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Michael Ferguson, Benjamin Unger, Chaim
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Plaintiffs,

v.

JONAH (Jews Offering New Alternatives for
Healing f/k/a Jews Offering New Alternatives
to Homosexuality), Arthur Goldberg, Alan
Downing, Alan Downing Life Coaching LLC,

Defendants.

SUPERIOR COURT OF NEW JERSEY
HUDSON COUNTY, LAW DIVISION

Docket No: L-5473-12

CIVIL ACTION

**PLAINTIFFS' STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PARTIAL SUMMARY
JUDGMENT**

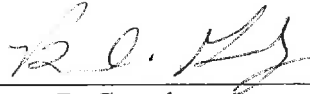
Pursuant to R. 4:46-2(a) Plaintiffs hereby submit this Statement of Undisputed Material Facts in Support of their Motion for Partial Summary Judgment. There is no genuine dispute as to these facts, which are either uncontroverted or established by the record as detailed below.

1. The State of New Jersey enacted A3371, prohibiting the provision of conversion therapy to minors by certain licensed professionals, on August 19, 2013. *See* Bensman Cert., Ex. 1, *N.J.S.A.* 45:1-54-55.
2. The American Medical Association officially affirms that homosexuality is not a mental illness or disorder. *See* Bensman Cert., Ex. 2, Am. Med. Ass'n, *Policy Regarding Sexual Orientation, H-160.991 Health Care Needs of the Homosexual Population*, 3, <http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/glb-t-advisory-committee/ama-policy-regarding-sexual-orientation.page?> (last visited November 19, 2014).
3. The American Academy of Pediatrics officially affirms that homosexuality is not a mental illness or disorder. *See* Bensman Cert., Ex. 3, Barbara L. Frankowski et.al., *Sexual Orientation and Adolescents*, 113 *Pediatrics* 1827, 1827–28 (2004).
4. The American Psychiatric Association declassified homosexuality as a mental disorder in 1973 by removing homosexuality from the Diagnostic and Statistical Manual of Mental Disorders (DSM). *See* Bensman Cert., Ex. 6, Am. Psychiatric Ass'n, *Homosexuality and Sexual Orientation Disturbance: Proposed Change in DSM-II, 6th Printing*, page 44 (1973).
5. The American Psychological Association in its statement *Appropriate Affirmative Response to Sexual Orientation Distress and Change Efforts*, dated Aug. 5, 2009 noted the “longstanding consensus of the behavioral and social sciences and the health and mental health professions is that homosexuality per se is a normal and positive variation of human sexual orientation.” *See* Bensman Cert., Ex. 11, Am. Psychological Ass'n, *Appropriate Affirmative Response to Sexual Orientation Distress and Change Efforts* (2009).
6. The Royal College of Psychiatrists officially affirms that homosexuality is not a mental illness or disorder. *See* Bensman Cert., Ex. 7, Royal Coll. of Psychiatrists, *Royal College of Psychiatrists' statement on sexual orientation* (2014).

7. The American Counseling Association officially affirms that homosexuality is not a mental illness or disorder. *See* Bensman Cert., Ex. 4, A Resolution of the Governing Counsel of the Am. Counseling Ass'n, recorded in *ACA Governing Council Meeting Minutes, March 26-27, 1998*, 15 (1998).
8. The National Association of Social Workers concurs with the leading professional associations' findings that homosexuality is not a mental illness or disorder. *See* Bensman Cert., Ex. 5, Nat'l Ass'n of Social Workers, Catherine Crisp & Yolanda Padilla, *Lesbian, Gay, and Bisexual Issues* (2005).
9. The "Just the Facts" Coalition published a booklet stating that "the idea that homosexuality is a mental disorder or that the emergence of same-sex attraction and orientation among some adolescents is in any way abnormal or mentally unhealthy has no support among any mainstream health and mental health professional organizations . . . [Prominent professional organizations] representing more than 480,000 mental health professionals, have all taken the position that homosexuality is not a mental disorder and thus is not something that needs to or can be 'cured.'" *See* Bensman Cert., Ex. 10, *Just the Facts about Sexual Orientation and Youth*, Am. Psychological Ass'n, <http://www.apa.org/pi/lgbt/resources/just-the-facts.aspx> (last visited Nov. 19, 2014).
10. JONAH uses the word "change" in advertising its conversion therapy services to consumers. *See, e.g.*, Bensman Cert., Ex. 24, JONAH18938 ("going from gay to straight is very possible").
11. JONAH works with clients and counselors of all faiths, including atheists. *See, e.g.*, Bensman Cert., Ex. 28, JONAH, Inc. Tr. at 222:17-224:25.
12. JONAH's services are secular in nature. *See, e.g.*, Bensman Cert., Ex. 28, JONAH, Inc. Tr. at 222:14-16.
13. The JONAH Institute Consent to Treat and Financial Agreement says, "[t]here is no guarantee of successful change, although most clients do experience benefit from the process." *See, e.g.*, Bensman Cert., Ex. 34, JONAH-Bruck Agreement at 4.
14. Alan Downing's Life Coaching Client Service Agreement says "you need to be aware that results cannot be guaranteed." *See, e.g.*, Bensman Cert., Ex. 35, Downing Agreement at 1.
15. Defendants do not maintain licenses as therapists, psychologists, psychiatrists, social workers, or other licensed professionals. *See, e.g.*, Bensman Cert., Ex. 25, Goldberg Tr. at 38:14-16; Ex. 33, Downing Tr. at 567:21-568:10.

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Respectfully submitted,



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