

Fill in this information to identify the case:

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

10.30am
FILED *MB*

MAY 13 2016

BANKRUPTCY COURT
 OAKLAND, CALIFORNIA

Official Form 410

Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Steven Hochberg</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Steve Hochberg</u> Name <u>428 Columbus Ave., #4F</u> Number Street <u>NY NY 10024</u> City State ZIP Code Contact phone <u>917-544-7461</u> Contact email <u>shochberg@abvip.com</u>	Where should payments to the creditor be sent? (if different) <u>SAME</u> Name Number Street City State ZIP Code Contact phone _____ Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____	
		Filed on _____ MM / DD / YYYY
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 11,089.05/100 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.

Wine In Inventory and Wine Prepayment.

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☒ Other. Describe:

Wine + Prepayment for Wine

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: \$ 11,089.05/100

Amount of the claim that is secured: \$ —

Amount of the claim that is unsecured: \$ 11,089.05/100 (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: \$ 11,089.05/100

Annual Interest Rate (when case was filed) 0 %

☐ Fixed

☐ Variable

10. Is this claim based on a lease? ☒ No

☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No

☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

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

- ☐ No
☐ Yes. Check one:

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
☒ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).
☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).
☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ 2,775.00

\$ _____

\$ _____

\$ _____

\$ _____

* 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 03/26/2016
MM / DD / YYYY

Signature

Steven Hochberg

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

Name

First name

Middle name

Last name

Title

Company

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

Address

Number

Street

City

State

ZIP Code

Contact phone

Email

From: james@premiercru.net [mailto:james@premiercru.net]
Sent: Saturday, January 24, 2015 7:58 PM
To: shochberg@abvlp.com
Subject: Premier Cru Backorder and Credits

Hello Steve,

As we discussed, you have a lot of wine sitting here from some very old orders, and some that is not here. I have prepared a spreadsheet attached below:

<u>Red Bordeaux</u>						Value of all wines	Value of in stock wines
0000230111	34652	05 Beychevelle 1/2	48	-20		\$1,103.52	\$643.72
0000231240	34860	05 Leoville Barton	11	XX		\$1,099.45	\$1,099.45
0000230111	34814	05 Lynch Bages	24	XX		\$2,039.76	\$2,039.76
0000231242	34870	05 Pichon Baron	12	XX		\$1,319.40	\$1,319.40
0000231242	34875	05 Pichon Lalande	12	XX		\$1,439.40	\$1,439.40
0000230111	34574	05 Trotanoy 1/2	48			\$3,167.52	
<u>Sauternes</u>							
0000219916	30165	03 d'Yquem 3 Liter	1			\$920.00	
						\$11,089.05	\$6,541.73

You have 87 bottles here in stock, including 28 bottles of the Beychevelle. The ones followed by an X are here for you. The rest are not here (again see the note about the Beychevelle). We can easily ship out the bottles that ARE here for you, whenever you wish. Most have been sitting here for a very long time.

If you want to get a store Credit for any of these wines, whether here in stock or not, we can do that. The total amount of all the undelivered wines is, as shown in the chart above, \$11,089.05. If you want to ship the in stock bottles, valued at \$6,541.73, we could issue you a Credit for the difference, which amounts to \$4,637.32. Either way will be fine for us. I have attached a spreadsheet version of the chart above.

Store Credit never expires, and can be used to purchase anything else in our inventory. If you tastes have migrated away from Bordeaux, or if you feel you already have enough or too much, we can again Credit you some or all of these wines. Once the Credit is issued to your account here, it

will be used AUTOMATICALLY against your future orders. It does take some time to get the Credit issued officially through accounting here. If you see something you want before a Credit is officially in place on your account, we can hold it for you pending official issuance of the Credit. Let us know if you want to do that.

And let us know if or when you want to arrange shipment of the 87 bottles that ARE here for you, or any subset of those. We can arrange that whenever you wish.

Our apologies about any delayed response to you. It is good to update your information on file, and we do of course have a ton of great Burgundy in which you may be interested. Let us know how to proceed from here. Thanks very much for your business.

Regards,

James Gillerman

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James Gillerman

PREMIER CRU

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