

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
5/24/2016
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

1. Who is the current creditor?	<u>John Mao</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>John Mao</u> Name <u>255 Sea Cliff Ave</u> <u>San Francisco, CA 94121</u> Contact phone <u>650-565-3913</u> Contact email <u>jmao@wsgr.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) _____ Name _____ Contact phone _____ Contact email _____
	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?	<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: _____
7. How much is the claim?	<div style="display: flex; justify-content: space-between;"><div>\$ <u>6487.42</u></div><div>Does this amount include interest or other charges? <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>
8. What is the basis of the claim?	<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><u>Goods sold – wine pre-ordered from Debtor but never delivered</u></p>
9. Is all or part of the claim secured?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.</div> <div>Nature of property: <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> <div>Basis for perfection: _____</div> <div>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.)</div> <div><div>Value of property:</div><div>\$ _____</div><div>Amount of the claim that is secured:</div><div>\$ _____</div><div>Amount of the claim that is unsecured:</div><div>\$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div> <div><div>Amount necessary to cure any default as of the date of the petition:</div><div>\$ _____</div><div>Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div></div>
10. Is this claim based on a lease?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>
11. Is this claim subject to a right of setoff?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply.</i>	Amount entitled to priority
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<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 \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
	<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	\$ _____
* 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.		

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 5/24/2016
MM / DD / YYYY

/s/ John Mao

Signature

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

Name John Mao

First name Middle name Last name

Title _____

Company _____

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

Address 255 Sea Cliff Ave

Number Street

San Francisco, CA 94121

City State ZIP Code

Contact phone 650-565-3913 Email jmao@wsgr.com

Creditor: John Mao

Premier Cru Wine Orders*

Order Number:	Item	Quantity	Unit Price	Subtotal	Total w/Tax
0000315993	39892 (Brunello)	2	\$189.99	\$379.88	\$417.03
0000264106	34519 (05 Les Carmes Haut Brion)	12	\$55	\$660	\$717.75
0000264106	34883 (05 Calon Segur 3 Liter)	2	\$339.50	\$679	\$738.41
0000264106	34880 (05 Calon Segur)	12	\$79.95	\$959.40	\$1,043.34
0000264106	34823 (05 Grand Puy Lacoste 6 Liter)	1	\$675	\$675	\$734.06
0000318996	39928 (08 Pichon Lalande)	12	\$79.99	\$959.88	\$1,043.86
0000318996	40111 (08 Pichon Lalande Magnum)	2	\$159.99	\$319.98	\$347.97
0000486881	52359 (08 Barolo Rocche del Falletto Riserva, Giacosa)	12	\$219.99	\$2639.88	\$2890.67
				SUBTOTAL:	\$7,933.09
0000486881	486881 Credit Exchange (Per email from Whitney Jacobson 8/10/15)				(\$1,445.67)
				TOTAL:	\$6,487.42

* See attached emails and Sales Order Invoices.

Mao, John

From: Whitney Jacobson <whitney@premiercru.net>
Sent: Monday, August 10, 2015 3:10 PM
To: Mao, John
Subject: RE: account overview

John,

Thanks for getting back to me, here is what I've worked out with my sales manager:

I've reserved a case of the 08 Giacosa Barolo you indicated in the amount of \$2890.67, including sales tax. I will create a service task to have the Brunello's, Calon 3L, and Pichon Mags converted to store credit for the amount of \$1445.67 to cover 6 bottles of the 08 Barolo's. Once the store credit has been processed and credited, I can charge a credit card for the remaining \$1445. Please confirm if this works for you, and if so, you can call me or email me a current credit card to use.

Whitney Jacobson
Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710
phone (510) 644-9463 ext. 17
whitney@premiercru.net

From: Mao, John [<mailto:JMao@wsgr.com>]
Sent: Friday, August 07, 2015 2:01 PM
To: Whitney Jacobson
Subject: RE: account overview

Whitney:

Thank you for following up below.

On the Fuligni and La Vigna, a store credit of \$200 is fine.

With respect to the '05 Calon Segur 3L and '08 Pichon Lalande 1.5L, would it be possible to swap 6 bottles of the '08 Barolo Rocche Del Falletto Riserva Giacosa (looks like you have this on your site for pre-arrival at \$219.99 a bottle)? The '05s and '08s have particular interest to me b/c these are the birth years of my two boys, so it would be nice to swap out for '08s. If we can do that, I would also like to buy an additional 6 bottles of the '08 Barolo Rocche Del Falletto Riserva Giacosa – so that I have a full case of that wine.

If this works, I can follow up with you and get you my credit card number.

Thanks for your help.

Best,

John

From: Whitney Jacobson [mailto:whitney@premiercru.net]
Sent: Thursday, August 06, 2015 12:37 PM
To: Mao, John
Subject: account overview

Hello John,

I'm sorry for the delay, but I had to have our account manager break apart your Brunello set in our system so I could see each item. Now that that task has been done, I can go ahead with your overview.

04/13/2009	0000315993 39423	04 Brunello di Montalcino, de Neri	\$29.99	2	XX
04/13/2009	0000315993 45797	04 Brunello (Special Set), Collemattoni	\$40.00	2	XX
04/13/2009	0000315993 39840	04 Brunello di Montalcino, Fanti	\$40.00	2	XX
04/13/2009	0000315993 39717	04 Brunello di Montalcino, Fuligni	\$40.00	2	
04/13/2009	0000315993 39849	04 Brunello di Montalcino, La Vigna	\$40.00	2	
05/03/2007	0000264106 34880	05 Calon Segur	\$79.95	12	
05/03/2007	0000264106 34883	05 Calon Segur 3 Liter	\$339.50	2	
05/03/2007	0000264106 34823	05 Grand Puy Lacoste 6 Liter	\$675.00	1	XX
05/03/2007	0000264106 34519	05 Les Carmes Haut Brion	\$55.00	12	XX
06/10/2009	0000318996 39928	08 Pichon Lalande	\$79.99	12	
06/10/2009	0000318996 40111	08 Pichon Lalande Magnum	\$159.99	2	

The items marked with a "XX" are in stock and available to ship any time.

As you can see the Fuligni and La Vigna Brunello's are not in, and I don't think we will be able to get those in, so I would like to offer a refund/store credit at \$50/btl for those items. So \$200 total to take care of those items.

For the others, I would like to see if you would be open to a swap out of the 05 Calon Segur 3L and 08 Pichon Lalande Mags. We could convert those items to store credit that you could use on something we have on hand. For example, we have a 1979 Margaux 3L that I think we could work out a swap for. I have pics if you would like as well.

For the full cases of 750's, I think we are going to have to source them from our secondary suppliers. I have already contacted our sales manager and buyer to get the ball rolling on those wines. I will be in touch when I have more information on when to expect those.

Please let me know how all this sounds, and if you have any questions.

Thanks,

Whitney Jacobson
Premier Cru - the world's finest wines
1011 University Avenue
Berkeley, CA 94710
phone (510) 644-9463 ext. 17
whitney@premiercru.net

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PREMIER CRU

5890 CHRISTIE AVENUE
EMERYVILLE, CA 94608
(510)655-6691 FAX(510)547-5405

Sales Order

Page: 1

Order Number: 0000315993
Order Date: 4/13/2009
Change Order: 0
Confirm No:
Salesperson: MC
Customer: jmao
Customer PO: 56038

Sold To	Ship To
John Mao 2427 Divisadero St. San Francisco, CA 94115 USA	John Mao 2427 Divisadero St. San Francisco, CA 94115 USA

Contact: john mao
Phone: (650) 565-3913

Item	Ordered	Quantity Shipped	Unit Price	Amount
39892 2004 Brunello di Montalcino Special Set	2.00	0.00	189.99	379.98

Payments: 417.03

4/13/2009	VPCE3CF4FC9D	*****1012	417.03
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Net Order: 379.98
Discount: 0.00
Freight: 0.00
Sales Tax: 37.05

USD 417.03

PREMIER CRU

5890 CHRISTIE AVENUE
EMERYVILLE, CA 94608
(510)655-6691 FAX(510)547-5405

Sales Order

Page: 1

Order Number: 0000264106
Order Date: 5/3/2007
Change Order: 0
Confirm No:
Salesperson: LJ
Customer: jmao
Customer PO: 27979

Sold To	Ship To
John mao 2427 divisidero st. San Francisco, CA 94115 USA	John mao 2427 divisidero st. San Francisco, CA 94115 USA

Contact: john mao
Phone: (650) 565-3913

Item	Ordered	Quantity Shipped	Unit Price	Amount
34519 05 Les Carmes Haut Brion	12.00	0.00	55.00	660.00
34883 05 Calon Segur 3 Liter	2.00	0.00	339.50	679.00
34880 05 Calon Segur	12.00	0.00	79.95	959.40
34823 05 Grand Puy Lacoste 6 Liter	1.00	0.00	675.00	675.00

Payments: 3,233.57

Net Order: 2,973.40
Discount: 0.00
Freight: 0.00
Sales Tax: 260.17

5/3/2007	VREE0FF5C60A	*****1012	3,233.57
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USD 3,233.57

PREMIER CF

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000486881

Order Date: 8/13/2015

Salesperson: WJ

Customer: jmiao

Customer PO:

Sold To	Ship To
John Mao 2427 Divisadero St. San Francisco, CA 94115 USA	John Mao 2427 Divisadero St. San Francisco, CA 94115 USA

Contact: john mao
Phone: (650) 565-3913

Store credit applied!

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

Item	Ordered	Quantity Shipped	Unit Price	Amount
52359 08 Barolo Rocche del Falletto Riserva, Giacosa	12.00	0.00	219.99	2,639.88

Payments: 2,890.67

Net Order: 2,639.88

Freight: 0.00

Sales Tax: 250.79

8/13/2015	486881		1,445.67
8/13/2015	AL3AC79C7255	*****2010	1,445.00

USD 2,890.67