

Fill in this information to identify the case:

Debtor 1 Fox Ortega Enterprise  
Debtor 2 dba Premier Cru  
(Spouse, if filing)  
United States Bankruptcy Court for the: No. Ca. District of 7  
Case number 16-40050

FILED

2016 FEB -9 AM 10:43

U.S. BANKRUPTCY COURT  
NORTHERN DIST. OF CAL.  
OAKLAND, CA.

## 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?

Michael Himmel  
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?

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Michael Himmel  
Name  
725 Tides Rd  
Number Street  
Vero Beach FL 32963  
City State ZIP Code

Contact phone 802 430 4900

Contact email m.himmel2013@gmail.com

Where should payments to the creditor be sent? (if different)

Michael Himmel  
Name  
P.O. Box 1218  
Number Street  
Manchester VT 05254  
City State ZIP Code

Contact phone \_\_\_\_\_

Contact email \_\_\_\_\_

Uniform claim identifier for electronic payments in chapter 13 (if you use one):  
\_\_\_\_\_

4. Does this claim amend one already filed?

☒ No  
☐ 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?

☒ No  
☐ 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?

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim?

\$ 244.99

Does this amount include interest or other charges?

☒ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim?

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 health care information.

Wine purchased, paid, not received

9. Is all or part of the claim secured?

☒ No

☐ 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: \_\_\_\_\_

wine

**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:

\$ 244.99

Amount of the claim that is secured:

\$ 0

Amount of the claim that is unsecured:

\$ 244.99 (The sum of the secured and 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) 0.25 %

☒ Fixed

☐ Variable

10. Is this claim based on a lease?

☒ No

☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?

☒ No

☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☒ 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).

☐ 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).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ \_\_\_\_\_

\$ 244.99

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

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.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

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.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/02/2016  
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name

First name

Middle name

Last name

Title

Company

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

Number

Street

City

State

ZIP Code

Contact phone

Email

**Information to identify the case:**

Debtor Fox Ortega Enterprises, Inc. EIN 94-3660341  
 Name  
 United States Bankruptcy Court Northern District of California  
 Case number: 16-40050 Date case filed for chapter 7 1/8/16

**Official Form 309D (For Corporations or Partnerships)**

**Notice of Chapter 7 Bankruptcy Case -- Proof of Claim Deadline Set**

12/15

For the debtor listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

**Do not file this notice with any proof of claim or other filing in the case.**

1. Debtor's full name	Fox Ortega Enterprises, Inc.		
2. All other names used in the last 8 years	dba Premier Cru		
3. Address	1011 University Ave. Berkeley, CA 94710		
4. Debtor's attorney Name and address	Stephen D. Finestone Law Offices of Stephen D. Finestone 456 Montgomery St. 20th Fl. San Francisco, CA 94104	Contact phone (415) 421-2624	
5. Bankruptcy trustee Name and address	Michael G. Kasolas P.O. Box 26650 San Francisco, CA 94126	Contact phone (415) 504-1926 Email: <a href="mailto:trustee@kasolas.net">trustee@kasolas.net</a>	
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a> .	1300 Clay Street #300 (94612) Post Office Box 2070 Oakland, CA 94604-2070	Hours open: 9:00 am to 4:30 pm, Monday – Friday Contact phone 510-879-3600 Date: 1/12/16	
7. Meeting of creditors The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	February 24, 2016 at 08:30 AM The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.	Location: Office of the U.S. Trustee, 1301 Clay St. Room 680N, Oakland, CA 94612	
<b>Important Notice to Individual Debtors:</b> The United States Trustee requires all debtors who are individuals to provide government-issued photo identification and proof of social security number to the trustee at the meeting of creditors			

For more information, see page 2 >

# PREMIER CF

1011 University Avenue  
Berkeley, CA 94710

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

## Sales Order

Page: 1

Order Number: 0000477512

Order Date: 4/29/2015

Web Order No: 175197

Salesperson: MS

Customer: 47690

Customer PO:

Sold To	Ship To
Michael Himmel P.O.Box 1218 303 Taconic Road Manchester, VT 05254 USA	Michael Himmel P.O.Box 1218 303 Taconic Road Manchester, VT 05254 USA

Contact: Michael Himmel  
Phone: (802) 549-4849

This order has been paid by American Express - Thank You!

Item		Ordered	Quantity Shipped	Unit Price	Amount
CEF16	Krug Grand Cuvee	1.00	0.00	149.99	149.99
46159	2011 Ducru Beaucaillou	1.00	0.00	95.00	95.00

Payments: 244.99

Net Order: 244.99

Freight: 0.00

Sales Tax: 0.00

4/29/2015 AX3AD19555AD \*\*\*\*\*2001 244.99

USD 244.99



Michael Himmel <m.himmel2013@gmail.com>

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## RE: Premier Cru Order Acknowledgement

4 messages

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**Tony Gray** <tony@premiercru.net>

Tue, Jun 23, 2015 at 2:13 PM

To: Michael Himmel <m.himmel2013@gmail.com>

Hello Michael,

We are expecting the '11 Ducru to arrive by the end of next Summer and the Chamagne by early next year/early spring. Bordeaux typically take longer than any other wines that we import, but the Champagne may even come in earlier than expected. Thank you for 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

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**From:** Michael Himmel [mailto:m.himmel2013@gmail.com]

**Sent:** Tuesday, June 23, 2015 9:31 AM

**To:** Premier Cru

**Subject:** Re: Premier Cru Order Acknowledgement

Hi there...I saw the charge go through on my CC...any estimated ship date for those 2 bottles? thanks in advance, Michael

On Wed, Apr 29, 2015 at 3:44 PM, Premier Cru <shipping@premiercru.net> wrote:

Thank you for your order.

Premier Cru has received your web order request.

Your web order number is SO-0000477512-175197.

Sales are processed in the order they are received. Once we have determined that the wines you requested are available, we will confirm and process your order.

Our online inventory is updated every minute. However since many wines are in high demand and limited supply, we cannot guarantee that the wines you requested

were still available at the time your order was submitted. Once we determine this, process your order and bill you, your order is confirmed and we will e-mail you a confirmed copy.

If you have any questions, please email us at [info@premiercru.net](mailto:info@premiercru.net) or call us at 510-644-9463.

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Premier Cru

1011 University Avenue

Berkeley, CA 94710

(510) 644-9463

UNITED STATES BANKRUPTCY COURT  
Northern District of California

In Fox Ortega Enterprises, Inc.  
Re:  
dba Premier Cru  
Debtor(s)

Case No.: 16-40050 WJL 7

Chapter: 7

**NOTICE OF POSSIBLE DIVIDEND**

**TO THE DEBTOR AND ALL INTERESTED PARTIES:**

Notice is given that the notice of meeting of creditors advised you that there were no assets in this case. It now appears that a payment of a dividend may be possible.

**Pursuant to Federal Rule of Bankruptcy Procedure 3002(c)(5), creditors may file proofs of claim on or before 4/8/16.**

A proof of claim form, in blank with instructions for completion, is available from the Court at the address listed below, or online at: <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

In order to receive a copy of your proof of claim you must:

1. Enclose with your proof of claim one (1) original and one (1) copy of your proof of claim.
2. You must also enclose a self-addressed, postage paid envelope large enough to accommodate your conformed copy of the claim.
3. Please sign and print or type your name clearly underneath your signature.

Unless all of the above steps are completed, no return conformed copy of your claim will be sent out.

**NO FEE FOR FILING CLAIMS**

**MAIL CLAIMS TO:**

U.S. Bankruptcy Court  
1300 Clay Street #300 (94612)  
Post Office Box 2070  
Oakland, CA 94604-2070

Dated: 1/10/16

For the Court:

Edward J. Emmons  
Clerk of Court  
United States Bankruptcy Court

Doc # 7