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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.
BRUCE COLEMAN,
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 BRUCE COLEMAN ("Defendant") is an individual.

FIRST CLAIM FOR RELIEF Avoidance and Recovery of Preferential Transfer

8. On or about 11/13/2015, the Debtor made transfers in the form of wine shipped to Defendant in the aggregate value of at least \$66,716.52 (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 \$66,716.52 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	Tender Type	PMT Date	SO Date	Sales Order	PickDate	PickList	ItemID	Format	QtyShip	UnitPrice	ExtPrice
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/26/2007	1/26/2007	SO-0000251906	11/11/2015	129443	36048 05 Wehlener Sonnenuhr Spi	750 ml	12	\$ 13.99	\$ 167.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/24/2006	7/24/2006	SO-0000233030	11/11/2015	129443	35191 05 Brauneberger Juffer Soni	750 ml	8	\$ 21.99	\$ 175.92
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/16/2007	7/16/2007	SO-0000271445	11/11/2015	129443	35342 05 Niederhauser Hermannsl	375 ml	12	\$ 29.99	\$ 359.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/16/2007	7/16/2007	SO-0000271445	11/11/2015	129443	35347 05 Oberhauser Brucke Ausle	375 ml	24	\$ 29.99	\$ 719.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	2/26/2005	2/26/2005	SO-0000180372	11/11/2015	129443	29980 03 Branaire 1/2	375 ml	6	\$ 17.25	\$ 103.50
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/24/2006	7/24/2006	SO-0000233030	11/11/2015	129443	35190 05 Brauneberger Juffer Spat	750 ml	16	\$ 18.99	\$ 303.84
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	5/2/2005	5/2/2005	SO-0000186672	11/11/2015	129443	30083 03 Montrose	750 ml	12	\$ 159.99	\$ 1,919.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	MC	5/18/2005	5/18/2005	SO-0000188181	11/11/2015	129443	30083 03 Montrose	750 ml	24	\$ 159.99	\$ 3,839.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	Store Credit	7/19/2005	7/19/2005	SO-0000194350	11/11/2015	129443	32556 01 Alion, Vega Sicilia	750 ml	12	\$ 45.00	\$ 540.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	1/7/2005	1/7/2005	SO-0000175502	11/11/2015	129443	29780 01 Tirant, Rotilan Torra	750 ml	12	\$ 59.95	\$ 719.40
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	4/27/2005	4/27/2005	SO-0000186285	11/11/2015	129443	29997 03 Fombrauge	750 ml	24	\$ 23.99	\$ 575.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	4/27/2005	4/27/2005	SO-0000186287	11/11/2015	129443	29999 03 Pavie	750 ml	12	\$ 139.99	\$ 1,679.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	3/2/2012	3/2/2012	SO-0000375843	11/11/2015	129443	41748 09 Branon	750 ml	12	\$ 99.99	\$ 1,199.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	12/19/2011	12/19/2011	SO-0000369825	11/11/2015	129443	43121 09 Gloria	750 ml	12	\$ 38.99	\$ 467.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/20/2009	1/20/2009	SO-0000311031	11/11/2015	129443	39442 07 Chateaufeuf du Pape, Dr	750 ml	12	\$ 45.00	\$ 540.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	5/6/2009	5/6/2009	SO-0000317176	11/11/2015	129443	39983 08 Clinet	750 ml	4	\$ 53.95	\$ 215.80
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/22/2010	7/22/2010	SO-0000340900	11/11/2015	129443	41376 09 Tempier Bandol Rose	750 ml	24	\$ 24.99	\$ 599.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/18/2008	1/18/2008	SO-0000286888	11/11/2015	129443	36540 05 Chateaufeuf du Pape, Cl	750 ml	24	\$ 26.99	\$ 647.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/14/2009	10/14/2009	SO-0000326143	11/11/2015	129443	39266 07 Chateaufeuf Cuvee Chat	750 ml	12	\$ 79.99	\$ 959.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	6/26/2009	6/26/2009	SO-0000319854	11/11/2015	129443	39363 07 Beaucastel	750 ml	12	\$ 64.99	\$ 779.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/3/2006	10/3/2006	SO-0000239588	11/11/2015	129443	35533 05 Zeltinger Sonnenuhr Aus	750 ml	9	\$ 44.99	\$ 404.91
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	3/2/2007	3/2/2007	SO-0000257051	11/11/2015	129443	35536 05 Zeltinger Sonnenuhr Aus	750 ml	12	\$ 69.95	\$ 839.40
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/3/2006	10/3/2006	SO-0000239588	11/11/2015	129443	35539 05 Zeltinger Schlossberg Au	750 ml	21	\$ 25.99	\$ 545.79
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	8/26/2008	8/26/2008	SO-0000302150	11/11/2015	129443	35347 05 Oberhauser Brucke Ausle	375 ml	24	\$ 27.99	\$ 671.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/3/2006	10/3/2006	SO-0000239588	11/11/2015	129443	35526 05 Bernkast Badstube Ausle	750 ml	6	\$ 27.99	\$ 167.94
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/3/2006	10/3/2006	SO-0000239588	11/11/2015	129443	35532 05 Zeltinger Sonnenuhr Aus	375 ml	24	\$ 20.99	\$ 503.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/24/2006	7/24/2006	SO-0000233045	11/11/2015	129443	35170 01 Brunello di Montalcino, C	750 ml	12	\$ 42.99	\$ 515.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/24/2006	7/24/2006	SO-0000233045	11/11/2015	129443	35171 01 Brunello di Montalcino 1	375 ml	24	\$ 22.50	\$ 540.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	6/5/2007	6/5/2007	SO-0000267801	11/11/2015	129443	35343 05 Norheimer Dellchen Spat	750 ml	12	\$ 39.95	\$ 479.40
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	4/28/2005	4/28/2005	SO-0000186316	11/11/2015	129443	30083 03 Montrose	750 ml	8	\$ 159.99	\$ 1,279.92
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	11/14/2007	11/14/2007	SO-0000281514	11/11/2015	129443	35102 04 Palmer	750 ml	12	\$ 115.00	\$ 1,380.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	6/15/2007	6/15/2007	SO-0000268766	11/11/2015	129443	37245 06 La Croix St Georges	750 ml	36	\$ 59.99	\$ 2,159.64
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	5/14/2004	5/14/2004	SO-0000152236	11/11/2015	129443	28390 02 d'Armailhac	750 ml	24	\$ 24.99	\$ 599.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	MC	1/4/2006	1/4/2006	SO-0000211988	11/11/2015	129443	30011 03 Pavie Macquin 1/2	375 ml	24	\$ 36.75	\$ 882.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	6/3/2006	6/3/2006	SO-0000227829	11/11/2015	129443	30075 03 Pontet Canet	750 ml	48	\$ 59.99	\$ 2,879.52
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	11/5/2012	11/5/2012	SO-0000396244	11/11/2015	129443	45407 2010 Chateaufeuf Cuvee Pr	750 ml	12	\$ 56.99	\$ 683.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	11/5/2012	11/5/2012	SO-0000396244	11/11/2015	129443	46850 2010 Vieux Telegraphe	750 ml	12	\$ 64.99	\$ 779.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	MC	9/15/2005	9/15/2005	SO-0000200434	11/11/2015	129443	32556 01 Alion, Vega Sicilia	750 ml	36	\$ 45.00	\$ 1,620.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/24/2006	7/24/2006	SO-0000233036	11/11/2015	129443	35178 05 Graacher Himmelreich A	750 ml	12	\$ 37.99	\$ 455.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	6/1/2004	6/1/2004	SO-0000154276	11/11/2015	129443	30006 03 Leoville Poyferre	750 ml	12	\$ 49.95	\$ 599.40
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	5/18/2006	5/18/2006	SO-0000226346	11/11/2015	129443	30075 03 Pontet Canet	750 ml	12	\$ 59.99	\$ 719.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/24/2006	1/24/2006	SO-0000213707	11/11/2015	129443	32084 03 Troplong Mondot	750 ml	36	\$ 49.95	\$ 1,798.20
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	6/1/2004	6/1/2004	SO-0000154276	11/11/2015	129443	29976 03 Sociando Mallet	750 ml	24	\$ 32.99	\$ 791.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	6/1/2004	6/1/2004	SO-0000154276	11/11/2015	129443	29979 03 Branaire	750 ml	24	\$ 31.99	\$ 767.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/13/2006	1/13/2006	SO-0000212741	11/11/2015	129443	29999 03 Pavie	750 ml	24	\$ 139.99	\$ 3,359.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/18/2008	1/18/2008	SO-0000286884	11/11/2015	129443	37880 06 Chateaufeuf du Pape, U:	750 ml	24	\$ 24.99	\$ 599.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/25/2008	1/25/2008	SO-0000287486	11/11/2015	129443	34833 05 Pape Clement	750 ml	12	\$ 169.95	\$ 2,039.40
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/21/2008	1/21/2008	SO-0000287063	11/11/2015	129443	34870 05 Pichon Baron	750 ml	24	\$ 129.95	\$ 3,118.80
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/8/2008	1/8/2008	SO-0000285930	11/11/2015	129443	37245 06 La Croix St Georges	750 ml	24	\$ 59.99	\$ 1,439.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/14/2006	1/14/2006	SO-0000212782	11/11/2015	129443	29999 03 Pavie	750 ml	12	\$ 139.99	\$ 1,679.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	9/19/2005	9/19/2005	SO-0000200682	11/11/2015	129443	32556 01 Alion, Vega Sicilia	750 ml	24	\$ 45.00	\$ 1,080.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	4/28/2007	4/28/2007	SO-0000263597	11/11/2015	129443	34467 05 Beaulieu Comte de Taste	750 ml	36	\$ 13.99	\$ 503.64
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	12/15/2006	12/15/2006	SO-0000247041	11/11/2015	129443	29723 03 La Tour Blanche	750 ml	24	\$ 45.00	\$ 1,080.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	12/6/2004	12/6/2004	SO-0000172559	11/11/2015	129443	29761 01 Vinas de Gain, Artadi	750 ml	24	\$ 19.99	\$ 479.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	VISA	12/9/2004	12/9/2004	SO-0000172841	11/11/2015	129443	29980 03 Branaire 1/2	375 ml	48	\$ 17.25	\$ 828.00
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	11/5/2009	11/5/2009	SO-0000327469	11/11/2015	129443	40573 07 Chateaufeuf du Pape Lu	750 ml	12	\$ 39.99	\$ 479.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/19/2008	1/18/2008	SO-0000286998	11/11/2015	129443	34833 05 Pape Clement	750 ml	8	\$ 169.95	\$ 1,359.60
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/4/2007	10/4/2007	SO-0000278115	11/11/2015	129443	35342 05 Niederhauser Hermannsl	375 ml	12	\$ 29.99	\$ 359.88

BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	2/21/2009	2/21/2009	SO-0000313221	11/11/2015	129443	39476	07 Chateaufeuf du Pape, Ja	750 ml	24	\$	37.99	\$	911.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	MC	1/30/2006	1/30/2006	SO-0000214280	11/11/2015	129443	32084	03 Troplong Mondot	750 ml	27	\$	49.95	\$	1,348.65
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/24/2006	7/24/2006	SO-0000233025	11/11/2015	129443	35170	01 Brunello di Montalcino, C	750 ml	12	\$	42.99	\$	515.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	6/13/2007	6/13/2007	SO-0000268573	11/11/2015	129443	34477	03 Conn Valley Cabemet Re	750 ml	24	\$	49.95	\$	1,198.80
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/20/2007	7/20/2007	SO-0000272001	11/11/2015	129443	34860	05 Leoville Barton	750 ml	12	\$	109.99	\$	1,319.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	7/17/2007	7/17/2007	SO-0000271518	11/11/2015	129443	30116	03 La Mondotte	750 ml	7	\$	159.95	\$	1,119.65
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	1/22/2009	1/22/2009	SO-0000311125	11/11/2015	129443	39427	07 Vieux Telegraphe 1/2	375 ml	24	\$	31.99	\$	767.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	10/15/2009	10/15/2009	SO-0000326259	11/11/2015	129443	40013	08 Ducru Beaucaillou	750 ml	12	\$	89.99	\$	1,079.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	3/1/2012	3/1/2012	SO-0000375764	11/11/2015	129443	41552	09 Branaire Ducru	750 ml	12	\$	64.99	\$	779.88
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	3/14/2011	3/14/2011	SO-0000352311	11/11/2015	129443	42309	09 La Fleur Morange Mathil	375 ml	24	\$	9.99	\$	239.76
BrCo	Bruce Coleman	11/13/2015	0000337925-SH	AMEX	3/18/2011	3/18/2011	SO-0000352598	11/11/2015	129443	16784	Bollinger Special Cuvee	750 ML	12	\$	36.99	\$	443.88
													<u>1,260</u>				<u>\$ 66,716.52</u>