

Fill in this information to identify the case:

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

LM
4:30 PM
FILED
FEB 11 2016
BANKRUPTCY COURT
OAKLAND, CALIFORNIA

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>Leonard S. Yaffe</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>Leonard S. Yaffe</u> Name <u>10 Gilman Ct.</u> Number Street <u>Shirton</u> <u>CA</u> <u>94920</u> City State ZIP Code Contact phone <u>415 677-5992</u> Contact email <u>len@kessefcapital.com</u>	Where should payments to the creditor be sent? (if different) Name _____ Number Street _____ 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?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ <div style="text-align: right;">Filed on _____ MM / DD / YYYY</div>	
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? ☒ 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? \$ 12,000.00 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.

Goods pre-paid for but not delivered (see attached)

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: _____

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: \$ _____

Amount of the claim that is unsecured: \$ _____ (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) _____ %

☐ 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:

☐ 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

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* 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 08 2016
MM / DD / YYYY

Leonard S. Yaffe
Signature

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

Name Leonard Scott Yaffe
First name Middle name Last name

Title _____

Company _____

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

Address 10 Gilmanin Ct.
Number Street

Giburon CA 94920
City State ZIP Code

Contact phone 415 677-5992 Email len@kesscapital.com

Len Yaffe

From: Tony Gray <tony@premiercru.net>
Sent: Monday, January 04, 2016 3:41 PM
To: Len Yaffe
Subject: RE: update

Hello Len,

Unfortunately, there has been no movement on your refund as of yet

Regards,

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

From: Len Yaffe [<mailto:Len@KessefCapital.com>]
Sent: Monday, January 04, 2016 11:15 AM
To: Tony Gray
Subject: update

Please provide me with an update as to my receiving my money. I agreed to the 15% on recent orders....it should be very easy to process....Len

Len Yaffe

From: Tony Gray <tony@premiercru.net>
Sent: Wednesday, December 30, 2015 12:46 PM
To: Len Yaffe
Subject: RE: my refund

Hello Len,

Unfortunately I have no new information regarding the status of your refund at this time. Your request has been submitted to the accounting department, and as soon as they get it done on they're end, I can give you an exact amount.

Best,

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From: Len Yaffe [<mailto:Len@KessefCapital.com>]
Sent: Wednesday, December 30, 2015 12:16 PM
To: Tony Gray
Subject: my refund

Kindly update me...Len

Len Yaffe

From: Tony Gray <tony@premiercru.net>
Sent: Tuesday, December 15, 2015 9:56 AM
To: Len Yaffe
Subject: RE: wines

Hello Len,

I have initiated the process for refund and have submitted your request for all of your open orders.

Best regards,

From: Len Yaffe [mailto:Len@KessefCapital.com]
Sent: Monday, December 14, 2015 5:01 PM
To: Tony Gray
Subject: Re: wines

Please proceed with the request. Thanks. Len

Sent from my iPhone

On Dec 14, 2015, at 4:37 PM, Tony Gray <tony@premiercru.net> wrote:

Hello Len,

I can certainly can initiate a refund request for you. All orders less than 24 monts will be subject to a 15% cancellation fee. Please let me know how you would like to proceed.

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From: Len Yaffe [mailto:Len@KessefCapital.com]
Sent: Monday, December 14, 2015 11:00 AM
To: Tony Gray
Subject: wines

Hi Tony---

I have tried contacting Premier Cru for the past week (on a daily basis) with no success. Given the delays in getting my wine delivered, as well as the recent adverse publicity, I am requesting the money I have paid, for future wine delivery, be refunded. The total amount, as we have discussed, approximates \$10,000.00.

Sincerely,
Leonard S. Yaffe

From: Tony Gray <tony@premiercru.net>
Sent: Tuesday, November 10, 2015 11:11 AM
To: Len Yaffe
Subject: Back order
Attachments: yaffe.xls

1

12/30/2014	0000465928	51401	2013 Ermitage de l'Oree Blanc, Chapoutier	\$109.99	1
01/11/2015	0000466696	51403	2013 Ermitage l'Ermite Blanc, Chapoutier	\$199.99	1
01/10/2014	0000433698	49269	2012 Condrieu La Doriane, Guigal	\$84.99	5

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