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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
**MOTION FOR ORDER TO APPROVE
COMPROMISE AND TRANSFER OF LLC
MEMBERSHIP INTEREST**

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18 Michael G. Kasolas (“Trustee”), the duly appointed and acting trustee of the above-
19 captioned estate, hereby moves under Bankruptcy Rules 9019 and 6004 for an order authorizing
20 him to enter into a proposed compromise with Saul Gevertz based on the terms and merits as set
21 forth in the Trustee’s *Notice and Opportunity for Hearing on Motion to Approve Compromise with*
22 *and Transfer LLC Membership Interest* dated March 18, 2016 (the “Notice”), a true and correct
23 copy of which is attached hereto as **Exhibit A** and made a part hereof. This motion is supported
24 by the Declaration of Mark S. Bostick filed herewith. For the reasons stated in the Notice, the
25 Trustee submits that the proposed compromise is fair and equitable and in the best interests of the
26 creditors and the estate.

27 This motion is made pursuant to Bankruptcy Local Rule 9104-1(b)(3). As set forth in the
28 Notice, any opposition to the motion must be served and filed no later than 21 days from the date

1 of service of the Notice, i.e. by April 8, 2016. If a timely objection or request for hearing is served
2 and filed, the undersigned will provide such objecting party with not less than 7 days written
3 notice of the hearing on such objection. If no timely objection or request for hearing is filed and
4 served, an order approving the compromise may be entered by default, without further notice or
5 hearing.

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7 DATED: March 18, 2016

WENDEL, ROSEN, BLACK & DEAN LLP

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9 By: /s/ Mark S. Bostick
10 Mark S. Bostick
11 Attorneys for Michael G. Kasolas, Trustee

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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re
FOX ORTEGA ENTERPRISES, INC.,
dba PREMIER CRU,

Debtor.

Case No. 16-40050-WJL

Chapter 7

**NOTICE OF OPPORTUNITY FOR
HEARING ON MOTION TO APPROVE
COMPROMISE AND TRANSFER OF LLC
MEMBERSHIP INTEREST**

TO: THE DEBTOR AND INTERESTED PARTIES:

PLEASE TAKE NOTICE that Michael G. Kasolas, the trustee (“Trustee”) of the above-captioned estate, has filed a motion under Bankruptcy Rules 9019 and 6004 for an order authorizing him to enter into the following described compromise with Saul Gevertz based on the facts and merits as set forth below.

FACTUAL BACKGROUND

Fox Ortega Enterprises, Inc., dba Premier Cru (the “Debtor”), a California corporation, filed its petition for relief under chapter 7 on January 8, 2016 (the “Filing Date”). Among the Debtor’s assets is its 60 percent membership interest in 1011 University Avenue LLC (the “LLC”), an entity whose sole asset is the fee title interest in real property located at 1011 University Avenue, Berkeley, California (the “Real Property”), from which the Debtor operated its wine sales business under a lease of the premises (the “Berkeley Facility”) for \$25,000 per month. No payment has been made on the lease since the bankruptcy filing.

Saul Gevertz (“Gevertz”) is the other 40 percent member of the LLC. He also owns 10 percent of the outstanding shares of the Debtor’s stock and is the lender on a promissory note executed by the Debtor on April 24, 2014, in the original principal amount of \$1,100,000 (the “Gevertz Note”). The current balance due under the Gevertz Note is about \$935,500.00; it is secured by the Real Property. In the year prior to the Filing Date, Gevertz received monthly payments under the Gevertz Note totaling \$196,337.00 according the Schedule attached as Exhibit A to the Settlement Agreement referenced below. The Trustee believes that as much as \$93,000 in the payments received by Gevertz arguably were late and therefore outside the ordinary course of business and subject to possible avoidance by the Trustee as preferential transfers.

The Real Property is encumbered by five deeds of trust and various tax liens. The beneficiary, date of recordation, original principal obligation amount and estimated current outstanding obligation balance of each of those liens is as follows:

EXHIBIT "A"

Secured Party	Record Date	Original Debt	Current Debt
William Taylor	Feb. 10, 2010	3,800,000	3,800,000
John Vogley ASP et al	April 5, 2010	500,000	500,000
Comm. Bank of Bay	Aug. 4, 2010	1,230,000	1,024,952
Comm Bank of Bay	Dec. 22, 2010	200,000	117,075
Taylor Trust	Nov. 19, 2013	1,000,000	0.00 ¹
Saul Gevertz	July 13, 2015	1,100,000	935,000
Delinquent Real Property Taxes			275,772
Total			6,652,799

The promissory notes secured by the two deeds of trust listed above in favor of Community Bank of the Bay (“CBB”) were for loans it made to the Debtor that are secured by duly perfected security interests in the Debtor’s inventory and personal property assets. A third promissory note obligation by the Debtor to CBB, which has a current outstanding balance of about \$150,000 (the “Credit Line Note”), is secured by the Debtor’s inventory and other personal property assets but not by the Real Property.

The value of the Real Property is to be determined. It was originally listed for sale for \$7,500,000 in July 2015, through the LLC’s broker, Gordon Commercial Real Estate Services, but the listing price was reduced in December 2015 to \$6,800,000.

THE PROPOSED COMPROMISE

A copy of the proposed settlement agreement is attached hereto as **Exhibit A** (the “Agreement”). The Agreement provides, among other things, that the Trustee will: (1) assign the estate’s 60 percent interest in the LLC to Gevertz; (2) release Gevertz from any preferential transfer claims related to payments he received on account of the Gevertz Note as specified in the schedule attached as Exhibit A to the Agreement; (3) cooperate in allowing the LLC’s broker to market the Real Property, (4) consent to the LLC providing CBB with a lien on the Real Property to secure the Credit Line Note. In exchange, Gevertz will: (1) give \$35,000 to the Trustee with no claim to reimbursement even if the Agreement is not approved, which payment has been received; (2) pay an additional \$10,000 upon Court approval of the Agreement; (3) allow the estate to use the Berkeley Facility rent free for a period of six months; (4) release the Trustee from any claim for past due rent; (5) reconvey or fully subordinate his deed of trust on the Real Property (except to the extent as required to provide CBB with a lien on account of the Credit Line Note); (6) provide that the Trustee shall receive 60 percent of the net proceeds of sale of the Real Property after all liens (excluding Gevertz’s lien) and costs of sale are paid in full; (7) cause the LLC to waive any subrogation rights it may have against the estate for paying off the CBB notes; and (8) waive any claim against the estate under the Gevertz Note. In addition, Gevertz has agreed to cooperate with the Trustee to obtain CBB’s cooperation in forbearing from taking action against assets of the estate pending completion of the sale of the Real Property.

¹ This secured debt was paid off from the proceeds of sale of John Fox’s house in January 2016.

1 **MERITS OF THE COMPROMISE**

2 The benefits of the compromise are substantial and outweigh their costs. They include:

3 1. Allowing the Real Property to be sold in an orderly manner (i.e. avoiding
4 foreclosure) so that the Debtor's obligations to CBB can be paid in full from the Real Property.
5 This combined with the waiver of any subrogation rights, if any, results in a net benefit to the
6 estate of as much as \$1,292,000 (or the ultimate amount CBB is owed before payoff) by paying
7 off debt that is also secured by the Debtor's assets.

8 2. Enhancing the estate's interest in the Real Property by eliminating \$785,000 in
9 secured debt as a result of the reconveyance or subordination of Gevertz's deed of trust. Under the
10 Agreement, 60 percent of the net lien reduction inures to the benefit of the estate, i.e. potentially
11 \$471,000.

12 3. The Trustee gets to use \$35,000 now which he desperately needs to preserve the
13 wine and records of the estate. He will receive an additional \$10,000 upon Court approval of the
14 compromise.

15 4. The Trustee will be entitled to free rent for six months. This has a face value of
16 \$150,000. If that value were discounted based on "storage use" or by the 60 percent interest that
17 the Debtor held in the LLC (which was never previously a basis to reduce rent), then the value of
18 such benefit would be at least \$60,000. In addition, any claim for unpaid rent in December 2015
19 and January 2016 is waived.

20 5. The Trustee is informed and believes that as a result of this Agreement, CBB will
21 consent to the Trustee's use of cash collateral up to \$200,000, it will consent to any sale of wine
22 free and clear of its liens (with its liens to attach to proceeds) and it will agree to liquidate its liens
23 against the Real Property first before entering its liens against the estate.

24 The cost for these benefits include the following:

25 1. The Trustee gives up control of the LLC, which he never held. John Fox was the
26 LLC's managing member and under the Operating Agreement he could be replaced only by
27 unanimous consent.

28 2. The Trustee releases Gevertz from a potential preference claim based on his receipt
of \$193, 337 in payments on account of the Gevertz Note within one year of the Filing Date.
However, the precise value of this release is difficult to assess. Gevertz contends that he gave new
value to the Debtor and may prevail in showing that most of the payments are not avoidable
because they were made in the ordinary course of business. The Trustee believes that as much as
\$93,000 of the payments made were arguably late and therefore outside of the ordinary course of
business. Attorneys' fees are not recoverable in preference actions, accordingly the net value of
this claim after deducting costs of litigation is likely to be substantially less than \$93,000.

3. The Trustee allows the LLC to encumber the Real Property by giving a deed of
trust to secure the CBB Credit Line Note. This transfer actually benefits the estate to the extent
CBB is paid from proceeds of the Real Property and not from property of the estate secured under
its lien.

4. While the Trustee gives up the estate's 60 percent interest in the LLC, in exchange
he is granted a 60 percent interest in the net proceeds of sale ahead of Gevertz's lien. The real cost
is giving up control of the LLC.

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1 5. The Trustee agrees to cooperate in the marketing of the Property and to leave the
2 Berkeley facility by July 31, 2016. These are minimal costs, if any.

3 In view of these relative costs and benefits, the Trustee submits that the proposed
4 compromise is fair and reasonable and in the best interests of creditors and the estate because it
5 will aid in the administration of the case and will result in the estate's receipt of benefits with
6 potential value far in excess of their costs.

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PROCEDURE TO OBJECT AND REQUEST A HEARING

19 **PLEASE TAKE FURTHER NOTICE** that this matter is governed by Bankruptcy Local
20 Rule 9014-1(b)(3), which provides that:

21 "Any objection to the requested relief, or a request for hearing on the matter, must be filed
22 and served upon the initiating (undersigned) party within twenty-one (21) days of mailing the
23 notice;

24 Any objection or a request for a hearing must be accompanied by any declarations or
25 memoranda of law any requesting party wishes to present in support of its position;

26 If there is no timely objection to the requested relief or a request for hearing, the court may
27 enter an order granting the relief by default;

28 The initiating party will give at least seven (7) days written notice of the hearing to the
objecting or requesting party, and to any trustee or committee appointed in the case."

Any objection or request for hearing must be served on the undersigned and filed with the
Clerk of the United States Bankruptcy Court, Northern District of California, Oakland Division,
1300 Clay Street, Room 300, Oakland, CA 94612, or in the case via Pacer.

PLEASE TAKE FURTHER NOTICE that the Trustee's motion for order approving
compromise and supporting declaration are on file and may be obtained from the Bankruptcy
Court Clerk, through Pacer at <https://ecf.canb.uscourts.gov/>, or upon request to the undersigned.

Dated: March 18, 2016
[Date of Mailing]

/s/ Mark S. Bostick
Mark S. Bostick (Bar No. 111241),
Attorneys for Trustee
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1111 Broadway, 24th Floor
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Tel: (510) 834-6600
Email: mbostick@wendel.com
Attorneys for Michael G. Kasolas, Trustee

EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is executed effective February 23, 2016 (the "Effective Date") by and between Saul Gevertz ("Gevertz") and Michael G. Kasolas, in his role as Chapter 7 Trustee for the Estate of Fox Ortega Enterprises, Inc., dba Premier Cru, Debtor ("Kasolas") (together all of said parties to this Agreement are sometimes referred to individually as "Party" and collectively as "Parties"), who together agree as follows:

RECITALS

This Agreement is made with reference to the following recitals of essential facts, all of which the Parties affirm and acknowledge are true and correct:

A. On January 8, 2016 ("Petition Date"), Fox Ortega Enterprises, Inc. ("Fox Ortega") filed a Petition under the provisions of Chapter 7 of the United States Bankruptcy Code in the Northern District of California Bankruptcy Court, Case No. 16-40050 ("Chapter 7 Case"). Kasolas is the acting Chapter 7, Trustee for Fox Ortega. Kasolas has been confirmed as the Chapter 7 Trustee for the Fox Ortega Bankruptcy ("Chapter 7 Estate"). As of the date of filing of the Chapter 7 Case, Fox Ortega was the lessee of retail space housing a wine sales and wine distribution facility located at 1011 University Avenue, Berkeley, CA 94710 ("Premises").

B. The Premises are part of commercial real property and improvements located in the City of Berkeley, County of Alameda, State of California commonly identified 1001-1011 University Avenue/1925 9th Street, Berkeley, CA 94710 ("Property"). The Property is legally and beneficially owned by 1011 University LLC ("1011 LLC").

C. Gevertz and Fox Ortega are the members of 1011 LLC, with Fox Ortega owning a 60% membership interest in 1011 LLC and Gevertz owning a 40% membership interest in 1011 LLC. Presently, John Fox is the manager of 1011 LLC.

D. On April 24, 2014, Fox Ortega and others executed and delivered to Gevertz a Promissory Note in favor of Gevertz in the principal amount of \$1,100,000.00 to memorialize a loan by Gevertz to Fox Ortega in the amount of \$1,100,000.00 ("Premier Cru Note"). After various additional advances and paydowns under the terms of the Premier Cru Note, Fox Ortega owed Gevertz the approximate sum of \$935,500 as of the Petition Date.

E. The Premier Cru Note is partially secured by a Security Agreement that encumbers Fox Ortega's 60% membership interest in 1011 LLC.

F. The Premier Cru Note is also secured by a deed of trust of junior priority in favor of Gevertz and encumbering the Property, entitled "Deed of Trust and Assignment of Rents", executed by 1011 LLC on July 11, 2015 and recorded on July 13, 2015 as Instrument No. 2015192149, Official Records of Alameda County, California ("Gevertz Deed of Trust").

G. The Property is encumbered by numerous deeds of trust in addition to the Gevertz Deed of Trust, including deeds of trust in favor of (a) William H. Taylor, etc., (b) John Vogley, etc., and (c) Community Bank of the Bay (2 deeds of trust), each of which are senior to the Gevertz Deed of Trust.

H. Kasolas contends that certain payments made by Fox Ortega to Gevertz on account of the Gevertz Note may constitute one or more preference payments pursuant to the provisions of 11 U.S.C. Section 547. Gevertz disputes such claim by Kasolas and contends that all such payments are covered by statutory exceptions applicable to such payments.

I. Fox Ortega is obligated to pay rent to 1011 LLC for its occupancy of the Premises in the amount of approximately \$25,000.00 per month pursuant to its lease for the Premises dated February 11, 2010. Fox Ortega is delinquent in the payment of rent for occupancy of the Premises for at least the months of January and February 2016.

J. Kasolas requires that the Chapter 7 Estate continue to occupy the Premises for an additional six months, through July 2016, for storage of the wine that is located at the Premises. Kasolas contends that such wine is property of the Chapter 7 Estate and he is attempting to liquidate the wine by auction to be conducted at the Premises.

K. Kasolas also requires an immediate cash infusion into the Chapter 7 Estate in the amount of \$35,000.00.

L. The Property is presently being marketed for sale for \$6,800,000.00.

M. Gevertz is prepared to contribute to the Chapter 7 Estate the cash sum of \$35,000.00 and to grant Fox Ortega continued occupancy of the Premises for up to six additional months without the payment of rent, and Kasolas is prepared to resolve the Chapter 7 Estate's preference claim against Gevertz and transfer to Gevertz the Chapter 7 Estate's membership interest in 1011 LLC, all under the terms and conditions set forth in this Agreement, subject to approval of the Bankruptcy Court in the Chapter 7 Case.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. Cash to the Chapter 7 Estate. Gevertz shall transfer to the Chapter 7 Estate, without entitlement to reimbursement or repayment, the cash sum of \$35,000.00. Kasolas acknowledges receipt of such payment by Gevertz.

2. Transfer of Chapter 7 Estate's Membership Interest in 1011 LLC. Kasolas shall execute all documents necessary and appropriate to convey to Gevertz the Chapter 7 Estate's membership interest in 1011 LLC. Upon completion of such transfer, Gevertz shall name himself as Manager of 1011 LLC.

3. Rent for the Premises. Upon being appointed as the manager of 1011 LLC, Gevertz shall enter into an amendment to the lease under which Fox Ortega occupies the

Premises to provide that the term of the lease shall be shortened to July 31, 2016 and that 1011 LLC shall forgive (a) all unpaid rent that has accrued under the subject lease and (b) all rent that shall continue to accrue under the amended lease through July 31, 2016.

4. **No Chapter 7 Estate Preference or other Claim against Gevertz.** Kasolas and the Chapter 7 Estate shall seek no reimbursement for preference payments from Gevertz under the terms of the Premier Cru Note, which payments are set forth in the Schedule annexed to this Agreement as Exhibit A.

5. **Management and Sale of the Premises and the Property.** Gevertz, as manager of 1011 LLC, shall supervise the marketing and sale of the Property to a third party and the payment of the secured liens encumbering the Property. Gevertz shall also collect rent from third party tenants of the Property (said rents estimated to total approximately \$10,000 per month) and use said collected rents to pay operating expenses, property taxes, insurance premiums and service senior secured debt encumbering the Property. Gevertz shall keep the Property insured against fire and other hazards, but the Chapter 7 Estate shall keep the contents of the Premises insured and shall pay all utilities applicable to the operation of the Premises. If Kasolas has received payment of February 2016 rent from the third party tenant, he shall transmit that rent payment to Gevertz.

6. **Distribution of Proceeds of the Property.** Upon close of escrow for the sale of the Property, Gevertz shall cause all secured liens encumbering the Property to be paid in the order of their recorded priority, subject to Section 7 of this Agreement. After payment of all such encumbrances, and notwithstanding the transfer of the Fox Ortega membership interest to Gevertz as set forth in Section 2 of this Agreement, Gevertz shall cause 60% of the net sales proceeds, if any, to be disbursed to the Chapter 7 Estate, net of property taxes assessed to the Property, sales commissions, closing costs, and advances by Gevertz made since January 1, 2016 to pay property taxes, expenses of operation of the Property and senior secured lenders holding encumbrances against the Property.

7. **Subordination of the Gevertz Deed of Trust.** Gevertz shall subordinate the Gevertz Deed of Trust to all other liens and encumbrances affecting the Property; provided, that Gevertz shall be entitled to assign to Community Bank of the Bay ("CBOB") a fractional interest in the Gevertz Deed of Trust to secure the balance due on a line of credit issued by CBOB to Fox Ortega and guaranteed by John Fox. The estimated balance of the subject line of credit is between \$150,000 and \$200,000 as of the date of this Agreement. In any event, Gevertz shall not be entitled to any of the sale proceeds derived from the sale of the Property by reason of the Gevertz Deed of Trust. The only entitlement of Gevertz to sale proceeds, if any, will be his 40% membership interest in the 1011 LLC pursuant to Section 6 of this Agreement, after satisfaction of all liens and encumbrances affecting the Property (inclusive of any partial assignment of the Gevertz Deed of Trust to CBOB as set forth in this Section 7).

8. **Premier Cru Note.** Gevertz shall seek no further payment on account of the Premier Cru Note and shall cause the original of the Premier Cru Note to be delivered to Kasolas upon final Bankruptcy Court approval of this Agreement, as set forth in greater detail in Section 12 of this Agreement.

9. **Additional Payment from Gevertz to Chapter 7 Estate; Credit if No Court Approval.** Upon approval of this Agreement in the Chapter 7 Case pursuant to Section 12 of this Agreement, Gevertz shall deliver to Kasolas an additional cash payment of \$10,000.00. In the event that this Agreement is not approved in the Chapter 11 Case, Gevertz shall be entitled to a credit of \$35,000.00 against any preference claim that Kasolas may assert against Gevertz in the Bankruptcy Case.

10. **Gevertz and Brokers' Right of Access to Premises.** Immediately upon the execution of this Agreement by all Parties, Kasolas shall provide Gevertz and all real estate agents that are marketing the Property access to the interior of the Premises for the purpose of marketing the Property to potential third-party purchasers. Gevertz acknowledges that Kasolas must be present with respect to all such access to assure that the interior of the Premises and its contents are protected from tampering, destruction, theft, or other loss by reason of the entry of the Premises for such marketing purposes. For this purpose, Kasolas agrees to make himself available at the Premises at all reasonable times upon 48 hours telephone or electronic mail notice and during regular business hours.

11. **Subrogation Rights of 1011 LLC Against Chapter 7 Estate.** Upon being named as sole manager of 1011 LLC, Gevertz shall execute such documents reasonably necessary as may be presented to him by Kasolas for the purpose of 1011 LLC waiving subrogation rights or claims against the Chapter 7 Estate.

12. **Execution and Delivery of this Agreement; Approval by Bankruptcy Court.** All Parties shall execute and deliver to counsel for every other Party a copy of this Agreement, executed by an authorized representative of Kasolas and Gevertz, respectively, on or before 5:00 p.m. PST on February 19, 2016. Upon delivery of a fully executed copy of this Agreement to Mark Bostick attorney for Kasolas, Bostick shall promptly cause this Agreement to be submitted for approval in the Chapter 7 Case by the most expeditious method reasonably available under the circumstances of the Chapter 7 Case administration. This Agreement shall be fully enforceable only upon the approval of the Bankruptcy Court in the Chapter 7 Case; provided, that Gevertz shall be entitled to perform all duties as acting manager of 1011 LLC, shall have access to the Premises pursuant to Section 10 of this Agreement, and shall be entitled to collect and receive rent from third party tenants immediately upon execution of this Agreement by all parties.

13. **Warranty of Right, Title, and Interest.** Each Party warrants and represents to the other that it is the sole and lawful owner of all right, title and interest in and to all of the respective matters and property described in this Agreement and that it has not heretofore voluntarily, by operation of law or otherwise, assigned or transferred or purported to assign or transfer to any person or entity any part or portion of the respective released matters described in herein, or any part or portion of any claim, demand or right against the other. Each Party shall indemnify and hold harmless the other from and against any claim, demand, damage, debt, liability, account, obligation, cost, expense, lien, action or cause of action (including payment of attorneys' fees and costs actually incurred whether or not litigation be commenced) based on or in connection with or arising out of any such assignment or transfer or purported assignment or

transfer.

14. **No Admission of Liability.** Nothing in this Agreement shall be construed as an admission of liability by or against any Party.

15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

16. **Attorney's Fees.** Each Party shall bear its own attorney's fees incurred in connection with the negotiation, drafting and execution of this Agreement. In the event any litigation, arbitration, mediation, or other proceeding ("Proceeding") is initiated by any Party against any other Party to enforce, interpret or otherwise obtain judicial or quasi-judicial relief in connection with this Agreement, the prevailing Party in such Proceeding shall be entitled to recover from the unsuccessful Party all costs, expenses, actual attorney's and expert witness fees, relating to or arising out of (1) such Proceeding (whether or not such Proceeding proceeds to judgment), and (2) any post-judgment or post-award proceeding including, without limitation, one to enforce any judgment or award resulting from any such Proceeding. Any such judgment or award shall contain a specific provision for the recovery of all such subsequently incurred costs, expenses, actual attorney and expert witness fees.

17. **Modification.** This Agreement may be modified only by a contract in writing executed by the party to this Agreement against whom enforcement of such modification is sought.

18. **Interpretation.** Whenever the context so requires in this Agreement, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.

19. **Partial Invalidity.** Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability, unless such provision or such application of such provision is essential to this Agreement.

20. **Successors-in-Interest and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors-in-interest and assigns of each party to this Agreement.

21. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original and all of which together constitute one document.

22. Facsimile and Electronic Signatures. This Agreement and the Stipulation may be signed in duplicate by facsimile signature or by electronic signature, and such signature shall be regarded and have the same force and effect as an original signature.

23. Drafting Ambiguities. Each party to this Agreement and her/its legal counsel have reviewed and revised this Agreement. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

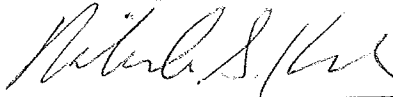
24. Signature of Additional Documents. Each party agrees to sign any further documents reasonably required to accomplish or effectuate the intent and purpose of this agreement.

25. Effectiveness. This Agreement is effective when signed by all parties and delivered to all parties.

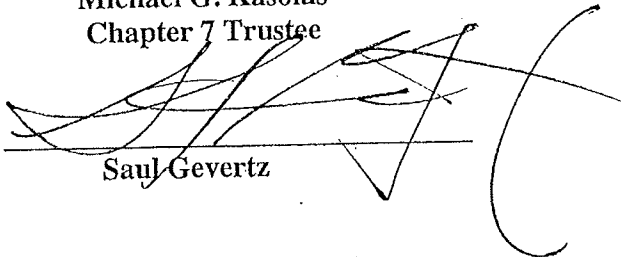
Dated as of the date first above written.

The Chapter 7 Bankruptcy Estate of Fox Ortega Enterprises, Inc. , Debtor

By: _____



Michael G. Kasolas
Chapter 7 Trustee



Saul Gevertz

EXHIBIT A-1

Date	Received Payment	Received Interest	Received Principle	added principle	reduced principle	Principle Balance
3/30/2014						\$ 1,125,000.00
4/1/2014					\$ 20,000.00	\$ 1,105,000.00
4/4/2014	\$ 16,500.00	\$ 11,500.00	\$ 5,000.00			\$ 1,100,000.00
4/7/2014					\$ 15,000.00	\$ 1,085,000.00
4/9/2014					\$ 20,000.00	\$ 1,065,000.00
4/15/2014				\$ 164,000.00		\$ 1,229,000.00
5/8/2014	\$ 14,734.00	\$ 9,734.00	\$ 5,000.00			\$ 1,224,000.00
5/27/2014			\$ 10,000.00			\$ 1,214,000.00
6/11/2014	\$ 14,680.00	\$ 9,680.00	\$ 5,000.00			\$ 1,209,000.00
7/7/2014	\$ 17,420.00	\$ 9,920.00	\$ 7,500.00			\$ 1,201,500.00
8/6/2014	\$ 17,420.00	\$ 9,920.00	\$ 7,500.00			\$ 1,194,000.00
8/21/2014				\$ 40,000.00		\$ 1,234,000.00
9/5/2014	\$ 17,454.00	\$ 10,454.00	\$ 7,000.00			\$ 1,227,000.00
9/18/2014					\$ 40,000.00	\$ 1,187,000.00
9/19/2014					\$ 30,000.00	\$ 1,157,000.00
9/30/2014					\$ 55,000.00	\$ 1,102,000.00
10/1/2014					\$ 50,000.00	\$ 1,052,000.00
10/6/2014	\$ 16,920.00	\$ 8,920.00	\$ 8,000.00			\$ 1,044,000.00
11/6/2014	\$ 15,634.00	\$ 8,634.00	\$ 7,000.00			\$ 1,037,000.00
11/13/2014					\$ 15,000.00	\$ 1,022,000.00
11/17/2014					\$ 14,000.00	\$ 1,008,000.00
11/22/2014				\$ 50,000.00		\$ 1,058,000.00
12/5/2014	\$ 15,120.00	\$ 8,120.00	\$ 7,000.00			\$ 1,051,000.00
1/9/2015				\$ 70,000.00		\$ 1,121,000.00
1/9/2015	\$ 15,400.00	\$ 9,400.00	\$ 6,000.00			\$ 1,115,000.00
2/5/2015	\$ 16,334.00	\$ 9,334.00	\$ 7,000.00			\$ 1,108,000.00
3/1/2015					\$ 40,000.00	\$ 1,068,000.00
3/5/2015				\$ 30,000.00		\$ 1,098,000.00
3/6/2015	\$ 16,334.00	\$ 9,334.00	\$ 7,000.00			\$ 1,091,000.00
4/1/2015					\$ 20,000.00	\$ 1,071,000.00
4/2/2015	\$ 16,200.00	\$ 9,200.00	\$ 7,000.00			\$ 1,064,000.00
4/15/2015				\$ 57,000.00		\$ 1,121,000.00
5/8/2015	\$ 17,954.00	\$ 10,454.00	\$ 7,500.00			\$ 1,113,500.00

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6/8/2015	\$	16,929.00	\$	9,429.00	\$	7,500.00	\$	1,106,000.00
6/25/2015							\$	65,000.00
7/6/2015							\$	5,000.00
7/16/2015	\$	18,516.00	\$	8,516.00	\$	10,000.00	\$	1,036,000.00
8/26/2015	\$	19,320.00	\$	8,820.00	\$	10,500.00	\$	1,026,000.00
8/28/2015							\$	20,000.00
9/10/2015	\$	18,417.00	\$	8,417.00	\$	10,000.00	\$	995,500.00
10/9/2015	\$	18,417.00	\$	8,417.00	\$	10,000.00	\$	985,500.00
10/28/2015							\$	10,000.00
11/9/2015							\$	10,000.00
12/1/2015	\$	18,516.00	\$	8,516.00	\$	10,000.00	\$	975,500.00
1/4/2016							\$	10,000.00
							\$	935,500.00
							\$	935,500.00
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