

LM 10:23 a.m.  
FILED

MAR 14 2016

BANKRUPTCY COURT  
OAKLAND, CALIFORNIA

Fill in this information to identify the case:

Debtor 1 FOX ORTEGA ENTERPRISES, INC

Debtor 2 dba PREMIER CRU  
(Spouse, if filing)

United States Bankruptcy Court for the: NORTHERN District of CALIFORNIA

Case number 16-40050 WJL 7

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

Other names the creditor used with the debtor SHERIDAN FOSTER

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)

<p>Where should notices to the creditor be sent?</p> <p>Name <u>SHERRI FOSTER</u></p> <p>Number <u>782</u> Street <u>DIXON WAY</u></p> <p>City <u>LOS ALTOS</u> State <u>CA</u> ZIP Code <u>94022</u></p> <p>Contact phone <u>408-391-4554</u></p> <p>Contact email <u>sfooster@mac.com</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p>Contact phone _____</p> <p>Contact email _____</p>
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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 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: 6 4 1 5

7. How much is the claim? \$ 1438.73 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 PURCHASED NEVER RECEIVED

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 one:

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 3/5/2016  
MM / DD / YYYY

Sherri Lynn Foster  
Signature

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

Name SHERRI LYNN FOSTER  
First name Middle name Last name

Title \_\_\_\_\_

Company \_\_\_\_\_

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

Address 782 DIXON WAY  
Number Street

LOS ALTOS CA 94022  
City State ZIP Code

Contact phone 408-391-4554 Email sfoster@mac.com

# PREMIER CRU

1011 University Avenue  
Berkeley, CA 94710

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

## Sales Order

Page: 1

Order Number: 0000446415

Order Date: 6/3/2014

Web Order No: 151532

Salesperson: PB

Customer: 46482

Customer PO:

### Sold To

Sheridan Foster  
782 Dixon Way  
Los Altos, CA 94022 USA

### Ship To

Sheridan Foster  
782 Dixon Way  
Los Altos, CA 94022 USA

Contact: Sheridan Foster  
Phone: (408) 391-4554

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

Item		Ordered	Quantity Shipped	Unit Price	Amount
50108	02 Bollinger RD	6.00	0.00	219.99	1,319.94

Payments: 1,438.73

Net Order: 1,319.94

6/3/2014 VXJABEF65729 \*\*\*\*\*3005 1,438.73

Freight: 0.00

Sales Tax: 118.79

USD 1,438.73

# Order Confirmation From Premier Cru

June 03, 2014 at 9:43 AM

From Premier Cru

To Sheridan Foster

📎 PDFBlaster\_SalesOrder\_149.pdf 68.63 KB

THIS DOCUMENT WAS SENT WITH:



## SALES ORDER

**From:**  
Premier Cru  
Premier Cru

---

**To:** Sheridan Foster

**Date:** 6/3/2014

To view the attached Sales Order, you need the free Adobe Acrobat Reader, which is available from <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](#) ]

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# Premier Cru Order Acknowledgement

June 03, 2014 at 9:30 AM

From Premier Cru

To Sheridan Foster

Thank you for your order.

Premier Cru has received your web order request.

Your web order number is SO-0000446415-151532.

Sales are processed in the order they are received. Once we have determined that the wines you requested are available, we will confirm and process your order.

Our online inventory is updated every minute. However since many wines are in high demand and limited supply, we cannot guarantee that the wines you requested were still available at the time your order was submitted. Once we determine this, process your order and bill you, your order is confirmed and we will e-mail you a confirmed copy.

If you have any questions, please email us at [info@premiercru.net](mailto:info@premiercru.net) or call us at 510-644-9463.

-----  
Premier Cru  
1011 University Avenue  
Berkeley, CA 94710  
(510) 644-9463

# RE: Web Order # 151532 from Sheridan Foster

June 03, 2014 at 9:49 AM

From Premier Cru

To Sheridan Foster

Hello Sheridan,

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  
fax (510) 647-3833  
phil@premiercru.net

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

From: Premier Cru  
Sent: Tuesday, June 03, 2014 10:29 AM  
To: Premier Cru  
Subject: Web Order # 151532 from Sheridan Foster

Order Number: 151532  
Placed: Jun 3 2014 10:23AM  
Cust Name: Sheridan Foster  
Email Address: sfoster@mac.com  
Cust Id: 46482  
Order No: SO-0000446415  
Order Status: OK

Billing Address:

Sherri Foster  
782 Dixon Way

Los Altos, CA 94022

Day Phone: 4083914554

Eve Phone:

Cel Phone:

Shipping Address:

Day Phone: 0

Eve Phone: 0

Cel Phone: 0

Ship On or After: ASAP

Ship Via: HOLD

Payment: 3005 exp: 11 16

Name on Card: Sherri Lynn Foster

qty item Wine price  
ext status

-----  
6 50108 2002 Bollinger RD 219.99  
1319.94 pre-arrival  
-----

Bottles : 6  
Subtotal: 1319.94  
Shipping (estimate): 0.00  
Tax : 118.79  
Total : 1438.73  
  
-----

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](mailto:info@premiercru.net) or call us at 510-644-9463.

-----  
Premier Cru  
1011 University Avenue  
Berkeley, CA 94710



-----  
(510) 644-9463

iCloud Mail

# Re: Web Order # 151532 from Sheridan Foster

July 30, 2014 at 9:45 AM

From Sheridan Foster

To "Premier Cru", phil@premiercru.net

Do you have an availability date on this order yet?  
All the website shows is that my bottles are "not ready to ship"

My husband is getting antsy to have the cash in your hands and open-ended order on our side.

Please advise as to when these will become available.

Thank you  
Sheridan Foster

On Jun 03, 2014, at 10:49 AM, Premier Cru <sales@premiercru.net> wrote:

Hello Sheridan,

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.

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# RE: Web Order # 151532 from Sheridan Foster

July 30, 2014 at 10:20 AM

From Phil Bohorfoush

To Sheridan Foster

Hello Sheridan,

Thanks for your email. Prearrivals coming from Europe typically take 9-18 months to arrive (as noted on the website).

We just purchased this from negociant in May before you purchased it online in June. It is still going to be a while. Anticipated arrival is the first or second quarter next year.

If you prefer not to wait, you can roll it to a store credit with no cancellation fee. There are over 700 wines in stock. You can click on "Browse Wines" and "In Stock" on the narrow by category. Please let me know.

Kind regards,  
Phil

---

**From:** Sheridan Foster [mailto:sfoster@mac.com]

**Sent:** Wednesday, July 30, 2014 10:45 AM

**To:** Premier Cru; Phil Bohorfoush

**Subject:** Re: Web Order # 151532 from Sheridan Foster

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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.

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Premier Cru  
1011 University  
Avenue  
Berkeley, CA 94710  
(510)  
644-9463



# Re: Web Order # 151532 from Sheridan Foster

October 29, 2015 at 9:40 AM

From Sheridan Foster

To Phil Bohorfoush

Phil,

It has now been 17 months without any wine. It did not arrive first or second (or even third) quarter of the year AFTER I ordered it.

If you can not commit that this wine will be available before December 3rd, I would like for you to please refund the \$1,319.94 that we paid for this wine.

I DO NOT want a store credit. I want the money back so that I can go buy this wine that you do not have elsewhere.

Thank you  
Sheridan Foster

On Jul 30, 2014, at 11:19 AM, Phil Bohorfoush <phil@premiercru.net> wrote:

Hello Sheridan,

Thanks for your email. Prearrivals coming from Europe typically take 9-18 months to arrive (as noted on the website).

We just purchased this from negociant in May before you purchased it online in June. It is still going to be a while. Anticipated arrival is the first or second quarter next year.

If you prefer not to wait, you can roll it to a store credit with no cancellation fee. There are over 700 wines in stock. You can click on "Browse Wines" and "In Stock" on the narrow by category. Please let me know.

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Day

Phone: 4083914554

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Eve Phone: 0

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Ship Via:

HOLD

Payment: 3005 exp: 11 16

Name on Card: Sherri Lynn  
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