

**Fill in this information to identify the case:**

Debtor 1 Fox Ortega Enterprises, Inc.  
Debtor 2 \_\_\_\_\_  
(Spouse, if filing)  
United States Bankruptcy Court Northern District of California  
Case number: 16-40050

FILED  
U.S. Bankruptcy Court  
Northern District of California  
4/25/2016  
Edward J. Emmons, Clerk

**Official Form 410  
Proof of Claim****04/16**

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**

<b>1. Who is the current creditor?</b>	<u>Lawrence Wai-Man Hui</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b> <u>Lawrence Wai-Man Hui</u> Name <u>Bennett G. Young, Esq.; Christina L. Chen, Esq.</u> <u>Two Embarcadero Center, 5th Floor</u> <u>San Francisco, CA 94111</u>  Contact phone <u>(415) 398-9680</u>  Contact email <u>byoung@jmbm.com;</u> <u>cchen@jmbm.com</u>  Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	<b>Where should payments to the creditor be sent? (if different)</b> <u>3A Hoover Heights, Belair Gardens</u> Name <u>52 Tai Chung Kiu Road</u>  <u>Shatin, Hong Kong,</u> Contact phone _____ Contact email <u>wmhui2015@hotmail.com</u>
<b>4. Does this claim amend one already filed?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>1340</u>	Filed on <u>03/22/2016</u> MM / DD / YYYY
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<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**

<b>6. Do you have any number you use to identify the debtor?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
<b>7. How much is the claim?</b>	\$ 981642.00 <b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). _____
<b>8. What is the basis of the claim?</b>	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 healthcare information. Money paid for goods not received. Summary of purchases of wine/wine futures from Debtor is attached to Complaint. _____
<b>9. Is all or part of the claim secured?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <b>Nature of property:</b> <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> _____  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.)  <b>Value of property:</b> \$ _____  <b>Amount of the claim that is secured:</b> \$ _____  <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ %  <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
<b>10. Is this claim based on a lease?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ _____
<b>11. Is this claim subject to a right of setoff?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

<b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. <i>Check all that apply.</i>	<b>Amount entitled to priority</b>
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
	<input checked="" type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ 2850.00
	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) 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).	\$ _____
	<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
	<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
	<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies	\$ _____
<small>* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.</small>		

### Part 3: Sign Below

<p><b>The person completing this proof of claim must sign and date it. FRBP 9011(b).</b></p> <p><small>If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.</small></p> <p><b>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.</b></p>	<p>Check the appropriate box:</p> <p><input type="checkbox"/> I am the creditor.</p> <p><input checked="" type="checkbox"/> I am the creditor's attorney or authorized agent.</p> <p><input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.</p> <p><input type="checkbox"/> I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.</p> <p>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.</p> <p>I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.</p> <p>I declare under penalty of perjury that the foregoing is true and correct.</p> <p>Executed on date <u>4/25/2016</u></p> <p style="text-align: center;">MM / DD / YYYY</p> <p><u>/s/ Christina Lin Chen</u></p> <p>Signature</p> <p>Print the name of the person who is completing and signing this claim:</p> <table style="width: 100%;"> <tr> <td style="width: 20%;">Name</td> <td>Christina Lin Chen</td> </tr> <tr> <td></td> <td>First name      Middle name      Last name</td> </tr> <tr> <td>Title</td> <td>Attorney for Creditor Lawrence Wai-Man Hui</td> </tr> <tr> <td>Company</td> <td>Jeffer Mangels Butler Mitchell LLP</td> </tr> <tr> <td rowspan="4">Address</td> <td>Identify the corporate servicer as the company if the authorized agent is a servicer</td> </tr> <tr> <td>Two Embarcadero Center, 5th Floor</td> </tr> <tr> <td>Number Street</td> </tr> <tr> <td>San Francisco, CA 94111</td> </tr> <tr> <td></td> <td>City State ZIP Code</td> </tr> <tr> <td>Contact phone</td> <td>(415) 398-9680</td> </tr> <tr> <td></td> <td>Email cchen@jmbm.com</td> </tr> </table>	Name	Christina Lin Chen		First name      Middle name      Last name	Title	Attorney for Creditor Lawrence Wai-Man Hui	Company	Jeffer Mangels Butler Mitchell LLP	Address	Identify the corporate servicer as the company if the authorized agent is a servicer	Two Embarcadero Center, 5th Floor	Number Street	San Francisco, CA 94111		City State ZIP Code	Contact phone	(415) 398-9680		Email cchen@jmbm.com
Name	Christina Lin Chen																			
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Contact phone	(415) 398-9680																			
	Email cchen@jmbm.com																			

1 \*Pursuant to the California Commercial Code, Hui claims ownership of any wine in the inventory  
2 of the Debtor that have been identified as relating to the purchase orders placed by Hui. Nothing  
3 herein contained shall constitute a waiver of Creditor's rights with respect to the validity, priority,  
4 amount and timeliness of Creditor's claims under the Commercial Code or any other applicable law,  
5 or at equity, all of which are reserved.

# EXHIBIT 1

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Attorneys for Plaintiff Lawrence Wai-Man Hui

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LAWRENCE WAI-MAN HUI,

Plaintiff,

v.

FOX ORTEGA ENTERPRISES d/b/a  
PREMIER CRU, and DOES 1-10, inclusive,

Defendants.

Case No.

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. Defendant Fox Ortega Enterprises d/b/a Premier Cru (“Premier Cru”) states on its website: “We source the world’s finest wines at extremely competitive prices to provide exceptional experiences for collectors, connoisseurs, and everyday wine lovers.” That has not been true for Plaintiff Lawrence Wai-Man Hui (“Hui”) and, apparently, many other Premier Cru customers. This case is about Premier Cru’s failure to fulfill its contractual obligations to deliver wine to Hui, and its wrongful conduct in inducing Hui to order additional wine when it knew it would not or could not deliver the wine in a reasonably timely manner. As a result of its wrongful conduct, Premier Cru has had the benefit of almost one million dollars of Hui’s money while Hui has received essentially nothing in return.

DOCKET

8/7/15

**PARTIES**

2. Hui is an individual residing in Hong Kong.

3. Premier Cru is a California corporation with its principal place of business in Berkeley, California.

4. Hui is ignorant of the true names and capacities of defendants sued herein as Does 1-10, inclusive, and therefore sues these defendants by such fictitious names. Hui will amend this complaint to allege their true names and capacities when ascertained. Hui is informed and believes and thereon alleges that each of such fictitiously named defendants is responsible in some manner or status for the acts and omissions described herein and that his loss as herein alleged was proximately caused by defendants' acts.

**JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a)(2) because Hui is a citizen of Hong Kong and Premier Cru is incorporated in California, and the amount in controversy exceeds \$75,000.

6. Venue is proper in this district because a substantial part of the acts and omissions giving rise to this case took place in Berkeley, California.

7. Intradistrict assignment is proper in the San Francisco or Oakland Division of this Court pursuant to Civil Local Rule 3-2(d) because a substantial part of the events or omissions giving rise to this case occurred in Berkeley, California, which is located in Alameda County.

**FACTUAL ALLEGATIONS**

8. Between August 2011 and October 2014, Hui purchased wine and "wine futures" from Premier Cru for various types of French wine. Wine futures are a method of purchasing wines early while a vintage is still in a barrel, offering the customer the opportunity to invest in a particular wine before it is bottled. The wine producers (or "chateaus") generally deal with bulk wine buyer/importers like Premier Cru. In turn, those bulk buyers/importers sell wine in advance to individuals and other customers at a predetermined price.

9. In total, Mr. Hui purchased \$981,642 worth of wine, most of it futures, from Premier Cru, representing 1,591 bottles of futures for 2009, 2010, 2011, and 2012 vintages from

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1 various chateaus. A summary of Hui's purchases of wine and wine futures from Premier Cru, as  
 2 printed from Premier Cru's website, is attached hereto as Exhibit A and incorporated herein by  
 3 reference. An itemized list of his purchase orders, as printed from Premier Cru's website, is  
 4 attached hereto as Exhibit B and incorporated herein by reference. Each time Hui ordered wine  
 5 from Premier Cru, he sent Premier Cru money in the exact amount of the purchase price. Of  
 6 those purchases, far fewer than 100 bottles have arrived. Under California Commercial Code  
 7 section 2309(1), "the time for shipment or delivery or any other action under a contract if not  
 8 provided in this division or agreed upon shall be a reasonable time."

9 10. Hui purchased wine and wine futures from Premier Cru because Premier Cru held  
 10 itself out as a reputable dealer of wine and wine futures with secure relationships with chateaus.

11 11. Hui was understandably wary of sending so much money to a company overseas  
 12 to secure wine that had not yet been released. On August 18, 2011, before Hui placed his first  
 13 order, a Premier Cru employee named James Gillerman sent Hui a reassuring email in which he  
 14 stated that "we do deliver the wines we sell." Premier Cru has not delivered the wines Mr. Hui  
 15 bought, and this statement is false. This statement induced Hui to make purchases through  
 16 Premier Cru.

17 12. In a June 6, 2012 email, after Hui had ordered and paid for over \$500,000 worth  
 18 of wine and asked when his wines would be delivered, Gillerman wrote: "I do suspect that a  
 19 large amount of your bottles will be here in time for a pickup of shipment in December January  
 20 of this year/next year [i.e., December 2012 or January 2013]." This statement was false, yet it  
 21 induced Hui to make many additional purchases through Premier Cru.

22 13. After Hui raised concerns about non-delivery of his wine, on September 9, 2014,  
 23 Gillerman reiterated to Hui in an email: "We do deliver the wines we sell, and you will get  
 24 everything you ordered." Gillerman further stated that "I fully expect that MANY of more of  
 25 your wines will be here by the end of 2014.... again I would expect you will see a whole lot  
 26 more 2009 and 2010 Bordeaux here by the end of the year.... By the end of the year, or early next  
 27 if you prefer, you should see a very large number of your bottles are here." These statements  
 28

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were false as well, yet they induced Hui to make further purchases and to forbear from taking action against Premier Cru.

14. Despite Hui's requests, Premier Cru has provided little meaningful information on the status of his 2009 and 2010 futures orders, has not provided any satisfactory answer for where his 2011 and 2012 bottles are or when he can reasonably expect them.

15. Many of the wines Hui ordered from Premier Cru are now widely available from other vendors at prices lower than what Mr. Hui paid Premier Cru up front. For example, in August 2011 Hui pre-ordered 18 bottles of 2009 Cheval Blanc for \$995 per bottle. This wine is immediately available for purchase online for less than what Hui paid. As another example, in March 2012 Hui ordered 24 bottles of 2009 Mouton Rothschild for \$799 per bottle. This wine is available online for far less than Hui's price from Premier Cru. None of these wines has been delivered to Hui nor has he been advised by Premier Cru that they are otherwise available.

16. Hui has requested rescission of his purchase contracts with Premier Cru and an unconditional return of his money. Premier Cru has ignored his requests.

17. Hui's experience is not unique. A Google search yields multiple complaints by other purchasers of Premier Cru's futures who have not received the goods they bargained for.

18. Several of those complaints are summarized in the New York Times article entitled "No Wine (Really, Not One Bottle) Before Its Time," dated June 6, 2015, available at <<http://www.nytimes.com/2015/06/07/your-money/no-wine-really-not-one-bottle-before-its-time.html>>. In that article, John Fox, a principal of Premier Cru, is quoted as follows: "We've been working on getting our staff to give people correct information about when their wine is going to show up.... *Not false estimates because they want to get off the phone. It's been a transition.*" (emphasis added). Fox's statement suggests that Premier Cru's staff is "transitioning" from giving "false estimates"—such as the false estimates given to Hui.

### **FIRST CLAIM FOR RELIEF**

#### **(Fraud—Promise Made Without Intention to Perform [Cal. Civ. Code § 1710.4])**

19. Paragraphs 1-18 are incorporated herein by reference.

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20. Each time Hui purchased wine or wine futures from Premier Cru (i.e. with each order attached hereto as Exhibit B), Premier Cru made a promise that it would timely deliver Hui's wine to him.

21. On information and belief, at the time Premier Cru made each promise, it had no intention of performing it, and it knew that it could not or would not timely deliver Hui's wine to him.

22. The promises were made by Premier Cru with the intent to induce Hui to send Premier Cru money.

23. Hui, at the time the promises were made and at the time he sent money to Premier Cru, was ignorant of the defendant's secret intention not to perform and could not, in exercising reasonable diligence, determine that Premier Cru had no intention to perform. Hui lives overseas and communicated with Premier Cru by email. By email, Premier Cru assured Hui that he would get his wine. If Hui had known Premier Cru's actual intentions, he would never have sent Premier Cru money.

24. Premier Cru failed to abide by its promise to deliver Hui's wine.

25. As a direct and proximate result of these false promises, Hui has been damaged in an amount no less than \$981,642.

26. Premier Cru's promises with no intention to perform were intentional misrepresentations and deceptions, with the intention of depriving Hui of property or legal rights or otherwise causing injury, and were despicable conduct that subjected the Hui to a cruel and unjust hardship in conscious disregard of his rights, so as to justify an award of exemplary and punitive damages.

## **SECOND CLAIM FOR RELIEF**

### **(Fraud — False Representation of Fact)**

27. Paragraphs 1-26 are incorporated herein by reference.

28. On August 18, 2011, a Premier Cru employee named James Gillerman sent Hui a reassuring email in which he stated that "we do deliver the wines we sell." Premier has not

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1 delivered the wines Mr. Hui bought, and this statement was false. This statement induced Hui to  
2 make purchases through Premier Cru.

3 29. In June 6, 2012 email, after Hui asked when his wines would be delivered,  
4 Gillerman wrote: "I do suspect that a large amount of your bottles will be here in time for a  
5 pickup of shipment in December January of this year/next year [i.e., December 2012 or January  
6 2013]." This statement was false, yet it induced Hui to make many additional purchases through  
7 Premier Cru.

8 30. After Hui raised concerns about non-delivery of his wine, on September 9, 2014,  
9 Gillerman reiterated to Hui in an email: "We do deliver the wines we sell, and you will get  
10 everything you ordered." Gillerman further stated that "I fully expect that MANY of more of  
11 your wines will be here by the end of 2014.... again I would expect you will see a whole lot  
12 more 2009 and 2010 Bordeaux here by the end of the year.... By the end of the year, or early next  
13 if you prefer, you should see a very large number of your bottles are here." These statements are  
14 false, yet they induced Hui to make further purchases and to forbear from taking action against  
15 Premier Cru.

16 31. On information and belief, the statements set forth above were false when they  
17 were made. John Fox's admission in the New York Times that "[w]e've been working on  
18 getting our staff to give people correct information about when their wine is going to show up....  
19 Not false estimates because they want to get off the phone. It's been a transition...." suggests  
20 that Premier Cru's staff is "transitioning" from giving "false estimates"—such as the false  
21 estimates given to Hui.

22 32. When Premier Cru's employee made these false statements, he knew them to be  
23 false and made these statements with the intent of inducing Hui to order wine through Premier  
24 Cru, to send Premier Cru money, and/or to forbear from taking action against Premier Cru.

25 33. Hui reasonably relied on these false statements. At the time the statements were  
26 made and at the time he sent money to Premier Cru, Hui was ignorant of the falsity of these  
27 representations and could not, in exercising reasonable diligence, determine that these statements  
28 were false. Hui lives overseas and communicated with Premier Cru by email. By email, Premier

1 Cru assured Hui that he would get his wine. If Hui had known that Premier Cru was making false  
 2 representations about when his wine would be available, he would never have sent Premier Cru  
 3 money.

4 34. As a direct and proximate result of these false promises, Hui has been damaged in  
 5 an amount no less than \$981,642.

6 35. Premier Cru's false statements were intentional misrepresentations and deceptions,  
 7 with the intention of depriving Hui of property or legal rights or otherwise causing injury, and  
 8 were despicable conduct that subjected the Hui to a cruel and unjust hardship in conscious  
 9 disregard of his rights, so as to justify an award of exemplary and punitive damages.

### 10 **THIRD CLAIM FOR RELIEF**

#### 11 **(Negligent Misrepresentation)**

12 36. Hui alleges the following in the alternative to the Second Claim for Relief.

13 37. Paragraphs 1-36 are incorporated herein by reference.

14 38. The statements set forth in Paragraphs 11-13 and 28-30 above were not true.

15 39. Although Premier Cru's employee may have honestly believed that the statements  
 16 were true when he made them, he had no reasonable ground for such belief given that Premier  
 17 Cru was having widespread problems delivering wine and wine futures on time—a fact surely  
 18 known to Premier Cru and its employees.

19 40. Premier Cru intended that Hui rely on these statements.

20 41. Hui reasonably relied on these false statements. At the time the statements were  
 21 made and at the time he sent money to Premier Cru, Hui was ignorant of the falsity of these  
 22 representations and could not, in exercising reasonable diligence, determine that these statements  
 23 were false. Hui lives overseas and communicated with Premier Cru by email. By email, Premier  
 24 Cru assured Hui that he would get his wine. If Hui had known that Premier Cru was making false  
 25 representations about when his wine would be available, he would never have sent Premier Cru  
 26 money.

27 42. As a direct and proximate result of these false promises, Hui has been damaged in  
 28 an amount no less than \$981,642.

**FOURTH CLAIM FOR RELIEF****(Breach of Contract)**

43. Paragraphs 1-42 are incorporated herein by reference.

44. Each time Hui purchased wine or wine futures from Premier Cru (i.e. with each order attached hereto as Exhibit B), Premier Cru made a promise that it would timely deliver Hui's wine to him.

45. Hui has performed all conditions, covenants, and promises required on his part to be performed in accordance with the terms and conditions of the contracts or has been excused from such performance.

46. Premier Cru has breached each purchase contract by failing to deliver Hui's wine within a reasonable time.

47. As a direct and proximate result of Premier Cru's breaches, Hui has been damaged in an amount no less than \$981,642.

**FIFTH CLAIM FOR RELIEF****(Rescission Based on Misrepresentation [Cal. Civ. Code § 1689(b)(2)])**

48. Plaintiff alleges the following in the alternative to the Fourth Claim for Relief.

49. Paragraphs 1-47 are incorporated herein by reference.

50. Premier Cru made the misrepresentations to Hui set forth in paragraphs 11-13 and 28-30 above.

51. On information and belief, the statements set forth above were false when they were made. John Fox's admissions in the New York Times that "[w]e've been working on getting our staff to give people correct information about when their wine is going to show up.... Not false estimates because they want to get off the phone. It's been a transition...." suggests that Premier Cru's staff is "transitioning" from giving "false estimates"—such as the false estimates given to Hui.

52. When Premier Cru's employee made these false statements, he knew them to be false and made these statements with the intent of inducing Hui to order wine through Premier Cru, to send Premier Cru money, and/or to forbear from taking action against Premier Cru.

53. Hui reasonably relied on these false statements. At the time the promises were made and at the time he sent money to Premier Cru, Hui was ignorant of the falsity of these representations and could not, in exercising reasonable diligence, determine that these statements were false. Hui lives overseas and communicated with Premier Cru by email. By email, Premier Cru assured Hui that he would get his wine. If Hui had known that Premier Cru was making false representations about when his wine would be available, he would never have sent Premier Cru money.

### **SIXTH CLAIM FOR RELIEF**

#### **(Unfair Business Practices [Cal. Bus. & Prof. Code § 17200 et seq.])**

54. Paragraphs 1-53 are incorporated herein by reference.

55. Section 17200 of the California Business and Professions Code prohibits “fraudulent business act[s] or practice[s],” which are acts or practices likely to deceive members of the public.

56. As set forth above, Premier Cru has and had a business practice of representing that it can and will secure wine for its customers when it lacks the intention and/or the ability to do so. Accordingly, Premier Cru’s representations are false.

57. As set forth above, Hui was induced to order wine from Premier Cru and to refrain from action against it by Premier Cru’s false promises and representations regarding its ability to deliver wine to him. These representations were material to Hui and he would not have given money to Premier Cru without them.

58. These representations caused Hui to suffer harm in that he sent money to Premier Cru to secure wines that Premier Cru had no intention of delivering to him,

### **PRAYER**

WHEREFORE, Hui prays for judgment as follows:

1. For compensatory damages in amount according to proof pursuant to California Commercial Code §§ 2712-2715;

2. For prejudgment interest at the legal rate of 10%;

- 1           3.     For punitive damages in amount appropriate to punish Premier Cru and deter  
2 others from engaging in similar misconduct;
- 3           4.     For restitution;
- 4           5.     For preliminary and permanent injunctive relief;
- 5           6.     For attorney's fees and costs of suit; and
- 6           7.     For any further relief which the Court deems just and proper.

7  
8 Dated: August 6, 2015

SHARTSIS FRIESE LLP

9  
10 By:           /s/ Arthur J. Shartsis            
          ARTHUR J. SHARTSIS

11 Attorneys for Plaintiff  
12 LAWRENCE WAI-MAN HUI

13 **DEMAND FOR JURY TRIAL**

14           In accordance with Rule 38(b) of the Federal Rules of Civil Procedure, Hui hereby  
15 demands a trial by jury on all issues triable by a jury.

16  
17 Dated: August 6, 2015

SHARTSIS FRIESE LLP

18  
19 By:           /s/ Arthur J. Shartsis            
          ARTHUR J. SHARTSIS

20 Attorneys for Plaintiff  
21 LAWRENCE WAI-MAN HUI

22 09801\001\7273795.v1  
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28

# **Exhibit A**

MY ACCOUNT

## EDIT PROFILE

## ADDRESS BOOK

## BILLING INFORMATION

## ORDER HISTORY

[illegible][Browse Wines](#)

## Featured Wines

## What's New Newsletters

## Learn About Wine

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# **Exhibit B**

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## ORDER DETAILS

Order No.: SO-0000361750

Order Date.: Aug 25, 2011

Status: Open

### PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 La Mission Haut Brion, 750 ml	18	0	18	0	\$799.99	\$14,399.82
2009 Cheval Blanc, 750 ml	18	0	18	0	\$995.00	\$17,910.00
2009 Haut Brion, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2009 Leoville las Cases, 750 ml	3	0	3	0	\$309.99	\$929.97
2009 Mouton Rothschild, 750 ml	18	0	18	0	\$799.99	\$14,399.82
2010 Margaux, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 Lafite Rothschild, 750 ml	30	0	30	0	\$1,299.00	\$38,970.00
2010 Haut Brion, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 La Mission Haut Brion, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 Mouton Rothschild, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 Leoville las Cases, 750 ml	18	0	18	18	\$289.99	\$5,219.82
2010 Latour, 750 ml	18	0	18	0	\$1,199.00	\$21,582.00
2010 Cheval Blanc, 750 ml	18	0	18	0	\$1,250.00	\$22,500.00
2010 Ausone, 750 ml	30	0	30	0	\$1,699.00	\$50,970.00
2010 Petrus, 750 ml	30	0	30	0	\$2,699.00	\$80,970.00
2010 Le Pin, 750 ml	30	0	30	0	\$2,399.00	\$71,970.00

**Subtotal:** \$420,820.53**Tax:** \$0.00**Total:** \$420,820.53

### SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 La Mission Haut Brion, 750 ml	18	0	18
2009 Cheval Blanc, 750 ml	18	0	18
2009 Haut Brion, 750 ml	18	0	18
2009 Leoville las Cases, 750 ml	3	0	3
2009 Mouton Rothschild, 750 ml	18	0	18
2010 Margaux, 750 ml	18	0	18

2010 Lafite Rothschild, 750 ml	30	0	30
2010 Haut Brion, 750 ml	18	0	18
2010 La Mission Haut Brion, 750 ml	18	0	18
2010 Mouton Rothschild, 750 ml	18	0	18
2010 Leoville las Cases, 750 ml	18	0	18
2010 Latour, 750 ml	18	0	18
2010 Cheval Blanc, 750 ml	18	0	18
2010 Ausone, 750 ml	30	0	30
2010 Petrus, 750 ml	30	0	30
2010 Le Pin, 750 ml	30	0	30

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ORDER DETAILS

Order No.:   SO-0000459489  
Order Date.:   Oct 29, 2014  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price /Bottle	Total Price
1997 Grange Hermitage, Penfolds, 750 ml	5	0	5	5	\$299.99	\$1,499.95
Subtotal:						\$1,499.95
Tax:						\$0.00
Total:						\$1,499.95

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
1997 Grange Hermitage, Penfolds, 750 ml	5	0	5

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## ORDER DETAILS

Order No.: SO-0000454696

Order Date.: Sep 8, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 La Mission Haut Brion, 750 ml	30	0	30	0	\$399.99	\$11,999.70

**Subtotal:** \$11,999.70**Tax:** \$0.00**Total:** \$11,999.70

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 La Mission Haut Brion, 750 ml	30	0	30

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ORDER DETAILS

Order No.: SO-0000450407  
Order Date.: Jul 21, 2014  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Le Dome, 750 ml	36	0	36	0	\$195.00	\$7,020.00
2012 Cos d'Estournel, 750 ml	24	0	24	0	\$77.39	\$1,857.36
2012 Haut Brion, 750 ml	12	0	12	0	\$270.00	\$3,240.00
2012 Cheval Blanc, 750 ml	12	0	12	0	\$335.99	\$4,031.88
2012 Pavie, 750 ml	24	0	24	0	\$131.99	\$3,167.76

Subtotal: \$19,317.00  
Tax: \$0.00  
Total: \$19,317.00

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Le Dome, 750 ml	36	0	36
2012 Cos d'Estournel, 750 ml	24	0	24
2012 Haut Brion, 750 ml	12	0	12
2012 Cheval Blanc, 750 ml	12	0	12
2012 Pavie, 750 ml	24	0	24

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## ORDER DETAILS

Order No.: SO-0000441602

Order Date.: Apr 7, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2011 Palmer, 750 ml	36	0	36	0	\$164.99	\$5,939.64
2011 Clos Vougeot, Faiveley, 750 ml	12	0	12	0	\$108.75	\$1,305.00
2012 Haut Brion, 750 ml	36	0	36	0	\$262.50	\$9,450.00
2012 Clos Vougeot, Faiveley, 750 ml	12	0	12	0	\$127.49	\$1,529.88
2012 Clos de Tart, 750 ml	12	0	12	0	\$292.49	\$3,509.88

**Subtotal:** \$21,734.40**Tax:** \$0.00**Total:** \$21,734.40

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2011 Palmer, 750 ml	36	0	36
2011 Clos Vougeot, Faiveley, 750 ml	12	0	12
2012 Haut Brion, 750 ml	36	0	36
2012 Clos Vougeot, Faiveley, 750 ml	12	0	12
2012 Clos de Tart, 750 ml	12	0	12

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## ORDER DETAILS

Order No.: SO-0000440167

Order Date.: Mar 24, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
1986 Lafite Rothschild 3 Liter, 3 L	3	0	3	3	\$4,125.00	\$12,375.00
2005 Bonnes Mares Magnum, Vogue, 1.5 L	3	0	3	3	\$899.25	\$2,697.75
2012 Angelus, 750 ml	24	0	24	0	\$187.49	\$4,499.76

**Subtotal:** \$19,572.51**Tax:** \$0.00**Total:** \$19,572.51

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
1986 Lafite Rothschild 3 Liter, 3 L	3	0	3
2005 Bonnes Mares Magnum, Vogue, 1.5 L	3	0	3
2012 Angelus, 750 ml	24	0	24

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## ORDER DETAILS

Order No.: SO-0000439696

Order Date.: Mar 17, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2011 Cheval Blanc, 750 ml	12	0	12	0	\$431.25	\$5,175.00
2011 Latour Magnum, 1.5 L	3	0	3	0	\$862.50	\$2,587.50
2011 Mouton Magnum, 1.5 L	3	0	3	0	\$637.50	\$1,912.50
2012 Troplong Mondot, 750 ml	24	0	24	0	\$59.24	\$1,421.76
2012 Pavie, 750 ml	18	0	18	0	\$134.99	\$2,429.82
2012 Haut Brion Blanc, 750 ml	6	0	6	0	\$656.25	\$3,937.50
2012 La Mission Haut Brion Blanc, 750 ml	18	0	18	0	\$521.25	\$9,382.50
2012 La Mission Haut Brion, 750 ml	18	0	18	0	\$146.25	\$2,632.50

**Subtotal:** \$29,479.08**Tax:** \$0.00**Total:** \$29,479.08

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2011 Cheval Blanc, 750 ml	12	0	12
2011 Latour Magnum, 1.5 L	3	0	3
2011 Mouton Magnum, 1.5 L	3	0	3
2012 Troplong Mondot, 750 ml	24	0	24
2012 Pavie, 750 ml	18	0	18
2012 Haut Brion Blanc, 750 ml	6	0	6
2012 La Mission Haut Brion Blanc, 750 ml	18	0	18
2012 La Mission Haut Brion, 750 ml	18	0	18

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## ORDER DETAILS

Order No.: SO-0000438189

Order Date.: Feb 24, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2007 Latricieres Chambertin, Leroy, 750 ml	6	0	6	0	\$824.25	\$4,945.50
2007 Musigny, Leroy, 750 ml	6	0	6	0	\$2,849.25	\$17,095.50
2009 Le Carre, 750 ml	24	0	24	0	\$86.25	\$2,070.00
2010 Clos Vougeot, Leroy, 750 ml	7	0	7	7	\$1,199.25	\$8,394.75
2012 Troplong Mondot, 750 ml	10	0	10	0	\$59.24	\$592.40
2012 Montrachet, Jadot, 750 ml	8	0	8	0	\$359.99	\$2,879.92
2012 Cheval Blanc, 750 ml	24	0	24	0	\$359.99	\$8,639.76
2012 Chablis Vaudesir, Fevre, 750 ml	12	0	12	0	\$59.99	\$719.88
2012 Clos Vougeot, Chateau de La Tour, 750 ml	12	0	12	0	\$97.49	\$1,169.88

**Subtotal:** \$46,507.59**Tax:** \$0.00**Total:** \$46,507.59

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2007 Latricieres Chambertin, Leroy, 750 ml	6	0	6
2007 Musigny, Leroy, 750 ml	6	0	6
2009 Le Carre, 750 ml	24	0	24
2010 Clos Vougeot, Leroy, 750 ml	7	0	7
2012 Troplong Mondot, 750 ml	10	0	10
2012 Montrachet, Jadot, 750 ml	8	0	8
2012 Cheval Blanc, 750 ml	24	0	24
2012 Chablis Vaudesir, Fevre, 750 ml	12	0	12
2012 Clos Vougeot, Chateau de La Tour, 750 ml	12	0	12

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ORDER DETAILS

Order No.:   SO-0000437947  
Order Date.:   Feb 22, 2014  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Palmer, 750 ml	5	0	5	0	\$289.99	\$1,449.95
Subtotal:						\$1,449.95
Tax:						\$0.00
Total:						\$1,449.95

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Palmer, 750 ml	5	0	5

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## ORDER DETAILS

Order No.: SO-0000437079

Order Date.: Feb 11, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 Lafite Rothschild, 750 ml	36	0	36	0	\$489.99	\$17,639.64
2012 Ausone, 750 ml	26	0	26	0	\$350.00	\$9,100.00
2010 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24	0	\$449.99	\$10,799.76
2010 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24	0	\$449.99	\$10,799.76
2010 Cote Rotie La Turque, Guigal, 750 ml	24	0	24	0	\$449.99	\$10,799.76
2004 Unico, Vega Sicilia, 750 ml	48	0	48	0	\$269.99	\$12,959.52

**Subtotal:** \$72,098.44**Tax:** \$0.00**Total:** \$72,098.44

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 Lafite Rothschild, 750 ml	36	0	36
2012 Ausone, 750 ml	26	0	26
2010 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24
2010 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24
2010 Cote Rotie La Turque, Guigal, 750 ml	24	0	24
2004 Unico, Vega Sicilia, 750 ml	48	0	48

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ORDER DETAILS

Order No.:   SO-0000414484  
Order Date.:   Jun 1, 2013  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 l'Eglise Clinet, 750 ml	36	0	36	0	\$187.99	\$6,767.64
Subtotal:						\$6,767.64
Tax:						\$0.00
Total:						\$6,767.64

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 l'Eglise Clinet, 750 ml	36	0	36

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ORDER DETAILS

Order No.: SO-0000410889  
Order Date.: Apr 25, 2013  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 Lafite Rothschild, 750 ml	48	0	48	0	\$489.99	\$23,519.52
2012 Mouton Rothschild, 750 ml	48	0	48	0	\$339.99	\$16,319.52

**Subtotal:** \$39,839.04  
**Tax:** \$0.00  
**Total:** \$39,839.04

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 Lafite Rothschild, 750 ml	48	0	48
2012 Mouton Rothschild, 750 ml	48	0	48

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ORDER DETAILS

Order No.: SO-0000405582  
Order Date.: Feb 20, 2013  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Chateaufeuf Cuvee da Capo Magnum, Pegau, 1.5 L	4	0	4	0	\$750.00	\$3,000.00
2010 Chateaufeuf Cuvee da Capo 3 Liter, Pegau, 3 L	2	0	2	0	\$1,799.00	\$3,598.00
2010 Chateaufeuf Cuvee da Capo 6 Liter, Pegau, 6 L	2	0	2	0	\$4,250.00	\$8,500.00
2010 Chateaufeuf Cuvee da Capo 9 Liter, Pegau, 9 L	2	0	2	0	\$6,299.00	\$12,598.00
2010 Chateaufeuf Cuvee da Capo 15 Liter, Pegau, 15 L	1	0	1	0	\$8,999.00	\$8,999.00

Subtotal: \$36,695.00  
Tax: \$0.00  
Total: \$36,695.00

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Chateaufeuf Cuvee da Capo Magnum, Pegau, 1.5 L	4	0	4
2010 Chateaufeuf Cuvee da Capo 3 Liter, Pegau, 3 L	2	0	2
2010 Chateaufeuf Cuvee da Capo 6 Liter, Pegau, 6 L	2	0	2
2010 Chateaufeuf Cuvee da Capo 9 Liter, Pegau, 9 L	2	0	2
2010 Chateaufeuf Cuvee da Capo 15 Liter, Pegau, 15 L	1	0	1

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ORDER DETAILS

Order No.: SO-0000405552  
Order Date.: Feb 19, 2013  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Margaux, 750 ml	24	0	24	0	\$799.99	\$19,199.76
2010 Haut Brion, 750 ml	24	0	24	0	\$799.99	\$19,199.76
2010 Mouton Rothschild, 750 ml	24	0	24	0	\$699.99	\$16,799.76
2010 Latour, 750 ml	24	0	24	0	\$1,199.00	\$28,776.00
2010 Cheval Blanc, 750 ml	24	0	24	0	\$899.99	\$21,599.76

Subtotal: \$105,575.04  
Tax: \$0.00  
Total: \$105,575.04

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Margaux, 750 ml	24	0	24
2010 Haut Brion, 750 ml	24	0	24
2010 Mouton Rothschild, 750 ml	24	0	24
2010 Latour, 750 ml	24	0	24
2010 Cheval Blanc, 750 ml	24	0	24

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## ORDER DETAILS

Order No.: SO-0000404301

Order Date.: Feb 4, 2013

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24	0	\$369.99	\$8,879.76
2009 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24	0	\$369.99	\$8,879.76
2009 Cote Rotie La Turque, Guigal, 750 ml	24	0	24	0	\$369.99	\$8,879.76

**Subtotal:** \$26,639.28**Tax:** \$0.00**Total:** \$26,639.28

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24
2009 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24
2009 Cote Rotie La Turque, Guigal, 750 ml	24	0	24

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ORDER DETAILS

Order No.:   SO-0000383523  
Order Date.:   Jun 12, 2012  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price /Bottle	Total Price
1986 d'Yquem, 750 ml	4	0	4	4	\$389.99	\$1,559.96
Subtotal:						\$1,559.96
Tax:						\$0.00
Total:						\$1,559.96

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
1986 d'Yquem, 750 ml	4	0	4

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## ORDER DETAILS

Order No.: SO-0000376227

Order Date.: Mar 6, 2012

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Montrose, 750 ml	24	0	24	0	\$375.00	\$9,000.00
2009 Ducru Beaucaillou, 750 ml	24	0	24	0	\$285.00	\$6,840.00
2009 Vieux Chateau Certan, 750 ml	24	0	24	0	\$259.99	\$6,239.76
2009 Mouton Rothschild, 750 ml	24	0	24	0	\$799.99	\$19,199.76
2010 Montrose, 750 ml	24	0	24	24	\$205.00	\$4,920.00

**Subtotal:** \$46,199.52**Tax:** \$0.00**Total:** \$46,199.52

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Montrose, 750 ml	24	0	24
2009 Ducru Beaucaillou, 750 ml	24	0	24
2009 Vieux Chateau Certan, 750 ml	24	0	24
2009 Mouton Rothschild, 750 ml	24	0	24
2010 Montrose, 750 ml	24	0	24

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ORDER DETAILS

Order No.: SO-0000365783  
Order Date.: Nov 3, 2011  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2000 Lafite Rothschild Magnum, 1.5 L	1	1	0	0	\$4,699.00	\$4,699.00
2010 Vieux Ch Certan, 750 ml	36	0	36	0	\$279.99	\$10,079.64

Subtotal: \$14,778.64  
Tax: \$0.00  
Total: \$14,778.64

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2000 Lafite Rothschild Magnum, 1.5 L	1	1	0
2010 Vieux Ch Certan, 750 ml	36	0	36

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## ORDER DETAILS

Order No.: SO-0000365270

Order Date.: Oct 26, 2011

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Petrus, 750 ml	13	0	13	0	\$2,699.00	\$35,087.00
2010 Petrus Magnum, 1.5 L	3	0	3	0	\$5,575.00	\$16,725.00

**Subtotal:** \$51,812.00**Tax:** \$0.00**Total:** \$51,812.00

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Petrus, 750 ml	13	0	13
2010 Petrus Magnum, 1.5 L	3	0	3

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ORDER DETAILS

Order No.: SO-0000363074  
Order Date.: Sep 21, 2011  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Pontet Canet, 750 ml	40	0	40	0	\$139.95	\$5,598.00
2010 Pontet Canet, 750 ml	40	0	40	0	\$159.95	\$6,398.00

**Subtotal:** \$11,996.00  
**Tax:** \$0.00  
**Total:** \$11,996.00

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Pontet Canet, 750 ml	40	0	40
2010 Pontet Canet, 750 ml	40	0	40

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**Fill in this information to identify the case:**

Debtor 1 Fox Ortega Enterprises, Inc.  
 Debtor 2 \_\_\_\_\_  
 (Spouse, if filing)  
 United States Bankruptcy Court Northern District of California  
 Case number: 16-40050

**FILED**  
 U.S. Bankruptcy Court  
 Northern District of California  
 3/22/2016  
 Edward J. Emmons, Clerk

## 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**

<b>1. Who is the current creditor?</b>	<u>Lawrence Wai-Man Hui</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b> <u>Lawrence Wai-Man Hui</u> Name Bennett G. Young, Esq.; Christina L. Chen, Esq. Two Embarcadero Center, 5th Floor San Francisco, CA 94111  Contact phone <u>(415) 398-9680</u>  Contact email <u>bgy@jmbm.com;</u> <u>clc@jmbm.com</u>  Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	<b>Where should payments to the creditor be sent? (if different)</b> <u>3A Hoover Heights, Belair Gardens</u> Name 52 Tai Chung Kiu Road  Shatin, Hong Kong,  Contact phone _____  Contact email _____
<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <div style="text-align: right;">MM / DD / YYYY</div>	
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<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**

<b>6. Do you have any number you use to identify the debtor?</b>	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____</div>
<b>7. How much is the claim?</b>	<div><div><div>\$</div><div>981642.00</div></div><div><b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). _____</div></div>
<b>8. What is the basis of the claim?</b>	<p>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 healthcare information.</p> <p>Money paid for goods not received. Summary of purchases of wine/wine futures from Debtor is attached to Complaint.</p> <p>_____</p>
<b>9. Is all or part of the claim secured?</b>	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. The claim is secured by a lien on property. <b>Nature of property:</b> <div><input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div> <b>Basis for perfection:</b> _____  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.)  <b>Value of property:</b> \$ _____  <b>Amount of the claim that is secured:</b> \$ _____  <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ % <div><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div></div>
<b>10. Is this claim based on a lease?</b>	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ _____</div>
<b>11. Is this claim subject to a right of setoff?</b>	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. Identify the property: _____</div>

<b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply.</i>	<b>Amount entitled to priority</b>
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> 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). <input type="checkbox"/> 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). <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( <u>  </u> ) that applies	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
* Amounts are subject to adjustment on 4/1/16 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 3/22/2016  
MM / DD / YYYY

/s/ Christina Chen  
Signature

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

Name	Christina Chen
	First name      Middle name      Last name
Title	Attorney for Creditor Lawrence Wai-Man Hui
Company	Jeffer Mangels Butler Mitchell LLP
	Identify the corporate servicer as the company if the authorized agent is a servicer
Address	Two Embarcadero Center, 5th Floor
	Number   Street
	San Francisco, CA 94111
	City   State   ZIP Code
Contact phone	(415) 398-9680
Email	clc@jmbm.com

1 \*Pursuant to the California Commercial Code, Hui claims ownership of any wine in the inventory  
2 of the Debtor that have been identified as relating to the purchase orders placed by Hui. Nothing  
3 herein contained shall constitute a waiver of Creditor's rights with respect to the validity, priority,  
4 amount and timeliness of Creditor's claims under the Commercial Code or any other applicable law,  
5 or at equity, all of which are reserved.

# EXHIBIT 1

SHARTSIS FRIESE LLP  
ONE MARITIME PLAZA  
EIGHTEENTH FLOOR  
SAN FRANCISCO, CA 94111-3598

SHARTSIS FRIESE LLP  
ARTHUR J. SHARTSIS (Bar #51549)  
ROEY Z. RAHMIL (Bar #273803)  
One Maritime Plaza, Eighteenth Floor  
San Francisco, CA 94111-3598  
Telephone: (415) 421-6500  
Facsimile: (415) 421-2922  
Email: ashartsis@sflaw.com; rrahmil@sflaw.com

Attorneys for Plaintiff Lawrence Wai-Man Hui

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LAWRENCE WAI-MAN HUI,  
Plaintiff,

v.

FOX ORTEGA ENTERPRISES d/b/a  
PREMIER CRU, and DOES 1-10, inclusive,  
Defendants.

Case No.

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. Defendant Fox Ortega Enterprises d/b/a Premier Cru (“Premier Cru”) states on its website: “We source the world’s finest wines at extremely competitive prices to provide exceptional experiences for collectors, connoisseurs, and everyday wine lovers.” That has not been true for Plaintiff Lawrence Wai-Man Hui (“Hui”) and, apparently, many other Premier Cru customers. This case is about Premier Cru’s failure to fulfill its contractual obligations to deliver wine to Hui, and its wrongful conduct in inducing Hui to order additional wine when it knew it would not or could not deliver the wine in a reasonably timely manner. As a result of its wrongful conduct, Premier Cru has had the benefit of almost one million dollars of Hui’s money while Hui has received essentially nothing in return.

DOCKET

8/7/15

**PARTIES**

2. Hui is an individual residing in Hong Kong.

3. Premier Cru is a California corporation with its principal place of business in Berkeley, California.

4. Hui is ignorant of the true names and capacities of defendants sued herein as Does 1-10, inclusive, and therefore sues these defendants by such fictitious names. Hui will amend this complaint to allege their true names and capacities when ascertained. Hui is informed and believes and thereon alleges that each of such fictitiously named defendants is responsible in some manner or status for the acts and omissions described herein and that his loss as herein alleged was proximately caused by defendants' acts.

**JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a)(2) because Hui is a citizen of Hong Kong and Premier Cru is incorporated in California, and the amount in controversy exceeds \$75,000.

6. Venue is proper in this district because a substantial part of the acts and omissions giving rise to this case took place in Berkeley, California.

7. Intradistrict assignment is proper in the San Francisco or Oakland Division of this Court pursuant to Civil Local Rule 3-2(d) because a substantial part of the events or omissions giving rise to this case occurred in Berkeley, California, which is located in Alameda County.

**FACTUAL ALLEGATIONS**

8. Between August 2011 and October 2014, Hui purchased wine and "wine futures" from Premier Cru for various types of French wine. Wine futures are a method of purchasing wines early while a vintage is still in a barrel, offering the customer the opportunity to invest in a particular wine before it is bottled. The wine producers (or "chateaus") generally deal with bulk wine buyer/importers like Premier Cru. In turn, those bulk buyers/importers sell wine in advance to individuals and other customers at a predetermined price.

9. In total, Mr. Hui purchased \$981,642 worth of wine, most of it futures, from Premier Cru, representing 1,591 bottles of futures for 2009, 2010, 2011, and 2012 vintages from

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1 various chateaus. A summary of Hui's purchases of wine and wine futures from Premier Cru, as  
2 printed from Premier Cru's website, is attached hereto as Exhibit A and incorporated herein by  
3 reference. An itemized list of his purchase orders, as printed from Premier Cru's website, is  
4 attached hereto as Exhibit B and incorporated herein by reference. Each time Hui ordered wine  
5 from Premier Cru, he sent Premier Cru money in the exact amount of the purchase price. Of  
6 those purchases, far fewer than 100 bottles have arrived. Under California Commercial Code  
7 section 2309(1), "the time for shipment or delivery or any other action under a contract if not  
8 provided in this division or agreed upon shall be a reasonable time."

9 10. Hui purchased wine and wine futures from Premier Cru because Premier Cru held  
10 itself out as a reputable dealer of wine and wine futures with secure relationships with chateaus.

11 11. Hui was understandably wary of sending so much money to a company overseas  
12 to secure wine that had not yet been released. On August 18, 2011, before Hui placed his first  
13 order, a Premier Cru employee named James Gillerman sent Hui a reassuring email in which he  
14 stated that "we do deliver the wines we sell." Premier Cru has not delivered the wines Mr. Hui  
15 bought, and this statement is false. This statement induced Hui to make purchases through  
16 Premier Cru.

17 12. In a June 6, 2012 email, after Hui had ordered and paid for over \$500,000 worth  
18 of wine and asked when his wines would be delivered, Gillerman wrote: "I do suspect that a  
19 large amount of your bottles will be here in time for a pickup of shipment in December January  
20 of this year/next year [i.e., December 2012 or January 2013]." This statement was false, yet it  
21 induced Hui to make many additional purchases through Premier Cru.

22 13. After Hui raised concerns about non-delivery of his wine, on September 9, 2014,  
23 Gillerman reiterated to Hui in an email: "We do deliver the wines we sell, and you will get  
24 everything you ordered." Gillerman further stated that "I fully expect that MANY of more of  
25 your wines will be here by the end of 2014.... again I would expect you will see a whole lot  
26 more 2009 and 2010 Bordeaux here by the end of the year.... By the end of the year, or early next  
27 if you prefer, you should see a very large number of your bottles are here." These statements  
28

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were false as well, yet they induced Hui to make further purchases and to forbear from taking action against Premier Cru.

14. Despite Hui's requests, Premier Cru has provided little meaningful information on the status of his 2009 and 2010 futures orders, has not provided any satisfactory answer for where his 2011 and 2012 bottles are or when he can reasonably expect them.

15. Many of the wines Hui ordered from Premier Cru are now widely available from other vendors at prices lower than what Mr. Hui paid Premier Cru up front. For example, in August 2011 Hui pre-ordered 18 bottles of 2009 Cheval Blanc for \$995 per bottle. This wine is immediately available for purchase online for less than what Hui paid. As another example, in March 2012 Hui ordered 24 bottles of 2009 Mouton Rothschild for \$799 per bottle. This wine is available online for far less than Hui's price from Premier Cru. None of these wines has been delivered to Hui nor has he been advised by Premier Cru that they are otherwise available.

16. Hui has requested rescission of his purchase contracts with Premier Cru and an unconditional return of his money. Premier Cru has ignored his requests.

17. Hui's experience is not unique. A Google search yields multiple complaints by other purchasers of Premier Cru's futures who have not received the goods they bargained for.

18. Several of those complaints are summarized in the New York Times article entitled "No Wine (Really, Not One Bottle) Before Its Time," dated June 6, 2015, available at <<http://www.nytimes.com/2015/06/07/your-money/no-wine-really-not-one-bottle-before-its-time.html>>. In that article, John Fox, a principal of Premier Cru, is quoted as follows: "We've been working on getting our staff to give people correct information about when their wine is going to show up.... *Not false estimates because they want to get off the phone. It's been a transition.*" (emphasis added). Fox's statement suggests that Premier Cru's staff is "transitioning" from giving "false estimates"—such as the false estimates given to Hui.

### **FIRST CLAIM FOR RELIEF**

#### **(Fraud—Promise Made Without Intention to Perform [Cal. Civ. Code § 1710.4])**

19. Paragraphs 1-18 are incorporated herein by reference.

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20. Each time Hui purchased wine or wine futures from Premier Cru (i.e. with each order attached hereto as Exhibit B), Premier Cru made a promise that it would timely deliver Hui's wine to him.

21. On information and belief, at the time Premier Cru made each promise, it had no intention of performing it, and it knew that it could not or would not timely deliver Hui's wine to him.

22. The promises were made by Premier Cru with the intent to induce Hui to send Premier Cru money.

23. Hui, at the time the promises were made and at the time he sent money to Premier Cru, was ignorant of the defendant's secret intention not to perform and could not, in exercising reasonable diligence, determine that Premier Cru had no intention to perform. Hui lives overseas and communicated with Premier Cru by email. By email, Premier Cru assured Hui that he would get his wine. If Hui had known Premier Cru's actual intentions, he would never have sent Premier Cru money.

24. Premier Cru failed to abide by its promise to deliver Hui's wine.

25. As a direct and proximate result of these false promises, Hui has been damaged in an amount no less than \$981,642.

26. Premier Cru's promises with no intention to perform were intentional misrepresentations and deceptions, with the intention of depriving Hui of property or legal rights or otherwise causing injury, and were despicable conduct that subjected the Hui to a cruel and unjust hardship in conscious disregard of his rights, so as to justify an award of exemplary and punitive damages.

## **SECOND CLAIM FOR RELIEF**

### **(Fraud — False Representation of Fact)**

27. Paragraphs 1-26 are incorporated herein by reference.

28. On August 18, 2011, a Premier Cru employee named James Gillerman sent Hui a reassuring email in which he stated that "we do deliver the wines we sell." Premier has not

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1 delivered the wines Mr. Hui bought, and this statement was false. This statement induced Hui to  
2 make purchases through Premier Cru.

3 29. In June 6, 2012 email, after Hui asked when his wines would be delivered,  
4 Gillerman wrote: "I do suspect that a large amount of your bottles will be here in time for a  
5 pickup of shipment in December January of this year/next year [i.e., December 2012 or January  
6 2013]." This statement was false, yet it induced Hui to make many additional purchases through  
7 Premier Cru.

8 30. After Hui raised concerns about non-delivery of his wine, on September 9, 2014,  
9 Gillerman reiterated to Hui in an email: "We do deliver the wines we sell, and you will get  
10 everything you ordered." Gillerman further stated that "I fully expect that MANY of more of  
11 your wines will be here by the end of 2014.... again I would expect you will see a whole lot  
12 more 2009 and 2010 Bordeaux here by the end of the year.... By the end of the year, or early next  
13 if you prefer, you should see a very large number of your bottles are here." These statements are  
14 false, yet they induced Hui to make further purchases and to forbear from taking action against  
15 Premier Cru.

16 31. On information and belief, the statements set forth above were false when they  
17 were made. John Fox's admission in the New York Times that "[w]e've been working on  
18 getting our staff to give people correct information about when their wine is going to show up....  
19 Not false estimates because they want to get off the phone. It's been a transition...." suggests  
20 that Premier Cru's staff is "transitioning" from giving "false estimates"—such as the false  
21 estimates given to Hui.

22 32. When Premier Cru's employee made these false statements, he knew them to be  
23 false and made these statements with the intent of inducing Hui to order wine through Premier  
24 Cru, to send Premier Cru money, and/or to forbear from taking action against Premier Cru.

25 33. Hui reasonably relied on these false statements. At the time the statements were  
26 made and at the time he sent money to Premier Cru, Hui was ignorant of the falsity of these  
27 representations and could not, in exercising reasonable diligence, determine that these statements  
28 were false. Hui lives overseas and communicated with Premier Cru by email. By email, Premier

1 Cru assured Hui that he would get his wine. If Hui had known that Premier Cru was making false  
 2 representations about when his wine would be available, he would never have sent Premier Cru  
 3 money.

4 34. As a direct and proximate result of these false promises, Hui has been damaged in  
 5 an amount no less than \$981,642.

6 35. Premier Cru's false statements were intentional misrepresentations and deceptions,  
 7 with the intention of depriving Hui of property or legal rights or otherwise causing injury, and  
 8 were despicable conduct that subjected the Hui to a cruel and unjust hardship in conscious  
 9 disregard of his rights, so as to justify an award of exemplary and punitive damages.

### 10 **THIRD CLAIM FOR RELIEF**

#### 11 **(Negligent Misrepresentation)**

12 36. Hui alleges the following in the alternative to the Second Claim for Relief.

13 37. Paragraphs 1-36 are incorporated herein by reference.

14 38. The statements set forth in Paragraphs 11-13 and 28-30 above were not true.

15 39. Although Premier Cru's employee may have honestly believed that the statements  
 16 were true when he made them, he had no reasonable ground for such belief given that Premier  
 17 Cru was having widespread problems delivering wine and wine futures on time—a fact surely  
 18 known to Premier Cru and its employees.

19 40. Premier Cru intended that Hui rely on these statements.

20 41. Hui reasonably relied on these false statements. At the time the statements were  
 21 made and at the time he sent money to Premier Cru, Hui was ignorant of the falsity of these  
 22 representations and could not, in exercising reasonable diligence, determine that these statements  
 23 were false. Hui lives overseas and communicated with Premier Cru by email. By email, Premier  
 24 Cru assured Hui that he would get his wine. If Hui had known that Premier Cru was making false  
 25 representations about when his wine would be available, he would never have sent Premier Cru  
 26 money.

27 42. As a direct and proximate result of these false promises, Hui has been damaged in  
 28 an amount no less than \$981,642.

**FOURTH CLAIM FOR RELIEF****(Breach of Contract)**

43. Paragraphs 1-42 are incorporated herein by reference.

44. Each time Hui purchased wine or wine futures from Premier Cru (i.e. with each order attached hereto as Exhibit B), Premier Cru made a promise that it would timely deliver Hui's wine to him.

45. Hui has performed all conditions, covenants, and promises required on his part to be performed in accordance with the terms and conditions of the contracts or has been excused from such performance.

46. Premier Cru has breached each purchase contract by failing to deliver Hui's wine within a reasonable time.

47. As a direct and proximate result of Premier Cru's breaches, Hui has been damaged in an amount no less than \$981,642.

**FIFTH CLAIM FOR RELIEF****(Rescission Based on Misrepresentation [Cal. Civ. Code § 1689(b)(2)])**

48. Plaintiff alleges the following in the alternative to the Fourth Claim for Relief.

49. Paragraphs 1-47 are incorporated herein by reference.

50. Premier Cru made the misrepresentations to Hui set forth in paragraphs 11-13 and 28-30 above.

51. On information and belief, the statements set forth above were false when they were made. John Fox's admissions in the New York Times that "[w]e've been working on getting our staff to give people correct information about when their wine is going to show up.... Not false estimates because they want to get off the phone. It's been a transition...." suggests that Premier Cru's staff is "transitioning" from giving "false estimates"—such as the false estimates given to Hui.

52. When Premier Cru's employee made these false statements, he knew them to be false and made these statements with the intent of inducing Hui to order wine through Premier Cru, to send Premier Cru money, and/or to forbear from taking action against Premier Cru.

53. Hui reasonably relied on these false statements. At the time the promises were made and at the time he sent money to Premier Cru, Hui was ignorant of the falsity of these representations and could not, in exercising reasonable diligence, determine that these statements were false. Hui lives overseas and communicated with Premier Cru by email. By email, Premier Cru assured Hui that he would get his wine. If Hui had known that Premier Cru was making false representations about when his wine would be available, he would never have sent Premier Cru money.

### **SIXTH CLAIM FOR RELIEF**

#### **(Unfair Business Practices [Cal. Bus. & Prof. Code § 17200 et seq.])**

54. Paragraphs 1-53 are incorporated herein by reference.

55. Section 17200 of the California Business and Professions Code prohibits “fraudulent business act[s] or practice[s],” which are acts or practices likely to deceive members of the public.

56. As set forth above, Premier Cru has and had a business practice of representing that it can and will secure wine for its customers when it lacks the intention and/or the ability to do so. Accordingly, Premier Cru’s representations are false.

57. As set forth above, Hui was induced to order wine from Premier Cru and to refrain from action against it by Premier Cru’s false promises and representations regarding its ability to deliver wine to him. These representations were material to Hui and he would not have given money to Premier Cru without them.

58. These representations caused Hui to suffer harm in that he sent money to Premier Cru to secure wines that Premier Cru had no intention of delivering to him,

### **PRAYER**

WHEREFORE, Hui prays for judgment as follows:

1. For compensatory damages in amount according to proof pursuant to California Commercial Code §§ 2712-2715;

2. For prejudgment interest at the legal rate of 10%;

3. For punitive damages in amount appropriate to punish Premier Cru and deter others from engaging in similar misconduct;
4. For restitution;
5. For preliminary and permanent injunctive relief;
6. For attorney's fees and costs of suit; and
7. For any further relief which the Court deems just and proper.

Dated: August 6, 2015

SHARTSIS FRIESE LLP

By: /s/ Arthur J. Shartsis  
ARTHUR J. SHARTSIS

Attorneys for Plaintiff  
LAWRENCE WAI-MAN HUI

**DEMAND FOR JURY TRIAL**

In accordance with Rule 38(b) of the Federal Rules of Civil Procedure, Hui hereby demands a trial by jury on all issues triable by a jury.

Dated: August 6, 2015

SHARTSIS FRIESE LLP

By: /s/ Arthur J. Shartsis  
ARTHUR J. SHARTSIS

Attorneys for Plaintiff  
LAWRENCE WAI-MAN HUI

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# **Exhibit A**

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# **Exhibit B**

[MY ACCOUNT](#)[EDIT PROFILE](#)[ADDRESS BOOK](#)[BILLING INFORMATION](#)

## ORDER DETAILS

Order No.: SO-0000361750

Order Date.: Aug 25, 2011

Status: Open

### PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 La Mission Haut Brion, 750 ml	18	0	18	0	\$799.99	\$14,399.82
2009 Cheval Blanc, 750 ml	18	0	18	0	\$995.00	\$17,910.00
2009 Haut Brion, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2009 Leoville las Cases, 750 ml	3	0	3	0	\$309.99	\$929.97
2009 Mouton Rothschild, 750 ml	18	0	18	0	\$799.99	\$14,399.82
2010 Margaux, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 Lafite Rothschild, 750 ml	30	0	30	0	\$1,299.00	\$38,970.00
2010 Haut Brion, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 La Mission Haut Brion, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 Mouton Rothschild, 750 ml	18	0	18	0	\$899.99	\$16,199.82
2010 Leoville las Cases, 750 ml	18	0	18	18	\$289.99	\$5,219.82
2010 Latour, 750 ml	18	0	18	0	\$1,199.00	\$21,582.00
2010 Cheval Blanc, 750 ml	18	0	18	0	\$1,250.00	\$22,500.00
2010 Ausone, 750 ml	30	0	30	0	\$1,699.00	\$50,970.00
2010 Petrus, 750 ml	30	0	30	0	\$2,699.00	\$80,970.00
2010 Le Pin, 750 ml	30	0	30	0	\$2,399.00	\$71,970.00

**Subtotal:** \$420,820.53**Tax:** \$0.00**Total:** \$420,820.53

### SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 La Mission Haut Brion, 750 ml	18	0	18
2009 Cheval Blanc, 750 ml	18	0	18
2009 Haut Brion, 750 ml	18	0	18
2009 Leoville las Cases, 750 ml	3	0	3
2009 Mouton Rothschild, 750 ml	18	0	18
2010 Margaux, 750 ml	18	0	18

2010 Lafite Rothschild, 750 ml	30	0	30
2010 Haut Brion, 750 ml	18	0	18
2010 La Mission Haut Brion, 750 ml	18	0	18
2010 Mouton Rothschild, 750 ml	18	0	18
2010 Leoville las Cases, 750 ml	18	0	18
2010 Latour, 750 ml	18	0	18
2010 Cheval Blanc, 750 ml	18	0	18
2010 Ausone, 750 ml	30	0	30
2010 Petrus, 750 ml	30	0	30
2010 Le Pin, 750 ml	30	0	30

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ORDER DETAILS

Order No.:   SO-0000459489  
Order Date.:   Oct 29, 2014  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
1997 Grange Hermitage, Penfolds, 750 ml	5	0	5	5	\$299.99	\$1,499.95
Subtotal:						\$1,499.95
Tax:						\$0.00
Total:						\$1,499.95

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
1997 Grange Hermitage, Penfolds, 750 ml	5	0	5

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ORDER DETAILS

Order No.:   SO-0000454696  
Order Date.:   Sep 8, 2014  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 La Mission Haut Brion, 750 ml	30	0	30	0	\$399.99	\$11,999.70

Subtotal:

\$11,999.70

Tax:

\$0.00

Total:

\$11,999.70

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 La Mission Haut Brion, 750 ml	30	0	30

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ORDER DETAILS

Order No.: SO-0000450407  
Order Date.: Jul 21, 2014  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Le Dome, 750 ml	36	0	36	0	\$195.00	\$7,020.00
2012 Cos d'Estournel, 750 ml	24	0	24	0	\$77.39	\$1,857.36
2012 Haut Brion, 750 ml	12	0	12	0	\$270.00	\$3,240.00
2012 Cheval Blanc, 750 ml	12	0	12	0	\$335.99	\$4,031.88
2012 Pavie, 750 ml	24	0	24	0	\$131.99	\$3,167.76

Subtotal: \$19,317.00  
Tax: \$0.00  
Total: \$19,317.00

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Le Dome, 750 ml	36	0	36
2012 Cos d'Estournel, 750 ml	24	0	24
2012 Haut Brion, 750 ml	12	0	12
2012 Cheval Blanc, 750 ml	12	0	12
2012 Pavie, 750 ml	24	0	24

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ORDER DETAILS

Order No.: SO-0000441602  
Order Date.: Apr 7, 2014  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2011 Palmer, 750 ml	36	0	36	0	\$164.99	\$5,939.64
2011 Clos Vougeot, Faiveley, 750 ml	12	0	12	0	\$108.75	\$1,305.00
2012 Haut Brion, 750 ml	36	0	36	0	\$262.50	\$9,450.00
2012 Clos Vougeot, Faiveley, 750 ml	12	0	12	0	\$127.49	\$1,529.88
2012 Clos de Tart, 750 ml	12	0	12	0	\$292.49	\$3,509.88

**Subtotal:** \$21,734.40  
**Tax:** \$0.00  
**Total:** \$21,734.40

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2011 Palmer, 750 ml	36	0	36
2011 Clos Vougeot, Faiveley, 750 ml	12	0	12
2012 Haut Brion, 750 ml	36	0	36
2012 Clos Vougeot, Faiveley, 750 ml	12	0	12
2012 Clos de Tart, 750 ml	12	0	12

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## ORDER DETAILS

Order No.: SO-0000440167

Order Date.: Mar 24, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
1986 Lafite Rothschild 3 Liter, 3 L	3	0	3	3	\$4,125.00	\$12,375.00
2005 Bonnes Mares Magnum, Vogue, 1.5 L	3	0	3	3	\$899.25	\$2,697.75
2012 Angelus, 750 ml	24	0	24	0	\$187.49	\$4,499.76

**Subtotal:** \$19,572.51**Tax:** \$0.00**Total:** \$19,572.51

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
1986 Lafite Rothschild 3 Liter, 3 L	3	0	3
2005 Bonnes Mares Magnum, Vogue, 1.5 L	3	0	3
2012 Angelus, 750 ml	24	0	24

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## ORDER DETAILS

Order No.: SO-0000439696

Order Date.: Mar 17, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2011 Cheval Blanc, 750 ml	12	0	12	0	\$431.25	\$5,175.00
2011 Latour Magnum, 1.5 L	3	0	3	0	\$862.50	\$2,587.50
2011 Mouton Magnum, 1.5 L	3	0	3	0	\$637.50	\$1,912.50
2012 Troplong Mondot, 750 ml	24	0	24	0	\$59.24	\$1,421.76
2012 Pavie, 750 ml	18	0	18	0	\$134.99	\$2,429.82
2012 Haut Brion Blanc, 750 ml	6	0	6	0	\$656.25	\$3,937.50
2012 La Mission Haut Brion Blanc, 750 ml	18	0	18	0	\$521.25	\$9,382.50
2012 La Mission Haut Brion, 750 ml	18	0	18	0	\$146.25	\$2,632.50

**Subtotal:** \$29,479.08**Tax:** \$0.00**Total:** \$29,479.08

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2011 Cheval Blanc, 750 ml	12	0	12
2011 Latour Magnum, 1.5 L	3	0	3
2011 Mouton Magnum, 1.5 L	3	0	3
2012 Troplong Mondot, 750 ml	24	0	24
2012 Pavie, 750 ml	18	0	18
2012 Haut Brion Blanc, 750 ml	6	0	6
2012 La Mission Haut Brion Blanc, 750 ml	18	0	18
2012 La Mission Haut Brion, 750 ml	18	0	18

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## ORDER DETAILS

Order No.: SO-0000438189

Order Date.: Feb 24, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2007 Latricieres Chambertin, Leroy, 750 ml	6	0	6	0	\$824.25	\$4,945.50
2007 Musigny, Leroy, 750 ml	6	0	6	0	\$2,849.25	\$17,095.50
2009 Le Carre, 750 ml	24	0	24	0	\$86.25	\$2,070.00
2010 Clos Vougeot, Leroy, 750 ml	7	0	7	7	\$1,199.25	\$8,394.75
2012 Troplong Mondot, 750 ml	10	0	10	0	\$59.24	\$592.40
2012 Montrachet, Jadot, 750 ml	8	0	8	0	\$359.99	\$2,879.92
2012 Cheval Blanc, 750 ml	24	0	24	0	\$359.99	\$8,639.76
2012 Chablis Vaudesir, Fevre, 750 ml	12	0	12	0	\$59.99	\$719.88
2012 Clos Vougeot, Chateau de La Tour, 750 ml	12	0	12	0	\$97.49	\$1,169.88

**Subtotal:** \$46,507.59**Tax:** \$0.00**Total:** \$46,507.59

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2007 Latricieres Chambertin, Leroy, 750 ml	6	0	6
2007 Musigny, Leroy, 750 ml	6	0	6
2009 Le Carre, 750 ml	24	0	24
2010 Clos Vougeot, Leroy, 750 ml	7	0	7
2012 Troplong Mondot, 750 ml	10	0	10
2012 Montrachet, Jadot, 750 ml	8	0	8
2012 Cheval Blanc, 750 ml	24	0	24
2012 Chablis Vaudesir, Fevre, 750 ml	12	0	12
2012 Clos Vougeot, Chateau de La Tour, 750 ml	12	0	12

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ORDER DETAILS

Order No.:   SO-0000437947  
Order Date.: Feb 22, 2014  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Palmer, 750 ml	5	0	5	0	\$289.99	\$1,449.95
Subtotal:						\$1,449.95
Tax:						\$0.00
Total:						\$1,449.95

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Palmer, 750 ml	5	0	5

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## ORDER DETAILS

Order No.: SO-0000437079

Order Date.: Feb 11, 2014

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 Lafite Rothschild, 750 ml	36	0	36	0	\$489.99	\$17,639.64
2012 Ausone, 750 ml	26	0	26	0	\$350.00	\$9,100.00
2010 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24	0	\$449.99	\$10,799.76
2010 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24	0	\$449.99	\$10,799.76
2010 Cote Rotie La Turque, Guigal, 750 ml	24	0	24	0	\$449.99	\$10,799.76
2004 Unico, Vega Sicilia, 750 ml	48	0	48	0	\$269.99	\$12,959.52

**Subtotal:** \$72,098.44**Tax:** \$0.00**Total:** \$72,098.44

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 Lafite Rothschild, 750 ml	36	0	36
2012 Ausone, 750 ml	26	0	26
2010 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24
2010 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24
2010 Cote Rotie La Turque, Guigal, 750 ml	24	0	24
2004 Unico, Vega Sicilia, 750 ml	48	0	48

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## ORDER DETAILS

Order No.: SO-0000414484

Order Date.: Jun 1, 2013

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 l'Eglise Clinet, 750 ml	36	0	36	0	\$187.99	\$6,767.64

**Subtotal:** \$6,767.64**Tax:** \$0.00**Total:** \$6,767.64

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 l'Eglise Clinet, 750 ml	36	0	36

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ORDER DETAILS

Order No.: SO-0000410889  
Order Date.: Apr 25, 2013  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 Lafite Rothschild, 750 ml	48	0	48	0	\$489.99	\$23,519.52
2012 Mouton Rothschild, 750 ml	48	0	48	0	\$339.99	\$16,319.52

**Subtotal:** \$39,839.04  
**Tax:** \$0.00  
**Total:** \$39,839.04

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 Lafite Rothschild, 750 ml	48	0	48
2012 Mouton Rothschild, 750 ml	48	0	48

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## ORDER DETAILS

Order No.: SO-0000405582

Order Date.: Feb 20, 2013

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Chateaufeuf Cuvee da Capo Magnum, Pegau, 1.5 L	4	0	4	0	\$750.00	\$3,000.00
2010 Chateaufeuf Cuvee da Capo 3 Liter, Pegau, 3 L	2	0	2	0	\$1,799.00	\$3,598.00
2010 Chateaufeuf Cuvee da Capo 6 Liter, Pegau, 6 L	2	0	2	0	\$4,250.00	\$8,500.00
2010 Chateaufeuf Cuvee da Capo 9 Liter, Pegau, 9 L	2	0	2	0	\$6,299.00	\$12,598.00
2010 Chateaufeuf Cuvee da Capo 15 Liter, Pegau, 15 L	1	0	1	0	\$8,999.00	\$8,999.00

**Subtotal:** \$36,695.00**Tax:** \$0.00**Total:** \$36,695.00

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Chateaufeuf Cuvee da Capo Magnum, Pegau, 1.5 L	4	0	4
2010 Chateaufeuf Cuvee da Capo 3 Liter, Pegau, 3 L	2	0	2
2010 Chateaufeuf Cuvee da Capo 6 Liter, Pegau, 6 L	2	0	2
2010 Chateaufeuf Cuvee da Capo 9 Liter, Pegau, 9 L	2	0	2
2010 Chateaufeuf Cuvee da Capo 15 Liter, Pegau, 15 L	1	0	1

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ORDER DETAILS

Order No.: SO-0000405552  
Order Date.: Feb 19, 2013  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Margaux, 750 ml	24	0	24	0	\$799.99	\$19,199.76
2010 Haut Brion, 750 ml	24	0	24	0	\$799.99	\$19,199.76
2010 Mouton Rothschild, 750 ml	24	0	24	0	\$699.99	\$16,799.76
2010 Latour, 750 ml	24	0	24	0	\$1,199.00	\$28,776.00
2010 Cheval Blanc, 750 ml	24	0	24	0	\$899.99	\$21,599.76

Subtotal: \$105,575.04  
Tax: \$0.00  
Total: \$105,575.04

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Margaux, 750 ml	24	0	24
2010 Haut Brion, 750 ml	24	0	24
2010 Mouton Rothschild, 750 ml	24	0	24
2010 Latour, 750 ml	24	0	24
2010 Cheval Blanc, 750 ml	24	0	24

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ORDER DETAILS

Order No.: SO-0000404301  
Order Date.: Feb 4, 2013  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24	0	\$369.99	\$8,879.76
2009 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24	0	\$369.99	\$8,879.76
2009 Cote Rotie La Turque, Guigal, 750 ml	24	0	24	0	\$369.99	\$8,879.76

Subtotal: \$26,639.28  
Tax: \$0.00  
Total: \$26,639.28

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Cote Rotie La Landonne, Guigal, 750 ml	24	0	24
2009 Cote Rotie La Mouline, Guigal, 750 ml	24	0	24
2009 Cote Rotie La Turque, Guigal, 750 ml	24	0	24



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ORDER DETAILS

Order No.:   SO-0000383523  
Order Date.:   Jun 12, 2012  
Status:   Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price /Bottle	Total Price
1986 d'Yquem, 750 ml	4	0	4	4	\$389.99	\$1,559.96
Subtotal:						\$1,559.96
Tax:						\$0.00
Total:						\$1,559.96

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
1986 d'Yquem, 750 ml	4	0	4

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## ORDER DETAILS

Order No.: SO-0000376227

Order Date.: Mar 6, 2012

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Montrose, 750 ml	24	0	24	0	\$375.00	\$9,000.00
2009 Ducru Beaucaillou, 750 ml	24	0	24	0	\$285.00	\$6,840.00
2009 Vieux Chateau Certan, 750 ml	24	0	24	0	\$259.99	\$6,239.76
2009 Mouton Rothschild, 750 ml	24	0	24	0	\$799.99	\$19,199.76
2010 Montrose, 750 ml	24	0	24	24	\$205.00	\$4,920.00

**Subtotal:** \$46,199.52**Tax:** \$0.00**Total:** \$46,199.52

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Montrose, 750 ml	24	0	24
2009 Ducru Beaucaillou, 750 ml	24	0	24
2009 Vieux Chateau Certan, 750 ml	24	0	24
2009 Mouton Rothschild, 750 ml	24	0	24
2010 Montrose, 750 ml	24	0	24

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ORDER DETAILS

Order No.: SO-0000365783  
Order Date.: Nov 3, 2011  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2000 Lafite Rothschild Magnum, 1.5 L	1	1	0	0	\$4,699.00	\$4,699.00
2010 Vieux Ch Certan, 750 ml	36	0	36	0	\$279.99	\$10,079.64

**Subtotal:** \$14,778.64  
**Tax:** \$0.00  
**Total:** \$14,778.64

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2000 Lafite Rothschild Magnum, 1.5 L	1	1	0
2010 Vieux Ch Certan, 750 ml	36	0	36

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## ORDER DETAILS

Order No.: SO-0000365270

Order Date.: Oct 26, 2011

Status: Open

## PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Petrus, 750 ml	13	0	13	0	\$2,699.00	\$35,087.00
2010 Petrus Magnum, 1.5 L	3	0	3	0	\$5,575.00	\$16,725.00

**Subtotal:** \$51,812.00**Tax:** \$0.00**Total:** \$51,812.00

## SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Petrus, 750 ml	13	0	13
2010 Petrus Magnum, 1.5 L	3	0	3

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## About Us

We source the world's finest wines at extremely competitive prices to provide exceptional experiences for collectors, connoisseurs, and everyday wine lovers.

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## Premier Cru

1011 University Ave

Berkeley, CA 94710

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## Store Hours

Monday-Friday: 10am-6pm (PST)

Saturday: 10am-5pm (PST)

Sunday: Closed

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ORDER DETAILS

Order No.: SO-0000363074  
Order Date.: Sep 21, 2011  
Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Pontet Canet, 750 ml	40	0	40	0	\$139.95	\$5,598.00
2010 Pontet Canet, 750 ml	40	0	40	0	\$159.95	\$6,398.00

**Subtotal:** \$11,996.00  
**Tax:** \$0.00  
**Total:** \$11,996.00

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Pontet Canet, 750 ml	40	0	40
2010 Pontet Canet, 750 ml	40	0	40

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