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5 *Proposed Special Litigation Counsel for*
Michael G. Kasolas, Chapter 7 Trustee
6 *For Fox Ortega Enterprises, Inc.*
Db a Premier Cru
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT**
10 **OAKLAND DIVISION**

11 In re:
12 FOX ORTEGA ENTERPRISES, INC., dba
13 PREMIER CRU
14 Debtor.

Case No.: 16-40050-WJL

Chapter: 7

15 NOTICE AND OPPORTUNITY FOR
16 HEARING ON MOTION FOR ORDER
17 APPROVING SETTLEMENT
18 AGREEMENT WITH WAYNE
19 NICHOLSON

[Fed. R. Bank. P. 9019; N.D. Cal. Bankr.
Local Rule 9014-1(b)(3)]

1 TO: THE TWENTY LARGEST CREDITORS, PARTIES REQUESTING SPECIAL
2 NOTICE, THE U.S. TRUSTEE, THE, DEBTOR AND OTHER INTERESTED PARTIES:

3 **PLEASE TAKE NOTICE THAT** Michael G. Kasolas ("Kasolas" or "Trustee"), the
4 chapter 7 trustee for the bankruptcy estate of above-captioned debtor ("Debtor"), has filed a
5 motion under Bankruptcy Rule 9019 (the "Motion") for an order approving his settlement
6 agreement with Wayne Nicholson ("Nicholson"). The Motion is based on the facts and merits
7 summarized below.

8 **NOTICE IS FURTHER GIVEN** that the Nicholson Settlement resolves the Trustee
9 and Premier Cru's claims against Mr. Nicholson for avoidance of fraudulent transfers of funds.
10 The terms and conditions of the Nicholson Settlement is contained in a settlement agreement, a
11 copy of which is attached as Exhibit "1" to the Declaration of Michael G. Kasolas filed with the
12 Motion.

13 The basic terms of the Nicholson Settlement are summarized as follows:

- 14 **a. Settlement Payment** - Nicholson will pay the Trustee a lump sum of \$115,000.00
15 no later than five business days following entry of an order authorizing the Trustee
16 to carry out the terms of the settlement; and
- 17 **b. Mutual Releases** - The Trustee, on one hand, and Nicholson, on the other hand, will
18 mutually release each other as set forth in the Settlement Agreement. Nicholson will
19 release the Trustee and also shall release any claim that could be asserted under 11
20 U.S.C § 502(h).
- 21 **c. Dismissals.** – Following Court approval of the settlement and payment of the
22 settlement sum, the Trustee shall dismiss the adversary proceeding and Nicholson
23 shall dismiss the appeal.

24 **NOTICE IS FURTHER GIVEN** that all of the information contained in the Motion is
25 not set forth in this notice. A copy of the Motion and all supporting papers, including the
26 Settlement Agreement, are a part of the Court's electronic record, which is the official record of
27 the Court, and can be accessed either through the e-CalWebPACER information system (see
28 <http://www.canb.uscourts.gov/--> subscription required) or is available for inspection at computer

1 terminals (printing is available), which are located at the Office of the Clerk, 450 Golden Gate
2 Avenue, 5th Floor, San Francisco, California 94102.

3 **NOTICE IS FURTHER GIVEN** that Your rights may be affected. You should read
4 these papers carefully and discuss them with your attorney, if you have one in this bankruptcy
5 case. If you do not have an attorney, you may wish to consult one.

6 **NOTICE IS FURTHER GIVEN** the Motion is filed pursuant to Local Rule of Practice
7 9014-1(b)(3), which provides that:

8 *“Any objection to the requested relief, or a request for hearing on the matter, must*
9 *be filed and served upon the initiating party within 21 days of mailing the notice;*

10 *Any objection or request for a hearing must be accompanied by any declarations or*
11 *memoranda of law any requesting party wishes to present in support of its position;*

12 *If there is no timely objection to the requested relief or a request for hearing, the*
13 *court may enter an order granting the relief by default;*

14 *If the initiating party will give at least seven (7) days written notice of the hearing*
15 *to objecting or requesting party, and to any trustee or committee appointed in the*
16 *case.”*

17 Any objection or request for hearing should be served on the undersigned within 21 days
18 of the mailing of this notice, i.e., by July 7, 2021 and filed with the Clerk of the United States
19 Bankruptcy Court, Northern District of California, Oakland Division, 1300 Clay Street, Room
20 300, Oakland, California 94612, or in the case via Pacer.

21 Dated: June 16, 2021

RAINES FELDMAN LLP

22 By: /s/ Kathy Bazoian Phelps
23 Kathy Bazoian Phelps
24 Proposed Special Litigation Counsel for
25 Michael Kasolas, Chapter 7 Trustee for Fox
26 Ortega Enterprises, Inc. dba Premier Cru
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