program provides recreation, adaptive sports programs, and overall strategies to help injured service members remain physically engaged while adjusting to life after injury. Injured service members' physical and psychological well-being is optimized through comprehensive recreation and sports programs, physical health and nutritional promotion strategies, and physical rehabilitation designed to help maximize independence.

16. Through WWP's partnership with high quality, specialized adaptive sports providers, WWP is able to deliver dynamic and engaging year-round sports and fitness programs to help injured service members gain confidence and independence. With adaptive equipment and trained instructors, warriors can participate in almost any sport or fitness activity, moving them beyond rehabilitation and toward a full and productive life. WWP provides injured service members with the opportunity to engage in numerous health and wellness-related activities, including the following activities: (a) surfing; (b) skiing; (c) golfing; (d) snowboarding; (e) bicycling; (f) softball; (g) basketball; (h) therapeutic horseback riding; (i) rock climbing; (j) water skiing; and (k) healthy cooking classes. In fiscal year 2013, WWP served 6,618 injured service members and their family members through its Physical Health & Wellness program.

17. Through its signature program, WWP Packs, WWP distributes backpacks filled with essential care and comfort items such as clothing, toiletries, playing cards, and other items, all of which are designed to make an injured service member's hospital stay as comfortable as possible. Injured service members receive backpacks as they arrive at military trauma units across the United States. Through WWP Packs, WWP distributed approximately 1,471 backpacks domestically and 6,139 transitional care packs overseas in fiscal year 2013.

C. Economic Empowerment Programs and Services

18. WWP also provides economic empowerment programs to injured service members which help equip them with the skills and knowledge necessary to transition and reintegrate into the civilian workforce. WWP served 3,676 injured service members through its economic empowerment programs in fiscal year 2013.

19. TRACK, WWP's year-long educational and vocational program, is the first education center in the nation specifically for injured service members. The TRACK program gives injured service members a jump-start on meeting their educational goals, offering the ideal environment for students at all ability levels. In fiscal year 2013, WWP graduated 69 warriors through its TRACK program. WWP provides injured service members enrolled in its TRACK program with classroom teaching, tutoring, physical training, and biofeedback to manage and reduce stress, anxiety and depression. WWP also assists TRACK students in securing a three-month externship to complete the final three

months of the program. WWP provides TRACK students with a housing allowance and living stipend to enable them to participate in the program.

20. At WWP's Transition Training Academy ("TTA"), injured service members are provided with the opportunity to explore the information-technology field as a possible career choice. Through TTA, WWP provides hands-on instruction where instructors personally engage with each student with "learn-by-doing" teaching techniques that increase the potential for student success. All TTA courses and class materials are provided free of charge to injured service members and their spouses or caregivers. In fiscal year 2013, WWP served 1,059 warriors through information technology training, including several information technology certification programs.

21. WWP's Warriors to Work program provides career guidance and support services to injured service members interested in transitioning to the civilian workforce. WWP matches each injured service member with an employer based on the injured service member's unique skill sets and experience and the needs of the employer. WWP's Warriors to Work specialists assist injured service members with (a) setting attainable career goals; (b) building an effective resume; (c) interview preparation; and (d) networking with local employers. In fiscal year 2013, WWP, through its Warriors to Work program, placed 1,000 injured service members and their family members in employment positions.

D. Engagement Programs and Services

22. Through its Alumni programs, WWP provides more than 30,000 injured service members with long-term support and camaraderie through complimentary programs, events, discounted services, and an online community. WWP Alumni teammates are located near military treatment facilities and in all 15 of WWP's offices to provide support and education about WWP's various programs and services. In addition to all WWP programs and services, WWP Alumni have access to year-round Alumni events and activities, including: (i) participating in sports and outdoor activities, recreational activities, and educational sessions; and (ii) attending collegiate and professional sporting events.

23. WWP's Benefits Service team ensures injured veterans and their families have information and access not only to government benefits, but also to WWP's full range of programs and the community resources necessary for successfully transitioning to life after injury. To date, more than 15,662 benefit issues have been filed on behalf of injured veterans assisted by WWP.

24. Through its Peer Support program, WWP helps injured service members develop one-to-one friendships with fellow injured service members who are further along in the recovery process. One goal of Peer Support is for the injured service member being mentored to eventually mentor a fellow injured service member. WWP Peer Mentors are available to: (a) be resources, listeners, and motivators; (b) allow injured service members and their families to discuss their readjustment with someone who truly understands what they

have been through, where they are in their transition, and where they want to go; and (c) empower injured service members and their families to set and work toward goals.

25. Through its International Support program, WWP actively serves injured service members in Europe at Landstuhl Regional Medical Center (“LRMC”) and Ramstein Air Base in Germany. LRMC is one of the first locations injured service members are transported to once injured. Most of the time injured service members’ belongings are not transported with them to LRMC. WWP provides comfort items such as jackets, sweatpants, t-shirts, and blankets to warriors before they are flown back to the United States. WWP strives to make injured service members’ stay at LRMC and travel back to the United States as comfortable as possible. WWP also offers programs and benefits counseling to injured service members stationed at Warrior Transition Units in Europe.

26. WWP’s Policy and Government Affairs team provides injured service members and their families a voice by working with Congress and executive agencies to promote forward-looking policies and new legislation that may positively impact an injured service member’s quality of life. This team also keeps the injured service member community informed about changes in laws and regulations. WWP’s work includes advocating for policy and legislative improvements that aid in:

- a. Closing gaps and eliminating barriers to improved mental health care for injured service members, their families, and caregivers;

- b. Fostering the economic empowerment of injured service members through policy initiatives to eliminate educational and employment barriers;
- c. Helping ensure access to optimal, long-term rehabilitative care for injured service members, and needed support for their caregivers; and
- d. Improving the effectiveness of government programs that were established to help injured service members and their families transition from active duty to successful community reintegration.

WWP's Policy and Government Affairs group played a leading role in advocating for Traumatic Servicemembers Group Life Insurance legislation, which has resulted in more than \$750 million in insurance benefit payments to wounded members of the Armed Forces.

III. WWP's Public Recognition and Awareness

27. Since its origin in 2003, WWP has operated under "its now famous trademark, which depicts on soldier carrying another soldier on his back" and incorporates the organization's name in bold, capitalized lettering: WOUNDED WARRIOR PROJECT (the "WWP Mark"). *WWP, Inc. v. Wounded Warriors Family Support, Inc.*, 628 F.3d 1032, 1035 (8th Cir. 2011). On June 23, 2004, WWP filed an application with the U.S.



Patent and Trademark Office (the "PTO") to register the WWP Mark on the PTO's Principal Register. On September 27, 2005, the PTO granted WWP's application, and the WWP Mark obtained its current status as a federally registered trademark (U.S. Trademark Registration No. 30014447).

28. In the past decade, WWP has invested substantial time and resources to develop the WWP Mark through national direct mail campaigns, marketing, corporate product promotions and press releases. WWP has received substantial national and local press coverage for its efforts. WWP's success is due in no small part to the support of the media and celebrities who support WWP. In just over a decade (2003-2013), WWP has received an estimated 30 billion media impressions with an estimated publicity value of \$500 million.

29. WWP has over 1.3 million Facebook followers and more than 78,000 followers on Twitter. In fiscal year 2012, WWP received over 5,200 incoming messages per day through its social media channels, reaching an estimated 67 million people. In fiscal year 2013, WWP's social media team fielded more than 3 million incoming messages from its social media channels, averaging about 8,200 messages a day and reaching roughly 95 million people.

30. The media impressions and publicity value statistics above evidence the high degree of public recognition WWP has achieved since its creation in 2003. Due to WWP's tireless efforts, the WWP Mark has achieved the highest level of recognition status which can be obtained by a trademark - fame. *See WWP, Inc.*, 628 F.3d at 1035. In recognizing WWP's extensive media coverage and consumer recognition, the Eighth Circuit noted that WWP has "become synonymous with veteran service to this generation of wounded veterans and their families." *Id.* In 2013 WWP was named the Harris Poll EquiTrend® Disability Non-Profit Brand of the Year.

IV. Defendants' Background Information

31. Upon information and belief, Defendant HIVI is a registered nonprofit organization in Indiana. Further, upon information and belief, HIVI was founded in April of 2013 by Graham.

32. Upon information and belief, Graham is a principal of HIVI.

33. Upon information and belief, Defendant HIVI is not currently an IRS registered 501(c)(3) nonprofit organization that is eligible to receive tax-deductible contributions.

34. Upon information and belief, the nature of HIVI's business is to offer financial help to Indiana veterans through donor support as a nonprofit. HIVI is a direct competitor of WWP.

V. Events Leading To Litigation

35. Upon information and belief, in or around November 2013, Defendants published false and misleading statements of fact about WWP on www.helpindianavets.com (the "HIVI Site"). See Exhibit A. Notably, through the HIVI Site, Defendants published the following false and misleading statements of fact regarding WWP:

- a. "WOUNDED WARRIOR[] PROJECT IS A FRAUD."
- b. "[WWP] commercials do not mention anything [WWP does] to help the injured service members. . . ."
- c. "WWP has many paid board members; this is not legal according to their own company bylaws."
- d. "[WWP] ha[s] multiple board members and employees who are former Veterans Administration employees, including the former head of the Veterans Administration. This allows the WWP to tap into federal grants that may not otherwise be available."

- e. “WWP uses the Non-Disclosure agreements with actors and employees to keep them from telling the truth about where the money actually goes.”
- f. “WWP is a for profit business, working under the umbrella of a non-profit. I believe they should be exposed for what they really are”
- g. “Many caring people are duped into donating to WWP, believing their donations will really help injured veterans . . . Wounded Warrior Project is a fraud . . . that needs to be investigated immediately.”
- h. “[WWP] is pulling the biggest Oke Doke ever pulled on the American public.”
- i. “[WWP] will not go quietly and ha[s] an army of lawyers on staff to punish all those who try to expose [it].”
- j. “[WWP is] the best paid non-profit ever. . . .”
- k. “Every time we see a Wounded Warrior[] [Project] commercial, it makes us sick to our stomach . . . we know where the money goes and it is not [to] the veterans they claim to help.”
- l. “[WWP] ha[s] paid a famous country music singer Trace Adkins to further play on people[]’s emotions.”

See Exhibit A.

36. Upon information and belief, in or around November 2013, Defendants, through the HIVI Site, prompted visitors to comment on their false and misleading statements of fact related to WWP: “PLEASE TAKE TIME TO ANSWER FOUR QUESTIONS IN OUR SURVEY CONCERNING WOUNDED WARRIOR PROJECT.” See Exhibit A. The four questions in the HIVI Site survey are as follows:

- a. “How can we shut down a for profit organization acting like a non-profit?”

- b. “What is your recommendation for exposing the truth about WWP?”
- c. “Who do you hold responsible for allowing this fraud to continue?”
- d. “Should Fox News and A&E stop showing their commercials?”

See id.

37. The HIVI Site also includes an interactive feature where visitors can provide comments regarding Defendants’ false and misleading statements about WWP. To date, over 50 HIVI Site visitors’ comments are published promoting Defendants’ false and misleading statements related to WWP.

38. Upon information and belief, in or around November 2013, Defendants published false and misleading statements about HIVI services on the HIVI Site. *See* Exhibit A. On the same page containing the false and misleading statements about WWP, a direct PayPal link is made available to HIVI Site users, wherein HIVI Site users may make charitable donations to HIVI. *Id.* Immediately above the PayPal link, Defendants make the claim that “DONATIONS ARE TAX DEDUCTIBLE SAVE YOUR RECEIPT FOR DONATION”. *Id.* This statement simply cannot be true, as charitable donations are only tax-deductible if they were provided to an IRS registered tax-exempt organization, and HIVI has not previously been, and is not currently, an IRS registered tax-exempt organization.

39. Upon information and belief, on July 20, 2013, Defendant Graham sent an email containing false and misleading statements of fact regarding WWP to over 100 individuals and entities including, without limitation, the following (a) government entities and officials; and (b) media outlets:

Government Entities and Officials	Media Outlets
<ul style="list-style-type: none"> • The White House • U.S. Department of Veterans Affairs • The PTO • The U.S. House of Representatives • The U.S. Army • The U.S. National Guard • The Indiana Attorney General’s Office • U.S. Senator Joe Donnelly • U.S. Representative Marlin Stutzman • Indiana Governor Mike Pence • Indiana State Senator Pat Miller 	<ul style="list-style-type: none"> • Fox News • NBC News • CNN • WIBC News • Newsmax • The Indy Channel • WTHR Eyewitness News • Emmis Communications • The Bob & Tom Show and • Hank FM

See Exhibit B. In his email, Graham makes a number of false and misleading statements of fact concerning WWP including, without limitation, the following:

- a. “Wounded Warrior[] [Project] is a Fraud because it operates like a for profit organization, while hiding behind [its] 501C3. Non-Profits who actually do help Veterans are into help Veterans, while Wounded Warrior Project takes all the money and the credit.”
- b. “[WWP] intentionally use[s] pictures and video[]s of [injured veterans] to pry donations from caring people under a vision which is not reality.”
- c. “P.S. WE DO NOT CHARGE FOR OUR SERVICES OR SOLICIT DONATIONS.”

See *id.*

40. Further, in his email, Graham attaches a solicitation he purportedly received from WWP and asserts, “[t]he Picture on the attached solicitation [from WWP] is of a Soldier who’s father called me, he said [WWP] found his son[?]s picture and have used it without their permission. He has

called [WWP] repeatedly to make [WWP] remove it. [WWP] ha[s] refused to call him back.” See Exhibit B. This statement is completely false. The picture referenced by Graham is a photograph of Sgt. Jeremy Feldbusch (ret.), a founder of WWP who actively supports and promotes the programs and services offered by WWP. Jeremy’s father, Brace Feldbusch (also a founder of WWP), is currently employed by WWP to conduct veteran outreach. Near the end of his email, Graham provides links to the HIVI Site which incorporates the false and misleading statements of fact mentioned above. *Id.*

41. Defendants’ false and misleading statements are of a commercial nature, as Defendants solicit charitable donations on the HIVI Site and provides HIVI Site users with the ability to donate to HIVI through the aforementioned PayPal link. See Exhibit A. By publishing the above false and misleading statements on the HIVI Site, Defendants are unfairly competing with WWP by (a) attacking WWP’s reputation and the goodwill it has established in the WWP Mark and (b) diverting, or attempting to divert, supporters and their donations from WWP to HIVI. The HIVI Site’s interactive feature displays numerous comments of former WWP supporters who were deceived by Defendants’ false and misleading statements of fact including, the following comments:

- a. S. Hawthorne (Friday, December 28, 2012 05:35 pm EST)
“Absolutely need to know if this is true that [WWP] is a fraud. Was planning on donating a fairly large sum from an organization!! Don't want to do that if this claim is real!”
- b. Joe Torrillo (Friday, February 08, 2013 05:23 pm EST)

“Glad to read this. I had plans of giving [WWP] the proceeds of a book that I want to write[.]”

c. Kathryn (Wednesday, February 27, 2013 02:56 am EST)

“I just signed up for the WWP and am disheartened to read this site. However, anyone who takes advantage of our soldiers who give their lives, arms, legs, brains for my security is in serious trouble. I'm calling my senator tomorrow morning [.]”

d. Tom Baker (Monday, March 04, 2013 01:09 pm EST)

“I am saddened to find that [WWP] is not [what] it purports to be. I feel a need to help the brave men and women who gave so much to keep our country FREE. I will find other ways to help them - not pad someone's pocket. Does Under Armor realize what they are sponsoring?”

e. Evald L Lofgren (Sunday, March 24, 2013 07:21 pm EDT)

“SHOULD THIS BE A FRAUD I AM PO'D AS I DON[.]ATED \$500.00[.] RETIRED ON FIXED INCOME[.]”

f. Dysfunctional Vet (Friday, April 19, 2013 04:59 pm EDT)

“Very interesting. I never [k]new and proudly wear a [WWP] tee shirt all the time. Now I will just wipe my a## with it!”

g. Former Sgt. USA Army (Wednesday, May 01, 2013 11:44 am EDT)

“I'm glad I read your comments, because I was going to join [WWP]. It seem[s] everyone is trying to make a buck off these hero. Shame on [WWP].”

h. Bruce "Hark" (Tuesday, May 21, 2013 05:38 pm EDT)

“[WWP] claim[s] to give about 86% of what they take in to [injured service members]. Can this be prove[n] to be false[?]”

i. T. Knight (Sunday, July 21, 2013 09:57 pm EDT)

“How much is Trace Adkins being paid by the Wounded Warrior Project?”

j. Joan Lind (Tuesday, September 24, 2013 09:48 am EDT)

“I am in awe of what I just read. I am going to look into this further and personally call Wounded Warrior[] [Project] to find out exactly what the distribution of monies is for these [injured veterans].... and how much is given to the organization that is running this program. I used to donate money to the Humane Society of the

United States and stopped once I found out that the president receives an annual salary of over \$500,000. Could this be the case here as well? I am going to forward this information to FOXNews.”

k. Al Pivnick (Wednesday, October 16, 2013 04:57 pm EDT)

“I just [s]ent a donation into ‘Help Our Wounded’ giving phone cards to wounded soldiers. Is this a scam also? There are so many requests from ‘worthy’ organizations, that I am beginning to not be [part of any of them, as I cannot distinguish [which are the honorable ones. Can you assist me in this dilemma? Thanks in advance. Sincerely, Al[.]”

l. Don Kennedy (Thursday, October 17, 2013 05:18 pm EDT)

“I’m convinced this is a scam. I sent them an e-mail asking about their fundraising expenses and the percentage of the donations the veterans receive and all I got back was an FAQ and a link to send [WWP] a donation.”

m. Chuck Cochran (Sunday, November 17, 2013 07:17 pm EST)

“I am a MARINE [and] [a] member of INDIANA ROLLING THUNDER CHAPTER 1 - I [hear] your opinion [and] I hear WWP[’s] opinion [and] have read info from you both. I would like to personally witness the Fraud they are accused of. How could I visit/sit in a few local meetings so I can determine for myself. Do you have any info on meetings in the state of Indiana. I live in Lafayette, Indiana[.]”

See Exhibit A.

42. Defendants’ false and misleading statements have been reposted on popular social media forums numerous times. See Exhibit C. The interactive features of social media further display various comments of current and former WWP supporters who were deceived by Defendant’s false and misleading statements of fact including, without limitation, the following comments:

a. Alicia Ardoin Richard (November 12, 2013 at 7:43 pm)

“This is why the Cpl Matthew Richard Fund did not donate funds to them this year. We will stick with Semper Fi Fund, USO, and Fisher House. Thanks for sharing.”

- b. Kevin English (November 14, 2013 at 10:47 am)
“Crap I didn’t know !!! What the heck. I used them twice to go on a date with my wife . . . they don’t really help your right. I thought WWP actually cared guess not[.]”
- c. Beth Maxey (November 14, 2013 at 10:28 am)
“Wow, I was shocked and angered when I read this article Definitely won’t be donating to WWP . . . I’ll contribute in other ways to organizations whose profit actually goes to those it helps.”
- d. Sarah Lise Walenta (November 14, 2013)
“Just received this. If this is true I am horrified, I donate [to WWP] every month and this makes me sick if it is. I know how to thank a vet better than this.”
- e. Rick Seekman (November 15, 2013)
“[T]his is sad, I will no longer donate to [WWP].”
- j. Wayne Matson (November 16, 2013 at 9:38 am)
“Thanks for the post. My wife and I thought [WWP was] one good cause to support but after reading this it like every organization are scams.”
- k. Tyfani Sager (November 16, 2013)
“I ALMOST DONATED TO THIS GROUP! I’M GLAD I DIDN’T!!!”
- l. Shari Simpson Wilcoxon (November 17, 2013 at 10:32 am)
“Jerry L. Wilcoxon – please read, and transfer your auto donation. Love you[.]”
- m. Ken Grakauskas (November 17, 2013 at 1:15 pm)
“Shame on me for not doing my due diligence. I have contributing monthly to the WWP through my business. Its t[i]m[e] to change it up to the Intrepid Fallen Heroes Fund and the Fisher House Foundation. 100% of the IFHF goes to care. 95% of the FHH does. Good topic Merv.”

See Exhibit C.

43. Defendants’ false and misleading statements alleged herein have deceived many WWP supporters and have caused a number of WWP supporters to cancel their ongoing donations to WWP. See Exhibit D. WWP has received

numerous emails from current and former WWP supporters who were deceived by the false and misleading statements of fact published by Defendants (as alleged herein) including, without limitation, the following emails:

- a. Kathryn Mills (February 27, 2013 at 4:09 pm)
“<http://www.helpindianavets.com/wounded-warriors-is-a-fraud/>[.] Please cancel my donation schedule and keep the blanket, if it is mailed I will return it. The above website is the reason I have made this choice. Sincerely, and disappointed in you[.]”
- b. Martha Hooper (November 14, 2013 at 3:18pm)
“While looking for a worthy project this Christmas, I came upon your website and the backpacks for the [injured service members]. I immediately thought what a wonderful way to thank the men and women who put th[ei]r lives on the line daily for all of us. Shortly after approaching the people I work with via email, I learned that your so called non-profit organization really is a [“]for profit[”] group and after reading an article in the westernjournalism.com, discovered that very little of the monies you collect benefit these men and women. Shame on you. The very people who defend your right to scam people are being scammed by the likes of you!”
- c. Syd Vitale (November 14, 2013 at 7:13 pm)
“I[’]m curious to know how you respond to this accusation If you cannot provide appropriate documentation that this is untrue, I will certainly (at the least) pull my support. [] <http://freepatriot.org/2013/11/13wounded-warrior-project-is-a-fraud-making-millions-off-disabled-veterans/>[.]”
- d. Richard McEvoy (November 15, 2013 at 1:59 pm)
“How do you respond to the charges made against [WWP] that are appearing on the internet?”
- e. Karen Hanson (November 16, 2013 8:21 pm)
“I support your organization monthly and my daughter sent me this so could you tell my why this says you are no good? <http://universalfreepress.com/wounded-warrior-project-is-a-fraud-making-millions-off-disabled-veterans/>[.] I would like you to read the above website and let me know. [T]hank you.”
- f. Donald Dinger (November 18, 2013 at 2:44 pm)

“This link was sent to me. Please tell me this guy is wrong. <http://universalfreepress.com/wounded-warrior-project-is-a-fraud-making-millions-off-disabled-veterans/>[.]”

g. Terry Zimmerman (November 19, 2013 at 5:30 am)

“I only need to know if the information contained within this article is true: <http://asknod.wordpress.com/2013/08/19/wounded-warriors-project-a-scam/>[.] If I do not hear from your organization, I will assume that the information is true and will take the action needed to cancel the three upcoming events I have planned on my farm to support the WWP.”

See Exhibit D.

44. WWP has, and will continue to suffer irreparable harm as a result of Defendants’ false and misleading statements of fact. As evidenced by the comments made by current and former WWP supporters (a) on the HIVI Site, (b) on popular social media forums, and (c) in emails sent directly to WWP, Defendants’ false and misleading statements have damaged, and continue to damage: (i) WWP’s nonprofit services and programs; (ii) WWP’s reputation and the goodwill WWP has established in the WWP Mark; and (iii) WWP’s relationships with (A) injured service members and their families, (B) WWP supporters, (C) WWP corporate partners, (D) government officials, and (E) media outlets.

COUNT I
FALSE ADVERTISING – LANHAM ACT
(Against All Defendants)

45. WWP repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

46. Defendants have published and continue to publish website communications and emails (a) alleging that WWP's advertised services are fraudulent in that WWP does not provide financial services to injured service members, but rather allocates finances to benefit the employees of its own company; (b) promoting HIVI as a superior nonprofit organization to provide donations to instead of WWP evidenced by a PayPal link directly next to the fraudulent advertisements concerning WWP; and (c) stating that "DONATIONS ARE TAX DEDUCTIBLE SAVE YOUR RECEIPT FOR DONATION" when HIVI is not a tax-exempt organization eligible to receive tax-deductible contributions.

47. Defendants' activities alleged herein constitute literally false statements about WWP's services and HIVI's services.

48. To the extent any of Defendants' activities alleged herein do not constitute literally false statements, they implicitly convey a false impression, are misleading in context, or are likely to deceive injured veterans, WWP supporters, WWP corporate partners, government officials, and media outlets.

49. Defendants' false and misleading representations alleged herein have the tendency to deceive, and as evidenced by current and former WWP supporters' comments and reactions mentioned herein, have actually deceived, a substantial segment of the audience at which the false and misleading communications are directed.

50. Defendants' false and misleading representations alleged herein are material, in that they are likely to influence and, as evidenced by current

and former WWP supporters' comments and reactions mentioned herein, have actually influenced, WWP supporters' donation decisions.

51. Defendants' false and misleading representations alleged herein were made in or were caused to enter interstate commerce by virtue of the HIVI Site, a publicly accessible website.

52. Defendants' activities as stated herein constitute false and misleading advertising in connection with HIVI's services in commerce in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

53. Defendants' wrongful activities and conduct alleged herein have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to: (a) WWP's nonprofit services and programs; (b) WWP's reputation and the goodwill WWP has established in the WWP Mark; and (c) WWP's relationships with (i) injured service members and their families, (ii) WWP supporters, (iii) WWP corporate partners, (iv) government officials, and (v) media outlets. As such, WWP has no adequate remedy at law.

54. Defendants' wrongful conduct alleged herein has damaged, and continues to damage, WWP in an amount to be determined at trial.

COUNT II
CRIMINAL DECEPTION - INDIANA CRIME VICTIMS ACT
(Against All Defendants)

55. WWP repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

56. Defendants knowingly or intentionally made the false and misleading written statements of fact set forth in the preceding paragraphs with the intent to divert potential donations from WWP to HIVI, in violation of the Indiana Crime Victims Act, Ind. Code § 35-43-5-3.

57. Defendant's criminal deception has harmed, and continues to harm: (a) WWP's nonprofit services and programs; (b) WWP's reputation and the goodwill WWP has established in the WWP Mark; and (c) WWP's relationships with (i) injured service members and their families, (ii) WWP supporters, (iii) WWP corporate partners, (iv) government officials, and (v) media outlets.

58. Defendants' criminally deceptive acts alleged herein have damaged, and continue to damage, WWP in an amount to be determined at trial.

59. WWP is entitled to an award of treble damages pursuant to Indiana Crime Victims Act, Indiana Code § 34-24-3-1, for Defendants' criminal deception in violation of Indiana Code § 35-43-5-3.

COUNT III
DEFAMATION – INDIANA COMMON LAW
(Against Defendant Dean M. Graham)

60. WWP repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

61. Graham's published statements alleged herein are false and misleading statements of fact, which have defamed WWP.

62. By publishing his false and misleading statements of fact on the HIVI Site (a publicly accessible website) and publishing them in the form of an email to over 100 different individuals and entities including, without limitation, (a) state and federal government entities and officers, and (b) numerous media outlets, Graham published said defamatory statements to a wide range of persons.

63. Graham negligently published the false and defamatory statements alleged herein.

64. Graham published the false and defamatory statements alleged herein with knowledge of their falsity, or with reckless disregard to the truth or falsity of his statements.

65. Graham's defamatory statements have injured, and continue to injure: (a) WWP's nonprofit services and programs; (b) WWP's reputation and the goodwill WWP has established in the WWP Mark; and (c) WWP's relationships with (i) injured service members and their families, (ii) WWP supporters, (iii) WWP corporate partners, (iv) government officials, and (v) media outlets.

66. Graham's defamatory statements alleged herein have damaged, and continue to damage, WWP's reputation in an amount to be determined at trial.

COUNT IV
UNFAIR COMPETITION – INDIANA COMMON LAW
(Against All Defendants)

67. WWP repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

68. Defendants have made the false and misleading statements alleged herein in an attempt to unfairly compete with WWP and to divert donations from WWP's supporters.

69. Defendants' wrongful conduct alleged herein constitutes unfair competition in violation of the common law of the State of Indiana.

70. Defendants' wrongful conduct alleged herein has interfered with, and continues to interfere with, WWP's ability to compete on the merits of its nonprofit services.

71. Defendants' wrongful conduct alleged herein has caused, and continues to cause, irreparable harm to: (a) WWP's nonprofit services and programs; (b) WWP's reputation and the goodwill WWP has established in the WWP Mark; and (c) WWP's relationships with (i) injured service members and their families, (ii) WWP supporters, (iii) WWP corporate partners, (iv) government officials, and (v) media outlets.

72. Defendants' wrongful conduct alleged herein acts as a restraint on fair competition and has damaged, and continues to damage, WWP in an amount to be determined at trial.

COUNT V
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS – INDIANA
COMMON LAW
(Against All Defendants)

73. WWP repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

74. WWP had valid business relationships with specifically identifiable WWP supporters including, without limitation, the WWP supporters mentioned herein who read, were deceived by, and commented on Defendants' false and misleading statements of fact.

75. Defendants had specific knowledge of the existence of WWP's valid business relationships with specifically identifiable WWP supporters including, without limitation, the WWP supporters mentioned herein who read, were deceived by, and commented on Defendants' false and misleading statements of fact.

76. By deceiving WWP supporters with the false and misleading statements of fact alleged herein and diverting said WWP supporters' donations from WWP to Defendants based on such deception (as evidenced by the numerous comments and reactions of WWP supporters mentioned herein), Defendants intentionally interfered with WWP's valid business relationships with such WWP supporters.

77. Defendants' intentional interference with WWP's previously existing business and potential business relationships was without legal or factual justification and was employed by wrongful means (criminally deceiving WWP

supporters by publishing false and misleading statements of fact and inducing WWP supporters to provide donations to Defendants).

78. WWP has suffered damages (in an amount to be determined at trial) as a result of Defendants' intentional interference with WWP's valid, existing and potential business relationships with WWP supporters.

COUNT VI
UNJUST ENRICHMENT – INDIANA COMMON LAW
(Against All Defendants)

79. WWP repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

80. Defendants have received, and continue to receive, donations as a result of Defendants' tortious and improper conduct, including, but not limited to, the false and misleading statements of fact listed in the preceding paragraphs. By reason of the foregoing, Defendants have unjustly enriched themselves, and continue to do so, in an unknown amount.

81. The retention by Defendants of the donations they have received, and continue to receive and hold, would be unjust under the circumstances. WWP is entitled to just compensation under the common law of the State of Indiana for the donations Defendants received as a result of their tortious and improper conduct.

PRAYER FOR RELIEF

WHEREFORE, WWP respectfully requests that this Honorable Court enter judgment in its favor and against the Defendants on Counts I through VI above granting the following relief:

- a. A permanent injunction enjoining Defendants from continuing their practice of making false and misleading statements regarding WWP's services and HIVI's services;
- b. An award of treble damages (in an amount to be proven at trial) pursuant to the Indiana Crime Victims Act, Indiana Code § 34-24-3-1, for Defendants' criminal deception in violation of Indiana Code § 35-43-5-3;
- c. An order compelling Defendants to disgorge all financial benefits, including profits, realized by Defendants as a result of their wrongful conduct alleged herein;
- d. An award of costs and reasonable attorneys' fees incurred in this action; and
- e. Such other and further relief as the Court deems just and proper.

Dated: November 21, 2013.

Respectfully submitted,

By: /s/ Jessica M. Lindemann

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