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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.
HIROSHI OKAWA,
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 HIROSHI OKAWA (“Defendant”) is an individual.

FIRST CLAIM FOR RELIEF Avoidance and Recovery of Preferential Transfer

8. On or about 11/11/2015, the Debtor made transfers in the form of wine shipped to Defendant in the aggregate value of at least \$17,408.47 (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 \$17,408.47 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
hoka	Hiroshi Okawa	12/1/2015	0000338458-SH	11/23/2015	Store Credit	11/20/2015	SO-0000494909	11/21/2015	129778	37091 06 Larcis Ducasse	750 ml	4	\$ 57.99	\$ 231.96
hoka	Hiroshi Okawa	12/1/2015	0000338458-SH	11/23/2015	Store Credit	11/20/2015	SO-0000494909	11/21/2015	129778	11608 97 Riesling Rangen de Thann Clos St Theobal	750 ML	2	\$ 59.99	\$ 119.98
hoka	Hiroshi Okawa	12/1/2015	0000338458-SH	11/23/2015	Store Credit	11/20/2015	SO-0000494909	11/21/2015	129778	11610 97 Gewurztraminer Rangen Clos St Theobald	750 ML	1	\$ 69.99	\$ 69.99
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	10/6/2008	AMEX	10/6/2008	SO-0000304345	11/9/2015	129386	18299 98 Gevrey Chambertin Combottes, Dujac	750 ML	1	\$ 89.95	\$ 89.95
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	9/10/2007	VISA	9/10/2007	SO-0000276298	11/9/2015	129386	33035 83 Bonnes Mares, Clair Dau	750 ml	1	\$ 245.00	\$ 245.00
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	11/18/2009	AMEX	11/18/2009	SO-0000328405	11/9/2015	129386	40638 98 Tokay Rangen Clos St Theobald SGN 500 r	500 ml	1	\$ 45.00	\$ 45.00
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	2/4/2010	AMEX	2/4/2010	SO-0000327212	11/9/2015	129386	AR481 95 Batard Montrachet, Sauzet	750 ML	1	\$ 139.99	\$ 139.99
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	9/2/2009	AMEX	9/2/2009	SO-0000323568	11/9/2015	129386	11544 97 Batard Montrachet, Leflaive	750 ML	1	\$ 159.99	\$ 159.99
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	9/29/2008	AMEX	9/29/2008	SO-0000303925	11/9/2015	129386	34299 04 Chambolle Musigny, Vogue	750 ml	2	\$ 65.00	\$ 130.00
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	8/15/2011	VISA	8/15/2011	SO-0000361195	11/9/2015	129386	44306 09 Chambolle Musigny, Roumier	750 ml	1	\$ 145.00	\$ 145.00
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	9/26/2011	AMEX	9/26/2011	SO-0000363313	11/9/2015	129386	41068 05 Marcassin Chardonnay 3 Sisters	750 ml	1	\$ 129.99	\$ 129.99
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	8/17/2012	AMEX	8/16/2012	SO-0000389483	11/9/2015	129386	41375 07 Espectacle	750 ml	1	\$ 79.99	\$ 79.99
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	6/22/2015	Store Credit	6/20/2015	SO-0000481893	11/9/2015	129386	52195 66 Ridge Ruby Cabernet	750 ml	1	\$ 199.99	\$ 199.99
hoka	Hiroshi Okawa	11/11/2015	0000337876-SH	9/1/2015	VISA	9/1/2015	SO-0000489017	11/9/2015	129386	34072 99 Chassagne Morgeots, Leroy	750 ml	1	\$ 97.49	\$ 97.49
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	7/2/2009	AMEX	7/2/2009	SO-0000320110	11/12/2015	129435	29471 70 Leoville las Cases (Upper Shoulder)	750 ml	1	\$ 69.99	\$ 69.99
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	7/2/2009	AMEX	7/2/2009	SO-0000320111	11/12/2015	129435	AR745 92 Chassagne Cailleters, Amiot	750 ml	1	\$ 35.00	\$ 35.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	7/2/2009	AMEX	7/2/2009	SO-0000320111	11/12/2015	129435	25581 89 Meursault Tessons, Pierre Morey	750 ml	1	\$ 29.99	\$ 29.99
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	12/8/2008	AMEX	12/8/2008	SO-0000308731	11/12/2015	129435	C3313 96 Musigny, Vogue	750 ml	2	\$ 399.99	\$ 799.98
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	2/13/2009	AMEX	2/13/2009	SO-0000312727	11/12/2015	129435	39538 74 Meursault Perrieres, Ropiteau	750 ml	1	\$ 59.99	\$ 59.99
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	7/2/2009	AMEX	7/2/2009	SO-0000320110	11/12/2015	129435	A4204 95 Morey Blanc, Ponsot	750 ml	1	\$ 14.99	\$ 14.99
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/13/2008	AMEX	10/9/2008	SO-0000304757	11/12/2015	129435	28643 71 Bonnes Mares, Georges Lignier	750 ml	1	\$ 125.00	\$ 125.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/14/2008	AMEX	10/14/2008	SO-0000304890	11/12/2015	129435	26963 90 Duval-Leroy Femme de Champagne	750 ml	1	\$ 79.95	\$ 79.95
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	12/8/2008	AMEX	12/8/2008	SO-0000308731	11/12/2015	129435	C2842 95 Musigny, Vogue	750 ml	2	\$ 250.00	\$ 500.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/6/2008	AMEX	10/6/2008	SO-0000304345	11/12/2015	129435	18297 98 Gevrey Chambertin Combottes, Dujac	750 ml	2	\$ 89.95	\$ 179.90
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/7/2008	AMEX	10/7/2008	SO-0000304470	11/12/2015	129435	AL360 97 Bonnes Mares, Dujac	750 ml	1	\$ 189.99	\$ 189.99
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/7/2008	AMEX	10/7/2008	SO-0000304478	11/12/2015	129435	33467 95 Vosne Romanee, H. Jayer	750 ml	1	\$ 275.00	\$ 275.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/3/2008	AMEX	9/22/2008	SO-0000303469	11/12/2015	129435	10948 89 Meursault Charmes, Lafon	750 ml	1	\$ 450.00	\$ 450.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	9/27/2008	AMEX	9/27/2008	SO-0000303777	11/12/2015	129435	33914 99 Gevrey V.V., Dugat-Py	750 ml	2	\$ 89.99	\$ 179.98
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	9/30/2008	AMEX	9/30/2008	SO-0000304004	11/12/2015	129435	19990 90 Gevrey Combottes, Dujac	750 ml	1	\$ 225.00	\$ 225.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	4/26/2008	AMEX	4/26/2008	SO-0000294265	11/12/2015	129435	36243 05 Chambolle Musigny Cigales, Ponsot	750 ml	6	\$ 67.50	\$ 405.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	4/26/2008	AMEX	4/26/2008	SO-0000294265	11/12/2015	129435	36245 05 Gevrey Chambertin l'Abeille, Ponsot	750 ml	6	\$ 67.50	\$ 405.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/3/2008	AMEX	9/22/2008	SO-0000303469	11/12/2015	129435	AR537 90 Meursault Perrieres, Lafon	750 ml	2	\$ 350.00	\$ 700.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	10/19/2007	AMEX	10/19/2007	SO-0000279296	11/12/2015	129435	17385 89 Gewurztraminer Clos Windsbuhl, Zind H	750 ml	2	\$ 129.95	\$ 259.90
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	12/28/2007	AMEX	12/28/2007	SO-0000285240	11/12/2015	129435	10872 95 Echezeaux, Dujac	750 ml	2	\$ 189.99	\$ 379.98
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	2/5/2008	AMEX	2/5/2008	SO-0000288266	11/12/2015	129435	18981 82 La Tour Haut Brion	750 ml	1	\$ 550.00	\$ 550.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	9/10/2007	VISA	9/10/2007	SO-0000276298	11/12/2015	129435	33035 83 Bonnes Mares, Clair Dau	750 ml	1	\$ 245.00	\$ 245.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	9/10/2007	VISA	9/10/2007	SO-0000276305	11/12/2015	129435	18301 98 Clos de la Roche, Dujac	750 ml	2	\$ 175.00	\$ 350.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	9/10/2007	VISA	9/10/2007	SO-0000276305	11/12/2015	129435	18299 98 Clos St. Denis, Dujac	750 ml	2	\$ 159.99	\$ 319.98
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	5/25/2007	AMEX	5/25/2007	SO-0000266912	11/12/2015	129435	12483 97 Clos de la Roche, Dujac	750 ml	2	\$ 135.00	\$ 270.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	5/25/2007	AMEX	5/25/2007	SO-0000266912	11/12/2015	129435	18954 98 Clos St. Denis Magnum, Dujac	1.5 L	1	\$ 239.95	\$ 239.95
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	5/25/2007	AMEX	5/25/2007	SO-0000266912	11/12/2015	129435	37067 98 Clos de la Roche Magnum, Dujac	1.5 L	1	\$ 275.00	\$ 275.00
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	5/14/2007	AMEX	5/11/2007	SO-0000265220	11/12/2015	129435	36958 69 Mazis Chambertin, Remoissenet	750 ml	2	\$ 149.95	\$ 299.90
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	5/25/2007	AMEX	5/25/2007	SO-0000266910	11/12/2015	129435	12482 97 Clos St. Denis, Dujac	750 ml	2	\$ 99.95	\$ 199.90
hoka	Hiroshi Okawa	11/18/2015	0000338111-SH	5/25/2007	AMEX	5/25/2007	SO-0000266910	11/12/2015	129435	12483 97 Clos de la Roche, Dujac	750 ml	1	\$ 135.00	\$ 135.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	12/4/2013	Store Credit	12/4/2013	SO-0000430013	11/12/2015	129435	49103 2011 Chambolle Musigny, Mugnier	750 ml	3	\$ 109.99	\$ 329.97
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	9/19/2015	VISA	9/19/2015	SO-0000490253	11/12/2015	129435	48189 09 Doisy Vedrines Magnum	1.5 L	1	\$ 75.00	\$ 75.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	12/5/2011	AMEX	12/3/2011	SO-0000368415	11/12/2015	129435	39250 73 Petrus	750 ml	1	\$ 799.99	\$ 799.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	8/17/2012	AMEX	8/16/2012	SO-0000389483	11/12/2015	129435	41375 07 Espectacle	750 ml	3	\$ 79.99	\$ 239.97
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	12/13/2012	Store Credit	8/24/2012	SO-0000390068	11/12/2015	129435	45036 66 Lafite (VHS)	750 ml	1	\$ 349.99	\$ 349.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/15/2011	AMEX	11/15/2011	SO-0000366800	11/12/2015	129435	20938 89 Corton Charlemagne, Leroy	750ml	1	\$ 245.00	\$ 245.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/17/2011	AMEX	11/17/2011	SO-0000367076	11/12/2015	129435	44923 09 Chambolle Musigny, F. Mugnier	750 ml	6	\$ 89.99	\$ 539.94
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	12/5/2011	AMEX	12/3/2011	SO-0000368408	11/12/2015	129435	39250 73 Petrus	750 ml	1	\$ 799.99	\$ 799.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	9/11/2010	AMEX	9/11/2010	SO-0000342681	11/12/2015	129435	AR893 95 Batard Montrachet, Leflaive	750 ml	2	\$ 299.99	\$ 599.98
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	8/15/2011	VISA	8/15/2011	SO-0000361195	11/12/2015	129435	44306 09 Chambolle Musigny, Roumier	750 ml	6	\$ 145.00	\$ 870.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	10/13/2011	AMEX	10/13/2011	SO-0000364413	11/12/2015	129435	44676 09 Corton Charlemagne, Roumier	750 ml	3	\$ 325.00	\$ 975.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/18/2009	AMEX	11/18/2009	SO-0000328405	11/12/2015	129435	40639 98 Tokay Rangen SGN 500ml Lot 2, Sc	500 ml	2	\$ 55.00	\$ 110.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	1/4/2010	AMEX	1/4/2010	SO-0000331195	11/12/2015	129435	14976 89 Ruchottes Chambertin, Bonnefond	750 ml	1	\$ 159.99	\$ 159.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	5/3/2010	AMEX	5/1/2010	SO-0000336503	11/12/2015	129435	41287 95 Montrachet Magnum, Amiot	1.5 L	1	\$ 275.00	\$ 275.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/18/2009	AMEX	11/18/2009	SO-0000328405	11/12/2015	129435	40636 95 Tokay Rangen Theobald SGN 500ml, Sc	500 ml	1	\$ 49.99	\$ 49.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/18/2009	AMEX	11/18/2009	SO-0000328405	11/12/2015	129435	40637 96 Tokay Rangen Theobald SGN 500ml, Sc	500 ml	1	\$ 39.99	\$ 39.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/18/2009	AMEX	11/18/2009	SO-0000328405	11/12/2015	129435	40638 98 Tokay Rangen SGN 500ml Lot 1, Sc	500 ml	1	\$ 45.00	\$ 45.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	9/2/2009	AMEX	9/2/2009	SO-0000323568	11/12/2015	129435	11544 97 Batard Montrachet, Leflaive	750 ml	1	\$ 159.99	\$ 159.99
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/13/2009	AMEX	11/13/2009	SO-0000328099	11/12/2015	129435	35023 59 Grands Echezeaux, Colette Gros	750 ml	1	\$ 450.00	\$ 450.00
hoka	Hiroshi Okawa	11/18/2015	0000338112-SH	11/13/2009	AMEX	11/13/2009	SO-0000328178	11/12/2015	129435	CR343 90 Vosne Romanee, Rouget	750 ml	1	\$ 159.99	\$ 159.99