

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
 2/27/2016
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>Ryan Payne</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?	Where should notices to the creditor be sent? <u>Ryan Payne</u> Name 230 Central Avenue San Francisco, CA 94117 Contact phone <u>6507939820</u> Contact email <u>ryanppayne@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) <u>Ryan Payne</u> Name 1031 Fife Avenue Palo Alto, CA 94301 Contact phone <u>6507939820</u> Contact email <u>ryanppayne@gmail.com</u>
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 _____ <div style="text-align: right;">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?	<div style="display: flex; justify-content: space-between;"><div><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; justify-content: space-between;"><div><div style="display: flex; align-items: center;">\$<div style="border-bottom: 1px solid black; flex-grow: 1; text-align: center;">261.53</div></div></div><div style="width: 40%;">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> <div style="border-bottom: 1px solid black; padding-top: 10px;">goods sold but not delivered</div>
9. Is all or part of the claim secured?	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.</div></div> <div style="margin-left: 20px;">Nature of property: <div style="display: flex; align-items: flex-start;"><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> <div style="margin-left: 20px; margin-top: 10px;">Basis for perfection: _____</div> <div style="margin-left: 20px; margin-top: 10px;">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.)</div> <div style="margin-left: 20px; margin-top: 10px;"><div style="display: flex; justify-content: space-between;"><div>Value of property:</div><div style="border-bottom: 1px solid black; text-align: center;">\$</div></div><div style="display: flex; justify-content: space-between; margin-top: 5px;"><div>Amount of the claim that is secured:</div><div style="border-bottom: 1px solid black; text-align: center;">\$</div></div><div style="display: flex; justify-content: space-between; margin-top: 5px;"><div>Amount of the claim that is unsecured:</div><div style="border-bottom: 1px solid black; text-align: center;">\$</div><div style="font-size: 0.8em; margin-left: 10px;">(The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div></div> <div style="margin-left: 20px; margin-top: 20px;"><div style="display: flex; justify-content: space-between;"><div>Amount necessary to cure any default as of the date of the petition:</div><div style="border-bottom: 1px solid black; text-align: center;">\$</div></div><div style="display: flex; justify-content: space-between; margin-top: 10px;"><div>Annual Interest Rate (when case was filed)</div><div style="border-bottom: 1px solid black; text-align: center;">%</div></div><div style="margin-left: 20px; margin-top: 5px;"><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div></div>
10. Is this claim based on a lease?	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$</div></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div>
11. Is this claim subject to a right of setoff?	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></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)(<u> </u>) that applies	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
* 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.		

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 2/27/2016
MM / DD / YYYY

/s/ Ryan Payne

Signature

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

Name Ryan Payne

First name Middle name Last name

Title _____

Company _____

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

Number Street

City State ZIP Code

Contact phone _____ Email _____



Ryan Payne <ryanppayne@gmail.com>

RE: Web Order # 163939 from Ryan Payne

Ryan Payne <ryanppayne@gmail.com>

Wed, Jan 20, 2016 at 4:24 PM

To: Peter Powlovich <peter@premiercru.net>

Peter, any update on the order given the recent news of Premier Cru filing for bankruptcy? Thanks,

Ryan

On Fri, Dec 18, 2015 at 3:16 PM, Peter Powlovich <peter@premiercru.net> wrote:

Hello Ryan,

I apologize for the delay.

Sincerely,
Peter N Powlovich
Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710 (directions)
phone (510) 644-9463
fax (510) 647-3833
Peter@premiercru.net

From: Ryan Payne [mailto:ryanppayne@gmail.com]**Sent:** Friday, December 18, 2015 2:31 PM**To:** Peter Powlovich**Subject:** Re: Web Order # 163939 from Ryan Payne

In that case, I'll wait a bit longer. It really shouldn't have taken this long.

On Thu, Dec 17, 2015 at 12:03 PM, Peter Powlovich <peter@premiercru.net> wrote:

Hello Ryan,

I can initiate your request for a refund. Premier Cru does have a policy that orders cancelled under 2 years old are subject to a 15% cancellation fee. Please let me know how you would like to proceed.

Sincerely,
Peter N Powlovich
Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710 (directions)
phone (510) 644-9463
fax (510) 647-3833
Peter@premiercru.net

From: Ryan Payne [mailto:ryanppayne@gmail.com]**Sent:** Thursday, December 17, 2015 11:16 AM**To:** Peter Powlovich**Subject:** Re: Web Order # 163939 from Ryan Payne

OK, this has taken much longer than expected. Can I be refunded for my order?

On Thu, Dec 17, 2015 at 10:57 AM, Peter Powlovich <peter@premiercru.net> wrote:

Hello Ryan,

Unfortunately, my original estimates are off and I apologize. I am not sure when we are expecting these wines at this time and I apologize for the inconvenience.

Sincerely,
Peter N Powlovich
Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710 (directions)
phone (510) 644-9463 <tel:%28510%29%20644-9463>
fax (510) 647-3833 <tel:%28510%29%20647-3833>
Peter@premiercru.net

From: Ryan Payne [mailto:ryanppayne@gmail.com]
Sent: Thursday, December 17, 2015 10:46 AM
To: Peter Powlovich
Subject: Re: Web Order # 163939 from Ryan Payne

Hi Peter, can you please update me on my order? thanks,

Ryan

On Wed, Sep 30, 2015 at 6:42 PM, Ryan Payne <ryanppayne@gmail.com> wrote:

Peter, thanks for your email. No problem on the timing, was just looking for an update.

Ryan

On Wed, Sep 30, 2015 at 4:27 PM, Peter Powlovich <peter@premiercru.net> wrote:

Hello Ryan,

We are very much expecting 2010 Barolos to start arriving this fall. We are expecting 2 separate containers, one in October and one in November.

Unfortunately, until those containers are fully

ready to
ship do we get
a shipping manifest telling us what to expect.

What I
can tell you about
the '10 di Neri is that you are close to the top
of the
cue, so your
backorder will be one that will be filled sooner
than
later. I apologize
that I do not have specifics yet.

Regards,
Peter N Powlovich
Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710 (directions)
phone (510) 644-9463 <tel:%28510%29%20644-9463>
<tel:%28510%29%20644-9463>
fax (510) 647-3833 <tel:%28510%29%20647-3833>
<tel:%28510%29%20647-3833>
Peter@premiercru.net

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

From: Ryan Payne [mailto:ryanppayne@gmail.com]
Sent: Saturday, September 26, 2015 10:16 PM
To: Premier Cru
Subject: Re: Web Order # 163939 from Ryan Payne

Hi Phil, can you please update me on the status
of the
shipment, I made
my order over 9 months ago and still haven't
received
shipment. Thank
you

Ryan Payne
(650)793-9820 <tel:%28650%29793-9820>
<tel:%28650%29793-9820>

> On Dec 4, 2014, at 2:46 PM, Premier Cru
<sales@premiercru.net> wrote:
>

> Hello Ryan,
>
> Thank you for your order, emailed to you under
separate cover. As
> noted on the website and during checkout, your
order
contains
> pre-arrival bottles. You will be notified as
these
arrive and can
> make appropriate shipping (or pickup)
arrangements at

that time. You
> can also check your arrival status of your
orders on
our website under

> "my account" after the website syncs
overnight.
>
> We never automatically ship upon arrival here.
You
have been billed
> for the wine but not yet for any shipping
costs, and
will not be
> charged for shipping until these actually ship
out.

Thanks for your
business.

>
> Kind regards,
> Phil
>
> Philip L. Bohorfoush
> Premier Cru - the world's finest wines
> 1011 University Avenue
> Berkeley, CA 94710 (directions)
> phone (510) 644-9463 ext. 21
<tel:%28510%29%20644-9463%20ext.%2021>

<tel:%28510%29%20644-9463%20ext.%2021>
> fax (510) 647-3833 <tel:%28510%29%20647-3833>
<tel:%28510%29%20647-3833>

> phil@premiercru.net
>
>
> Order Number: 163939
> Placed: Dec 4 2014 1:26PM
> Cust Name: Ryan Payne
> Email Address: ryanppayne@gmail.com
> Cust Id: 47170
> Order No: SO-0000463046
> Order Status: OK
>
> Billing Address:
>
> Ryan Payne
> 230 Central Avenue
> Apartment 9
> San Francisco, CA 94117
>
> Day Phone: 7077380380
> Eve Phone:
> Cel Phone:
>
>
> Shipping Address:
>
>
>
>

> ,
>
> Day Phone: 0
> Eve Phone: 0
> Cel Phone: 0
>
> Ship On or After: ASAP
> Ship Via: HOLD
> Payment: 3813 exp: 11 17
> Name on Card: Ryan Payne
>
>
> qty item Wine
price
> ext status
> -----

> -----
> 6 51264 2010 Brunello di Montalcino, di
Neri
39.99
> 239.94 pre-arrival
> -----
> Bottles : 6
> Subtotal: 239.94
> Shipping (estimate): 0.00
> Tax : 21.59
> Total : 261.53
>
>
> -----
>
> Please note:
> We do not ship automatically upon order.
> If you wish to arrange shipping, please
contact us
after receiving
it.
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) <tel:%28510%29%20644-9463>
<tel:%28510%29%20644-9463>

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Ryan Payne
(650)793-9820 <tel:%28650%29793-9820>
<tel:%28650%29793-9820>

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Ryan Payne
(650)793-9820 <tel:%28650%29793-9820>

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Ryan Payne
(650)793-9820

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Ryan Payne
(650)793-9820

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Ryan Payne
(650)793-9820

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1
Order Number: 0000463046
Order Date: 12/4/2014
Web Order No: 163939
Salesperson: PB
Customer: 47170
Customer PO:

Sold To	Ship To
Ryan Payne 230 Central Avenue Apt 9 San Francisco, CA 94117 USA	Ryan Payne 230 Central Avenue Apt 9 San Francisco, CA 94117 USA

Contact: Ryan Payne
Phone: (707) 738-0380

This order has been paid by Visa - Thank You!

Item	Ordered	Quantity Shipped	Unit Price	Amount
51264 2010 Brunello di Montalcino, di Neri	6.00	0.00	39.99	239.94

Payments:	261.53	Net Order:	239.94
12/4/2014	VTYAC9295193 *****3813	261.53	Freight: 0.00
			Sales Tax: 21.59
			USD 261.53