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8  
9 UNITED STATES BANKRUPTCY COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION

12  
13 In re

14 FOX ORTEGA ENTERPRISES, INC.,  
dba PREMIER CRU,

15  
16 Debtor.

Case No. 16-40050-WJL

Chapter 7

**DECLARATION OF MICHAEL G.  
KASOLAS IN SUPPORT OF TRUSTEE'S  
MOTION FOR ORDER APPROVING  
PAYMENT OF ON-GOING  
ADMINISTRATIVE EXPENSES PURSUANT  
TO §§503(b)(1)(B)(i)**

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20 I, Michael G. Kasolas, declare:

21 1. I am the duly appointed and acting trustee of the above-captioned chapter 7  
22 bankruptcy estate. The following facts are true of my own personal knowledge and if called upon  
23 to do so, would and could competently testify thereto, except as to those matters that are alleged  
24 upon information and belief and as to those matters, I believe them to be true.

25 2. Among the assets of this estate are approximately 71,000 bottles of wine located in  
26 a warehouse, and additional bottles of wine located outside of the United States, in addition to  
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1 possible wine futures in various wines produced by multiple wineries.

2           3.       To date I have obtained the authority to use \$23,000 of cash collateral for the  
3 purpose of preserving the assets of the estate. However, many of the expenses previously  
4 approved include recurring expenses such as for the payment of utilities, internet services, website  
5 hosting fees, maintenance, and security. In addition, there are expenses that are minimal but will  
6 be incurred on an as-needed basis for the maintenance, copying and preserving of evidence, both  
7 documentary and electronic. There are also small expenses that may be incurred for maintenance  
8 of the premises and other minor but unexpected matters. The expenses set forth hereinabove are  
9 collectively referred to as "Expenses."

10  
11           4.       Most of the Expenses will be eliminated or significantly reduced after the wine has  
12 been sold or otherwise disposed of (subject to a future determination by the Court), which I  
13 estimate will be the end of July 2016. Until that time, I need authority to pay the Expenses as they  
14 come due.

15  
16           5.       It is expensive and impractical for the estate to file a motion for every  
17 administrative expense that needs to be paid during this limited time period, and such expense  
18 would be a burden to the estate given the relatively small amount of money that I need to spend.

19           6.       I am not selling assets without Court authority, and I am not asking for permission  
20 to pay Court authorized professionals outside of the application process.

21           7.       I seek authority to pay the expenses set forth in Exhibit A up to the amounts  
22 indicated. If I need to increase the amounts requested, I will file a further application. Every two  
23 months, I will file a statement of receipts and expenses by the categories set forth herein, within 20  
24 days of the preceding month.

25  
26           8.       If it becomes necessary to use cash collateral, I will obtain any secured creditor's  
27 consent or a separate order from this Court.  
28

1           9.       I currently have the sum of \$35,000 and not subject to return in my possession  
2 which represents the down payment towards a settlement that the Trustee is in the process of  
3 obtaining court approval for. This amount is a good faith down payment, not subject to return and  
4 it is not cash collateral. The final settlement payment will be in excess of that amount. I  
5 anticipate that there will be additional proceeds from settlements (all to be approved by the Court)  
6 and proceeds of sale, in addition to possible financing.  
7

8           10.       As this Court is aware, this case involves is a unique situation, which is somewhat  
9 of a hybrid Chapter 7. Because of the nature and extent of the wine, it must be carefully preserved  
10 to protect the value of the wine, and due to some unusual title issues, the wine cannot be liquidated  
11 immediately. Therefore, although I am not selling the wine until authorized, the estate has  
12 ongoing expenses to maintain and preserve the wine and the records. Therefore, I request that I be  
13 authorized to pay the recurring administrative expenses to preserve and maintain the assets of this  
14 estate without further Court order as long as they fall within the limits set forth in the Exhibit A.  
15 If there are amounts which exceed the schedule, I will seek further approval.  
16

17           11.       In addition, I seek authority to reimburse myself for expenses or advances for the  
18 purchase of hard drives, and the cost of copying, imaging and retrieving the electronic data for the  
19 hard drives, advances for locksmiths, federal express, and urgent internet expenses. The amounts I  
20 have paid to date are approximately \$2,000.  
21

22           12.       If cash collateral is to be used, I will obtain the consent of the lender or a Court  
23 order if consent is not agreed to. The sources of income that I anticipate using will be from a  
24 Court approved-sale, settlement, compromise or loan, each to be approved by this Court in due  
25 time, if applicable.  
26

27           13.       In addition, I have been asked by American Express to provide extensive reports  
28 related to its substantial claim on an expedited basis. I am agreeable to providing those reports as

1 long as American Express pays for the costs associated with those services. Therefore, I seek  
2 authority to charge American Express an amount sufficient to cover the expenses, and to use the  
3 funds to pay the expenses for such items as the payment of Brian Nishi to the extent his services  
4 are used.

5 I declare under penalty of perjury that the foregoing is true and correct and that this  
6 declaration was executed on February 24, 2016 at San Francisco, California.  
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8  
9 /s/ Michael G. Kasolas  
Michael G. Kasolas  
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