

1 Mark G. Tratos (Bar No. 1086)
Jason D. Firth (Bar No. 8801)
2 Ronald D. Green Jr. (Bar No. 7360)
GREENBERG TRAUERIG, LLP
3 3773 Howard Hughes Parkway
Suite 500 North
4 Las Vegas, Nevada 89169
Telephone: (702) 792-3773
5 Facsimile: (702) 792-9002

6 Counsel for Plaintiff

7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 Paradise Canyon, LLC,
11 Plaintiff,

12 v.

13 Integra Investments, LLC,
14 Defendant.

Case No.
COMPLAINT

15
16 Plaintiff Paradise Canyon, LLC ("Paradise Canyon") hereby complains and alleges
17 as follows:

18 **NATURE OF ACTION**

19 This is an action for false advertising, false designation of origin, and trademark
20 infringement under the Lanham Act with pendent state law claims for trademark
21 infringement and deceptive trade practices under the Nevada Revised Statutes and
22 common law trademark infringement. Plaintiff seeks damages, attorneys' fees and costs
23 and preliminary and permanent injunctive relief.

24 **JURISDICTION AND VENUE**

25 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.
26 §§ 1331 and 1338(a). This Court has supplemental jurisdiction over Plaintiff's state law
27 claims pursuant to 28 U.S.C. § 1367(a).

28 /

GREENBERG TRAUERIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)

2. This Court has personal jurisdiction over Defendant Integra Investments, LLC ("Integra") based upon the following: (a) Integra regularly conducts business in the State of Nevada; (b) Integra intentionally caused consumer confusion and infringed Paradise Canyon's trademarks in the State of Nevada by publishing advertising directed at the State of Nevada.

THE PARTIES

3. Plaintiff Paradise Canyon is a Nevada limited liability company that owns and operates the Wolf Creek Golf Club in Mesquite, Nevada and owns the WOLF CREEK mark for, among other things, golf course services.

4. Defendant Integra is a Utah limited liability company that owns and is developing "Hidden Wolf", a planned residential community located in Mesquite, Nevada adjacent to the Wolf Creek Golf Club.

ALLEGATIONS COMMON TO ALL COUNTS

5. Plaintiff Paradise Canyon owns and operates the Wolf Creek Golf Club in Mesquite, Nevada and owns the WOLF CREEK mark, which it has used for the provision of various services since October of 2000.

6. Plaintiff coined the name WOLF CREEK as a fanciful, arbitrary name for its golf course and related services. The location of Plaintiff's golf course is within an area known as "Paradise Canyon."

7. Plaintiff Paradise Canyon owns a federal trademark registration with the United States Patent and Trademark Office (the "USPTO") for WOLF CREEK (U.S. Reg. No. 3,010,874) for arranging and conducting golf competitions, entertainment in the form of golf tournaments, golf club services, golf courses and providing facilities for recreation activities.

8. Plaintiff Paradise Canyon owns two State of Nevada trademark registrations for WOLF CREEK:

- a. WOLF CREEK (NV Reg. No. 36,346) for golf course services; and
- b. WOLF CREEK w/design (NV Reg. No. 36,345) for clothing.

1 Neither of these registrations has been abandoned, canceled or revoked.

2 9. Plaintiff's Wolf Creek Golf Club enjoys international fame. One of golf's most
3 prestigious publications ranked Wolf Creek Golf Club as Nevada's second best golf course
4 and ranked it in the top 30 of America's 100 Greatest Public Courses for 2005.

5 10. Defendant Integra purchased various plots of land, totaling approximately 750
6 acres, adjacent to the Wolf Creek Golf Club property with the intent of constructing a
7 residential community on the plots of land.

8 11. The entities from whom Defendant Integra purchased the land had planned to
9 call their land development project the "Wolf Creek Estates," prompting Plaintiff to file suit
10 against them in the United States District Court for the District of Nevada, Case No. CV-S-
11 05-0462-RLH-RJJ.

12 12. Plaintiff obtained two Temporary Restraining Orders and a Stipulated
13 Permanent Injunction against the developers of the "Wolf Creek Estates," and Defendant
14 Integra was thus on notice that Plaintiff objected to developers using variations of the
15 WOLF CREEK mark in Mesquite, Nevada and making misleading statements about
16 affiliation with the Wolf Creek Golf Club. (See Temporary Restraining Orders and
17 Stipulated Permanent Injunction, attached hereto as Exhibits 1, 2 and 3.)

18 13. At some point subsequent to the purchase of the land, Defendant Integra
19 began developing the land adjacent to Wolf Creek Golf Club for the purpose of constructing
20 a residential development.

21 14. Defendant Integra actively commenced marketing the land as "Hidden Wolf."

22 15. In fact, Defendant Integra's advertising for the "Hidden Wolf" residential
23 development focuses not on Integra's homes or development but on the Wolf Creek Golf
24 Club. (See Hidden Wolf Advertisement, attached hereto as Exhibit 4.)

25 16. Defendant Integra's logo for the Hidden Wolf residential development is
26 substantially similar to the logo that Paradise Canyon uses to promote the Wolf Creek Golf
27 Club. (See Exh. 1)

28 /

GREENBERG TRAURIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)

GREENBERG TRAURIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)

1 17. Defendant's advertising also advertises that its housing development features
2 "WORLD-CLASS GOLFING...in your own backyard" and states that "If you've had the
3 chance to play golf at **Wolf Creek Golf Club** in Mesquite, you certainly understand why it's
4 consistently rated as one of the best and most challenging courses in America," falsely
5 suggesting that Paradise Canyon and Wolf Creek Golf Club are affiliated with Integra's
6 residential development. (Exh. 1 (emphasis in original))

7 18. Defendant's advertising asks consumers, "Wouldn't you love to play this
8 amazing course every day – just by stepping outside your door?," falsely suggesting that
9 Integra homeowners will have special access privileges to the Wolf Creek Golf Club. (Exh.
10 1)

11 19. Defendant's advertising states that its proposed Hidden Wolf residential
12 development is "an exclusive residential community at the peak of the golf course," falsely
13 suggesting that Integra's residence is affiliated with, operated by, or a part of the Wolf
14 Creek Golf Club owned by Paradise Canyon.

15 20. Defendant Integra's advertising says virtually nothing about its planned
16 residential development and the housing it would offer there.

17 21. Plaintiff Paradise Canyon sent a cease and desist letter to Integra on
18 November 7, 2007. Thereafter, Plaintiff's counsel spoke with representatives for Defendant
19 Integra, who by written correspondence dated November 23, 2007, refused to cease and
20 desist Integra's infringing activities.

21 22. Specifically, through correspondence, Defendant Integra refused to change
22 its name or to enter into a written agreement stating that it would cease its misleading
23 advertising, ostensibly because it feels that anyone should be able to use the word "wolf."
24 (See Email Correspondence between J. Firth and B. McQuarrie, attached hereto as
25 **Exhibit 5.**)

26 23. By marketing its development, which is immediately adjacent to the Wolf
27 Creek Golf Club, using Plaintiff's WOLF CREEK trademark and inferring affiliation with
28 Plaintiff, Defendant is attempting to trade on the goodwill of Paradise Canyon and its Wolf

1 | Creek Golf Club.

2 | 24. By marketing its development, which is immediately adjacent to the Wolf
3 | Creek Golf Club, using Plaintiff's WOLF CREEK trademark and inferring affiliation with
4 | Plaintiff, Defendant is attempting to create an association between its development and
5 | Paradise Canyon's Wolf Creek Golf Club.

6 | 25. Upon information and belief, Defendant Integra called its development
7 | "Hidden Wolf" and inferred affiliation with Plaintiff to the public with the bad faith intent to
8 | profit from Plaintiff's WOLF CREEK mark and to create an association between its
9 | development and the Wolf Creek Golf Club in the minds of consumers.

10 | **FIRST CLAIM FOR RELIEF**

11 | **(Unfair Competition: False Advertising – 15 U.S.C. § 1125(a)(1)(B))**

12 | 26. Plaintiff incorporates the allegations in the preceding paragraphs as though
13 | set forth fully herein.

14 | 27. Defendant's use of the WOLF CREEK mark, and variants thereof, to market
15 | its development constitutes false advertising and a misrepresentation of the nature,
16 | characteristics, qualities and/or geographic origin of Defendant's goods, services and
17 | commercial activities.

18 | 28. Defendant's use in commerce of Plaintiff's WOLF CREEK mark, and variants
19 | thereof, to market a development directly adjacent to Plaintiff's Wolf Creek Golf Club
20 | constitutes intentional conduct by Defendant to falsely advertise its goods, services and
21 | commercial activities and to misrepresent the nature, characteristics, qualities and/or
22 | geographic origin of Defendant's goods, services and commercial activities.

23 | 29. Unless Defendant is immediately enjoined and prohibited from using the
24 | WOLF CREEK mark to market its development, Defendant will continue to intentionally
25 | falsely advertise its goods, services and commercial activities.

26 | 30. As a direct and proximate result of Defendant's false advertising, Plaintiff has
27 | suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
28 | reputation, and goodwill.

GREENBERG TRAURIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89168
(702) 792-3773
(702) 792-9002 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CLAIM FOR RELIEF

(Unfair Competition: False Designation of Origin – 15 U.S.C. § 1125(a)(1)(A))

31. Plaintiff incorporates the allegations in the preceding paragraphs as though set forth fully herein.

32. Defendant's use of the WOLF CREEK mark, and variations thereof, to market its development constitutes a false designation of origin, as the use of the WOLF CREEK mark, and variations thereof, indicates to the consumer that the development is operated by or affiliated with Paradise Canyon, when in fact it is not.

33. Defendant's actions have created a likelihood of confusion among consumers who will falsely believe that the "Hidden Wolf" development is operated and/or endorsed by Paradise Canyon, when in fact it is not.

34. Defendant's use of the WOLF CREEK mark, and variants thereof, to market its goods and services to the public constitutes intentional conduct by Defendant to make false designations of origin and false descriptions about Defendant's goods, services and commercial activities.

35. Unless Defendant is immediately enjoined and prohibited from using the WOLF CREEK mark, and variants thereof, to market its development, Defendant will continue to intentionally make false designations of origin and false descriptions about Defendant's goods, services and commercial activities.

36. As a direct and proximate result of Defendant's false designation of origin, Plaintiff has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

THIRD CLAIM FOR RELIEF

(Trademark Infringement – 15 U.S.C. § 1115)

37. Plaintiff incorporates the allegations in the preceding paragraphs as though set forth fully herein.

38. Defendant Integra used and is using in commerce the name "Hidden Wolf" to promote its real estate development, which is adjacent to Plaintiff's Wolf Creek Golf Club, is

GREENBERG TRAURIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 782-3773
(702) 782-9002 (fax)

1 being marketed as though it were part of the Wolf Creek Golf Club, and contains one of the
2 primary terms included in Plaintiff's registered mark.

3 39. Defendant's use in commerce of Plaintiff's marks and/or a mark confusingly
4 similar to Plaintiff's trademarks for Defendants' services constitutes a reproduction,
5 copying, counterfeiting, and colorable imitation of Plaintiff's trademarks in a manner that is
6 likely to cause confusion or mistake or is likely to deceive consumers.

7 40. By using Paradise Canyon's marks and/or marks confusingly similar to
8 Paradise Canyon's trademarks with the knowledge that Plaintiff owns and has used, and
9 continues to use, its trademarks in Nevada and across the United States, Defendant has
10 intended to cause confusion, cause mistake, or deceive consumers.

11 41. Defendant is using a mark identical and/or confusingly similar to Plaintiff's
12 trademarks in connection with the sale, offering for sale or advertising of services in a
13 manner that is likely to cause confusion, or to cause mistake, or to deceive consumers as
14 to affiliation, connection or association with Plaintiff or as to the origin, sponsorship, or
15 approval of Defendant's services or commercial activities by Plaintiff.

16 42. Defendant's use of Plaintiff's marks and/or marks confusingly similar to
17 Plaintiff's trademarks has created a likelihood of confusion among consumers who may
18 falsely believe that Defendant's business is associated with Plaintiff's Wolf Creek Golf Club
19 or that Plaintiff sponsors or approves of Defendant's services or commercial activities.

20 43. Unless Defendant is immediately enjoined and prohibited from using the
21 WOLF CREEK mark, and variations thereof, to market its development, it will continue to
22 infringe upon Plaintiff's WOLF CREEK mark.

23 44. As a direct and proximate result of Defendant's infringement, Plaintiff has
24 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
25 reputation, and goodwill.

26 /
27 /
28 /

GREENBERG TRAURIG LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CLAIM FOR RELIEF

(Trademark Infringement – N.R.S. § 600.420)

45. Plaintiff incorporates the allegations in the preceding paragraphs as though set forth fully herein.

46. Plaintiff Paradise Canyon has mark registrations in the State of Nevada for WOLF CREEK.

47. Defendant used, without Plaintiff's consent, reproductions, counterfeits, copies and/or colorful imitations of Plaintiff's WOLF CREEK mark, and variations thereof, in connection with the sale, offering for sale and/or advertising of Defendants' goods and services.

48. Defendant willfully reproduced, counterfeited, copied and/or colorfully imitated Plaintiff Paradise Canyon's WOLF CREEK mark and applied or caused to be applied that reproduction, counterfeit, copy or colorable imitation to Defendant's goods and services and advertisements for those goods and services.

49. Defendant's use of Plaintiff's WOLF CREEK mark (or reproductions, counterfeits, copies or colorful imitations thereof) is likely to cause confusion or mistake among consumers or result in deception as to the source or origin of such goods and services.

50. Unless Defendant is enjoined and prohibited from continuing to engage in its infringements of Plaintiff's WOLF CREEK mark, Defendant will continue to infringe upon Plaintiff's marks.

51. As a direct and proximate result of Defendant's trademark infringement, Plaintiff has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

FIFTH CLAIM FOR RELIEF

(Deceptive Trade Practices – N.R.S. 598.0915)

52. Plaintiff incorporates the allegations in the preceding paragraphs as though set forth fully herein.

GREENBERG TRAURIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)

1 53. Upon information and belief, in the course of its business, Defendant
2 knowingly made false representations as to affiliation, connection and/or association with
3 Plaintiff by using a mark identical or confusingly similar to Plaintiff's trademarks and
4 otherwise engaged in deceptive trade practices.

5 54. Unless Defendant is immediately enjoined and prohibited from engaging in
6 such deceptive trade practices, Defendant will continue its unlawful activities.

7 55. As a direct and proximate result of Defendant's engaging in deceptive trade
8 practices, Plaintiff has suffered, and will continue to suffer, monetary loss to its business,
9 reputation and goodwill.

10 **SIXTH CLAIM FOR RELIEF**

11 **(Common Law Trademark Infringement)**

12 56. Plaintiff incorporates the allegations in the preceding paragraphs as though
13 set forth fully herein.

14 57. By virtue of having used and continuing to use its WOLF CREEK trademark,
15 Plaintiff Paradise Canyon has acquired common law rights in the mark.

16 58. Defendant's use of marks identical or confusingly similar to Plaintiff's WOLF
17 CREEK trademark infringes Plaintiff's common law rights in its trademark, and this use is
18 likely to cause confusion, mistake or deception among consumers who will believe that
19 Defendant's development, the "Hidden Wolf," is affiliated with or endorsed by Plaintiff
20 Paradise Canyon, when it is not.

21 59. Unless Defendant is enjoined and prohibited from continuing to engage in its
22 infringements of Plaintiff's WOLF CREEK mark, Defendant will continue to infringe upon
23 Plaintiff's marks.

24 60. As a direct and proximate result of Defendant's common law trademark
25 infringement, Plaintiff has suffered, and will continue to suffer, monetary loss to its
26 business, reputation and goodwill.

27 /

28 /

GREENBERG TRAURIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Paradise Canyon, LLC respectfully requests that this Court grant the following relief:

A. A preliminary and permanent injunction prohibiting Defendant Integra and its officers, agents, servants, employees and/or all persons acting in concert with it from: (1) advertising its planned housing development as though it were connected with or related to the Wolf Creek Golf Club; (2) using the WOLF CREEK mark, or confusingly similar variations thereof, alone or in combination with any other words, letter strings, phrases or designs in commerce or in connection with any business or for any purpose; (3) representing themselves, or any of their officers, agents, servants, employees and/or all other persons acting in concert with them, as representatives of Paradise Canyon; (4) representing to third parties that their activities, or the activities of their officers, agents, servants, employees and/or all other persons acting in concert with them, are affiliated with or endorsed by Paradise Canyon; and (5) representing to third parties that their development is in any way affiliated with or endorsed by Paradise Canyon's Wolf Creek Golf Club;

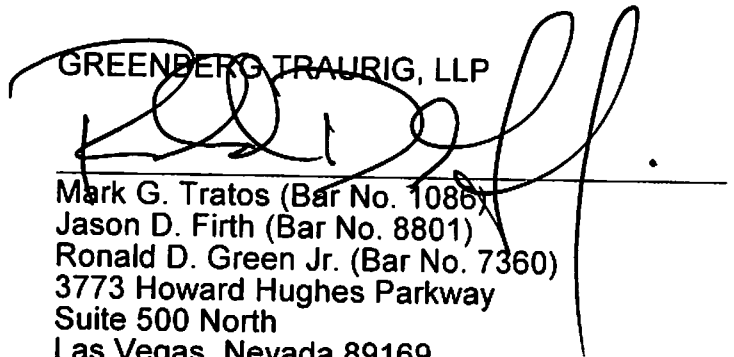
B. An award of compensatory, consequential, statutory, and punitive damages to Plaintiffs in an amount to be determined at trial;

C. An award of interest, costs and attorneys' fees incurred by Plaintiff in prosecuting this action; and

D. All other relief to which Plaintiff is entitled.

DATED: December 19, 2007.

GREENERG TRAUERIG, LLP



Mark G. Tratos (Bar No. 1086)
Jason D. Firth (Bar No. 8801)
Ronald D. Green Jr. (Bar No. 7360)
3773 Howard Hughes Parkway
Suite 500 North
Las Vegas, Nevada 89169
Counsel for Plaintiff

GREENERG TRAUERIG, LLP
Suite 500 North, 3773 Howard Hughes Parkway
Las Vegas, Nevada 89169
(702) 792-3773
(702) 792-9002 (fax)