

Mark S. Bostick (Bar No. 111241)
Albert Flor, Jr. (Bar No. 168291)
WENDEL, ROSEN, BLACK & DEAN LLP
1111 Broadway, 24th Floor
Oakland, California 94607-4036
Telephone: (510) 834-6600
Fax: (510) 834-1928
Email: mbostick@wendel.com
Email: afluor@wendel.com

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.

MICHAEL G. KASOLAS, Trustee,
Plaintiff,
vs.
STEVE COYLE,
Defendant.

Case No. 16-40050-WJL

Chapter 7

Adversary Proceeding No.

**COMPLAINT TO AVOID AND
RECOVER PREFERENTIAL TRANSFER
AND DISALLOW CLAIMS**

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

JURISDICTION AND VENUE

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

2. Thereafter, the Trustee was appointed. At all relevant times herein, the Trustee was, and currently is, the duly qualified and acting trustee of the Debtor’s chapter 7 bankruptcy case (the “Case”).

3. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334(b) and 28 U.S.C. §157(a).

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

5. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (F) and (O), which seeks relief under 11 U.S.C. §§ 547(a), 550(a) and 502(d), and under Rule 7001(1) of the Federal Rules of Bankruptcy Procedure.

6. The Trustee consents to the entry of a final order by the above-captioned Bankruptcy Court.

7. Defendant STEVE COYLE (“Defendant”) is an individual.

FIRST CLAIM FOR RELIEF Avoidance and Recovery of Preferential Transfer

8. On or about 12/22/2015, the Debtor made transfers in the form of wine shipped to Defendant in the aggregate value of at least \$24,876.61 (the “Transfer”). A detailed summary of the wines constituting the Transfer is attached hereto as **Exhibit A**.

9. The Transfer was made to or for the benefit of a creditor, namely, the Defendant, who, at the time of the Transfer, was owed goods by the Debtor.

10. The Transfer was made on account of an antecedent debt.

11. The Transfer was made while the Debtor was insolvent.

12. The Transfer was made within 90 days of the Petition Date.

13. The Transfer enabled Defendant to receive more than Defendant would receive if (a) the case was a case under chapter 7 of Title 11; (b) the Debtor had not made the Transfer; and (c) the Defendant received payment of such debt to the extent provided by the provisions of Title 11.

14. The Defendant asserted dominion and control of the wine transferred and the Defendant was the immediate transferee of the Transfer under 11 U.S.C. § 550(a)(1).

15. The Trustee's investigation is ongoing, and the Trustee may not be currently aware of all transfers that may have been made to Defendant during the 90 day period prior to the Petition Date. The Trustee will amend this Complaint to include any newly discovered transfers that are avoidable.

WHEREFORE, the Trustee prays for relief as set forth below.

SECOND CLAIM FOR RELIEF

Disallowance of Claim

16. The Trustee re-alleges and incorporates by reference paragraphs 1-15 of this Complaint as though fully set forth herein.

17. The Transfer is avoidable under 11 U.S.C. § 547 (a) and the value thereof is recoverable under 11 U.S.C. § 550(a).

18. The Defendant refuses to pay the amount for which it is liable under 11 U.S.C. § 550(a).

WHEREFORE, the Trustee prays for relief as follows:

PRAYER FOR RELIEF

The Trustee requests entry of judgment against Defendant as follows:

On the First Claim for Relief:

1. Avoiding the Transfer under 11 U.S.C. § 547(b) and recovering the value thereof under 11 U.S.C. § 550(a);
2. Determining that the Trustee may recover \$24,876.61 from Defendant; and
3. Awarding pre-judgment interest at the legal rate from the date of demand.

On the Second Claim for Relief:

4. Disallowing any and all claims filed in the Case by Defendant pursuant to 11 U.S.C. § 502(d).

On each Claim:

5. Awarding costs of suit incurred herein; and
6. For any other relief that the Court Deems proper.

Dated: December 12, 2017

WENDEL, ROSEN, BLACK & DEAN LLP

By: /s/ Albert Flor, Jr.

Albert Flor, Jr.
Attorneys for Plaintiff
Michael G. Kasolas, Trustee

EXHIBIT A

CustID	CustName	ShipDate	Shipment	PMT Date	Tender Type	SO Date	Sales Order	PickDate	PickList	ItemID	Format	QtyShip	UnitPrice	ExtPrice
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44991 2010 Gevrey Petite Chapelle	750 ml	12	\$ 59.99	\$ 719.88
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44997 2010 Pommard Grands Eper	750 ml	12	\$ 59.99	\$ 719.88
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44988 2010 Echezeaux, Jadot	750 ml	6	\$ 119.99	\$ 719.94
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44988 2010 Echezeaux, Jadot	750 ml	6	\$ 119.99	\$ 719.94
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44989 2010 Gevrey Clos St Jacques	750 ml	15	\$ 99.99	\$ 1,499.85
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44981 2010 Chapelle Chambertin,	750 ml	24	\$ 129.99	\$ 3,119.76
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44984 2010 Clos de la Roche, Jadot	750 ml	6	\$ 119.99	\$ 719.94
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44985 2010 Clos St Denis, Jadot	750 ml	6	\$ 159.99	\$ 959.94
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44978 2010 Beaune Theurons, Jad	750 ml	24	\$ 33.99	\$ 815.76
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368235	12/21/2015	130594	44979 2010 Beaune Clos des Ursul	750 ml	17	\$ 47.99	\$ 815.83
42042	Steve Coyle	12/22/2015	0000339272-SH	1/18/2012	AMEX	1/18/2012	SO-0000372091	12/21/2015	130594	45327 2010 Chambolle Musigny Fe	750 ml	12	\$ 99.99	\$ 1,199.88
42042	Steve Coyle	12/22/2015	0000339272-SH	1/18/2012	AMEX	1/18/2012	SO-0000372091	12/21/2015	130594	45328 2010 Clos de la Roche, Pous	750 ml	12	\$ 159.99	\$ 1,919.88
42042	Steve Coyle	12/22/2015	0000339272-SH	1/18/2012	AMEX	1/18/2012	SO-0000372091	12/21/2015	130594	45324 2010 Volnay Caillerets, Pous	750 ml	12	\$ 69.99	\$ 839.88
42042	Steve Coyle	12/22/2015	0000339272-SH	1/18/2012	AMEX	1/18/2012	SO-0000372091	12/21/2015	130594	45325 2010 Volnay Caillerets 60 O	750 ml	12	\$ 89.99	\$ 1,079.88
42042	Steve Coyle	12/22/2015	0000339272-SH	1/18/2012	AMEX	1/18/2012	SO-0000372091	12/21/2015	130594	45326 2010 Corton Clos du Roi, Po	750 ml	12	\$ 95.00	\$ 1,140.00
42042	Steve Coyle	12/22/2015	0000339272-SH	7/27/2012	AMEX	7/27/2012	SO-0000387570	12/21/2015	130594	43236 09 Chapelle Chambertin Ma	1.5 L	4	\$ 450.00	\$ 1,800.00
42042	Steve Coyle	12/22/2015	0000339272-SH	12/1/2011	AMEX	12/1/2011	SO-0000368241	12/21/2015	130594	44998 2010 Pommard Rugiens, Jad	750 ml	24	\$ 59.99	\$ 1,439.76
42042	Steve Coyle	12/22/2015	0000339272-SH	4/17/2012	AMEX	4/17/2012	SO-0000379597	12/21/2015	130594	45874 2010 Clos Vougeot V.V., Por	750 ml	6	\$ 199.99	\$ 1,199.94
42042	Steve Coyle	12/22/2015	0000339272-SH	1/5/2012	AMEX	1/5/2012	SO-0000371135	12/21/2015	130594	45142 2010 Chablis Valmur, Fevre	750 ml	6	\$ 59.99	\$ 359.94
42042	Steve Coyle	12/22/2015	0000339272-SH	1/5/2012	AMEX	1/5/2012	SO-0000371135	12/21/2015	130594	45143 2010 Chablis Vaudesir, Fevr	750 ml	6	\$ 59.99	\$ 359.94
42042	Steve Coyle	12/22/2015	0000339272-SH	1/5/2012	AMEX	1/5/2012	SO-0000371135	12/21/2015	130594	45216 2010 Nuits les Cailles, Chev	750 ml	3	\$ 89.99	\$ 269.97
42042	Steve Coyle	12/22/2015	0000339272-SH	5/25/2012	AMEX	5/25/2012	SO-0000382355	12/21/2015	130594	11373 96 Romanee St. Vivant, Laur	750 ML	6	\$ 249.50	\$ 1,497.00
42042	Steve Coyle	12/22/2015	0000339272-SH	4/17/2012	AMEX	4/17/2012	SO-0000379597	12/21/2015	130594	43860 08 Nuits St Georges, George	750 ml	12	\$ 49.99	\$ 599.88
42042	Steve Coyle	12/22/2015	0000339272-SH	1/5/2012	AMEX	1/5/2012	SO-0000371135	12/21/2015	130594	45141 2010 Chablis Preuses, Fevre	750 ml	6	\$ 59.99	\$ 359.94
261													\$	24,876.61