

ORIGINAL

CP

2016 FEB 26 AM 11:00

U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CAL.
OAKLAND, CA.

Fill in this information to identify the case:

Debtor 1 Fox Ortega Enterprises, Inc. dba Premier Cru

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of California
(State)

Case number 16-40050-WJL

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?

John Burnstine

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?

John Burnstine

Name

3995 Prado Del Trigo

Number

Street

CalabasasCA91302

City

State

ZIP Code

Contact phone _____

Contact email _____

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?

☒ 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 ☒ No

you use to identify the debtor?

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

7. How much is the claim? \$3,499.97 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 sold

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 Feb. 22, 2016
MM/DD/YYYY

Signature

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

Name

JOHN
First name

S
Middle name

BURNSTINE
Last name

Title

Company

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

Address

3995 PRADO DEL TRAIL
Number Street

CALABASAS
City

CA
State

91302
ZIP Code

Contact phone

818-535-5000

Email

JOHN.BURNSTINE@YAHOO.COM



Subject: outstanding orders

Date: Monday, November 2, 2015 at 11:36:11 AM Pacific Standard Time

From: Melissa Smith

To: John Burnstine

04 Brunello Castelgiocondo, Frescobaldi **\$29.99** 6
07 Brunello di Montalcino, Pacenti **\$49.99** 6
04 Barolo Cannubi, Scavino \$89.99 4 ~we have 2 bottles in stock~
08 Cos Estournel \$98.99 4
05 Ducru Beaucaillou \$169.95 4
09 Haut Carles **\$21.99** 8
08 Larcis Ducasse \$58.99 8

=====

Melissa L. Smith
Domestic Buyer
PREMIER CRU
1011 University Avenue
Berkeley, CA 94710 USA
Ph: 510-644-WINE (510-644-9463)
Fax: 510-647-3833
Email: melissa@premiercru.net
Web: www.premiercru.net

For private wine and spirits events, sommelier service, and cellar management [click here](#).

Subject: RE: Burnstine order

Date: Tuesday, November 17, 2015 at 12:51:27 PM Pacific Standard Time

From: Yeshe Wingerd

To: John Burnstine

Hello John,

Yes, I have put your requested bottles on hold below. The order including the six bottle of '06 Scavino Carobric is \$2056.15

Please remind me which wines you wanted to refund and I can get that in process for you. Thank you.

Yeshe Wingerd

Premier Cru - the world's finest wines

1011 University Avenue

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

phone (510) 644-9463

fax (510) 647-3833

yeshe@premiercru.net

From: John Burnstine [<mailto:JBurnstine@justmanpackaging.com>]

Sent: Monday, November 16, 2015 12:30 PM

To: Yeshe Wingerd

Subject: RE: Burnstine order

Yeshe,

Can I also order the bottles below?

2010 Valdicava (\$95)

2010 Castelfiocondo Frescalbaldi (\$49.99)

2010 Poggio All Mura Banfi (\$37.99)

2010 Poggio Antico (\$49.99)

- 6 bottles of each

John S. Burnstine

Justman Packaging & Display

323-728-8888 (office)

818-523-5000 (cell)

www.justmanpackaging.com

Temporary & Permanent Displays | Custom Corrugated Boxes | Folding Cartons | Fulfillment

From: Yeshe Wingerd [<mailto:Yeshe@premiercru.net>]

Sent: Monday, November 16, 2015 12:10 PM

To: John Burnstine

Subject: RE: Burnstine order

Hello John,

I apologize regarding the 06 Barolo Carobric. I told you that it wasn't available which was true, though I just saw that I did hold 6 bottles for you the system. That is showing \$525.53 as a total.

Can you please remind me which wines we had talked about refunding? Thank you.

Yeshe Wingerd

Premier Cru - the world's finest wines

1011 University Avenue

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

phone (510) 644-9463

fax (510) 647-3833

yeshe@premiercru.net

From: John Burnstine [<mailto:JBurnstine@justmanpackaging.com>]

Sent: Monday, November 16, 2015 11:16 AM

To: Yeshe Wingerd

Subject: RE: Burnstine order

Hi Yeshe,

Are we set with these?

Thanks and hope you had a nice weekend!

John

John S. Burnstine

Justman Packaging & Display

323-728-8888 (office)

818-523-5000 (cell)

www.justmanpackaging.com

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From: John Burnstine

Sent: Thursday, November 12, 2015 5:23 PM

To: Yeshe Wingerd

Subject: Re: Burnstine order

Yeshe,

Okay, let's go with these pre-orders:

2010 Valdicava (\$95)

2010 Castelgiocondo Frescalbaldi (\$49.99)

2010 Poggio All Mura Banfi (\$37.99)

2010 Poggio Antico (\$49.99)

- 6 bottles of each

Thanks.

John

John S. Burnstine

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From: Yeshe Wingerd

Date: Thursday, November 12, 2015 at 9:48 AM

To: John Burnstine

Subject: RE: Burnstine order

Hello John,

We do not have the '06 Scavino available. You can see what we have in stock and available if you go to premiercru.net and click on the search bar at the top right. Please take a look and then we can go from there. Thank you.

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

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

From: John Burnstine [<mailto:JBurnstine@justmanpackaging.com>]

Sent: Wednesday, November 11, 2015 6:01 PM

To: Yeshe Wingerd

Subject: Burnstine order

Hi Yeshe,

I tried calling you today and was going to leave you a voicemail but your box was full- FYI.

I think I will order the following from you:

2006 Sacavino Cannubi (6 bottles)

If you have 2 of the above for 2004, I will take those too

The balance I will take back in the form of a check.

I know we discussed 25% plus the price I paid so I guess I'll have to live with that.

Thanks for all of your help.

John

John S. Burnstine
Justman Packaging & Display
323-728-8888 (office)
818-523-5000 (cell)
www.justmanpackaging.com<<http://www.iustmanpackaging.com/>>

Temporary & Permanent Displays | Custom Corrugated Boxes |
Folding Cartons | Fulfillment

Subject: RE: Your refund

Date: Tuesday, December 1, 2015 at 4:51:37 PM Pacific Standard Time

From: Yeshe Wingerd

To: John Burnstine

Hello John,

I have submitted the refund as below. I will go ahead and run the order and send you a copy of the sales order as soon as it is processed by our accountant. This was not a pain for me. I am happy to get it worked out. Thank you.

Yeshe Wingerd

Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710 ([directions](#))
phone (510) 644-9463
fax (510) 647-3833
yeshe@premiercru.net

From: John Burnstine [<mailto:JBurnstine@justmanpackaging.com>]

Sent: Tuesday, December 01, 2015 12:01 PM

To: Yeshe Wingerd

Subject: RE: Your refund

Yeshe,

That seems like that should work just fine.

I'm sure this is a pain for you and I appreciate your help. I'll stay on top of these new orders so we don't get in the same situation two years from now ;)

Thanks.

John

John S. Burnstine

Justman Packaging & Display
323-728-8888 (office)
818-523-5000 (cell)
www.justmanpackaging.com

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From: Yeshe Wingerd [<mailto:Yeshe@premiercru.net>]

Sent: Tuesday, December 01, 2015 11:32 AM

To: John Burnstine

Subject: Your refund

Hello John,

I have split up the refund so that we cover closely the order on hold. There would be an overage of about \$100 which can go to shipping, etc in the future. The rest I submitted to refund to check as below. It has been taking about 3-5 weeks for refund checks to process and get out as we have been processing many recently. Please confirm and I will get this in process for you. Thanks.

Refund to check:

10/09/2007 0000278046 34953 05 Ducru Beaucaillou \$169.95 4 \$679.80 \$59.48 tax \$739.28

07/31/2012 0000387824 45373 07 Brunello di Montalcino, Pacenti **\$49.99** 6 \$299.94 \$26.24 tax \$326.18

\$1065.46+25% upgrade = **Total \$1331.83**

Send check to:

John Burnstine

3995 Prado Del Trigo

Calabasas, CA 91302

Refund to store credit:

05/26/2010 0000337823 39454 04 Brunello Castelgiocondo, Frescobaldi **\$29.99** 6 \$179.94 \$17.54 tax \$197.48

02/15/2008 0000289085 38164 04 Barolo Cannubi, Scavino \$89.99 4 \$359.96 \$31.50 tax \$391.46

05/21/2009 0000318246 39994 08 Cos d'Estournel \$98.99 4 \$395.96 \$38.61 tax \$434.57

06/09/2011 0000357368 43131 09 Haut Carles **\$21.99** 8 \$175.92 \$17.15 tax \$193.07

05/21/2009 0000318246 40029 08 Larcis Ducasse \$58.99 8 \$471.92 \$46.01 tax \$517.93

\$1734.51+25%upgrade =to store credit **\$2168.14**

Order on hold

SO-0000493865 \$2,056.15

40988 06 Barolo Carobric, Scavino \$79.99 6

51553 2010 Brunello di Montalcino, Valdicava \$95.00 6

51263 2010 Brunello di Montalcino Castelgiocon \$49.99 6

51300 2010 Brunello di Montalcino Poggio alle \$37.99 6

51669 2010 Brunello di Montalcino, Poggio Anti \$49.99 6

Yeshe Wingerd

Premier Cru - the world's finest wines

1011 University Avenue

Berkeley, CA 94710 (directions)

phone (510) 644-9463

fax (510) 647-3833

yeshe@premiercru.net

1,331.83
2,168.14

3,499.97

PREMIER CRU

5890 CHRISTIE AVENUE
EMERYVILLE, CA 94608
(510)655-6691 FAX(510)547-5405

Sales Order

Page: 1

Order Number: 0000337823
Order Date: 5/26/2010
Change Order: 0
Confirm No:
Salesperson: RY
Customer: jburn
Customer PO:

Sold To

John Burnstine
3995 Prado Del Trigo
Calabasas, CA 91302 USA

Ship To

John Burnstine
5819 Telegraph Road
Justman Packaging
Commerce, CA 90040 USA

Contact: John Burnstine
Phone: (818) 523-5000

Item		Ordered	Quantity Shipped	Unit Price	Amount
39850	04 Brunello di Montalcino, Valdicava	4.00	0.00	59.99	239.96
39454	04 Brunello Castelgiocondo, Frescobaldi	6.00	0.00	29.99	179.94
40478	07 Taylor	2.00	0.00	47.99	95.98

Payments: 566.18

6/1/2010	337823	566.18
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Net Order: 515.88
Discount: 0.00
Freight: 0.00
Sales Tax: 50.30

USD 566.18

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000357368

Order Date: 6/9/2011

Salesperson: JG

Customer: jburn

Customer PO:

Sold To	Ship To	Change Order: 1
John Burnstine 3995 Prado Del Trigo Calabasas, CA 91302 USA	John Burnstine 3995 Prado Del Trigo Calabasas, CA 91302 USA	

Contact: John Burnstine
Phone: (818) 523-5000

This order has been paid by check - Thank You!

Item	Ordered	Quantity Shipped	Unit Price	Amount
43004 06 Brunello di Montalcino, Valdicava	6.00	0.00	59.99	359.94
39850 04 Brunello di Montalcino, Valdicava	4.00	0.00	59.99	239.96
43589 06 Brunello di Montalcino, Costanti	6.00	0.00	34.99	209.94
43131 09 Haut Carles	8.00	0.00	21.99	175.92

			Net Order:	985.76
Payments:	1,081.87			
6/15/2011	357368	1,081.87	Freight:	0.00
			Sales Tax:	96.11
			USD	1,081.87

PREMIER CRU

5890 CHRISTIE AVENUE
EMERYVILLE, CA 94608
(510)655-6691 FAX(510)547-5405

Sales Order

Page: 1

Order Number: 0000289085
Order Date: 2/15/2008
Change Order: 0
Confirm No:
Salesperson: JG
Customer: jburn
Customer PO:

Sold To

John Burnstine
3995 Prado Del Trigo
Calabasas, CA 91302 USA

Ship To

John Burnstine
3995 Prado Del Trigo
Calabasas, CA 91302 USA

Contact: John Burnstine
Phone: (818) 523-5000

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

Item		Ordered	Quantity Shipped	Unit Price	Amount
38164	04 Barolo Cannubi, Scavino	4.00	0.00	89.99	359.96
38165	04 Barolo Bric del Fiasc, Scavino	4.00	0.00	109.99	439.96
38188	04 Barolo Sori Ginestra, Conterno-Fantino	4.00	0.00	99.99	399.96

Payments: 1,304.87

Net Order: 1,199.88
Discount: 0.00
Freight: 0.00
Sales Tax: 104.99

2/15/2008 VUJE1FA18999 *****1003 1,304.87

USD 1,304.87

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000387824

Order Date: 7/31/2012

Salesperson: JG

Customer: jburn

Customer PO:

Sold To	Ship To
John Burnstine 3995 Prado Del Trigo Calabasas, CA 91302 USA	John Burnstine 3995 Prado Del Trigo Calabasas, CA 91302 USA

Contact: John Burnstine
Phone: (818) 523-5000

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

Item	Ordered	Quantity Shipped	Unit Price	Amount
45373 07 Brunello di Montalcino, Pacenti	6.00	0.00	49.99	299.94

Payments:	326.18	Net Order:	299.94
7/31/2012 VTJE9D92EA1D *****2001	326.18	Freight:	0.00
		Sales Tax:	26.24
		USD	326.18

PREMIER CRU

5890 CHRISTIE AVENUE
EMERYVILLE, CA 94608
(510)655-6691 FAX(510)547-5405

Sales Order

Page: 1

Order Number: 0000278046
Order Date: 10/9/2007
Change Order: 0
Confirm No:
Salesperson: JG
Customer: jburn
Customer PO:

Sold To

John Burnstine
3995 Prado Del Trigo
Calabasas, CA 91302 USA

Ship To

John Burnstine
3995 Prado Del Trigo
Calabasas, CA 91302 USA

Contact: John Burnstine
Phone: (818) 523-5000

This order has been paid by check - Thank You!

Item		Ordered	Quantity Shipped	Unit Price	Amount
34953	05 Ducru Beaucaillou	4.00	0.00	169.95	679.80
34860	05 Leoville Barton	6.00	0.00	119.99	719.94
34838	05 Montrose	4.00	0.00	115.00	460.00

Payments: 2,022.47

10/9/2007	278046	2,022.47
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Net Order: 1,859.74
Discount: 0.00
Freight: 0.00
Sales Tax: 162.73

USD 2,022.47

<u>Wine</u>	<u>Vintage</u>	<u>Date purchased</u>	<u># Bottles purchased</u>	<u>Bottle cost net</u>	<u>Tax</u>	<u>Total</u>	<u>Present Value</u>
Brunello Castelgiocondo, Frescobaldi	2004	May 26, 2010	6	\$29.99		\$179.94	
Barolo Cannubi, Scavino	2004	February 15, 2008	4	\$89.99		\$359.96	
Cos d'Estournel	2008	May 21, 2009	4	\$98.99		\$395.96	
Haut Carles	2009	June 9, 2011	8	\$21.99		\$175.92	
Larcis Ducasse	2008	May 21, 2009	8	\$58.99		\$471.92	
Brunello di Montalcino, Pacenti	2007	July 31, 2012	6	\$49.99		\$299.94	
Ducru Beaucaillou	2005	October 9, 2007	4	\$169.95		\$679.80	

\$2,740.49

plus 25%

\$3,425.61