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Attorneys for Michael G. Kasolas, Trustee

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re

FOX ORTEGA ENTERPRISES, INC., dba
PREMIER CRU

Debtor.

Case No. 16-40050-WJL

Chapter 7

**APPLICATION FOR ORDER
AUTHORIZING PRODUCTION OF
RECORDS OF PAYPAL, INC.
PURSUANT TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

TO: THE HONORABLE WILLIAM J. LAFFERTY, III, THE DEBTOR, THE UNITED STATES TRUSTEE, AND PAYPAL, INC.

Michael G. Kasolas, trustee ("Trustee") of the above-captioned estate of Fox Ortega Enterprises, Inc., dba Premier Cru ("Premier Cru"), hereby applies for an order directing the Custodian of Records or other current authorized designated individual on behalf of PayPal, Inc. ("PayPal"), to produce the documents set forth in the attached **Exhibit A** pursuant to Federal Rule of Bankruptcy Procedure 2004.

The examination of PayPal is necessary to enable the Trustee to complete his investigation regarding the potential avoidable transfers and assets of the estate.

WHEREFORE, the Trustee requests that an order be entered:

1. Directing PayPal to produce the documents described on the attached **Exhibit A** at the offices of Wendel, Rosen, Black & Dean LLP, 1111 Broadway, 24th Floor, Oakland, California 94607, not less than 15 days from the date of service of the subpoena; and

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2. For such other and further relief as the court deems proper.

DATED: October 4, 2017

WENDEL, ROSEN, BLACK & DEAN LLP

By: /s/ Mark S. Bostick

Mark S. Bostick

Attorneys for Michael G. Kasolas, Trustee

EXHIBIT A

DEFINITIONS

A. “DOCUMENTS” shall mean all “writings” as that term is defined in the Federal Rules of Evidence, Rule 1001, as follows:

“WRITING” means handwriting, typewriting, printing, photo stating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

Without limitation to the foregoing, the term “DOCUMENTS” shall also include financial records, transactional records and data stored in electronic form.

B. “COMMUNICATION(S)” shall mean any oral, written or electronic transmission of information, including but not limited to meetings, discussions, conversations, telephone calls, emails, telegrams, memoranda, letters, telecopies, telexes, conferences, messages, or notes.

C. “PERSON(S)” shall mean any natural person, firm, association, organization, partnership, business, trust, corporation, governmental or public entity or any other form of legal entity.

D. “RELATING TO,” “RELATED TO” or “RELATE(S) TO” shall mean constituting, containing, concerning, embodying, reflecting, identifying, stating, mentioning, discussing, describing, evidencing, or in any other way being relevant to that given subject matter.

E. “DEBTOR” shall mean Fox Ortega Enterprises, Inc., dba Premier Cru.

F. “RELEVANT PERIOD” shall mean the seven-year period prior to the bankruptcy filing of the DEBTOR; i.e. January 8, 2009 through January 8, 2016.

G. “PAYPAL” “YOU” or “YOUR” shall mean PayPal, Inc. and any of its subsidiaries, affiliates or parent entities, as well as all of its respective employees and agents, including attorneys, or other PERSONS acting on its behalf.

H. “PREMIER CRU” shall mean Fox Ortega Enterprises, dba Premier Cru.

I. “FOX” shall mean John Eugene Fox, aka John E. Fox, aka John Fox, aka Steve Taylor.

J. “ANY” as used herein, includes the term “ALL” and vice versa.

1 K. "PAYMENTS" shall mean ANY transfer of funds by check, wire, account credit,
2 credit card or ACH transfer.

3 L. As used herein, the singular shall include the plural and vice versa.

4 M. "JOHN FOX ACCOUNT" as used herein means any PayPal accounts of Fox or
5 Abegail Fox.

6 N. "PAYEES" means any person who received funds through PayPal in transactions
7 occurring in connection with a JOHN FOX ACCOUNT.

8 **DOCUMENTS TO BE PRODUCED**

9 **REQUEST NO. 1:** ALL your account information and transaction records for the
10 RELEVANT PERIOD, RELATING TO ANY JOHN FOX ACCOUNT.

11 **REQUEST NO. 2:** ALL your account information and transaction records for the
12 RELEVANT PERIOD for ALL accounts held under the name of the DEBTOR.

13 **REQUEST NO. 3:** The account agreements for FOX (including alias) and for the
14 DEBTOR for the RELEVANT PERIOD.

15 **REQUEST NO. 4:** ALL DOCUMENTS evidencing PAYMENTS to PAYPAL received
16 from FOX or DEBTOR during the RELEVANT PERIOD.

17 **REQUEST NO. 5:** ALL DOCUMENTS relating to your COMMUNICATIONS with
18 FOX for the RELEVANT PERIOD that made reference to the DEBTOR.

19 **REQUEST NO. 6:** ALL statements showing fees, charges or interest paid to you by the
20 DEBTOR during the RELEVANT PERIOD.

21 **REQUEST NO. 7:** All DOCUMENTS relating to TRANSFERS to or from PAYEES
22 during THE RELEVANT PERIOD, including showing what goods or services such PAYEES
23 provided to FOX.

24 **REQUEST NO. 8.** ALL DOCUMENTS showing what account or accounts into which
25 ALL PAYMENTS by the DEBTOR to PAYPAL were deposited during the RELEVANT
26 PERIOD.
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CERTIFICATE OF SERVICE

I, Jeanne Rose, declare:

I am a citizen of the United States and am employed in the County of Alameda. I am over the age of 18 years and not a party to the within-entitled action. My business address is 1111 Broadway, 24th Floor, Oakland, California, 94607-4036.

On the date set out below, I caused to be served the following document(s):

**APPLICATION FOR ORDER AUTHORIZING PRODUCTION OF
RECORDS OF PAYPAL, INC. PURSUANT TO
FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004**

**[PROPOSED] ORDER AUTHORIZING PRODUCTION OF RECORDS OF PAYPAL,
INC. PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004**

by placing a true and correct copy thereof enclosed in a sealed envelope with first-class postage prepaid in a designated area for outgoing mail, addressed as set forth below. At Wendel, Rosen, Black & Dean, LLP, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Oakland, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 4, 2017, at Oakland, California.

/s/ Jeanne Rose
JEANNE ROSE

Pay Katie Krajeck
Senior Legal Counsel, Litigation
PayPal, Inc.
2211 North First Street
San Jose, CA 95131

CT Corporation System
Agent for Service of Process
818 W. 7th Street, Suite 930
Los Angeles, CA 90017

Office of the United States Trustee
450 Golden Gate Ave., 5th Floor
Suite 05-0153
San Francisco, CA 94102

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456 Montgomery St., 20th Flr.
San Francisco, CA 94104
(Attorney for Debtor)