

Fill in this information to identify the case:

Debtor 1 Fox Ortega Enterprises, Inc.
Debtor 2 _____
(Spouse, if filing)
United States Bankruptcy Court Northern District of California
Case number: 16-40050

FILED
U.S. Bankruptcy Court
Northern District of California
1/12/2016
Edward J. Emmons, Clerk

**Official Form 410
Proof of Claim****12/15**

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents**; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Thomas Tran</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Thomas Tran</u> Name po box stateline, NV 89449 Contact phone _____ Contact email <u>rensho@gmail.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) _____ Name Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____</div></div>
7. How much is the claim?	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 20px;">\$ 899.88 _____</div><div>Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). _____</div></div>
8. What is the basis of the claim?	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p>Paid for a case of wine futures (2010 Chateauneuf pegau) never received. Promised refund check, never received</p> <p>_____</p>
9. Is all or part of the claim secured?	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.</div><div>Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div></div> <p>Basis for perfection: _____</p> <p>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><div>Value of property:</div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><div>Amount of the claim that is secured:</div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><div>Amount of the claim that is unsecured:</div><div>\$ _____</div><div style="text-align: right; font-size: small;">(The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div>Amount necessary to cure any default as of the date of the petition:</div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><div>Annual Interest Rate (when case was filed)</div><div>_____ %</div></div> <div style="margin-top: 10px;"><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div>
10. Is this claim based on a lease?	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div></div>
11. Is this claim subject to a right of setoff?	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div></div>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply.</i>	Amount entitled to priority
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
	<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
	<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
	<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
	<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(_) that applies	\$ _____
<small>* Amounts are subject to adjustment on 4/1/16 and every 3 years after that for cases begun on or after the date of adjustment.</small>		

Part 3: Sign Below

<p>The person completing this proof of claim must sign and date it. FRBP 9011(b).</p> <p><small>If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.</small></p> <p>A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.</p>	<p>Check the appropriate box:</p> <p><input checked="" type="checkbox"/> I am the creditor.</p> <p><input type="checkbox"/> I am the creditor's attorney or authorized agent.</p> <p><input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.</p> <p><input type="checkbox"/> I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.</p> <p>I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.</p> <p>I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.</p> <p>I declare under penalty of perjury that the foregoing is true and correct.</p> <p>Executed on date <u>1/12/2016</u></p> <p style="text-align: center;">MM / DD / YYYY</p> <p><u>/s/ Thomas Tran</u></p> <p>Signature</p> <p>Print the name of the person who is completing and signing this claim:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Name</td> <td colspan="3"><u>Thomas Tran</u></td> </tr> <tr> <td></td> <td style="width: 20%; text-align: center;">First name</td> <td style="width: 20%; text-align: center;">Middle name</td> <td style="width: 40%; text-align: center;">Last name</td> </tr> <tr> <td>Title</td> <td colspan="3"><u></u></td> </tr> <tr> <td>Company</td> <td colspan="3"><u></u></td> </tr> <tr> <td rowspan="4">Address</td> <td colspan="3"><small>Identify the corporate servicer as the company if the authorized agent is a servicer</small></td> </tr> <tr> <td colspan="3"><u>po box 4492</u></td> </tr> <tr> <td colspan="3"><small>Number Street</small></td> </tr> <tr> <td colspan="3"><u>stateline, NV 89449</u></td> </tr> <tr> <td rowspan="2">Contact phone</td> <td colspan="2"><small>City State ZIP Code</small></td> <td><small>Email</small></td> </tr> <tr> <td colspan="2"><u>4082194169</u></td> <td><u>rensho@gmail.com</u></td> </tr> </table>	Name	<u>Thomas Tran</u>				First name	Middle name	Last name	Title	<u></u>			Company	<u></u>			Address	<small>Identify the corporate servicer as the company if the authorized agent is a servicer</small>			<u>po box 4492</u>			<small>Number Street</small>			<u>stateline, NV 89449</u>			Contact phone	<small>City State ZIP Code</small>		<small>Email</small>	<u>4082194169</u>		<u>rensho@gmail.com</u>
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Tom Tran <rensho@gmail.com>

RE: Thomas Tran (45459) - RE: Web Order # 137490 from thomas tran

3 messages

Tony Gray

Tue, May 19, 2015 at 4:45

<tony@premiercru.net>

PM

To: Thomas <rensho@gmail.com>

Hello Thomas,

[We are sorry for the delay on your order of](#) 2010 Chateauneuf Cuvee

Reservee, Pegau. We realize it's been a long time, but we are confident that our allotment of these wines will be coming this Summer. We have experienced several logistical setbacks recently including the California Port closure which set us back at least 4 months. We appreciate your patience and please feel free to contact me at any time for updates.

Many thanks,

Tony Gray

[Premier Cru](#) - the world's finest wines

1011 University Avenue

Berkeley, CA 94710 ([directions](#))

phone [\(510\) 644-9463](#)

fax (510) 647-3833

[Tony@premiercru.net](mailto:tony@premiercru.net)

From: Thomas [mailto:rensho@gmail.com]

Sent: Sunday, May 17, 2015 7:45 PM

To: Premier Cru

Subject: Re: Thomas Tran (45459) - RE: Web Order # 137490 from thomas tran

James,

Hi, any word of the 2010 Pegau prearrivals?

We are approaching 2 years since my order.

I sit here writing this as the 2012 Pegau has landed in stores. I just bought a few from Artisan Wine Depot.

I'm really surprised you mentioned previously that i'm so far down your queue. I believe I ordered the 2010 pegau on the same day your email blast went out. Nonetheless, It has been almost 6 months since my last enquiry in which you said the container ship may be 1-2 months out.

Thanks,

Thomas

On Mon, Dec 22, 2014 at 5:03 PM, Premier Cru

<sales@premiercru.net> wrote:

Hi again Thomas,

I see you have 12 x 2010 Chateauneuf Cuvee Reservee, Pegau on order with us. These bottles remain pre-arrivals, and we thank you for your continued patience on this young CdP. It is wine we too have purchased, and it will get here presently.

This wine is actually a very good example of how Premier Cru works. We purchases wines in extremely large quantities and huge mixed parcels in Europe. We do our own direct importing. This makes our pricing on the wines VERY good, as you probably already know. However it does often take us a very long time to collect all our various mixed parcels in Europe, and import them here 13,000 bottles at a time in our refrigerated containers. Still we have been at this for well over 30 years now, providing high end wines at rock bottom pricing to our customers. We do deliver the wines we sell, imported and stored under proper temperature control.

We allocate arriving bottles here in the order they were purchased from us, and started to sell this Pegau about 2 years before you purchased. We sell a lot of wine, especially because of our low prices, and the queue was very long when you purchased. We have already had nearly 2000 bottles of this wine arrive here at Premier Cru, way more of the wine arrived than most other stores will ever sell of this one. However we still have over 1200 MORE bottles yet to get here, including yours. It is all wine we too have purchased, and slowly but surely all the bottles will migrate here.

Until bottles corresponding to your place in the queue are loaded on one of our refrigerated containers on the water from Europe, about a month out, we are just guessing how many of which specific bottles will make it here when. Your bottles are definitely more than a month out,

so clearly will not be here by the end of the year.
Beyond that we really are guessing.

You will however get these, and we thank you for your continued patience. This Pegau will be well worth the wait. Thanks for your buisness, and we wish you a happy holiday season.

Regards,

James Gillerman

=====

James Gillerman

PREMIER CRU

1011 University Avenue

Berkeley, CA 94710 USA

Ph: 510-644-WINE (510-644-9463)

Fax: 510-647-3833

Email: james@premiercru.net

Web: www.premiercru.net

From: Thomas [mailto:rensho@gmail.com]

Sent: Monday, December 22, 2014 3:30 PM

To: Premier Cru

Subject: Re: Thomas Tran (45459) - RE: Web Order # 137490 from thomas tran

Hi, is there a chance this order is ready for pick up? At least this year?

Thanks,

Thomas

On Tue, Nov 19, 2013 at 10:35 AM, Thomas

<rensho@gmail.com> wrote:

Sarah, I do understand the futures will come in when they come in. That's fine.

Thanks,

Thomas

On Tue, Nov 19, 2013 at 10:30 AM, Premier Cru

<sales@premiercru.net> wrote:

Hello Thomas,

Thank you for your order. Before I process this weborder, please note these bottles are Pre-Arrival and are not currently in stock.

As taken directly from our website, the term "Pre-Arrival" is applied to wines we have purchased (typically abroad) that have not arrived yet.

Depending on the particular wine, the arrival time is

typically 6+ months to over two years (in the case of Bordeaux Futures, for example). Many new releases of highly desirable, limited-production wines (i.e. - Burgundy, Rhone, Italian, etc.) are offered on a "Pre-Arrival" basis by our suppliers. These offerings typically take 6 to 18 months to arrive and are often the only way to source the wines before they sell out (and at optimal prices). We send an email notification when your wines arrive.

Please let me know how you wish to proceed with this order as your credit card has not yet been charged. Thank you.

Cheers,

Sarah

Sarah Davies

Premier Cru
1011 University Avenue
Berkeley, CA 94710
Phone: (510) 644-WINE (9463) ex 25
Fax: (510) 647-3833
email: sarah@premiercru.net

web: www.premiercru.net

-----Original Message-----

From: Premier Cru

Sent: Tuesday, November 19, 2013 9:00 AM

To: Premier Cru

Subject: Web Order # 137490 from thomas tran

Order Number: 137490

Placed: Nov 18 2013 6:09PM

Cust Name: thomas tran

Email Address: rensho@gmail.com

Cust Id: 45459

Order No: SO-0000428210

Order Status: OK

Billing Address:

Thomas tran

747 tina ct. unit A

stateline, NV 89449

Day Phone: [4082194169](tel:4082194169)

Eve Phone:

Cel Phone:

Shipping Address:

,

Day Phone: 0

Eve Phone: 0

Cel Phone: 0

Ship On or After:

Ship Via: HOLD

Payment: 8365 exp: 08 14

Name on Card: thomas tran

qty	item	Wine	price
ext	status		
-----	-----	-----	-----

12	44972	2010 Chateauneuf Cuvee Reservee, Pegau	74.99
899.88	pre-arrival		

Bottles : 12

Subtotal: 899.88

Shipping: 0.00

Tax : 0.00

Total : 899.88

Please hold until i contact to ship. i`m out of country

until 12/3.

Please note:

We do not ship automatically upon order.

If you wish to arrange shipping, please contact us after receiving your

order confirmation and we will schedule it.

We do not charge for shipping until your bottles ship out.

If you have any questions, please email us at

info@premiercru.net or

call us at [510-644-9463](tel:510-644-9463).

Premier Cru

1011 University Avenue

Berkeley, CA 94710

[\(510\) 644-9463](tel:510-644-9463)

Thomas

Mon, Nov 16, 2015 at 1:01

<rensho@gmail.com>

PM

To: Tony Gray <tony@premiercru.net>

Hi Tony, it has been 6 months. I've heard nothing from you, nor Premier. Let's end this and do a refund. Enough is enough.

Do you realize in 2 years, Premier has NEVER contacted me concerning the order and ETA?

Thomas

[Quoted text hidden]

Thomas

Mon, Nov 16, 2015 at 1:09

<rensho@gmail.com>

PM

To: Tony Gray <tony@premiercru.net>

please send check to:

thomas tran

po box 4492

stateline, NV 89449

On Tue, May 19, 2015 at 4:45 PM, Tony Gray

<tony@premiercru.net> wrote:

[Quoted text hidden]