

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 AND OPPORTUNITY FOR
HEARING ON MOTION FOR ORDER
APPROVING COMPROMISE ON
PREFERENCE CLAIM**

TO: THE TWENTY LARGEST UNSECURED CREDITORS, SECURED CREDITORS, PARTIES REQUESTING SPECIAL NOTICE, THE U.S. TRUSTEE, THE DEBTOR AND OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE THAT Michael G. Kasolas (“Trustee”), the chapter 7 trustee for the bankruptcy estate of above-captioned debtor (“Debtor”), has filed a motion under Bankruptcy Rule 9019 (the “Motion”) for an order approving his compromise with James Tananbaum (“Transferee”). The Motion is based on the settlement terms and merits summarized below.

The Compromise Terms

Under the proposed compromise, the trustee will release the Transferee from all claims in exchange for his payment of \$150,000.00 plus waiver of any claim he may assert against the Debtor’s estate.

Factual Background and Merits of Compromise

Within 90 days prior to the filing of the Debtor’s bankruptcy petition on January 8, 2016, the Debtor transferred refunds in the aggregate amount of \$259,083.40 to the Transferee (the “Transfers”). The trustee sued to recover the Transfers as avoidable preferences (Adv. Pro. 17-4031). The Transferee raised numerous defenses, including challenges to the prima facie case which would bring the base amount of the claim down to \$235,118.23

The Trustee submits that the proposed compromise is fair and equitable and in the best interests creditors under the factors set forth under *In re A&C Properties*, 784 F.2d 1377 (9th Cir. 1986), *cert denied*, 479 U.S. 854 (1986), because results in a 63.7% recovery on the adjusted base claim without further cost, risk or delay and it resolves disputed claims and defenses and, importantly, without affecting other potential claims of the estate.

Procedure to Object and Request a Hearing

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

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

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

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

4. 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, within 21 days of the mailing of this notice (December 13, 2017).

PLEASE TAKE FURTHER NOTICE that the Motion and supporting declaration of Mark S. Bostick together with a copy of the parties' settlement agreement are filed and may be obtained from the Bankruptcy Court Clerk, through Pacer, or upon request from the undersigned.

Dated: November 22, 2017
[Date of Mailing]

/s/ Mark S. Bostick
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