

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

FILED ^{Tw}
SEP 13 2016 10:17 AM
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?

Steven Gargenti
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?

Steven Gargenti
Name
300 East 55th Street, Apt 14c
Number Street
Albany NY 10022
City State ZIP Code
Contact phone 516-868-3911
Contact email Sgargenti@msn.com

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

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?

☒ No
☐ Yes. Claim number on court claims registry (if known) _____

Filed on _____
MM / DD / YYYY

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

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

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

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

7. How much is the claim? \$ 1199.88 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.

I purchased wine that was never delivered
(see attached)

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

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

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

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____

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

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

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

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

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 all that apply:

☐ 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

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* 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.

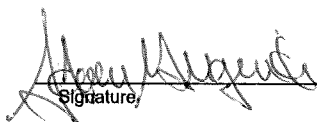
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

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 11 16
MM / DD / YYYY


Signature

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

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000452713

Order Date: 8/16/2014

Web Order No: 156196

Salesperson: JG

Customer: 45048

Customer PO:

Sold To	Ship To
Steven Girgenti 3312 Judith Drive Bellmore, NY 11710 USA	Steven Girgenti 300 East 55th Street Apt 14C New York, NY 10022 USA

Contact: Steven Girgenti
Phone: (516) 808-3911

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

Item	Ordered	Quantity Shipped	Unit Price	Amount
48366 2010 Solaia, Antinori	12.00	0.00	149.99	1,799.88

Payments: 1,799.88	Net Order: 1,799.88
8/16/2014 VLCAB2CE37EE *****7000 1,799.88	Freight: 0.00
	Sales Tax: 0.00
	USD 1,799.88

Steven Girgenti

From: "Steven Girgenti" <sgirgenti@msn.com>
To: "Tony Gray" <tony@premiercru.net>
Sent: Wednesday, November 25, 2015 12:18 PM
Subject: Re: Sales Order From Premier Cru at Premier Cru

Tony, as you can guess I'm getting highly skeptical about ever receiving my wine from you. This is the third or fourth delay and I must say I am doubtful of your ability to perform as promised. I would like a firm date as to when I can expect to receive my wine. If this is not possible I will have to consider my other alternatives which include taking out an ad in certain major publications and using social media explaining your firm's unreliability. Steve Girgenti

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

From: [Tony Gray](#)
To: [Steven Girgenti](#)
Sent: Wednesday, November 25, 2015 11:34 AM
Subject: RE: Sales Order From Premier Cru at Premier Cru

Hello Steven,

We have not recieved our allocation of '10 Solaia yet, but expecting them now to arrive in the first quarter of next year. Sorry for the delays

Best,

Tony Gray
[Premier Cru](#) - the world's finest wines
 1011 University Avenue
 Berkeley, CA 94710 ([directions](#))
 phone (510) 644-9463
 fax (510) 647-3833
Tony@premiercru.net

From: Steven Girgenti [<mailto:sgirgenti@msn.com>]
Sent: Tuesday, November 24, 2015 11:15 AM
To: Tony Gray
Subject: Re: Sales Order From Premier Cru at Premier Cru

Tony, can you please let me know the status of my order. It was placed on August 16, 2014, that's over 15 months ago and I see it's being sold in many different locations throughout the country. Thanks so much. Steve

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

From: [Tony Gray](#)
To: [Steven Girgenti](#)
Sent: Monday, September 14, 2015 6:45 PM
Subject: RE: Sales Order From Premier Cru at Premier Cru

Hello Steven,

Unfortunately, the '10 Solaia has not arrived yet. We are still expecting them this Fall, but it appears it will be on the later side of Fall.

Regards,

Tony Gray
Premier Cru - the world's finest wines
 1011 University Avenue
 Berkeley, CA 94710 ([directions](#))
 phone (510) 644-9463
 fax (510) 647-3833
 Tony@premiercru.net

From: Steven Girgenti [mailto:sgirgenti@msn.com]
Sent: Monday, September 14, 2015 4:31 PM
To: Tony Gray
Subject: Re: Sales Order From Premier Cru at Premier Cru

anytime soon??

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

From: Tony Gray
To: Steven Girgenti
Sent: Tuesday, June 16, 2015 7:54 PM
Subject: RE: Sales Order From Premier Cru at Premier Cru

Hello Steven,

We are expecting your '10 Solaia to be arriving by the end of the Summer/Early Fall. Please feel free to contact me at any time for updates.

Cheers,

Tony Gray
Premier Cru - the world's finest wines
 1011 University Avenue
 Berkeley, CA 94710 ([directions](#))
 phone (510) 644-9463
 fax (510) 647-3833
 Tony@premiercru.net

From: Steven Girgenti [mailto:sgirgenti@msn.com]
Sent: Tuesday, June 16, 2015 9:31 AM
To: Premier Cru
Subject: Fw: Sales Order From Premier Cru at Premier Cru

Hi, curious to hear what the status of my order is. It's Order #452713 (Web Order #156196). The order was for 12 bottles of Solaia 2010. Thanks so much.

Steve Girgenti
 Customer #45048

From: "Premier Cru" <james@premiercru.net>
Date: August 16, 2014 at 6:01:39 PM EDT
To: "Steven Girgenti" <sgirgenti@gmail.com>
Subject: Sales Order From Premier Cru at Premier Cru

THIS DOCUMENT WAS SENT WITH:

PDFBLASTER
adobe pdfs made easy from anywhere

SALES ORDER

From:
Premier Cru
Premier Cru

To: Steven Girgenti
Date: 8/16/2014

To view the attached Sales Order, you need the free Adobe Acrobat Reader, which is available from www.adobe.com.

-Regards,

Premier Cru
Premier Cru

To view certain attachments to this email, you need Adobe's Acrobat Reader software, which can be downloaded for free by clicking the following link:
[[Download Acrobat Reader Now](#)]

Sent from my iPad

Begin forwarded message:

> From: "Premier Cru" <james@premiercru.net>
> Date: August 16, 2014 at 6:01:39 PM EDT
> To: "Steven Girgenti" <sgirgenti@gmail.com>
> Subject: Sales Order From Premier Cru at Premier Cru
>
>
>
> SALES ORDER
> From:
> Premier Cru
> Premier Cru
>
>
> To: Steven Girgenti
> Date: 8/16/2014
> To view the attached Sales Order, you need the free Adobe Acrobat Reader, which is available from www.adobe.com.
>
> -Regards,
>
> Premier Cru
> Premier Cru