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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

MICHAEL G. KASOLAS, Trustee,  
  
Plaintiff,  
  
vs.

Adversary Proceeding No.

**COMPLAINT TO AVOID AND  
RECOVER FRAUDULENT TRANSFERS**

EASTERN LIGHT CAPITAL,  
INCORPORATED and RICHARD J.  
WRENSON,  
  
Defendants.

Plaintiff Michael G. Kasolas ("Plaintiff" or "Trustee"), trustee of the chapter 7 bankruptcy estate of Fox Ortega Enterprises, Inc., dba Premier Cru ("Debtor"), alleges as follows:

**JURISDICTION AND VENUE**

1. The above-captioned Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b) and 28 U.S.C. § 157(a).

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

3. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (H), which seeks relief under 11 U.S.C. §§ 544(b) and 550 and Rule 7001(1) of the Federal Rules of Bankruptcy Procedure.

4. Plaintiff consents to the entry of a final order by the Bankruptcy Court.

### GENERAL ALLEGATIONS

5. The Debtor filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code (Title 11 of the United States Code) on January 8, 2016 (the "Petition Date").

6. The Trustee is the duly appointed trustee of the Debtor's chapter 7 case (the "Case").

7. EASTERN LIGHT CAPITAL, INCORPORATED ("Defendant") is a Delaware corporation doing business in California.

8. RICHARD J. WRENSEN ("Wrensen") is an individual residing in California.

9. On or about August 11, 2016, the Debtor's founder and president, John Fox, entered into a guilty plea in his criminal case [*United States v. John Fox*, Case No. CR 16-281 JD, N.D. Cal] and, in his Plea Agreement admitted that the Debtor had been running a fraudulent enterprise since at least 2010 that involved both the sale of "phantom wines" and his use of current customer payments to satisfy prior customer orders; in short, the Debtor was running a Ponzi scheme.

10. John Fox further admitted in his Plea Agreement that he embezzled funds from the Debtor to purchase or lease expensive cars, to pay for charges incurred on his and his wife's personal credit cards, and to pay for other goods and services obtained for his or others' personal use.

11. Commencing in March 2009, the Debtor made 11 monthly payments in the aggregate sum of \$101,200.00 (the "Funds") to Defendant on the dates and in the amounts as indicated in the attached Exhibit A (the "Transfers"), which Exhibit is made a part hereof.

12. The Funds used to make the Transfers came from the Debtor's operating account #1035 at Heritage Bank of Commerce and were property of the Debtor.



21. The Debtor made the Transfers with intent to hinder, delay or defraud the Debtor's creditors.

WHEREFORE, Plaintiff prays for relief as follows.

**PRAYER FOR RELIEF**

Plaintiff prays for judgment:

1. Determining that the Trustee may invoke 11 U.S.C. §544(b) to avoid the Transfers under Cal Civil Code §3439 et seq.;

2. Avoiding the Transfers as intentional or constructive fraudulent transfers;

3. Determining that Wrensen is the initial transferee under 11 U.S.C. §550(a)(1);

4. Granting recovery against Defendant and Wrensen in the amount of \$101,200.00 plus any additional amounts as may be established according to proof;

6. Awarding pre-judgment interest at the rate of 7 percent per annum from the date of each Transfer as provided under California law;

7. For costs of suit, and

8. For such other relief as the Court deems proper.

Dated: December 12, 2017

WENDEL, ROSEN, BLACK & DEAN LLP

By: /s/ Mark S. Bostick

Mark S. Bostick  
Attorneys for Plaintiff  
Michael G. Kasolas, Trustee

# EXHIBIT A

SEQ#				Payee	Payee	
350	BOM	0286	3/10/2009	1668 Eastern Light Capital		9,200.00
496	HBC	1035	4/8/2009	7057 Eastern Light Capital		9,200.00
670	HBC	1035	5/8/2009	7163 Eastern Light Capital		9,200.00
830	HBC	1035	6/10/2009	7259 Eastern Light Capital		9,200.00
973	HBC	1035	7/14/2009	7353 Eastern Light Capital		9,200.00
1102	HBC	1035	8/11/2009	7447 Eastern Light Capital		9,200.00
1230	HBC	1035	9/11/2009	7524 Eastern Light Capital		9,200.00
1361	HBC	1035	10/14/2009	7612 Eastern Light Capital		9,200.00
1536	HBC	1035	11/12/2009	7745 Eastern Light Capital		9,200.00
1682	HBC	1035	12/11/2009	7836 Eastern Light Capital		9,200.00
1843	HBC	1035	1/13/2010	7939 Eastern Light Capital		9,200.00
18484				Eastern Light Capital		101,200.00

EXHIBIT "A"