

Fill in this information to identify the case:

Debtor 1

FOX ORTEGA ENTERPRISES

Debtor 2

(Spouse, if filing)

United States Bankruptcy Court for the: NORTHERN District of CALIFORNIA

Case number

16-40050

FILED

2016 FEB 29 AM 10:13

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?

JOSEPH A. DEGIROLAMO

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor

NONE

2. Has this claim been acquired from someone else?

☒ No

☐ Yes. From whom?

N/A

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?

JOSEPH DEGIROLAMO

Name

39 ORINDA VIEW RD

Number

Street

ORINDA

City

State

ZIP Code

CA 94563

Contact phone

415.988.2795

Contact email

JOE-DEGIROLAMO@ANDRESENTAX.COM

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

JOSEPH DEGIROLAMO

Name

39 ORINDA VIEW RD

Number

Street

ORINDA

City

State

ZIP Code

CA 94563

Contact phone

415.988.2795

Contact email

JOE-DEGIROLAMO@ANDRESENTAX.COM

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)

N/A

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?

N/A

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?

\$ 2,485.00

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.

MONEY ADVANCED ON PURCHASED GOODS

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:

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.

☐ 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.

\$ _____

* 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

02/22/2016
MM / DD / YYYY

Signature

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

Name

JOSEPH ANTHONY

DEGIRO/AMO

Last name

Title

Company

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

Address

39 ORINDA

View RD

Number

ORINDA

City

CA

State

94563

ZIP Code

Contact phone

415-988-2795

Email

JOE.DEGIRO@AMO

ANDRESENTAX.COM

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000438518

Order Date: 3/1/2014

Web Order No: 145415

Salesperson: JG

Customer: DizGi

Customer PO:

Sold To

Joe DeGirolamo
PO Box 491
Orinda, CA 94563 USA

Ship To

Joe DeGirolamo
PO Box 491
Orinda, CA 94563 USA

Contact: Joseph A DeGirolamo
Phone: (415) 568-7065

This order has been paid by Visa - Thank You!

Item		Ordered	Quantity Shipped	Unit Price	Amount
43864	2010 Pontet Canet	6.00	0.00	209.99	1,259.94
43942	2010 Lynch Bages	6.00	0.00	169.99	1,019.94

Net Order: 2,279.88

Payments: 2,485.07

Freight: 0.00

Sales Tax: 205.19

3/1/2014	VQCEA7AE5222	*****5326	2,485.07
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USD 2,485.07

Joseph DeGirolamo

From: Tony Gray <tony@premiercru.net>
Sent: Wednesday, December 30, 2015 12:35 PM
To: Joseph DeGirolamo
Subject: RE: Your Premier Cru Order 438518

Hello Joseph,

Unfortunately I have no new information for you regarding the arrival of your open orders at this time. Sorry for the inconvenience.

Best,

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: Joseph DeGirolamo [<mailto:joe.degirolamo@AndersenTax.com>]
Sent: Wednesday, December 30, 2015 9:16 AM
To: Tony Gray
Subject: RE: Your Premier Cru Order 438518

Good morning Tony. Do you have a delivery time for this order? I appreciate that this was a pre-arrival order, but we are now approaching two years since I placed the order. I have never waited this long for this type of purchase.

From: Tony Gray [<mailto:tony@premiercru.net>]
Sent: Thursday, September 24, 2015 4:44 PM
To: Joseph DeGirolamo
Subject: RE: Your Premier Cru Order 438518

Hello Joseph,

We are looking to fill the remainder of our '10 Bordeaux orders by this Winter, however the Pontet Canet was a highly popular label and we are most likely looking at Spring for those wines.

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

From: Joseph DeGirolamo [<mailto:joe.degirolamo@AndersenTax.com>]
Sent: Thursday, September 24, 2015 3:46 PM
To: Tony Gray; Premier Cru
Subject: RE: Your Premier Cru Order 438518

Any update on the status of this order?

From: Tony Gray [<mailto:tony@premiercru.net>]
Sent: Thursday, May 07, 2015 4:53 PM
To: Joseph DeGirolamo
Subject: RE: Your Premier Cru Order 438518

Hello Joseph,

James is no longer at the sales desk at Premier Cru. I would be more than happy to help you out with your order. I see that you placed your order with us just over a year ago and it is still in pre-arrival status. Typically for Bordeaux pre-arrivals, it can take between 6 to 24 months. Right now, we are coordinating several large containers to be shipped over to us this Summer and Early Fall. Originally we were hoping that these wines would be here by early Summer, but the California port closures wreaked havoc on our logistics and set us back at least 4 months. That being said, we are confident that by early Fall you should be receiving these wines. Thank you for your patience and feel free to contact me at any time.

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: Joseph DeGirolamo [<mailto:joe.degirolamo@AndersenTax.com>]
Sent: Monday, May 04, 2015 3:01 PM
To: Premier Cru
Subject: FW: Your Premier Cru Order 438518

Could someone please give me a call concerning this order. As you can see from the trailing email chain, it has been some time since this was placed. While I intend to cellar the wine I would like to take delivery and get it over with.

Joseph A. DeGirolamo
Managing Director

Andersen Tax
100 First Street, Suite 1600, San Francisco, CA 94105
joe.degirolamo@AndersenTax.com
(Tel) 415.764.2795 (Fax) 415.762.7521
www.AndersenTax.com

WTAS is now Andersen Tax. [learn more.](#)

From: james@premiercru.net [<mailto:james@premiercru.net>]
Sent: Friday, January 23, 2015 9:42 AM

To: Joseph DeGirolamo
Subject: RE: Your Premier Cru Order 438518

Hi Joe,

Nothing yet. These are both wines we have purchased, and both will arrive here for you presently. Thanks for your continued patience.

Regards,

James Gillerman

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James Gillerman
PREMIER CRU
1011 University Avenue
Berkeley, CA 94710 USA
Ph: 510-644-WINE (510-644-9463)
Fax: 510-647-3833
Email: james@premiercru.net
Web: www.premiercru.net

From: Joseph DeGirolamo [<mailto:joe.degirolamo@andersentax.com>]
Sent: Friday, January 23, 2015 7:51 AM
To: 'James Gillerman'
Subject: RE: Your Premier Cru Order 438518

Good morning James. Any status update on this order?

From: Joseph DeGirolamo
Sent: Friday, September 12, 2014 1:16 PM
To: James Gillerman
Subject: RE: Your Premier Cru Order 438518

Hi James. Any word on this wine order?

From: James Gillerman [<mailto:james@premiercru.net>]
Sent: Monday, July 28, 2014 2:49 PM
To: Joseph DeGirolamo
Subject: RE: Your Premier Cru Order 438518

Hi again Joseph,

Again anything I tell you now if just a guess at this point. Again until the bottles are loaded on a container incoming, we really are just guessing. Your bottles are not at that point.

It is highly probably your Lynch Bages will arrive here for you well before your Pontet Canet. The Pontet Canet was really one of the wines of the vintage, and we purchase and sold just a huge amount of this one right from the start of the futures campaign. We have already had about 2000 bottles of this wine arrive here, more bottles by far than most other stores will sell in total of the wine. And yet, even more than that is yet to come in, including your bottles. It will all get here, but it is likely to take a lot longer to get to your place in the queue. The numbers on the Lynch Bages are much more manageable. If I had to guess, and again it is just a guess, my best guess would be the Lynch Bages in the autumn this year, and the Pontet Canet early next year.

Thanks again for your patience. You will of course need a lot more patience before these wines even approach maturity. Bear in mind that Parker says of the 100 point Pontet Canet: "it needs a good decade of cellaring, and that's assuming it doesn't close down over the next few years. This is a 50- to 75-year wine". Thanks again.

Regards,

James Gillerman

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James Gillerman
PREMIER CRU
1011 University Avenue
Berkeley, CA 94710 USA
Ph: 510-644-WINE (510-644-9463)
Fax: 510-647-3833
Email: james@premiercru.net
Web: www.premiercru.net

From: Joseph DeGirolamo [<mailto:joe.degirolamo@WTAS.COM>]
Sent: Monday, July 28, 2014 2:08 PM
To: James Gillerman
Subject: RE: Your Premier Cru Order 438518

No problem. I was just checking in. Do you have any idea when these may arrive? I don't care that much as I don't plan on drinking these anytime soon. I just want to keep track of the order.

From: James Gillerman [<mailto:james@premiercru.net>]
Sent: Monday, July 28, 2014 12:43 PM
To: Joseph DeGirolamo
Subject: RE: Your Premier Cru Order 438518

Hello Joe,

Your 2 x 2010 Bordeaux wines are pre-arrivals still. Thanks for your patience.

These are wines we purchased (and sold) in extremely large quantities. The vintage is superb, so these were very popular wines. We started selling these wines almost 3 years before you purchased, so the queues were quite long when you purchased. They get shorter for you with each arriving container, but we are not yet there for you with either of the 2 wines.

We purchase wines (Bordeaux especially) in staggeringly large quantities, and in huge mixed parcels. We do our own direct importing. This is why our pricing on the wines is so very good, as you no doubt already know. Yes sometimes it does take quite a while to get each parcel of the wine delivered to us in Europe, consolidated with about 13,000 other bottles and imported here in our refrigerated containers. Still we have been delivering high end wines at excellent prices for well over 30 years now, as you probably also know. We do deliver the wines we sell, imported and stored under temperature control.

Thank you for your business, and once again your patience. These will be well worth the wait. You probably will want to sit on these 2010s for a decade or more even AFTER you have them resting in your cellar!

Regards,

James Gillerman

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James Gillerman

PREMIER CRU

1011 University Avenue

Berkeley, CA 94710 USA

Ph: 510-644-WINE (510-644-9463)

Fax: 510-647-3833

Email: james@premiercru.net

Web: www.premiercru.net

From: Joseph DeGirolamo [<mailto:joe.degirolamo@WTAS.COM>]

Sent: Monday, July 28, 2014 10:10 AM

To: james@premiercru.net; joseph.degirolamo@gmail.com

Subject: RE: Your Premier Cru Order 438518

Hello James. Has this order arrived?

From: james@premiercru.net [<mailto:james@premiercru.net>]

Sent: Saturday, March 01, 2014 9:44 AM

To: joseph.degirolamo@gmail.com

Subject: Your Premier Cru Order 438518

Hello Joe,

Welcome back! Thank you for your order, e-mailed to you under separate cover. As you know from the website, these are pre-arrival bottles. You will be notified as these arrive and can make appropriate shipping or pickup arrangements at that time. You can also always check arrival status of your orders on our website under your account. **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. If you pick up at the store in future, there will be no shipping costs. Thanks for your business!

Please note that if you intend to ship in future, we cannot legally ship wine to a PO Box, so you will need to eventually provide a physical shipping address. Thanks again.

Regards,

James Gillerman

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James Gillerman

PREMIER CRU

1011 University Avenue

Berkeley, CA 94710 USA

Ph: 510-644-WINE (510-644-9463)

Fax: 510-647-3833

Email: james@premiercru.net

Web: www.premiercru.net