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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 EXAMINATION AND  
PRODUCTION OF RECORDS OF  
MICHAEL GEVERTZ PURSUANT TO  
FEDERAL RULES OF BANKRUPTCY  
PROCEDURE 2004 AND 2017**

TO: THE HONORABLE WILLIAM J. LAFFERTY, III, THE DEBTOR, THE UNITED STATES TRUSTEE, AND MICHAEL GEVERTZ:

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 Michael Gevertz ("Gevertz"), the former attorney for the debtor and John Fox, to produce the documents set forth on the attached **Exhibit A**, pursuant to Federal Rules of Bankruptcy Procedure 2004 and 2007, and to appear for examination at the law offices of Wendel, Rosen Black & Dean LLP, 1111 Broadway, 24<sup>th</sup> Floor, Oakland, CA, on a date not less than 15 days from the date of service of the subpoena authorized under the requested order, or on such date(s) agreed to by the parties.

The examination of Gevertz is necessary to enable the Trustee to complete his investigation regarding potential avoidable transfers and assets of the estate, and to examine payments or transfers to the debtor's attorney before and after the order for relief.

WHEREFORE, the Trustee requests that an order be entered:

1                   1.       Directing Michael Gevertz to appear for examination at the offices of  
2 Wendel, Rosen, Black & Dean LLP, 1111 Broadway, 24<sup>th</sup> Floor, Oakland, California 94607 and to  
3 produce the documents described on the attached **Exhibit A** on a date not less than 15 days from  
4 the date of service of the subpoena authorized by the requested order, or on such date(s) agreed to  
5 by the parties; and

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

7 DATED: October 6, 2017

WENDEL, ROSEN, BLACK & DEAN LLP

8 By:           /s/ Mark S. Bostick          

Mark S. Bostick

9 Attorneys for Michael G. Kasolas, Trustee  
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**EXHIBIT A**

**DEFINITIONS**

The Trustee requests that the following documents be produced.

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. "GEVERTZ" "YOU" or "YOUR" shall mean Michael Gevertz and any of his respective employees and agents, including attorneys, or other PERSONS acting on his behalf.

G. "PREMIER CRU" shall mean Fox Ortega Enterprises, Inc., dba Premier Cru.

H. "JOHN FOX" shall mean John Eugene Fox, aka John E. Fox, aka John Fox.

I. "ANY" as used herein, includes the term "ALL" and vice versa.

J. "TRANSFERS" shall mean ANY transfer of funds by check, wire, account credit, credit card, cash, goods in kind (e.g. wine) or ACH transfer.

1 K. As used herein, the singular shall include the plural and vice versa.

2 **DOCUMENTS TO BE PRODUCED**

3 Produce ALL of the following DOCUMENTS requested that are in Your possession,  
4 custody or control.

5 **REQUEST NO. 1:** ALL DOCUMENTS showing ALL PAYMENTS received from  
6 PREMIER CRU from January 8, 2009 through April 8, 2016.

7 **REQUEST NO. 2:** ALL correspondence relating to TRANSFERS by PREMIER CRU.

8 **REQUEST NO. 3:** ALL settlement agreements RELATING TO JOHN FOX or  
9 PREMIER CRU.

10 **REQUEST NO. 4:** ALL documents RELATING TO wine transferred to YOU by JOHN  
11 FOX or PREMIER CRU.

12 **REQUEST NO. 5:** ALL invoices from YOU to PREMIER CRU.

13 **REQUEST NO. 6:** ALL invoices from YOU to JOHN FOX.

14 **REQUEST NO. 7:** ALL engagement agreements between YOU and JOHN FOX or  
15 PREMIER CRU.

16 **REQUEST NO. 8:** ALL trust account bank statements relating to funds received from or  
17 for the benefit of PREMIER CRU.

18 **REQUEST NO. 9:** ALL trust account bank statements relating to funds received from or  
19 for the benefit of JOHN FOX.

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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 EXAMINATION AND PRODUCTION  
OF RECORDS OF MICHAEL GEVERTZ PURSUANT TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004 AND RULE 2017**

**[PROPOSED] ORDER AUTHORIZING EXAMINATION AND PRODUCTION OF  
RECORDS OF MICHAEL GEVERTZ PURSUANT TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004 AND RULE 2017**

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 6, 2017, at Oakland, California.

/s/ Jeanne Rose  
JEANNE ROSE

Michael Gevertz  
California Pacific Law Group, LLC  
532 Dellbrook Ave  
San Francisco, CA 94131-1161

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

Stephen D. Finestone, Esq.  
Law Offices of Stephen D. Finestone  
456 Montgomery St., 20<sup>th</sup> Flr.  
San Francisco, CA 94104  
(Attorney for Debtor)