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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.  
  
JOHN BRINCKO,  
  
Defendant.

Case No. 16-40050-WJL

Chapter 7

Adversary Proceeding No.

**COMPLAINT TO AVOID AND  
RECOVER PREFERENTIAL TRANSFER**

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. The Trustee is the duly appointed 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 court 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 JOHN BRINCKO ("Defendant") is an individual.

**FIRST CLAIM FOR RELIEF**  
**Avoidance and Recovery of Preferential Transfer**

8. The Debtor made transfers in the form of American Express credits issued to Defendant in the aggregate value of at least \$34,247.37 (the "Transfer") on the dates and in the amounts as follows:

John Brincko	\$6,212.97	AMEX	AQ3ABF1F6D26	10/27/2015
John Brincko	\$1,678.43	AMEX	AR3ACAC1B407	11/3/2015
John Brincko	\$5,232.00	AMEX	AT3ADC120B7B	11/3/2015
John Brincko	\$21,123.97	AMEX	AQ3ACA85C8C2	11/3/2015

9. The Transfer was made to or for the benefit of a creditor, namely the Defendant.

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 was the initial transferee of the Transfer or to the party for whom benefit the transfer was made under 11 U.S.C. § 550(a)(1).

15. The Trustee's investigation is ongoing, and the Trustee is not 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.

**PRAYER FOR RELIEF**

The Trustee requests entry of judgment against Defendant as follows:

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 \$34,247.37 from Defendant; and
3. Awarding pre-judgment interest at the legal rate from the date of demand.
4. Awarding costs of suit incurred herein; and
5. For any other relief that the Court deems proper.

Dated: January 8, 2018

WENDEL, ROSEN, BLACK & DEAN LLP

By: /s/ Mark S. Bostick

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