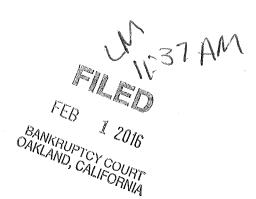
Fill in this information to identify the case:							
Debtor 1 FOX OVER							
Debtor 2 (Spouse, if filing)							
United States Bankruptcy Court for the: District of							
Case number 16-40050							



#### 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.

P	art 1: Identify the Ci	aim								
1.	Who is the current creditor?	Luis So  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?	☑ No □ Yes. From whom?								
3.	Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent?  Luis so								
	Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Name 3128 Geary Boulevard  Number Street San Francisco CA 94118 City State ZIP Code  Contact phone 415.752.6500  Contact email LUIS (2) USCIR, COM  Uniform claim identifier for electronic payments in chapter 13 (if you to the street of the	Number Street  City State ZIP Code  Contact phone Contact email use one):							
4.	Does this claim amend one already filed?	☑ No ☐ Yes. Claim number on court claims registry (if known)	Filed on							
5.	Do you know if anyone else has filed a proof of claim for this claim?	☐ No ☐ Yes. Who made the earlier filing?								

Official Form 410 Proof of Claim page 1

Give Information About the Claim as of the Date the Case Was Filed 6. Do you have any number ☑ No Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: you use to identify the debtor? 60,000.00. Does this amount include interest or other charges? 7. How much is the claim? ☑ No Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. 8. What is the basis of the claim? 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 health care information. goods purchased and not delivered **☑** No 9. Is all or part of the claim secured? Yes. The claim is secured by a lien on property. Nature of property: Real estate. If the claim is secured by the debtor's principal residence, file a Mortgage Proof of Claim Attachment (Official Form 410-A) with this Proof of Claim. ☐ Motor vehicle Other, Describe: Basis for perfection: 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.) Value of property: Amount of the claim that is secured: (The sum of the secured and unsecured Amount of the claim that is unsecured: \$ amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: Annual Interest Rate (when case was filed)\_ ☐ Fixed ■ Variable 10. Is this claim based on a ☑ No lease? Yes. Amount necessary to cure any default as of the date of the petition. 11. Is this claim subject to a ☑ No right of setoff? Yes. Identify the property:

12. Is all or part of the claim	<b>☑</b> No							
entitled to priority under 11 U.S.C. § 507(a)?		Amount entitled to priority						
A claim may be partly priority and partly	Domes 11 U.S	\$						
nonpriority. For example, in some categories, the law limits the amount		2,775* of deposits toward purch al, family, or household use. 11		of property or	services for	\$		
entitled to priority.	☐ Wages bankru 11 U.S	\$						
		or penalties owed to governmen	tal units. 11 U.S.C. §	507(a)(8).		\$		
	☐ Contrib	utions to an employee benefit p	an 11 U.S.C. 8 507(a	a)(5)		\$		
						¢		
		Specify subsection of 11 U.S.C.				Ψ		
	* Amounts	are subject to adjustment on 4/01/16	and every 3 years after	that for cases	begun on or afte	er the date of adjustment.		
Part 3: Sign Below								
The person completing	Check the appre	opriate box:						
this proof of claim must sign and date it.	☑ I am the cr							
FRBP 9011(b).	I am the creditor's attorney or authorized agent.							
If you file this claim	am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.							
electronically, FRBP 5005(a)(2) authorizes courts to establish local rules	I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.							
specifying what a signature is.		at an authorized signature on thi laim, the creditor gave the debto						
A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5	I have examined the information in this <i>Proof of Claim</i> and have a reasonable belief that the information is true and correct.							
years, or both. 18 U.S.C. §§ 152, 157, and	I declare under penalty of perjury that the foregoing is true and correct.							
3571.	Executed on date 01/29/2016 MM/ DD / YYYY							
	4179/87/87	MIMI / DD / TTTT						
	Market Street Street Street Street Street Street	7		1-	29-16			
	Signature							
		of the person who is complet	ing and signing this	claim:				
~	Name	Luis So First name	Middle name		Last name			
		134417	Widdle Harrie		Last Haine			
	Title	Burry						
	Company	Identify the corporate servicer as	the company if the author	orized agent is	a servicer.			
·		3128 Coary Pauloyard						
	Address	3128 Geary Boulevard Number Street						
		San Francisco		CA	94118			
		City		State	ZIP Code			
	Contact phone	415.752.6500		Email				

January 25, 2016

Edward J. Emmons
Clerk of Court
United State Bankruptcy Court
1300 Clay St., #300 (94612)
P. O. Box 2070
Oakland, CA 94604-2070

Dear Mr. Emmons:

Enclosed are the following documents the court requested:

Complaint for Damages
Declaration in Support of Judgment by Default
Original copies of the original Sales Order
Copies of the Sale Order
Original copies of the Order Details
Copies of the Order Details

Please acknowledge receipt of the above document by mail (enclosed is a stamped, self-addressed envelope).

Thank you.

Yours Truly,

Luis So 3128 Geary Blvd.

San Francisco, CA 94118

# Exhibit 1

- 10. Upon release of the wine by the winery, the general expectation is that the value of the wine will appreciate.
- 11. On six occasions, beginning in February, 2011 through July 7, 2011, for financial consideration, plaintiff and defendants agreed, in writing, that defendants would deliver to plaintiff future specified premium Bordeaux wines.
- 12. The aggregate amount paid by plaintiff to defendants for the wine futures was \$60,000.00.
- 13. Attached hereto collectively as Exhibit 1, and incorporated herein by this reference, are copies of the orders for wine futures purchased from defendants by plaintiff.
- 14. At the time that plaintiff purchased the wine futures from defendants, defendants assured plaintiff that the wines would be delivered to plaintiff in 2013 or 2014, depending upon the date that the individual winery chose to release the wine.
- 15. Plaintiff is informed and believes, and thereon alleges that the wine futures purchased by plaintiff were released by the wineries in or about 2014.
- 16. Beginning in or about January, 2015, plaintiff inquired of defendants about the delivery dates of the wines ordered by plaintiff.
- 17. At all material times, defendants either have ignored, and failed to respond to, plaintiff's inquiries; or have proffered one reason or another for failing to deliver the wines purchased by plaintiff.
- 18. On August 12, 2015, plaintiff demanded that defendants provide plaintiff with a firm date that defendant would deliver

- 19. Defendants have breached the agreement they made with plaintiff by refusing and/or failing to deliver to plaintiff the wine that was purchased by plaintiff, or to provide plaintiff with a firm date for the delivery of the wines.
- 20. By reason of the foregoing, plaintiff has been damaged in an amount according to proof at trial, but not less than the sum of \$60,000.00, together with interest thereon in an amount according to proof.
- 21. Plaintiff has performed all obligations to defendants except those obligations plaintiff was prevented or excused from performing.

WHEREFORE, plaintiff prays for Judgment as set forth below.

## SECOND CAUSE OF ACTION (Common Count- Money had and received)

- 22. Plaintiff realleges, and incorporates herein by this reference, the allegations of paragraphs 1 through 20, inclusive, of this Complaint.
- 23. Commencing in 2014, in Berkeley, California, defendants became indebted to plaintiff in the sum of \$60,000.00 for money had and received by defendants for the use and benefit of plaintiff.
- 24. Neither the whole nor any part of the foregoing sum has been paid, although demand therefor has been made, and there now is due, owing, and unpaid the sum of \$60,000.00, with interest thereon in an amount according to proof.

WHEREFORE, plaintiff prays for Judgment against defendants, and each of them, as follows:

2.8

some manner for the occurrences herein alleged, and that plaintiff's damages as herein alleged were proximately caused by these defendants.

- 3. Plaintiff is informed and believed, and thereon alleges, that at all times herein mentioned, defendants DOE 1 through 20, inclusive, were agents, servants and employees of their codefendants, and in doing the things hereinafter alleged, were acting within the course and scope of their authority as such agents, servants, and employees, and with the permission and consent of their co-defendants.
- 4. Plaintiff is an individual over the age of eighteen years.
- 5. Plaintiff is informed and believes, and thereon alleges, that defendant FOX ORTEGA ENTERPRISES is a corporation duly organized and existing under the laws of the State of California, with its principal office in Berkeley, California.
- 6. Plaintiff is informed and believes, and thereon alleges that defendant FOX ORTEGA ENTERPRISES, INC. is, and has been, doing business under the fictitious name of Premier Cru.
- 7. Plaintiff is informed and believes, and thereon alleges that, since September 1, 2014, and continuing to the present, defendant FOX ORTEGA ENTERPRISES has not complied with the requirements of the fictitious business name statute.
- 8. At all material times, defendant sold to members of the public, including plaintiff, future deliveries of premium wines.
- 9. In particular, in exchange for financial consideration, defendants agreed to deliver future releases of premium wines from wineries in Bordeaux, France, when the wines were released

- 1. Compensatory damages in an amount according to proof at trial, but not less than the sum of \$60,000.00;
- 2. For pre-judgment interest on the foregoing amount according to proof at trial;
  - 3. For costs of suit incurred by plaintiff; and
- 4. For such other and further relief as the Court deems just and proper

Dated: October 23, 2015

\_\_/s/ PAUL R. PERDUE PAUL R. PERDUE Attorney for Plaintiff



INDONOST RUNE : KIND VORMATY : RAFFRINTS : RIA SERVATIOA :

shopping cart: 12 items

Log Out : Account Info. : Shipping

Wine Finder:

SEARCH >

Expert Search >

## order details

Order No.: SO-0000358941		Order Date: Jul 7, 2011 Status: Open								
ACCOUNT - ORDER DETAILS										
Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	Total Price				
2010 Margaux (pre-arrival), 750 ml	12	0	. 12	0	\$899.99	\$10,799.88				
2010 Hargaan (Fra mann)					Subtotal	\$10,799.88				
					Tax	\$944.99				
					Shipping	\$0.00				
					Total	\$11,744.87				

ACCOUNT - SHIPPING DETAILS			
Wine	Ordered	Snipped	Remaining
2010 Margaux (pre-arrival), 750 ml	12 ·	0	12

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#### order details

Order No.: SO-0000358355			e: Jun 23, 2011		Status: Oper	1				
ACCOUNT - ORDER DETAILS										
Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	Total Price				
2009 Haut Brion (pre-arrival), 750 ml	12	0	12	0	\$600.00	\$7,200.00				
SWAR RP	100		2014 TO 2034	Subtotal	\$7,200.00					
1/2	CENTURY				Tax	\$702.00				
					Shipping	\$0.00				
					Total	\$7,902.00				

#### **ACCOUNT - SHIPPING DETAILS**

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Wine	Ordered	Shipped	Remaining
and the second of the second o	Approximately and a second contract of the second		A Committee of the Comm
2009 Haut Brion (pre-arrival), 750 ml	12	0	12

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#### order details

Order No.: SO-0000357812

Order Date: Jun 13, 2011

Status: Open

#### **ACCOUNT - ORDER DETAILS**

Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	<b>Total Price</b>
2009 Margaux 1/2, 375 ml	2	0	2	0	\$450.00	\$900.00
sw96	,			2018-2435	Subtotal	\$900.00
	20 99 31-354A	4			Tax	\$87.75
	30-337	y.			Shipping	\$0.00
					Total	\$987.75

#### **ACCOUNT - SHIPPING DETAILS**

Wine	Ordered	Shipped	Remaining
The state of the s	The state of the s	The same of the sa	The second second second second second second
2009 Margaux 1/2, 375 ml	2	0	2

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LARMAR CILL : RESUMBLES : CALARIES : LIE ASSOCIATE

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\$0.00

\$10,798.94

#### order details

Order No.: SO-0000351452		C	order Date: F	Feb 25, 2011	Status: Open	
ACCOUNT - ORDER DETAILS						R/P
Wine	54	Ordered	Shipped	Remaining Ready To ship	Price/Bottle	/ 2025 Total Price 2075
2009 Pontet Canet Magnum, 1.5 L	96	6	0	6 2018-238 0	\$239.99	\$1,439.94
2009 Lynch Bages (pre-arrival), 750 ml	96	12	0	12 2015 2050	\$99.99	\$1,199.88 <i>9\$ 30</i> +
2009 Lynch Bages Magnum, 1.5 L	96	6	0	6 2115-2135 0	\$199.99	\$1,199.94 98 30 7
2009 Clinet Magnum, 1.5 L	94	6	0	6 245. 2034 0	\$299.99	\$1,799.94
2009 Montrose (pre-arrival), 750 ml	97	6	0	6 2120-2040 0	\$179.99	\$1,079.94/00 26
2009 Leoville Poyferre Magnum, 1.5 L	93	6	0	6 2116 · 2026 0	\$199.99	2652 \$1,199.94 180 2018
2009 Clos l'Eglise Magnum (pre-arrival),	1.5 L <b>9</b> 4	<b>4</b> 6	0	6 2017-2136 0	\$320.00	\$1,920.00 <b>98 25%</b>
					Subtotal	\$9,839.58
					Tax	\$959.36

#### **ACCOUNT - SHIPPING DETAILS**

Ordered	Shipped	Remaining
6	0	6
12	0	12
6	0	6
6	0	6
6	0	6
6	0	6
6	0	6
	6 12 6 6 6 6	6 0 12 0 6 0 6 0 6 0 6 0

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**Shipping** 

Total



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#### order details

Order No.: SO-0000358941		Order D	Date: Jul 7, 2011	Andrew Commencer	Status: Ope	n				
ACCOUNT - ORDER DETAILS										
Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	Total Price				
2010 Margaux (pre-arrival), 750 ml	12	0	12	0	\$899.99	\$10,799.88				
					Subtotal	\$10,799.88				
					Tax	\$944.99				
					Shipping	\$0.00				
					Total	\$11,744.87				

ACCOUNT	- SHI	PPING	<b>DETAILS</b>
---------	-------	-------	----------------

Wine	Ordered	Shipped	Remaining
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2010 Margaux (pre-arrival), 750 ml	12	0	12

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PROMORTALE I BIN UNDATE I MATRICIA I DE SAMOTEL I

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Status: Open

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\$19,741.70

#### order details

Order No.: SO-0000358709

ACCOUNT - ORDER DETAILS						
Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	Total Price
2010 Lafite Rothschild (pre-arrival), 750 ml	12	0	12	0	\$1,199.00	\$14,388.00
2010 Carruades de Lafite (pre-arrival), 750 ml	12	0	12	0	\$299.99	\$3,599.88
					Subtotal	\$17,987.88
					Tax	\$1,753.82
					Shipping	\$0.00

Order Date: Jul 1, 2011

#### **ACCOUNT - SHIPPING DETAILS**

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Wine	Ordered	Shipped	Remaining
and the second of the second o	and the second of the second o	The second section of the second seco	terrena y companyon da a servicio de la companyone de la companyone de la companyone de la companyone de la co
2010 Lafite Rothschild (pre-arrival), 750 ml	12	0	12
2010 Carruades de Lafite (pre-arrival), 750 ml	12	0	12

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Total



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Expert Search >

## order details

Order No.: SO-0000358355		Order Date: Jun 23, 201			Status: Ope	n
ACCOUNT - ORDER DETAILS					**************************************	
Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	Total Price
2009 Haut Brion (pre-arrival), 750 ml	12	0	12	0	\$600.00	\$7,200.00
SWAR RDI	00			2014 To 2034	Subtotal	\$7,200.00
/2 (	: HOWEY	•			Tax	\$702.00
					Shipping	\$0.00
					Total	\$7,902.00

ACCOUNT - SHIPPING DETAILS			
Wine	Ordered	Shipped	Remaining
2009 Haut Brion (pre-arrival), 750 ml	12	0	12

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#### order details

Order No.: SO-0000357860

Order Date: Jun 11, 2011

Status: Open

**ACCOUNT - ORDER DETAILS** 

Wine	Ordered	Shipped	Remaining	Ready To ship	Price/Bottle	Total Price
2009 Latour (pre-arrival), 750 ml	12		12	0	•	\$13,200.00
SW99				2020- 2040	Subtotal	\$13,200.00
RP (00)	1 00 4RS(?)	)			Tax	\$1,287.00
'/ '	( 00 715)( , )	,			Shipping	\$0.00
					Total	¢1// /07 00

**ACCOUNT - SHIPPING DETAILS** 

		and the second of the second o	the experience of the control of the
Wine	Ordered	Shipped	Remaining
the second secon			and the second s
2009 Latour (pre-arrival), 750 ml	12	0	12

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# PREMIER CF

1011 University Avenue Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

### Sales Order

Page: 1

Order Number: 0000351452 Order Date: 2/25/2011

Salesperson: MG Customer: lso Customer PO:

Sold To Ship To

Luis So 3128 Geary Blvd. San Francisco, CA 94118 USA Luis So 3128 Geary Blvd.

San Francisco, CA 94118 USA

Contact: Luis So

Phone: (415) 752-6500 Fax: (415) -38-6-31

Item		Ordered	Quantity Shipped	Unit Price	Amount
41565	09 Lynch Bages	12.00	0.00	99.99	1,199.88
41654	09 Leoville Poyferre Magnum	6.00	0.00	199.99	1,199.94
41533	09 Pontet Canet Magnum	6.00	0.00	239.99	1,439.94
41629	09 Clinet Magnum	6.00	0.00	299.99	1,799.94
41631	09 Montrose	6.00	0.00	179.99	1,079.94
41823	09 Clos l'Eglise Magnum	6.00	0.00	320.00	1,920.00
41567	09 Lynch Bages Magnum	6.00	0.00	199.99	1,199.94

# PREMIER CRU

1011 University Avenue Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

## Sales Order

Page: 1

Order Number: 0000357812 Order Date: 6/13/2011

Web Order No: 81552
Salesperson: MC
Customer: lso
Customer PO:

Sold To Ship To

Luis So 3128 Geary Blvd. San Francisco, CA 94118 USA Luis So 3128 Geary Blvd.

San Francisco, CA 94118 USA

Contact: Luis So

Phone: (415) 752-6500 Fax: (415) -38-6-31

	Item	Ordered	Quantity Shipped	Unit Price	Amount
41773	09 Margaux 1/2	2.00	0.00	450.00	900.00



				Net Order:	900.00
Payments:	987.75			Freight:	0.00
6/13/2011	VWNE2BC858EF	**********7614	987.75	Sales Tax:	87.75
				USD	987.75

## PREMIER CRU

1011 University Avenue Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

#### Sales Order

Page: 1

Order Number: 0000357860 Order Date: 6/11/2011

Salesperson: MG Customer: lso Customer PO:

Sold To Ship To

Luis So

3128 Geary Blvd.

San Francisco, CA 94118 USA

Luis So

3128 Geary Blvd.

San Francisco, CA 94118 USA

Contact: Luis So

Phone: (415) 752-6500 Fax: (415) -38-6-31

		Item	Ordered	Quantity Shipped	Unit Price	Amount
41831	09 Latour		12.00	0.00	1,100.00	13,200.00

pd cycle date 125-11

Payments: 14,487.00

Freight: 0.00
6/14/2011 VSYE6FE99DFD \*\*\*\*\*\*\*\*\*\*9758 14,487.00

USD 14,487.00

# PREMIER CRU

1011 University Avenue Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

#### Sales Order

Page: 1

Order Number: 0000358355 Order Date: 6/23/2011

Salesperson: MG Customer: lso Customer PO:

Sold To Ship To

Luis So 3128 Geary Blvd. San Francisco, CA 94118 USA

Luis So 3128 Geary Blvd. San Francisco, CA 94118 USA

Contact: Luis So

Phone: (415) 752-6500 Fax: (415) -38-6-31

Item _		Ordered	Quantity Shipped	Unit Price	Amount
41706	09 Haut Brion	12.00	0.00	600.00	7,200.00

use cycle date 7-25-11

Payments: 7,902.00

| 6/23/2011 | VTJE7B0E7083 | VT

# PREMIER CF

1011 University Avenue Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

## Sales Order

Page: 1

Order Number: 0000358709 Order Date: 7/1/2011

Salesperson: MG Customer: Iso Customer PO:

Sold To Ship To

Luis So

3128 Geary Blvd.

San Francisco, CA 94118 USA

Luis So

3128 Geary Blvd.

San Francisco, CA 94118 USA

Contact: Luis So

Phone: (415) 752-6500 Fax: (415) -38-6-31

	Item	Ordered	Quantity Shipped	Unit Price	Amount
44086	2010 Lafite Rothschild	12.00	0.00	1,199.00	14,388.00
44121	2010 Carruades de Lafite	12.00	0.00	299.99	3,599.88

US 9750 Cyd 8/25/11

Payments: 19,741.70

Freight: 0.00

7/1/2011 VUJE7ADB7329 \*\*\*\*\*\*\*\*\*\*\*9758 19,741.70

USD 19,741.70

## PREMIER CF

1011 University Avenue Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

#### Sales Order

Page: 1

Order Number: 0000358941

Order Date: 7/7/2011

Salesperson: MG Customer: Iso

Customer PO:

Sold To Ship To

Luis So

3128 Geary Blvd.

San Francisco, CA 94118 USA

Luis So

3128 Geary Blvd.

San Francisco, CA 94118 USA

Contact: Luis So

Phone: (415) 752-6500 Fax: (415) -38-6-31

	Item		Ordered	Quantity Shipped	Unit Price	Amount
44042	2010 Margaux	1.	12.00	0.00	899.99	10,799.88

visk gold gold

Payments: 11,744.87

7/7/2011 VUJE7B0649A9 \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*7614 11,744.87

Net Order:

10,799.88

Freight: Sales Tax: 0.00 944.99

USD

11,744.87