

original

<b>Fill in this information to identify the case:</b>	
Debtor 1	<u>Peter Flaherty</u>
Debtor 2 (Spouse, if filing)	_____
United States Bankruptcy Court for the:	<u>Northern District of California</u>
Case number	<u>16-40050 WJL 7</u>

**FILED**<sup>TM</sup>  
FEB 26 2016  
BANKRUPTCY COURT  
OAKLAND, CALIFORNIA  
11:05 AM

## 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>Peter Flaherty</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>Peter Flaherty</u> Name <u>130 East 95th Street</u> Number Street <u>New York</u> <u>NY</u> <u>10128</u> City State ZIP Code  Contact phone <u>212-446-6755</u>  Contact email <u>pflaherty@arconpartners.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 type="checkbox"/> No <input type="checkbox"/> 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?	<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? \$ 4,650.00. 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.  
Invoice -12 bottles of Bordeaux and an inventory statement

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 in inventory fully paid, but not delivered.  
**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:** \$ 4,598.00  
**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)?**

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

☐ 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 02/05/2016  
MM / DD / YYYY

  
\_\_\_\_\_  
Signature

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

Name Peter Flaherty  
First name Middle name Last name

Title \_\_\_\_\_

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

Address 130 East 95th Street  
Number Street

New York NY 10128  
City State ZIP Code

Contact phone 212-446-6755 Email pflaherty@arconpartners.com

From: **Premier Cru** james@premiercru.net  
Subject: Sales Order From Premier Cru at Premier Cru  
Date: May 2, 2013 at 12:38 PM  
To: PETER FLAHERTY pflaherty@arconpartners.com



## SALES ORDER

**From:**  
Premier Cru  
Premier Cru

To: PETER FLAHERTY  
Date: 5/2/2013

To view the attached Sales Order, you need the free Adobe Acrobat Reader, which is available from [www.adobe.com](http://www.adobe.com).

-Regards,

Premier Cru  
Premier Cru

To view certain attachments to this email, you need Adobe's Acrobat Reader software, which can be downloaded for free by clicking the following link:  
[ [Download Acrobat Reader Now](#) ]

# PREMIER CRU

1011 University Avenue  
Berkeley, CA 94710

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

## Sales Order

Page: 1  
Order Number: 0000411663  
Order Date: 5/2/2013  
Web Order No: 125205  
Salesperson: JG  
Customer: 68  
Customer PO:

Sold To	Ship To
PETER FLAHERTY 130 E 95TH ST New York, NY 10128 USA	PETER FLAHERTY 130 E 95TH ST New York, NY 10128 USA

Contact: PETER FLAHERTY  
Phone: (212) 446-6755

This order has been paid by MasterCard - Thank You!

Item	Ordered	Quantity Shipped	Unit Price	Amount
43890 2010 Gracia	2.00	0.00	185.00	370.00
47420 2010 Pape Clement	2.00	0.00	179.99	359.98
43885 2010 Leoville Payferre	2.00	0.00	134.99	269.98
43902 2010 Clos Fisurtel	2.00	0.00	129.99	259.98
44069 2010 Troplong Mondot	2.00	0.00	145.00	290.00
43947 2010 Larcis Ducasse	2.00	0.00	114.99	229.98

Payments: 1,779.92				Net Order:	1,779.92
				Freight:	0.00
				Sales Tax:	0.00
6/2/2013	VPEE8D95BB13	*****3852	1,779.92		
				USD	1,779.92

Premier Cru <sales@premiercru.net>  
To: Peter Flaherty  
RE: Premier Cru Order Acknowledgement

May 2, 2013 3:02 PM

Hello Peter,

Thanks for your email. Your 2010 Bordeaux will start to arrive this summer and into fall for your later orders (first in, first out).

We will send you email notifications on arrival and we never ship automatically.

Have a good week.

Kind regards,  
Phil

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**From:** pflaherty@arconpartners.com [mailto:pflaherty@arconpartners.com]  
**Sent:** Thursday, May 02, 2013 11:15 AM  
**To:** Premier Cru  
**Subject:** Re: Premier Cru Order Acknowledgement

When do you expect delivery of the wines?  
Sent via BlackBerry by AT&T

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**From:** "Premier Cru" <shipping@premiercru.net>  
**Date:** Thu, 2 May 2013 08:54:16 -0700  
**To:** <pflaherty@arconpartners.com>  
**Subject:** Premier Cru Order Acknowledgement

Thank you for your order!

We have received your order request SO-0000411663-125205.

qty	item	Wine	price	ext	status
2	43890	2010 Gracia	185.00	370.00	pre-arrival
2	47420	2010 Pape Clement	179.99	359.98	pre-arrival
2	43885	2010 Leoville Poyferre	134.99	269.98	pre-arrival
2	43902	2010 Clos Fourtet	129.99	259.98	pre-arrival
2	44069	2010 Troplong Mondot	145.00	290.00	pre-arrival
2	43947	2010 Larcis Ducasse	114.99	229.98	pre-arrival

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Bottles : 12  
Subtotal: 1779.92  
Shipping: 0.00  
Tax : 0.00  
Total : 1779.92

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Please note:  
We do not ship automatically upon order.  
If you wish to arrange shipping, please contact us after receiving your order confirmation and we will schedule it.  
We do not charge for shipping until your bottles ship out.

If you have any questions, please email us at 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

Premier Cru <shipping@premiercru.net>  
To: Peter Flaherty  
Premier Cru - Your wine has arrived

July 22, 2015 2:01 PM

Please see your summary below of your New Arrivals and a summary of all of your Previous Arrivals in our warehouse.

- Shipping information is required before we ship your wines. We do not ship until requested
- Pickup information is noted below

Shipping Information required:

1. Ship to address – Adult signature is required.
2. Credit Card information – Please note the last 4 digits of your credit card for your shipping fees. You may update your card under My Account (<https://www.premiercru.net/premier/user/ShowAccount.do>).
3. Ship Method - Please provide shipping speed (ground, 2 day, overnight). UPS is our preferred provider.

Shipping Information: <http://www.premiercru.net/premier/company/ShippingInfo.do>  
Weather resource: [http://www.weather.com/maps/activity/travel/usweathertoday\\_large.html](http://www.weather.com/maps/activity/travel/usweathertoday_large.html)

4. Ship Date – Please provide your ship date and allow, at least, 48 hours for us to prepare your shipment.

Please note: We do not advise shipping in warmer or freezing temperatures and if so, recommend Next Day morning delivery. We are not responsible for any wines damaged by weather once they have left our warehouse.

Pickups:

- Please allow 72 hours for us to gather your wines.

For further assistance, please email us at [shipping@premiercru.net](mailto:shipping@premiercru.net) or call us at 510-644-9463.

Pick Up Address:  
1011 University Ave  
Berkeley, CA 94710

Premier Cru  
510-644-9463 ext. 0  
[shipping@premiercru.net](mailto:shipping@premiercru.net)  
[www.premiercru.net](http://www.premiercru.net)

Store Hours – 10am-6pm Monday-Friday | 10am-5pm Saturday | Closed Sunday |

Id: 68  
Name: Peter Flaherty

The items listed below are your wines currently in our warehouse.

New Arrivals

OrderNumber	OrderDate	WineName	Qty
0000369475	12/16/2011	2010 Clos Fourtet	2
0000369475	12/16/2011	2010 Troplong Mondot	2
0000411663	05/02/2013	2010 Gracia	2
0000369475	12/16/2011	2010 La Violette	2
0000369475	12/16/2011	2010 Clinet	2
0000369475	12/16/2011	2010 Leoville Poyferre	2
0000369475	12/16/2011	2010 Pontet Canet	2
0000369475	12/16/2011	2010 Haut Bailly	2
0000369475	12/16/2011	2010 Larcis Ducasse	2
0000411663	05/02/2013	2010 Pape Clement	2
0000369475	12/16/2011	2010 Le Dome	2
0000411663	05/02/2013	2010 Leoville Poyferre	2
0000411663	05/02/2013	2010 Clos Fourtet	2

Previously Notified

OrderNumber	OrderDate	WineName	Qty
48866-B-P	02/22/2000	98 Quinault l'Enclos	3
0000116465	03/24/2003	01 Flor de Pingus, Sisseck	2

**PETER A. FLAHERTY**

February 4, 2016

U.S. Bankruptcy Court  
1300 Clay Street, #300 (94612)  
Post Office Box 20170  
Oakland, CA 94604-2070

Re: Case No. 16-40050 WJL 7

Gentlemen,

I have enclosed information relating to wine that I have purchased from Premier Cru, which has not been delivered. The most recent order related to a mixed case of 2010 Bordeaux with a cost of \$1,779.92, as indicated in the attached invoice. However, I have additional wine in inventory there for a total of 31 bottles, as indicated in the communication from the company, dated July 22, 2015.

In answer to question number eight, of the attached proof of claim, the basis for the claim is a receipt for \$1,779.92, dated May 2, 2013, for 12 bottles of wine and a notification, dated July 22, 2015, of 31 bottles in inventory, including the twelve indicated on the receipt. I cannot find the receipt for an additional purchase of 18 bottles of 2010 Bordeaux futures purchased, as shown on the attached inventory statement on December 16, 2011. However, the average price would be roughly the same as the price per bottle as indicated on the invoice for the May, 2013 purchase, since they are futures of the same vintage, just purchased at different times. The price is \$148.33 per bottle for a total of \$4,598.

I do not understand what happens in the event of clear title to an asset, in this case, wine, in the event of bankruptcy, but I just received a notice that an auction house has been hired to dispose of Premier Cru's wine inventory. If the option exists, I would much prefer to have my wine than to receive a financial consideration.

For what it is worth, I have done business with Premier Cru, without incident, for more than 20 years. Thank you for your consideration.

Sincerely,

  
Peter A Flaherty