

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PALM PARTNERS, LLC,
a Florida Limited Liability Company,

Case No. 9:13-cv-81090-KAM

Plaintiff,

v.

THE PALMS AT BOCA RATON, INC.,
a Florida Corporation, and DANA FRANKEL,
an individual.

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CONSENT FINAL JUDGMENT
AND ENTRY OF PERMANENT INJUNCTION AGAINST DEFENDANT

THIS CAUSE came before the Court upon consideration of the Joint Motion for Entry of Consent Final Judgment between the Parties, Plaintiff PALM PARTNERS, LLC (“Palm Partners” or “Plaintiff”) and Defendants THE PALMS AT BOCA RATON, INC. (“TPBR”) and DANA FRANKEL (“Frankel”) (collectively “Defendants”). It appears that the Parties have arrived at a settlement of this entire matter subject to the terms of a Settlement Agreement dated as of November 3, 2013 and have stipulated and consented to the relief set forth herein, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. The following three United States Trademark Registrations owned by Palm Partners are both valid and enforceable:

- (a) United States Trademark Registration No. 3,882,989, issued on November 30, 2010, for the mark **PALM PARTNERS** in International Class 44 for “[r]ehabilitation and counseling of drug and alcohol addicted patients” (hereinafter the ‘989 Registration);
- (b) United States Trademark Registration No. 4,308,559 issued on March 26, 2013 for the mark **PALM PARTNERS RECOVERY CENTER** in International Class 44 for “[r]ehabilitation and counseling of drug and alcohol addicted patients” (hereinafter the ‘559 Registration); and

- (c) United States Trademark Registration No. 4,312,323 issued on April 2, 2013 for the mark **PALM PARTNER UNIVERSITY** in International Class 41 for “[e]ducation services, namely, providing classes, seminars, workshops in the field of drug and alcohol abuse, namely, providing the ability to meet professional goals while achieving addiction treatment and recovery” (hereinafter the ‘323 Registration).

2. Palm Partners maintains and owns certain common law rights under Section 43(a) of the Lanham Act with regard to the mark **PALM PARTNERS**, including but not limited to the field of drug and alcohol recovery and treatment services (the “Common Law Rights”). Moreover, Palm Partners has actively marketed, promoted, and advertised its various services under the ‘989 Registration, the ‘559 Registration, ‘323 Registration, and the Common Law Rights (herein collectively the “Palm Marks”).

3. The Court likewise finds that the Palm Marks are strong, distinctive and have acquired secondary meaning in the marketplace.

4. Defendants, and any person or entity acting in concert with Defendants (or at the direction of Defendants), including any and all managers, agents, servants, employees, doctors, care givers, nurses, medical professionals, partners, successors-in-interest, assignees, representatives, and any others over which Defendants may exercise control, are hereby **PERMANENTLY RESTRAINED** and **RESTRICTED**, from selling, offering for sale, providing, performing, marketing, advertising or promoting any form of addiction recovery and/or treatment service under the Palm Marks, including any and all use of the terms **THE PALMS, PALM, PALMS, THE PALMS AT BOCA RATON**, or any colorable imitation (or any similar indicia) including any of the following activities in the United States and throughout the World:

(a) operating any form of drug and alcohol recovery center, rehabilitation center, residential treatment center, in-patient treatment facility, intensive outpatient facility, or any

similar facility for the purpose of offering addiction recovery and/or treatment service under the Palm Marks – including but not limited to use of the Palm Marks in any form of signage, banners, transportation vehicles;

(b) marketing, advertising, promoting, selling, offering for sale, invoicing, obtaining payment for any form of addiction treatment and/or recovery services under the Palm Marks, including any and all use of the terms **THE PALMS, PALM, PALMS, THE PALMS AT BOCA RATON**, or any colorable imitation (or any similar indicia) – including any forms of brochures, pamphlets, marketing materials, business cards, apparel, uniforms, or the like; and

(c) using any Internet domain name, any form of indicia on any social media website or any related website (either directly or indirectly) that uses the Palm Marks (or colorable imitation thereof), including any and all use of the terms **THE PALMS, PALM, PALMS, THE PALMS AT BOCA RATON** to advertise, promote, market, or recommend any form of addiction treatment and/or recovery services (or any related facility providing such a service).

5. It is further **ORDERED** that this Consent Final Judgment shall be deemed to have been served upon the Parties at the time of its execution by the Court.

6. The Court shall maintain jurisdiction with regard to any enforcement proceedings regarding this Consent Final Judgment, modification of this Consent Final Judgment, or any other proceedings arising under this Consent Final Judgment, which will be construed under the laws of the State of Florida.

7. No appeals shall be taken from this Consent Final Judgment and the Parties waive all rights to appeal.

8. This case shall be dismissed with prejudice with each Party bearing their own Attorneys' Fees and Costs.

The Clerk of Court shall close this case.

DONE and ORDERED in West Palm Beach, Florida this 12th day of November, 2013.



KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Copies furnished to:
All Counsel of Record