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7 Attorneys for Michael G. Kasolas, Trustee

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

**TRUSTEE'S APPLICATION FOR
ORDER AUTHORIZING EMPLOYMENT
OF IT SPECIALIST, SHARKEYE
TECHNOLOGY SERVICES, LLC**

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

21 Michael G. Kasolas ("Trustee") of the above referenced bankruptcy estate, respectfully
22 requests an order authorizing the employment of Sharkeye Technology Services, LLC
23 ("Sharkeye") and in support thereof, represents as follows:

24 1. An Order for relief under Chapter 7 of Title 11 of the United States Code was
25 entered herein pursuant to voluntary petition filed by the debtor on January 8, 2016. Michael G.
26 Kasolas is the duly appointed, qualified and acting trustee of the debtor's estate.

27 2. The electronic data in this case is extensive, and immediately after the
28 commencement of the case, the Trustee captured the images and information on the Debtor's

1 systems. The Court appointed accountant Kokjer, Pierotti, Maiocco & Deck, LLP (“Pierotti”)
2 assisted the Trustee. Because of the depth and complexity of the electronic data system, Pierotti
3 required and continues to require the assistance of a third-party to copy the images and
4 information and maintain a program to allow Pierotti to conduct its forensic investigation.

5 3. The Trustee contacted several possible vendors at the outset of this case, and
6 Sharkeye was substantially less expensive and was available to meet the Trustee at the debtor’s
7 premises shortly after this case was commenced. Sharkeye has agreed to provide its services at
8 the rate of \$140.00 per hour, plus out of pocket expenses.

9 4. Initially it was thought that Sharkeye’s services would be limited to the imagining
10 at the commencement of the case; however, now that it is clear that its services are necessary on
11 an ongoing basis to allow Pierotti to conduct a thorough forensic investigation the Trustee seeks a
12 separate employment order authorizing him to retain Sharkeye directly.

13 5. To the best of the Trustee’s knowledge, Trustee believes and based thereon alleges,
14 that Sharkeye and its employees or associates, represent no interests adverse to the estate with
15 respect to the matters upon which they are to be employed, have no connection or relationship
16 with the debtor, creditors, any other party in interest, their respective attorneys and accountants,
17 the United States Trustee, or any one employed in the offices of the United States Trustee.

18 6. Trustee seeks retroactive authority, *nunc pro tunc*, to retain Sharkeye for its
19 services effective January 18, 2016. Its immediate services were necessary to secure the electronic
20 data to protect the assets of the estate shortly after the case was commenced.

21 WHEREFORE, Trustee requests that this Court enter an order authorizing Trustee to
22 employ Sharkeye, effective as of January 18, 2016, and that he be authorized to pay Sharkeye, if
23 funds are available, on an ongoing basis after invoices are submitted.

24 DATED: March 3, 2016

WENDEL, ROSEN, BLACK & DEAN LLP

26 By: /s/ Tracy Green

27 Tracy Green

28 Attorneys for Michael G. Kasolas

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9 UNITED STATES BANKRUPTCY COURT
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12 In re

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

15 Debtor.
16

Case No. 16-40050-WJL

Chapter 7

**DECLARATION OF MICHAEL G.
KASOLAS IN SUPPORT OF
APPLICATION TO EMPLOY IT
SPECIALIST, SHARKEYE
TECHNOLOGY SERVICES, LLC**

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18 I, Michael G. Kasolas, declare:

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

23 2. The Debtor filed a Chapter 7 of Title 11 of the United States Code on January
24 8, 2016.

25 3. The electronic data in this case is extensive, and required me to immediately
26 capture the images and information on the systems. The Court appointed accountant Kokjer,
27 Pierotti, Maiocco & Deck, LLP ("Pierotti") to assist me. Because of the depth and complexity of
28 the electronic data system, Pierotti required and continues to require the assistance of a third-party

1 to copy the images and information and maintain a program to allow Pierotti to conduct its
2 forensic investigation.

3 3. I contacted several possible vendors at the outset of this case, and Sharkeye was
4 substantially less expensive and was the only one available to meet me at the debtor's premises
5 shortly after this case was commenced. Sharkeye has agreed to provide its services at the rate of
6 \$140.00 per hour, plus out of pocket expenses, such as mileage and parking fees, if applicable.

7 4. Initially it was thought that its services would be limited to the imagining at the
8 commencement of the case; however, now it is clear that its services are necessary on an ongoing
9 basis to allow Pierotti to conduct a thorough forensic investigation. Thus, I am seeking a separate
10 employment order allowing the retention of Sharkeye directly.

11 5. To the best of my knowledge, I believe and based thereon allege, that Sharkeye and
12 its employees or associates, represent no interests adverse to the estate with respect to the matters
13 upon which they are to be employed, have no connection or relationship with the debtor, creditors,
14 any other party in interest, their respective attorneys and accountants, the United States Trustee, or
15 any one employed in the offices of the United States Trustee.

16 6. I seek retroactive employment of Sharkeye for its services effective January 18,
17 2016. Its immediate and on-going services are necessary to secure the electronic data to protect
18 the assets of the estate and allow Pierotti to conduct a thorough forensic analysis.

19 I declare under penalty of perjury that the foregoing is true and correct, and that this
20 declaration was executed on March 3, 2016, at San Francisco, California.

21
22 /s/ Michael G. Kasolas

23 Michael G. Kasolas
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Case No. 16-40050-WJL

Chapter 7

**DECLARATION OF PEDRO BABIAK IN
SUPPORT OF APPLICATION TO
EMPLOY IT SPECIALIST, SHARKEYE
TECHNOLOGY SERVICES, LLC**

17
18 I, Pedro Babiak, declare:

19 1. I am a member and principal of Sharkeye Technology Services, LLC ("Sharkeye").

20 The following facts are true of my own personal knowledge and if called upon to do so, would and
21 could competently testify thereto, except as to those matters that are alleged upon information and
22 belief and as to those matters, I believe them to be true.

23 2. To the best of my knowledge and except as set forth herein, neither I, nor Sharkeye
24 has a connection of any kind or nature with the Debtor, the Debtor's creditors, the United States
25 Trustee, persons employed in the Office of the United States Trustee, or any other party-in-
26 interest, or their respective attorneys and accountants in the above-captioned case, which would
27 preclude our employment or make me or Sharkeye other than a disinterested party within the
28 meaning of Bankruptcy Code § 327. Except I have been retained through Sharkeye or another

1 entity that I worked with called Lighthouse Professional Group to provide computer consulting
2 and web hosting services to Kokjer, Pierotti, Maiocco & Duck LLP (the "Firm") for use by the
3 Firm itself. On occasion I have assisted that Firm with minor assistance in a bankruptcy case, but I
4 have never been employed in a bankruptcy case before, and have never been asked to provide the
5 level of services needed in this bankruptcy case.

6 3. To the best of my knowledge, neither I nor Sharkeye holds or represents any
7 interest adverse to the estate.

8 4. Sharkeye agrees to assist the Trustee by providing electronic data services to allow
9 Richard Pierotti or others in the Firm to search the extensive electronic data that we assisted the
10 estate in obtaining from the Debtor. We charge the sum of \$140.00 per hour, plus out of pocket
11 expenses for such items as postage, mileage, and parking, if incurred.

12 5. I first provided services on January 18, 2016, and was able to meet the Trustee's
13 immediate need for services at that time. I have provided some services since that time at the
14 request of Richard Pierotti to assist him to provide access to the data that was copied in a format
15 that would allow Mr. Pierotti to search the Trustee's copies of the records.

16 I declare under penalty of perjury that the foregoing is true and correct, and that this
17 declaration was executed on March 3, 2016, at Martinez, California.

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19 /s/ Pedro Babiak

20 Pedro Babiak
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