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

Debtor 1: FOX ORTEGA ENTERPRISES, INC., dba PREMIER CRU

Debtor 2 (Spouse, if filing): _____

United States Bankruptcy Court for the: Northern District of California

Case number: 16-40050

# 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?**

   Michael D. Thomson
   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?**

   ☑ No
   ☐ 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?**

   see attached addendum
   Name

   _____
   Number Street

   _____
   City State ZIP Code

   Contact phone _____

   Contact email _____

   **Where should payments to the creditor be sent?** (if different)

   Michael D. Thomson
   Name

   3111 Welborn St. #1604
   Number Street

   Dallas TX 75219
   City State ZIP Code

   Contact phone _____

   Contact email mthomson@hudson-advisors.com

   Uniform claim identifier for electronic payments in chapter 13 (if you use one):

   _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

4. **Does this claim amend one already filed?**

   ☑ No
   ☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

   ☑ No
   ☐ Yes. Who made the earlier filing? _____



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## 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?** $ 810,694.00 . **Does this amount include interest or other charges?**
   - ☑ No
   - ☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**
   Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
   Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
   Limit disclosing information that is entitled to privacy, such as health care information.
   Goods (wine) purchased and paid for by Claimant but not delivered

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

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

   **Basis for perfection:** _____
   Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

   **Value of property**: $_____
   **Amount of the claim that is secured:** $_____
   **Amount of the claim that is unsecured:** $_____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

   **Amount necessary to cure any default as of the date of the petition:** $_____

   **Annual Interest Rate** (when case was filed)_____%
   - ☐ Fixed
   - ☐ Variable

10. **Is this claim based on a lease?**
    - ☑ No
    - ☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**
    - ☑ No
    - ☐ Yes. Identify the property: _____


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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:*

| | Amount entitled to priority |
|---|---|
| ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). | $ |
| ☑ Up to $2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). | $ 2,850.00 |
| ☐ 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). | $ |
| ☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). | $ |
| ☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). | $ |
| ☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies. | $ |

* Amounts are subject to adjustment on 4/01/19 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.

See attached Addendum.

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 05/24/2016
MM / DD / YYYY

Michael D. Thomson
Signature

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

Name: Michael D. Thomson
First name | Middle name | Last name

Title:

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

Address: 3111 Welborn St. #1604
Number Street

Dallas | TX | 75219
City | State | ZIP Code

Contact phone: | Email: mthomson@hudson-advisors.com



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IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
DALLAS DIVISION

| | |
|---|---|
| In re<br><br>FOX ORTEGA ENTERPRISES, INC., dba PREMIER CRU,<br><br>Debtor | Case No. 16-40050<br><br>Chapter 7 |

ADDENDUM TO PROOF OF CLAIM

1. Claimant. MICHAEL D. THOMSON

2. **Claim Documents; Basis of Claim.** The Claimant's claim is evidenced by certain documents, including, without limitation statements issued by the Claimant's credit card company, American Express, which was the means by which he made payments to the Debtor for the wine he purchased but that the Debtor never shipped (the Claimant is not attaching such credit card statements at this time because they contain account numbers and personal identification information). In addition, the Debtor scheduled the claim of the Claimant at page page 1516 of 2295 of Schedule E (ECF Doc # 16-1 Filed: 01/21/16 at ECF Page 367 of 1144) in the amount herein stated and designated as noncontingent, liquidated, and undisputed. The claim is for the amount of purchase price actually paid to the Debtor for wine that the Claimant did not receive from the Debtor.

3. **Other Rights.** The Claimant reserves the right in the future to assert any and all other claims that the Claimant might have or discover against the Debtor, including, but not limited to, imposition of constructive trust, equitable lien, security interest, subrogation, marshaling, or other legal or equitable remedies to which the Claimant may be entitled. The filing of this Proof of Claim is not to be construed as an election of remedies.

4. Notices. All notices to the Claimant are to be sent to:

Michael D. Thomson
3111 Welborn St.
Dallas, TX 75219
Email: mthomson@hudson-advisors.com

with copies to: Josiah M. Daniel, III
VINSON & ELKINS LLP
2001 Ross Avenue, Suite 3700
Dallas, Texas 75201-2975
Tel: 214-220-7718 Fax: 214-220-7718
jdaniel@velaw.com

and Michael L. Charlson (Bar No. 122125)
VINSON & ELKINS LLP
555 Mission Street, Suite 2000
San Francisco, CA 94105
Tel: 415.979.6900 Fax: 415.651.8786
E-mail: mcharlson@velaw.com

COUNSEL FOR MICHAEL D. THOMSON

5. **Payments.** All payments and distributions to the Claimant with respect to this Proof of Claim are to be made as follows:

Michael D. Thomson
1434 Kirby Road
McLean, VA 22101

6. **Amendments, etc.** The Claimant reserves the right to amend and supplement this Proof of Claim and to, *inter alia,* specify and quantify costs, expenses, and other charges, amounts, or claims incurred or owed by the Debtor to the Claimant.