

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
FILED 11:30 a.m.
MAR 01 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>Keith Phillips</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>Keith Phillips</u> Name <u>402 Tranquil Lane</u> Number Street <u>Oak Park</u> <u>CA</u> <u>91377</u> City State ZIP Code Contact phone <u>818-878-4755</u> Contact email <u>kphillip999@yahoo.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) _____ Filed on ____ / ____ / ____ | |
| 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? \$ 3,181.67. 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)?

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 01/21/2016
MM / DD / YYYY

Signature



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

| | | | |
|------|------------|-------------|-----------|
| Name | Keith | Richard | Phillips |
| | First name | Middle name | Last name |

Title _____

Company _____

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

| | | |
|---------|--------|---------------|
| Address | 402 | Tranquil Lane |
| | Number | Street |

| | | |
|----------|-------|----------|
| Oak Park | CA | 91377 |
| City | State | ZIP Code |

| | | | |
|---------------|--------------|-------|-----------------------|
| Contact phone | 818-878-4755 | Email | kphillip999@yahoo.com |
|---------------|--------------|-------|-----------------------|

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000430599

Order Date: 12/11/2013

Web Order No: 139423

Salesperson: JG

Customer: 45640

Customer PO:

| Sold To | Ship To |
|---|---|
| Keith Phillips 402 Tranquil Lane Oak Park, CA 91377 USA | Keith Phillips 402 Tranquil Lane Oak Park, CA 91377 USA |

Contact: Keith R Phillips
Phone: (818) 878-4755

This order has been paid by MasterCard - Thank You!

| Item | Ordered | Quantity Shipped | Unit Price | Amount |
|------------------------------|---------|---------------------|------------|----------|
| 44123 2010 Latour | 1.00 | 0.00 | 1,399.00 | 1,399.00 |
| 44106 2010 Mouton Rothschild | 2.00 | 0.00 | 699.99 | 1,399.98 |
| 34437 05 Rieussec | 2.00 | 0.00 | 59.99 | 119.98 |

| | | | |
|--|----------|------------|----------|
| Payments: | 3,181.67 | Net Order: | 2,918.96 |
| 12/11/2013 VPCEA29ABC7F *****1788 3,181.67 | | Freight: | 0.00 |
| | | Sales Tax: | 262.71 |
| | | USD | 3,181.67 |

Subject: RE: Your Premier Cru Order 430599
From: James Gillerman (james@premiercru.net)
To: kphillip999@yahoo.com;
Date: Wednesday, December 11, 2013 10:06 AM

Hi Keith,

Honestly, we are not as prompt as we could or should be with arrival notifications, so I do recommend that you poke at the website periodically. However if you forget all about the wine, you certainly will receive an e-mail from us eventually. Once it is here, we would like to get it out of our storage and into yours as badly as you will want to receive it!

There is no guaranty that these will all arrive at the same time, and are likely to get here 1 bottling at a time. If that happens, you are welcome to consolidate the arrivals here under temperature control, or you can choose to ship 1 by 1 as they get here. We do not charge for storage, though we are also not a long term storage facility.

We normally know about a month ahead of an arrival, as a bottle corresponding to your place in the queue is loaded on one of our refrigerated containers and on the water from Europe. None of these bottles are at that point, so no we are not talking about weeks away, but many months. The 05 Rieussec is likely to arrive first quarter next year, part of a huge parcel of older Bordeaux. The 2010 first growths are likely end of first or second quarter next year. Until your bottles are actually loaded on one of our containers, we really are just guessing as to how many of which wines will get here when. Thanks in advance for your patience. We have been offering high quality wines at rock bottom pricing for well over 3 decades now, and we do deliver the wines we sell, stored and imported under temperature control.

Thanks again for your business.

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: Keith Phillips [mailto:kphillip999@yahoo.com]
Sent: Wednesday, December 11, 2013 9:55 AM
To: james@premiercru.net
Subject: Re: Your Premier Cru Order 430599

Hello James,

Thanks for the info. Will you notify me when the wine becomes available or do I need to keep checking the website? Also, do you know typically if these wines take weeks or months to arrive? I most likely will have them shipped since I live in southern CA.

Thanks,
Keith

On Wednesday, December 11, 2013 9:19 AM, "james@premiercru.net" <james@premiercru.net> wrote:
Hello Keith,

Thank you for your order, e-mailed to you under separate cover. As you know from the website, these are all 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. Thanks for your business!

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