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Special Conflicts Counsel for Michael G. Kasolas,
Chapter 7 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.

AMERICAN AUTOMOBILE
ASSOCIATION OF NORTHERN
CALIFORNIA, NEVADA & UTAH,

Defendant.

Case No. 16-40050-WJL

Chapter 7

COMPLAINT TO AVOID AND RECOVER
FRAUDULENT TRANSFERS UNDER 11
U.S.C. § 544(B) AND CAL. CIV. CODE §
3439 ET SEQ.

Plaintiff Michael G. Kasolas, Chapter 7 Trustee ("Plaintiff" or "Trustee") on behalf of the
bankruptcy estate (the "Estate") of debtor Fox Ortega Enterprises, Inc., dba Premier Cru
("Debtor"), represents and alleges against American Automobile Association of Northern
California, Nevada, and Utah (f.k.a. California State Automobile Agency) ("Defendant") as

COMPLAINT TO AVOID AND RECOVER
FRAUDULENT TRANSFERS

1 follows:

2 I.

3 NATURE OF ACTION

4 1. This adversary proceeding arises out of and related to the Chapter 7 case of the
5 Debtor, titled *In re Fox Ortega Enterprises, Inc. dba Premier Cru*, which is now pending before
6 the United States Bankruptcy Court for the Northern District of California, Case No. 16-40050-
7 WJL.

8 2. This is an adversary proceeding brought pursuant to Part VII of the Federal Rules
9 of Bankruptcy Procedure to recover certain transfers made by the Debtor to the Defendant and
10 related relief. The Trustee seeks entry of a judgment avoiding the transfers at issue pursuant to 11
11 U.S.C. § 544(b) and Cal. Civ. Code § 3439 et seq., and recovering the transfers pursuant to 11
12 U.S.C. § 550, until Defendant pays the transfers at issue in full to the Trustee.

13 II.

14 JURISDICTION AND VENUE

15 3. On January 8, 2016 (the "Petition Date"), the Debtor filed a voluntary petition
16 under Chapter 7 of the Bankruptcy Code.

17 4. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157(b)(1)
18 and 1334(a). This is a core proceeding under 28 U.S.C. § 157(b).

19 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409(a), in that the
20 instant proceeding is related to the Debtor's case under Title 11, Chapter 7 of the United States
21 Code that is still pending.

22 6. The Trustee consents to final orders or judgment by the Bankruptcy Court.

23 7. Pursuant to 11 U.S.C. § 544 and the Trustee being the duly appointed Chapter 7
24 Trustee of the Estate, the Trustee has standing to bring this adversary proceeding on behalf of the
25 Estate.

26 III.

27 THE PARTIES

28 8. The Trustee brings this action solely in his capacity as the Chapter 7 Trustee for

1 the Estate.

2 9. The Trustee is informed and believes, and based thereon alleges, that Defendant is
3 a non-profit corporation, incorporated in California.

4 IV.

5 GENERAL ALLEGATIONS

6 10. The Trustee is informed and believes, and based thereon alleges, that the Debtor
7 was a company in the wine retail business.

8 11. The Trustee is informed and believes, and based thereon alleges, that on or about
9 August 11, 2016, the Debtor's founder and president, John Fox, entered into a guilty plea in his
10 criminal case, *United States v. John Fox, Case No. CR 16-281 JD, N.D. Cal*, and, in his Plea
11 Agreement admitted that the Debtor had been running a Ponzi scheme since at least 2010 that
12 involved both the sale of "phantom wines" and his use of current customer payments to satisfy
13 prior customer orders.

14 12. The Trustee is informed and believes, and based thereon alleges, that on or about
15 January 23, 2009 through September 28, 2015, the Debtor made payments (the "Transfers") in the
16 aggregate sum of \$24,312.23 (the "Funds") to the Defendant as indicated in the disbursement
17 statement attached as **Exhibit 1**.

18 13. The Trustee is informed and believes, and based thereon alleges, that the Funds
19 used to make the Transfers came from four of the Debtor's bank accounts:

- 20 (a) Account #1035 at Heritage Bank of Commerce in the amount of \$5,915.86;
21 (b) Account #1284 at Community Bank of the Bay in the amount of \$3,979.00;
22 (c) Account #2956 at Community Bank of the Bay in the amount of \$13,163.87; and
23 (d) Account #4148 at Community Bank of the Bay in the amount of \$1,253.50.

24 14. The Trustee is informed and believes, and based thereon alleges, that the Transfers
25 were made on account of automobile insurance purchased by Hector Ortega, a former employee
26 of the Debtor, for his personal use. Ortega's insurance card, renewal offer, and automobile policy
27 declarations from the Defendant evidencing this account and the vehicles insured are attached
28

1 hereto as **Exhibit 2, Exhibit 3, and Exhibit 4**, respectively.

2 15. The Trustee is currently unaware of any other payments to Defendant made by the
3 Debtor on account of Hector Ortega's obligations and the Trustee will amend this complaint to
4 include any such transfers as they are discovered.

5 16. The Trustee may invoke 11 U.S.C. § 544(b) to avoid the Transfers under Cal. Civ.
6 Code §§ 3439 et seq. because on the Petition Date, at least one creditor holding an unsecured
7 claim that is allowable in the Case under 11 U.S.C. § 502 held a claim against the Debtor's
8 transferees to avoid its fraudulent transfers under Cal. Civil Code § 3439 et seq.; among such
9 creditors were Albert Nassi (Claim No. 1936) and Albert Rose (Claim No. 754).

10 17. The Trustee is informed and believes, and based thereon alleges that, the
11 Defendant had dominion and control of the Funds once after Defendant received the Transfers
12 from the Debtor.

13 **V.**

14 **FIRST CLAIM FOR RELIEF**

15 **(Claim to Avoid and Recover Constructive Fraudulent Transfers)**
(California Civil Code § 3439.4(a)(2) et seq.; 11 U.S.C. §§ 544(b) and 550)

16 18. The Trustee realleges and incorporates herein by reference each and every
17 allegation contained in all prior paragraphs of this Complaint.

18 19. At the time of each Transfer, (i) the Debtor was insolvent, (ii) the remaining assets
19 of the Debtor were unreasonably small in relation to its business, or (iii) the Debtor believed or
20 reasonably should have believed that it would incur debts beyond its ability to pay as they became
21 due.

22 20. The Debtor did not receive a reasonably equivalent value in exchange for the
23 Transfers.

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

25 **VI.**

26 **SECOND CLAIM FOR RELIEF**

27 **(Claim to Avoid and Recover Intentional Fraudulent Transfers Under**
California Civil Code § 3439.04(a)(1) et seq.; 11 U.S.C. §§ 544(b) and 550)

28 21. The Trustee realleges and incorporates herein by reference each and every

1 allegation contained in all prior paragraphs of this Complaint.

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

4 **WHEREFORE**, the Trustee prays for relief as follows.

5 **VII.**

6 **PRAYER FOR RELIEF**

7 The Trustee prays for judgment:

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

10 2. Avoiding the Transfers as intentional fraudulent transfers under Cal. Civ. Code §
11 3439.04(a)(1) et seq., or constructive fraudulent transfers under Cal. Civ. Code § 3439.4(a)(2) et
12 seq.;

13 3. Determining that the Defendant is the initial transferee under 11 U.S.C. §
14 550(a)(1);

15 4. Granting recovery against Defendant in the amount of \$24,312.23 plus any
16 additional amounts as may be established according to proof;

17 5. Awarding pre judgment interest at the rate of 10 percent per annum from the date
18 of each Transfer as provided under California law;

19 6. For costs incurred in connection with this action; and

20 7. For such other and further relief as this Court deems just and proper.

21 Dated: December 22, 2017

Respectfully submitted,

22 **ARENT FOX LLP**

23
24 By: /s/ M. Douglas Flahaut

25 Aram Ordubegian
26 M. Douglas Flahaut
27 Christopher K.S. Wong
28 Conflicts Counsel for Michael G. Kasolas,
Chapter 7 Trustee

EXHIBIT 1

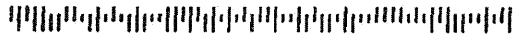
SEQ#	BANK	ACCT#	Transaction Date	Transaction # Check #/Wire #	Payee Last Name/Business Name	Disbursement	Insurance Policy	Name	
123	HBC	1035	1/23/2009	6819	California State Automobile Assoc	\$ 298.00	KC6455-7	Hector Ortega	
232	HBC	1035	2/18/2009	6892	California State Automobile Assoc	\$ 253.00	KC6455-7	Hector Ortega	
347	HBC	1035	3/10/2009	6965	California State Automobile Assoc	\$ 958.69	KC6455-7	Hector Ortega	
1002	HBC	1035	7/21/2009	7373	California State Automobile Assoc	\$ 392.00	KC6455-7	Hector Ortega	
1108	HBC	1035	8/12/2009	7431	California State Automobile Assoc	\$ 384.00	KC6455-7	Hector Ortega	
1292	HBC	1035	9/28/2009	7561	California State Automobile Assoc	\$ 370.00	KC6455-7	Hector Ortega	
1539	HBC	1035	11/13/2009	7724	California State Automobile Assoc	\$ 673.67	8E7194-7	Hector Ortega	
1540	HBC	1035	11/13/2009	7730	California State Automobile Assoc	\$ 729.00	KC6455-7	Hector Ortega	
1765	HBC	1035	12/29/2009	7888	California State Automobile Assoc	\$ 308.00	KC6455-7	Hector Ortega	
1852	HBC	1035	1/15/2010	7928	California State Automobile Assoc	\$ 304.00	KC6455-7	Hector Ortega	
2103	HBC	1035	3/9/2010	8093	California State Automobile Assoc	\$ 258.00	KC6455-7	Hector Ortega	
2171	HBC	1035	3/22/2010	8131	California State Automobile Assoc	\$ 323.00	KC6455-7	Hector Ortega	
2277	HBC	1035	4/8/2010	8216	California State Automobile Assoc	\$ 664.50	KC6455-7	Hector Ortega	
2904	CBB	1248	7/27/2010	1177	California State Automobile Assoc	\$ 3,545.00	KC6455-7	Hector Ortega	
3227	CBB	1248	9/27/2010	1384	California State Automobile Assoc	\$ 434.00	8E7194-7	Hector Ortega	
4916	CBB	2956	7/7/2011	2638	California State Automobile Assoc	\$ 423.00	KC6455-7	Hector Ortega	
5194	CBB	2956	8/10/2011	2761	California State Automobile Assoc	\$ 415.00	KC6455-7	Hector Ortega	
5734	CBB	2956	10/25/2011	53033	California State Automobile Assoc	\$ 1,500.00	KC6455-7	Hector Ortega	
5896	CBB	2956	11/15/2011	53122	California State Automobile Assoc	\$ 1,000.00	KC6455-7	Hector Ortega	
6152	CBB	2956	12/15/2011	53203	California State Automobile Assoc	\$ 435.58	8E7194-7	Hector Ortega	
6254	CBB	2956	12/29/2011	53296	California State Automobile Assoc	\$ 619.30	KC6455-7	Hector Ortega	
6367	CBB	2956	1/11/2012	53353	California State Automobile Assoc	\$ 625.49	KC6455-7	Hector Ortega	
6976	CBB	2956	3/15/2012	53675	California State Automobile Assoc	\$ 284.00	KC6455-7	Hector Ortega	
8016	CBB	2956	7/31/2012	54189	California State Automobile Assoc	\$ 502.00	KC6455-7	Hector Ortega	
8439	CBB	2956	9/28/2012	54420	California State Automobile Assoc	\$ 1,092.00	KC6455-7	Hector Ortega	
8734	CBB	2956	11/9/2012	54598	California State Automobile Assoc	\$ 1,056.00	KC6455-7	Hector Ortega	
9016	CBB	2956	12/13/2012	54746	California State Automobile Assoc	\$ 356.00	KC6455-7	Hector Ortega	
9243	CBB	2956	1/14/2013	54873	California State Automobile Assoc	\$ 351.00	KC6455-7	Hector Ortega	
9625	CBB	2956	3/5/2013	55077	California State Automobile Assoc	\$ 297.00	KC6455-7	Hector Ortega	
9795	CBB	2956	3/26/2013	55188	California State Automobile Assoc	\$ 1,131.20	KC6455-7	Hector Ortega	
10474	CBB	2956	6/26/2013	55544	California State Automobile Assoc	\$ 143.00	Membership	Hector Ortega	429 005 129383791 4
10935	CBB	2956	8/27/2013	55749	California State Automobile Assoc	\$ 440.30	CAAS100070949	Hector Ortega	
15618	CBB	4184	4/21/2015	70973	California State Automobile Assoc	\$ 1,253.50	CAAS203055039	Hector Ortega	
17013	CBB	2956	9/28/2015	57615	California State Automobile Assoc	\$ 2,493.00	CAAS203055039	Hector Ortega	
						<u>\$ 24,312.23</u>			

EXHIBIT 2



AAA Northern California, Nevada & Utah
Insurance Exchange
PO Box 22221
Oakland, CA 94623-2221

Auto Liability Insurance Identification Card(s)



HECTOR ORTEGA
KATHRYN BINETTI
1011 UNIVERSITY AVE
BERKELEY CA 94710-2113

Policy No. CAAS100070949

Policy base year 2004

Policy effective date 06-16-2013

Please keep this evidence of liability insurance in your vehicle with your registration. A peace officer may ask for this information if you are involved in an accident or stopped for a moving violation.

Reg 890A (Rev. 5/97)

FOR YOUR GLOVE COMPARTMENT



CALIFORNIA EVIDENCE OF LIABILITY INSURANCE

DO NOT FOLD OR STAPLE - SUBMIT ORIGINAL TO DMV

This insurance complies with CVC §16056 or §16500.5

Paul D. Denny *Michael J. Zuckerman*
ATTORNEYS IN FACT

NAME
HECTOR ORTEGA
KATHRYN BINETTI

VEHICLE IDENTIFICATION NUMBER (VIN)
WDBSK7BA1BF164437

MAKE
MERCEDES-BENZ

MODEL YEAR
2011

POLICY NUMBER
CAAS100070949

POLICY EFFECTIVE DATE
06-16-2013

POLICY EXPIRATION DATE
06-16-2014

INSURANCE COMPANY NAME
AAA Northern California, Nevada & Utah
Insurance Exchange

INSURANCE COMPANY ADDRESS
PO Box 22221

CITY
Oakland

STATE
CA

ZIP CODE
94623-2221

NAIC NUMBER
15539

FOR YOUR WALLET

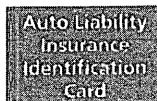
Vehicle Make: MERCEDES-BENZ

Model Year: 2011

Vehicle Identification No. WDBSK7BA1BF164437



AAA Northern California, Nevada & Utah
Insurance Exchange
PO Box 22221
Oakland, CA 94623-2221



Insured: HECTOR ORTEGA
KATHRYN BINETTI

Policy Number: CAAS100070949

Eff. Date: 06-16-2013

Exp. Date: 06-16-2014

Vehicle Make: MERCEDES-BENZ

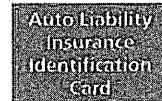
Model Year: 2011

VIN: WDBSK7BA1BF164437

For policy changes or to report a claim, call (800) 922-8228.



AAA Northern California, Nevada & Utah
Insurance Exchange
PO Box 22221
Oakland, CA 94623-2221



Insured: HECTOR ORTEGA
KATHRYN BINETTI

Policy Number: CAAS100070949

Eff. Date: 06-16-2013

Exp. Date: 06-16-2014

Vehicle Make: MERCEDES-BENZ

Model Year: 2011

VIN: WDBSK7BA1BF164437

For policy changes or to report a claim, call (800) 922-8228.

55 0038 0713
06-16-2004
01889
0210

EXHIBIT 3



AAA Northern California, Nevada & Utah
Insurance Exchange
PO Box 22221
Oakland, CA 94623-2221

Auto Insurance Renewal Offer Notice



IMPORTANT: Your Renewal Offer Inside



HECTOR ORTEGA
KATHRYN BINETTI
1011 UNIVERSITY AVE
BERKELEY, CA 94710-2113

Statement Date - 05/17/2013

Billing Questions? Contact Us:

Phone: (800) 922-8228
Mail: AAA NCNU Insurance Exchange
PO Box 24525
Oakland CA 94623-1525
Attn: Billing Services

Dear Hector,

Thanks for your continued loyalty and trust in AAA. To better serve our policyholders, we're updating to a new insurance system. **For this transition please read this notice carefully as it will be the only reminder you will receive.** Keep these documents in a safe place. The following changes and information applies to you:

- **New policy number** – it is **CAAS100070949**. Please use this new number to contact us if you have questions.
- **Policy Limits / Coverage** – these stay the same, these do not change.
- **Renewal Date and Payment Due Date** – your renewal date is **06/16/2013** and payment is due no later than **07/16/2013** (30 days after renewal date).
- **Payment** – you can pay **\$4,403.00** (total amount due) or **\$440.30** (minimum amount due). No installment fee will apply to this first minimum amount due if you pay by 10 days after your renewal date.
- **Expiration** – unless we receive your payment on or before **07/16/2013**, your AAA Auto Insurance policy will have expired effective **06/16/2013**.
- **Billing Plan Changes** – we're changing how monthly premium installments are calculated and paid. See reverse side of this notice for more information.
- **Home Banking** – if you pay by Home Banking, visit your financial institution's website to update your AAA account info. Update your new Policy Number and Payment Address (both found above in the grey box).
- **Changes / Outstanding Balances** – if you make changes to your insurance coverage or have an outstanding balance from your current policy, these will carry over to your 2nd bill after renewal. We will adjust your installment schedule accordingly. Please make every effort to pay your current policy in full before your renewal due date.

We're delighted to offer you another year of superior protection with AAA Insurance. If you have questions about your policy or would like more information on making a payment, please call us at (800) 922-8228 or visit our local AAA branch.

Sincerely,
Your AAA Insurance Team

55 5072 12012012

Please detach and enclose this coupon with your payment.

Policy No. CAAS100070949

- ☐ Minimum Amount Due: **\$440.30**
- ☐ Total Amount (no installment fee if paid in full by the due date shown): **\$4,403.00**
- ☐ Other: \$ _____

Auto Insurance Renewal Invoice

Monthly Installments

Policy Renewal Date: **06/16/2013**

Payment Due Date: **07/16/2013**

Have you recently moved? Please call
(800) 922-8228 and provide us with your
new address.

HECTOR ORTEGA
KATHRYN BINETTI
1011 UNIVERSITY AVE
BERKELEY, CA 94710-2113

Make checks payable to **AAA NCNU IE** and
include **new** policy number on your check.

Mail to:



AAA NCNU INSURANCE EXCHANGE
PO BOX 60277
LOS ANGELES CA 90060-0277

400000071613044030000440300565831000709494

EXHIBIT 4



AAA Northern California, Nevada & Utah
Insurance Exchange

PO Box 22221
Oakland, CA 94623-2221

Automobile Policy Declarations

Please keep with your policy. See Important Notice on reverse.

For questions or changes call: (800) 922-8228

Page 1 of 1

1 Name and Address of Insured



HECTOR ORTEGA
KATHRYN BINETTI
1011 UNIVERSITY AVE
BERKELEY CA 94710-2113

POLICY INFORMATION	Declarations Type	Renewal Certificate	Process Date	05-17-2013
	Policy Number	CAAS100070949	Insured Since	2004
	Your Policy Period	From	12:01 A.M. Standard Time at the address of the Named Insured, but not prior to the time applied for or, if this is a replacement declaration, not prior to the time coverage change was requested	
		To	12:01 A.M. Standard Time at the address of the Named Insured	

Alternate Address

Occupation

Business Owner

Alternate Number

Telephone Number

(510) 655-6691

VEHICLES	Item	Make	Model Yr	Body Type	Vehicle Identification No.	DRIVERS	Name	ADB?
	1	MERCEDES-BENZ	2011	CONVERTIBLE	WDBSK7BA1BF164437		HECTOR	Y
	2	MERCEDES-BENZ	2012	CONVERTIBLE	WDDPK5HA7CF024788		KATHRYN	Y
	3	FORD	1990	SUPER CAB PICKUP	1FTCR14T1LPA33453			
	4	MERCEDES BENZ	1983	OTHER	WDDBC20A39606			

COVERAGES/PREMIUMS	Coverage		Liability Limits		Item 1		Item 2		Item 3		Item 4	
			Each Person	Each Occurrence	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
	Bodily Injury		100,000	300,000		\$181		\$129		\$122		\$116
	Medical Payments		No Coverage		No Coverage		No Coverage		No Coverage		No Coverage	
	Uninsured Motorists		30,000	60,000		\$60		\$53		\$35		\$38
	Property Damage			100,000		\$182		\$106		\$111		\$83
	Comprehensive Actual Cash Value Less Deductible				250	\$350	250	\$318	No Coverage		No Coverage	
	Collision Actual Cash Value Less Deductible				500	\$1,605	500	\$850	No Coverage		No Coverage	
	Enhanced Transportation Expense					\$28		\$28	No Coverage		No Coverage	
	All Risks Actual Cash Value Less Deductible				No Coverage		No Coverage		No Coverage		No Coverage	
	TOTAL PREMIUM PER VEHICLE >					\$2,406		\$1,484		\$268		\$237

* Automobile Death Benefits \$15,000 per driver listed with ADB coverage above

Premium \$8

Premium Summary CA Surcharge: \$0
This is not a bill.

Total Premium: \$4,403.00

Schedule of Changes

CHANGES	Item	Rated Driver	DSA	YDE	Prior Ann Miles	Future Ann Miles	Garage Zip	Vehicle Usage	Gender	Marital	See reverse for explanation of codes.
	1	HECTOR ORTEGA	1 Pt	51		8,000 Mi	94619	Pleasure	M	M	
	2	KATHRYN BINETTI	0 Pt	40		8,000 Mi	94619	Pleasure	F	M	
	3	Undesignated				2,000 Mi	94619	Pleasure			
	4	Undesignated				2,000 Mi	94619	Pleasure			

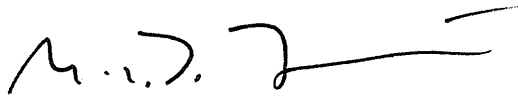
Discounts:
Mature Driver: None.
Good Driver: Item(s) 1, 2, 3, 4.
Multi Policy: None.

Multi Car: Item(s) 1, 2, 3, 4.
New Driver: None.
Good Student: None.

LOSS PAYEE(S)	Item 1	DAIMLER TITLE CO PO BOX 997545 SACRAMENTO CA 95899	Item 2	DAIMLER TITLE CO PO BOX 997545 SACRAMENTO CA 95899	You may qualify for other products and discounts. For more info call your Insurance Agent Frank Whitson Jr +1 (510) 350-2069

55 1500 1107
06-16-2004
01888
0210

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Michael G. Kasolas, Trustee		DEFENDANTS American Automobile Association of Northern California, Nevada, & Utah
ATTORNEYS (Firm Name, Address, and Telephone No.) M. Douglas Flahaut ARENT FOX LLP 55 Second Street, 21st Floor San Francisco, CA 94105		ATTORNEYS (If Known)
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee		PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Complaint to Avoid and Recover Fraudulent Transfers Under 11 U.S.C. § 544(b) AND Cal. Civ. Code § 3439 et seq.		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>FRBP 7001(1) – Recovery of Money/Property</p> <p><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property</p> <p><input type="checkbox"/> 12-Recovery of money/property - §547 preference</p> <p><input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer</p> <p><input checked="" type="checkbox"/> 14-Recovery of money/property - other - <i>§ 544 - Fraudulent Transfer</i></p> <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <p><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</p> <p>FRBP 7001(3) – Approval of Sale of Property</p> <p><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</p> <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <p><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)</p> <p>FRBP 7001(5) – Revocation of Confirmation</p> <p><input type="checkbox"/> 51-Revocation of confirmation</p> <p>FRBP 7001(6) – Dischargeability</p> <p><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims</p> <p><input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud</p> <p><input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny</p> <p style="text-align: center;">(continued next column)</p> </div> <div style="width: 48%;"> <p>FRBP 7001(6) – Dischargeability (continued)</p> <p><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support</p> <p><input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury</p> <p><input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan</p> <p><input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)</p> <p><input type="checkbox"/> 65-Dischargeability - other</p> <p>FRBP 7001(7) – Injunctive Relief</p> <p><input type="checkbox"/> 71-Injunctive relief – imposition of stay</p> <p><input type="checkbox"/> 72-Injunctive relief – other</p> <p>FRBP 7001(8) Subordination of Claim or Interest</p> <p><input type="checkbox"/> 81-Subordination of claim or interest</p> <p>FRBP 7001(9) Declaratory Judgment</p> <p><input type="checkbox"/> 91-Declaratory judgment</p> <p>FRBP 7001(10) Determination of Removed Action</p> <p><input type="checkbox"/> 01-Determination of removed claim or cause</p> <p>Other</p> <p><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq.</p> <p><input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</p> </div> </div>		
<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$24,312.23
Other Relief Sought		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Fox Ortega Enterprises, Inc., dba Premier Cru		BANKRUPTCY CASE NO. 16-40050-WJL
DISTRICT IN WHICH CASE IS PENDING Northern District of California	DIVISION OFFICE Oakland	NAME OF JUDGE The Honorable William J. Lafferty, III
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE December 22, 2017		PRINT NAME OF ATTORNEY (OR PLAINTIFF) M. Douglas Flahaut

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.