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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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MIKE MCGEE, BANKIM GOPANI,
NIRANJAN KUMAR DAS, MARK
STEPHENSON, MELVIN YOUNKER,
VICTOR BRANCACIO, and ROBERT
WALSH, Individually and On Behalf of All
Others Similarly Situated,

Plaintiffs,

vs.

CHINA ELECTRIC MOTOR, INC., YUE
WANG, HAIXIA ZHANG, HEUNG SANG
“DEXTER” FONG, FUGUI WANG,
GUOQIANG ZHANG, LIANG TANG,
SHUIPING WANG, WESTPARK
CAPITAL, INC., ROTH CAPITAL
PARTNERS, LLC, RICHARD
RAPPAPORT, PHILIP KEMPISTY,
KEMPISTY & COMPANY CPAS, P.C., and
MALONEBAILEY, LLP,

Defendants.

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No. CV 11-2794-R (AGR_x)

CLASS ACTION

**STIPULATION AND
AGREEMENT OF
SETTLEMENT**

Hon. Manuel L. Real

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (the "Stipulation") dated June
10, 2013 is hereby submitted to the Court pursuant to Rule 23 of the Federal Rules

1 of Civil Procedure. Subject to the approval of the Court, this Stipulation is
2 entered into between Lead Plaintiff Mike McGee, on behalf of himself and the
3 putative class (collectively, "Plaintiffs"); and defendants Kempisty & Company
4 CPAs, P.C. and Philip Kempisty (the "Kempisty Defendants").

5 1. WHEREAS a class action complaint styled *Stanger v. China Electric*
6 *Motor, Inc.*, 11-CV-2794-R-AGRx alleging violations of federal securities laws
7 against: China Electric Motor, Inc., Liang Tang ("Tang"), Fugui Wang ("F.
8 Wang"), Shuiping Wang ("S. Wang"), Yue Wang ("Y. Wang"), Guoqiang Zhang
9 ("G. Zhang"), and Haixia Zhang ("H. Zhang"), and Heung Sang "Dexter" Fong
10 ("Fong") (collectively, the "China Electric Defendants"), WestPark Capital, Inc.
11 ("WestPark"), WestPark's CEO Richard Rappaport ("Rappaport"), Roth Capital
12 Partners ("Roth"), Kempisty & Company CPAs, P.C. ("Kempisty"), Kempisty's
13 CEO Philip Kempisty, and MaloneBailey LLP ("MaloneBailey"), was filed in the
14 United States District Court for the Central District of California (the "Court"), and
15 later consolidated with a related action, styled *DeSantis v. China Electric Motor,*
16 *Inc. et al.*, 11-CV-3483-R-AGR, on July 26, 2011 (collectively, the "Litigation").

17 2. WHEREAS, by Order dated July 26, 2011, the Court appointed Mike
18 McGee as Lead Plaintiff and The Rosen Law Firm, P.A. as Lead Counsel;

19 3. WHEREAS, on September 2, 2011, the Lead Plaintiff filed the
20 operative Consolidated Amended Complaint alleging: (Count 1) violations of
21 Section 11 of the Securities Act of 1933 (the "Securities Act") against the China
22 Electric Defendants, Kempisty, and MaloneBailey; (Count 2) violations of Section
23 11 of the Securities Act against WestPark and Roth; and (Count 3) violations of
24 Section 15 of the Securities Act against Tang, F. Wang, S. Wang, Y. Wang, G.
25 Zhang, H. Zhang, Fong, Rappaport, Philip Kempisty, and MaloneBailey;

1 4. WHEREAS the Kempisty Defendants deny any wrongdoing
2 whatsoever, and this Stipulation shall in no event be construed as, or deemed to be
3 evidence of, an admission or concession on the part of the Kempisty Defendants
4 with respect to any actual or potential claim, liability, wrongdoing, or damage
5 whatsoever, or any infirmity in the defenses that the Kempisty Defendants have
6 asserted; nor shall this Stipulation be construed as or deemed to be evidence of an
7 admission or concession by the Lead Plaintiff of any infirmity in the claims
8 asserted in the Litigation;

9 NOW THEREFORE, without any admission or concession on the part of the
10 Lead Plaintiff of any lack of merit in the Litigation whatsoever, and without any
11 admission or concession on the part of the Kempisty Defendants of any liability,
12 wrongdoing, or lack of merit in the defenses asserted in the Litigation whatsoever,
13 it is hereby STIPULATED AND AGREED, by and among the Settling Parties,
14 subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of
15 Civil Procedure, in consideration of the benefits flowing to the Settling Parties
16 from the Settlement, that any and all claims made or that could have been made in
17 the Litigation, including all Settled Claims (as defined below) asserted by Plaintiffs
18 against the Released Parties (as defined below), shall be compromised, settled,
19 released, and dismissed with prejudice as provided in this Stipulation and
20 Agreement of Settlement, without costs as to Plaintiffs or any of the Released
21 Parties, subject to the approval of the Court, upon and subject to the following
22 terms and conditions:

23 A. CERTAIN DEFINITIONS

24 As used in this Stipulation, the following terms have the meanings
25 specified below:
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1 1. "Claims Administrator" means the accounting and claims
2 administration firm, Strategic Claims Services, Inc., that Lead Plaintiff's Counsel
3 requests be appointed by the Court to administer the Settlement and disseminate
4 notice to the Settlement Class.

5 2. "Court" means the United States District Court for the Central
6 District of California.

7 3. "Effective Date" means the date on which all of the conditions
8 set forth below in subparagraph D.1 shall have been satisfied and the Court's Order
9 and Final Judgment becomes "Final." The Court's Order and Final Judgment
10 shall be deemed to be "Final" when either of the following has occurred: (a) if an
11 appeal or review is not sought by any person from the Order and Final Judgment,
12 the day following the expiration of the time to appeal or petition from the Order
13 and Final Judgment; or (b) if an appeal or review is sought from the Order and
14 Final Judgment, the day after such Order and Final Judgment is affirmed or the
15 appeal or review is dismissed or denied and such Order and Final Judgment is no
16 longer subject to further judicial review.

17 4. "Escrow Account" means the interest-bearing account selected
18 by the Escrow Agent. The Escrow Account shall be managed by the Escrow
19 Agent for the benefit of Lead Plaintiffs and the Settlement Class until the Effective
20 Date of the Settlement.

21 5. "Escrow Agent" means the Claims Administrator or its duly
22 appointed agent(s). The Escrow Agent shall perform the duties set forth in this
23 Stipulation.

24 6. "Gross Settlement Fund" means the Settlement Amount plus all
25 interest earned thereon.

26 7. "Lead Plaintiff" means Mike McGee.

1 8. "Lead Plaintiff's Counsel" means The Rosen Law Firm, P.A.

2 9. "Order and Final Judgment" means the order and judgment
3 entered by the Court, including the "Bar Order" provision barring certain claims
4 for contribution and indemnification (among others), approving the Settlement and
5 dismissing the Litigation as against the Kempisty Defendants with prejudice and
6 without costs to any party, and releasing the Settled Claims against the Released
7 Parties as provided herein.

8 10. "Person" means any individual, corporation, partnership,
9 limited liability company or partnership, limited partnership, professional
10 corporation, association, affiliate, joint stock company, trust, estate, unincorporated
11 association, government, or any political subdivision or agency thereof, any other
12 type of legal or political entity, any legal representative, and, as applicable, their
13 respective spouses, heirs, predecessors, successors, representatives, and assigns.

14 11. "Plaintiffs" means the Lead Plaintiff and the Settlement Class.

15 12. "Released Parties" means Philip Kempisty, Kempisty &
16 Company CPAs, P.C., and any of its current, former, or future parents, subsidiaries,
17 affiliates, partners, joint venturers, officers, directors, principals, shareholders,
18 members, employees, attorneys, trustees, insurers (including each of the Kempisty
19 Defendants' insurers' respective businesses, affiliates, subsidiaries, parents and
20 affiliated corporations, divisions, predecessors, shareholders, partners, joint
21 venturers, principals, insurers, reinsurers, successors and assigns, and their
22 respective past, present and future employees, officers, directors, attorneys, and
23 representatives, if any, and all of them), reinsurers, advisors, accountants,
24 associates, and/or any other individual or entity in which any of the Kempisty
25 Defendants have or had a controlling interest or which is or was related to or
26 affiliated with any of the Kempisty Defendants, and the current, former, and future

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1 legal representatives, heirs, successors-in-interest, or assigns of any of the
2 Kempisty Defendants.

3 13. "Settled Claims" means any and all claims, debts, demands,
4 liabilities, rights, and causes of action of every nature and description whatsoever
5 (including, but not limited to, any claims for damages, interest, attorneys' fees,
6 expert or consulting fees, and any other costs, expenses, or liabilities whatsoever),
7 whether based on federal, state, local, statutory or common law, or any other law,
8 rule, or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or
9 unliquidated, at law or in equity, matured or unmatured, whether class or
10 individual in nature, including both known claims and unknown claims: (i) that
11 have been or could have been asserted in the Litigation by the Lead Plaintiff and/or
12 Settlement Class Members or any of them against any of the Released Parties; or
13 (ii) that relate to the purchase, acquisition, or sale of China Electric securities
14 during the Settlement Class Period by the Lead Plaintiff or any Settlement Class
15 Member, that were or might have been asserted on behalf of themselves, their heirs,
16 executors, administrators, successors, and assigns against the Released Parties or
17 any of them; provided, however, that Settled Claims do not include any pending
18 shareholder derivative litigation. Settled Claims also include any and all claims
19 arising out of, relating to, or in connection with the Settlement or resolution of the
20 Litigation against the Released Parties, except claims to enforce any of the terms of
21 this Stipulation.

22 14. "Settlement Class" and "Settlement Class Members" mean, for
23 purposes of this Settlement, all persons who purchased or otherwise acquired any
24 common stock of China Electric during the period from January 29, 2010 through
25 and including March 30, 2011, and were allegedly damaged thereby. Excluded
26 from the Settlement Class are defendants and all former officers and directors of
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1 defendants, and all such excluded persons' immediate families, legal
2 representatives, heirs, predecessors, successors, and assigns, and any entity in
3 which any excluded person has or had a controlling interest, and any persons who
4 have separately filed actions against one or more of Defendants, based in whole or
5 in part on any claim arising out of or relating to any of the alleged acts, omissions,
6 misrepresentations, facts, events, matters, transactions, or occurrences referred to
7 in the Litigation or otherwise alleged, asserted, or contended in the Litigation.
8 Also excluded from the Settlement Class are those persons who file valid and
9 timely requests for exclusion in accordance with the Court's Order of Preliminary
10 Approval of Settlement ("Preliminary Approval Order") concerning this
11 Stipulation.

12 15. "Settlement Class Period" means the period from January 29,
13 2010 through March 30, 2011, inclusive.

14 16. "Settlement" means the settlement contemplated by this
15 Stipulation.

16 17. "Settlement Amount" means a fund in the amount of \$10,000
17 (Ten Thousand Dollars).

18 **B. SCOPE AND EFFECT OF SETTLEMENT AND RELEASES**

19 1. The obligations incurred pursuant to this Stipulation shall be in full
20 and final disposition of the Litigation and any and all Settled Claims as against all
21 Released Parties.

22 2. Pursuant to the Order and Final Judgment, upon the Effective Date
23 of this Settlement, the Settlement Class Members on behalf of themselves, their
24 current and future heirs, executors, administrators, successors, attorneys, insurers,
25 agents, representatives, and assigns, and any person they represent, shall, with
26 respect to each and every Settled Claim, be deemed to have released and forever

1 relinquished and discharged, and shall forever be enjoined from prosecuting, all
2 Settled Claims and any and all claims arising out of, relating to, or in connection
3 with the Settlement, the Litigation, or the resolution of the Litigation against the
4 Released Parties, whether or not such Settlement Class Member executes and
5 delivers the Proof of Claim and Release, except claims to enforce any of the terms
6 of this Stipulation. Further, all Settlement Class Members on behalf of
7 themselves, their current and future heirs, executors, administrators, successors,
8 attorneys, insurers, agents, representatives, and assigns, expressly covenant not to
9 assert, or suggest or assist in the assertion of, any claim or action against any of the
10 Released Parties that: (i) arises out of or relates to the purchase or sale of China
11 Electric securities, or (ii) that could have been alleged, asserted, or contended in
12 any forum by the Settlement Class Members or any of them against any of the
13 Released Parties, arising out of or relating to the purchase or sale of China Electric
14 securities, and shall forever be enjoined from commencing, instituting, or
15 prosecuting, or suggesting or assisting in commencing, instituting, or prosecuting,
16 any such claim, so long as such claim relates to the purchase or sale of China
17 Electric securities.

18 C. THE SETTLEMENT CONSIDERATION

19 1. Subject to the terms of this Stipulation, the Kempisty Defendants
20 shall pay the sum of \$10,000 (Ten Thousand Dollars) into the Escrow Account
21 within ten (10) business days after the Court issues the Preliminary Approval
22 Order. That payment shall constitute the Settlement Amount.

23 D. CONDITIONS OF SETTLEMENT

24 1. The Effective Date of the Settlement shall be conditioned upon the
25 occurrence of all of the following events:
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1 a. The Court shall enter the Order and Final Judgment
2 approving all proposed settlements in this Litigation;

3 b. The Court's Order and Final Judgment shall have become
4 "Final," as defined in subparagraph A.9.; and


5 c. The sum of \$10,000 (Ten Thousand Dollars) shall have been
6 paid, as set forth in subparagraph C.1. above.

7 2. Upon occurrence of all of the events referenced in subparagraph
8 D.1. above, Lead Plaintiff shall have, and each and all of the members of the
9 Settlement Class shall hereby be deemed to have, and by operation of the Order
10 and Final Judgment shall have, fully, finally, and forever, released, settled, and
11 discharged, in accordance with the terms of paragraph B. above, the Released
12 Parties from and with respect to the Settled Claims, whether or not such members
13 of the Settlement Class execute and deliver a Proof of Claim.

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1 IN WITNESS WHEREOF, the Settling Parties hereto, intending to be legally
2 bound hereby, have caused this Stipulation to be executed, by their duly authorized
3 attorneys, as of the day and year first above written.

4
5 THE ROSEN LAW FIRM, P.A.

6 
7 /s/ _____

8 Laurence M. Rosen, Esq.
9 Phillip Kim, Esq.
10 355 South Grand Avenue, Suite 2450
11 Los Angeles, CA 90071
12 (213) 785-2610

13 *Attorneys for Plaintiffs*

14
15 KEMPISTY AND COMPANY CPAs, P.C.

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17 _____
18 By: Philip Kempisty
19 Its: CEO

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21
22 PHILIP KEMPISTY
23
24 _____
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5 THE ROSEN LAW FIRM, P.A.

6 /s/
7 Laurence M. Rosen, Esq.
8 Phillip Kim, Esq.
9 355 South Grand Avenue, Suite 2450
10 Los Angeles, CA 90071
11 (213) 785-2610

12 *Attorneys for Plaintiffs*

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14 KEMPISTY AND COMPANY CPAs, P.C.

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