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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

**APPLICATION FOR APPOINTMENT OF
BMC GROUP, INC.**

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

Michael G. Kasolas ("Trustee") of the above referenced bankruptcy estate, respectfully
requests an order authorizing the employment of BMC Group, Inc. ("BMC") pursuant to
Bankruptcy Code Section 328 to assist the Trustee with establishing a website for creditors to
review pleadings, serving creditors who opt for electronic notice of pleadings filed, assisting with
managing the proofs of claims, and such other matters as set forth below:

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

1 2. There are over 9,250 parties who are listed on the Debtor's mailing matrix. The
2 Trustee needs assistance with communicating with the creditors via electronic mail, and
3 establishing a website where creditors can review the pleadings filed, and if necessary other
4 information that the Trustee may choose to post, such as answers to Frequently Asked Questions.
5 In addition, given the large number of creditors listed on the mailing matrix, the Trustee needs
6 assistance mailing copies of notices when required to be mailed to all creditors and in organizing
7 and processing the claims for review and communicating with those creditors, should an objection
8 be necessary, and eventually preparing and mailing checks and related tax documents.

10 3. Attached as Exhibit A to the Declaration of Tinamarie Feil in Support of
11 Application for Appointment of BMC Group, Inc. filed concurrently herewith is a true and correct
12 copy of an Agreement for Services that the Trustee seeks authority to enter into with BMC.

14 4. Trustee believes that it is in the best interest of the estate to retain the services of
15 BMC who has agreed to provide services as set forth in more detail in the Agreement for Services.

16 5. Of particular note, BMC has agreed to waive the requirement of a retainer and has
17 agreed to provide services and delay being compensated for costs (such as postage) until such time
18 as the Trustee has sufficient funds to pay said costs.

19 6. BMC has agreed to be paid its invoice (when there are sufficient funds in the
20 estate) on a monthly basis not to exceed \$12,000 a month. In the event such fees exceed \$12,000 a
21 month, BMC will file a periodic application for approval of such fee. The \$12,000 fee was arrived
22 at because that is the approximate amount that it would cost the estate for two mailings of hard
23 copies of documents to all creditors.

25 7. To the best of the Trustee's knowledge, Trustee believes and based thereon alleges,
26 that BMC and its employees or associates, represent no interests adverse to the estate with respect
27 to the matters upon which they are to be employed, have no connection or relationship with the
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1 debtor, creditors, any other party in interest, their respective attorneys and accountants, the United
2 States Trustee, or any one employed in the offices of the United States Trustee. There are no other
3 agreements to employ BMC other than this application.

4 8. Trustee is informed and believes, and based thereupon alleges, that this is a proper
5 case for the entry of an order without notice to creditors in that the matter to be ruled upon is
6 purely administrative in nature.

7 9. The Trustee seeks approval to retain BMC pursuant to Bankruptcy Code Section
8 328, and therefore, the Trustee is authorized to pay BMC its costs and expenses (subject to the
9 availability of funds). However, at the request of the U.S. Trustee, BMC will seek authorization
10 for approval of its fees pursuant to Bankruptcy Code Section 330.

11 WHEREFORE, Trustee requests that this Court enter an order authorizing Trustee to
12 employ BMC subject to the terms set forth in the Agreement for Services.

13 DATED: February 11, 2016

14 WENDEL, ROSEN, BLACK & DEAN LLP

15 By: /s/ Tracy Green
16 Tracy Green
17 Attorneys for Michael G. Kasolas
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