

COPY OF STATEMENT OF CLAIM

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

FIC INVESTMENTS USA CORP.

Plaintiff

- and -

RCR CONSTRUCTION & MANAGEMENT LTD.

Defendant

AMENDED STATEMENT OF CLAIM

1. The Plaintiff FIC Investments USA Corp. (herein referred to from time to time as "FIC") is a body corporate incorporated in the State of Nevada, United States of America and registered under the laws of the Province of Alberta, Canada.
2. The Defendant RCR Construction & Management Ltd. (herein referred to from time to time as "RCR") is a body corporate incorporated and registered under the laws of the Province of Alberta, Canada.
3. By a Development Agreement dated March 25, 2006 (herein referred to as the Development Agreement) between FIC and RCR, FIC agreed to provide and did provide construction financing to RCR to enable the latter to construct residential homes on lots owned by FIC in the Willow Park subdivision situate in Stony Plain, Alberta, and then to sell those lots to third persons.
4. Under the Development Agreement RCR agreed to pay FIC, in consideration for the provision of construction financing advanced by FIC from time to time, compensation in the amount of 12% of each advance paid to RCR, plus 34% of the net profit earned by

RCR from the sale of each completed home on each lot, calculated on the basis of the difference between the cost to construct and market the home and the net selling price for that home. In addition, in the event that the time for construction by RCR of a home on a lot exceeded one year from the date of the first advance applicable to that home, FIC was to be paid interest at the rate of 1% per month (which FIC claims means that interest is compounded monthly at that rate) on the amounts advanced by FIC for that lot, calculated from the date of the first advance. Payment of the amount owed by RCR to FIC for each home was to have been made within 10 business days of the Completion Date for each home (defined in the Development Agreement as being the date RCR received full and final payment for a home, from its purchaser), along with a full accounting for all construction and marketing costs, a calculation of the interest payable, and a calculation of the net profit earned, all certified by RCR's accountants.

5. FIC made advances to RCR under the Development Agreement from time to time, for the construction of homes on Willow Park lots. RCR did construct homes on those lots during the years 2006 and 2007, but it has not informed FIC of the Completion Dates for each particular home sold to third parties up to the present date. FIC advanced \$757,190 pursuant to the Development Agreement during the year 2006. FIC claims that the total amount owed to FIC in connection with lots sold by RCR to third persons, as of March 31,2008 with compound interest accruing thereon after that date, is as follows:

(a)	Lots 63,3,4,5,6 : Cost \$364,900 plus 12% compensation	\$408,668
(b)	Interest on advances from March 2006 to July 2007	\$136,659
(c)	Net Profit share	\$28,538
(d)	Advances	<u>\$757,190</u>

\$1,331,075

	LESS monies paid by RCR during 2006-2007	<u>\$392,648</u>
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	BALANCE as at March 31,2008	\$938,427
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(e)	Interest at 1% per month April 1 to November 30,2008	<u>\$ 77,755</u>
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	TOTAL as at November 30,2008	\$1,016,182
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Plus compound interest at 1% per month on \$1,016,182 from Dec. 1, 2008

6. Despite repeated demands of RCR by FIC for payment and an accounting, RCR in breach of the Development Agreement has failed or neglected to pay the sum of at least \$938,427 and interest on that amount being a just debt unduly withheld, compounded at 1% per month totaling \$77,755 as at November 30, 2008, and continues to fail or neglect to so pay FIC. Furthermore, RCR has failed or neglected and continues to fail or neglect, to provide FIC with a detailed accounting of the calculation of construction and marketing costs, interest, and the net profit share for each lot sold to a third party.
7. Furthermore, or in the alternative, by virtue of the provisions of the Development Agreement whereby FIC was to be paid a 34% net profit share from the sale of each lot by RCR to a third party, RCR became, and remains, an actual trustee or in the alternative a constructive trustee for FIC, to the extent of that amount, for each lot sold by RCR. As a result of the failure or neglect by RCR to pay and provide an accounting as aforesaid, to FIC, RCR has breached its obligations as actual or alternatively constructive trustee for FIC, and thereby caused FIC to suffer loss and damage in the amount of 34% of the net profit share for each lot; estimated to be at least a total of \$28,538.
8. The Plaintiff proposes that the trial of this Action be held at the Law Courts in the City of Edmonton in the Province of Alberta, and that in its opinion the trial is not likely to take more than 25 days.

WHEREFORE THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT :

- A. Judgment in the amount of \$938,427 as a just contract debt unduly withheld or alternatively Judgment in that sum as damages for breach of contract.
- B. Judgment for Interest on \$938,427 from March 31, 2008 to November 30, 2008 compounding at the rate of 1% per month totaling \$77,755.
- C. Judgment for Interest on \$938,427 from December 1, 2008 until payment and upon Judgment, compounding at the rate of 1% per month.

- D. Alternatively Judgment for Interest at the rate provided by the Judgment Interest Act of Alberta on \$938,427 from March 31, 2008 until payment and upon Judgment.
- E. Alternatively Judgment for Interest on the balance of the advances made by the Plaintiff from the dates thereof under the Development Agreement, until payment and upon Judgment at the rate provided by the Judgment Interest Act of Alberta.
- F. An accounting under the Development Agreement for the cost of construction and marketing, interest, and the net profits owed to the Plaintiff.
- G. Judgment for such amounts as are owed to the Plaintiff under Claim F above, and for Interest compounding at 1 % per month on such amounts as are established under the said Claim F.
- H. A Declaration that the Defendant is actual or alternatively constructive trustee for the Plaintiff to the extent of the net profits from each lot under the Development Agreement found to be owing to the Plaintiff.
- I. Costs of this Action including party/party and those incurred on a solicitor and client basis.
- J. Such further and other relief as to this Honourable Court appears just and fair.

DATED at the City of Edmonton, in the Province of Alberta, this 2nd day of February A.D. 2009, and DELIVERED by TREVOY LLP, solicitors for the Plaintiff(s), whose address for service is in the care of the said solicitors at Suite 680, 10180 – 101 Street, Edmonton AB, T5J 3S4.

ISSUED out of the office of the Court of Queen's Bench of Alberta, Judicial District of Edmonton, this 2nd day of February, 2009.


CLERK OF THE COURT OF QUEEN'S
BENCH OF ALBERTA

SEAL

Notice

To: RCR Construction & Management Ltd.

You have been sued. You are the Defendant(s). You have only 15 days to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice in the office of the Clerk of the Court of Queen's Bench in Edmonton, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiffs named in this Statement of Claim.

WARNING: If you do not do both things within 15 days, you may automatically lose the lawsuit. The Plaintiff(s) may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiff(s), or do either thing late.

This Statement of Claim is issued by:

TREVOY LLP,

Solicitors for the Plaintiff(s), who reside(s) at Edmonton, Alberta, and whose address for service is in care of said solicitors at:

**680, 10180 – 101 Street
Edmonton, AB T5J 3S4
Telephone: (780) 425-1000
Fax: (780) 425-1010**

The Defendant(s) residence, as far as is known to the Plaintiff(s), is Alberta.

Action No.

0903 01523

2009

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BETWEEN:

FIC INVESTMENTS USA CORP.

Plaintiff

- and -

RCR CONSTRUCTION & MANAGEMENT LTD.

Defendant

AMENDED STATEMENT OF CLAIM

**TREVOY LLP
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Edmonton AB T5J 3S4**

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**Lawyer: David S. Welsh
File No. 63626**

