

1 Michael D. Cooper (Bar No. 42761)
Mark S. Bostick (Bar No. 111241)
2 Elizabeth Berke-Dreyfuss (Bar No. 114651)
WENDEL, ROSEN, BLACK & DEAN LLP
3 1111 Broadway, 24th Floor
Oakland, California 94607-4036
4 Telephone: (510) 834-6600
Fax: (510) 834-1928
5 Email: mcooper@wendel.com
Email: mbostick@wendel.com
6 Email: edreyfuss@wendel.com

7 [proposed] Attorneys for Trustee,
Michael G. Kasolas

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

13 In re

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

16 Debtor.

Case No. 16-40050-WJL

Chapter 7

**APPLICATION TO EMPLOY COUNSEL
FOR TRUSTEE**

17
18
19 **TO: THE HONORABLE WILLIAM J. LAFFERTY, UNITED STATES BANKRUPTCY**
20 **JUDGE AT OAKLAND, CALIFORNIA, THE DEBTOR, THE DEBTOR'S**
ATTORNEY, AND THE U.S. TRUSTEE:

21 The application of Michael G. Kasolas (“Applicant”), trustee of the estate of Fox Ortega
22 Enterprises, Inc., doing business as Premier Cru (“Debtor”), respectfully represents:

23 1. Debtor filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code
24 on January 8, 2016, and Applicant was the appointed chapter 7 trustee. Applicant is the duly
25 appointed and acting Chapter 7 Trustee of the Debtor’s bankruptcy estate.

26 2. Applicant requires the assistance of bankruptcy counsel to perform legal services
27 required to:

28 (a) Assess and enforce the estate’s rights in the Debtor’s inventory;

- 1 (b) Liquidate such inventory;
- 2 (c) Evaluate and investigate potential avoidance claims and pursue such claims,
3 if warranted;
- 4 (d) Maximize the value of the estate's interest in 1011 University Ave. LLC, an
5 affiliate of the Debtor, and liquidate such interest;
- 6 (e) Investigate the conduct of the Debtor, its shareholders and affiliates with
7 respect to the integrity of the bankruptcy process and maximizing the value of assets;
- 8 (f) Evaluate and liquidate other potentially valuable assets and claims of the
9 estate;
- 10 (g) Analyze and resolve claims against the estate;
- 11 (h) Communicating with creditors as may be necessary;
- 12 (i) Perform services as may be required to properly administer the case; and
- 13 (j) Obtain court approval for such acts as necessary to enable the Trustee to
14 perform his duties.

15 3. Applicant desires to retain and employ the law firm of Wendel, Rosen, Black &
16 Dean LLP ("Wendel Rosen") pursuant to 11 U.S.C. §327(a) as his attorneys to perform those
17 above-described services, which may be necessary and desirable in the administration of the
18 Debtor's estate. The estate will reimburse Wendel Rosen for fees and expenses it incurs in
19 representing Applicant beginning January 8, 2016.

20 4. Concerning fees for services, the estate seeks employment of Wendel Rosen on an
21 hourly basis with fees to be paid at its regular hourly rates according to its rate schedule attached
22 hereto as **Exhibit A**. Compensation for services rendered and reimbursement for expenses
23 incurred are to be paid pursuant to 11 U.S.C. § 330 as allowed by the Court and after notice and a
24 hearing.

25 5. Applicant selected Wendel Rosen because of the extensive experience and
26 knowledge of its members in the fields of bankruptcy, insolvency, debtor and creditor rights,
27 commercial law, real property law, litigation, and other relevant areas and believes that it is well
28 qualified to represent him in the case. To the best of Applicant's knowledge, the members and

1 associates of Wendel Rosen do not have any connection with Applicant, Debtor, any other party in
2 interest, their respective attorneys or accountants, the U.S. Trustee, or any person employed in the
3 office of the U.S. Trustee, and represent no interest adverse to the estate in matters upon which
4 Wendel Rosen is to be retained, except as stated in the Declaration of Proposed Counsel, Mark
5 Bostick, that is concurrently filed in support of this Application.

6 6. Due to the exceptionally large number of creditors in the case, Wendel Rosen has
7 adopted a modified conflict search protocol to search the creditor list for firm conflicts and
8 connections: its ordinary protocol would entail searches on all possible forms of a parties name,
9 e.g. for Robert, Bob, Robert, Rob, etc., as well as a search of any entities with which those names
10 may be associated. Under the modified protocol, Wendel Rosen will run only the names as listed
11 for matches within its system. The search is expected to be complete by January 31, 2016. Once
12 it is completed, Wendel Rosen will file a supplemental declaration identifying all creditors who
13 are clients or former clients of Wendel Rosen. At such time when it appears that a creditor who
14 was a client or former client is taking a position adverse to the estate, or the estate is taking a
15 position adverse to such creditor, Applicant shall retain special conflict counsel to represent
16 Applicant and the estate on those matters. In that situation, Wendel Rosen shall not represent
17 either Applicant and the estate, or the creditor.

18 7. Wendel Rosen has performed a conflict check on the Debtor, the Debtor's
19 shareholders, John Fox and Hector Ortega, and the Debtor's affiliate, 1011 University, LLC, and
20 the Debtor's secured creditor, Community Bank of the Bay and it has no connection to those
21 parties except that Wendel Rosen's former partner, David I. Wendel, who died in 2005, formerly
22 represented John Fox and Premier Cru in unrelated matters that terminated in or about 1997.
23 Those matters related to review of Premier Cru partnership's lease for the premises located in
24 Emeryville and on Piedmont Ave. Wendel Rosen also represents Applicant in his capacity as
25 trustee in other cases before this court.

26 ////

27 ////

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Applicant requests the entry of an order authorizing him to employ the law firm of Wendel Rosen subject to the terms of this Application to represent him in this chapter 7 case, effective January 8, 2016.

DATED: January 20, 2016

/s/ Michael G. Kasolas
Michael G. Kasolas, Trustee

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

Case No. 16-40050-WJL

APPLICATION TO EMPLOY COUNSEL FOR TRUSTEE

EXHIBIT A



1111 Broadway, 24th Floor
Oakland, CA 94607-4036

T: 510-834-6600
F: 510-834-1928

www.wendel.com

2016 STANDARD HOURLY RATES

<i>Attorneys</i>	<i>Hourly Rate</i>	<i>Attorneys</i>	<i>Hourly Rate</i>
Karen J. Balderama	375	Steven M. Morger	525
Elizabeth Berke-Dreyfuss	495	Yasmeen J. Omid	375
Mark S. Bostick	495	Daniel Rapaport	575
Stephen T. Brindle	350	Jonathan W. Redding	500
Kevin R. Brodehl	475	Jennifer P. Tang	300
Penn Ayers Butler	595	Richard P. Waxman	535
Joshua D. Cohen	475		
Michael D. Cooper	595	<i>Law Clerks, Paralegals and Legal Assistants</i>	
David Goldman	500	Marilyn N. Anderson	\$195
Tracy Z. Green	495	Lisa Matheny	195
		Regina B. Moore	195
		Robert M. Rosenblum	195
		Michelle Sanchez	200

EXHIBIT A