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 11 KEXUAN YAO

12 **UNITED STATES DISTRICT COURT**  
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 **KEXUAN YAO,**

15 **Plaintiff,**

16 **vs.**

17 **CRISNIC FUND, S. A.;**  
 18 **ANTHONY GENTILE;**  
 19 **ED FURMAN;**  
 20 **and Does 1-10,**

21 **Defendants.**

22 **Case No.: SACV 10-1299 AG (JCGx)**  
 23 **Mag. Judge: Hon. Jay C. Gandhi**

24 ~~proposed~~ **Stipulated Protective**  
 25 **Order**

*The Court orders*

1 ~~Plaintiff, Kexuan Yao and Defendants, Crisnic Fund, S.A. and Anthony~~  
2 ~~Gentile, through the undersigned counsel, stipulate and agree as follows:~~

3 Plaintiff has subpoenaed certain records from Transcend Capital, LP. Defendants  
4 have asserted that certain information in those records may be confidential.

5 ~~The Parties stipulate and agree that~~ The documents and information unrelated  
6 to the Defendants' sales of China Armco stock, produced by Transcend Capital,  
7 LP, shall be maintained by Plaintiff's counsel on a "Confidential" basis. The  
8 documents and information related to the China Armco stock shall not be  
9 confidential and may be used freely by the Plaintiff and its counsel, unless further  
10 ordered by the Court.

11 In connection with future discovery proceedings in this action, the parties  
12 may designate any document, thing, material, testimony, or other information  
13 derived there from, as "Confidential" under the terms of this Order (hereinafter  
14 "Order"). Confidential information is information which has not been made public  
15 and which concerns or relates to the processes, operations, type of work, or  
16 apparatus, or to the production, shipments, purchases, transfers, inventories, or the  
17 disclosure of which information may have the effect of causing harm to the  
18 competitive position of the person, firm, partnership, corporation, or to the  
19 organization from which the information was obtained.

20 By designating a document, thing, material, testimony or other information  
21 derived therefrom as "confidential," under the terms of this Order, the party  
22 making the designation is certifying to the Court that there is a good faith basis  
23 both in law and in fact for the designation within the meaning of Fed. R. Civ. P.  
24 26(g). If either party is found to have marked documents without a good faith  
25 bases, then such party will pay the reasonable attorneys' fees of the other party.

26 Confidential documents shall be so designated by stamping copies of the  
27 document produced to a party with the legend "CONFIDENTIAL." Stamping the  
28 legend "CONFIDENTIAL" on the cover of any multipage document shall

1 designate all pages of the document as confidential, unless otherwise indicated by  
2 the producing party.

3       Testimony taken at a deposition, conference, hearing or trial may be  
4 designated as confidential by making a statement to that effect on the record at the  
5 deposition or other proceeding. Arrangements shall be made with the court reporter  
6 taking and transcribing such proceeding to separately bind such portions of the  
7 transcript containing information designated as confidential, and to label such  
8 portions appropriately.

9       Material designated as confidential under this Order, the information  
10 contained therein, and any summaries, copies, abstracts, or other documents  
11 derived in whole or in part from material designated as confidential (hereinafter  
12 "*Confidential Material*") shall be used for the purpose of the prosecution, defense,  
13 or settlement of this action, and for no other purpose.

14       Confidential Material produced pursuant to this Order may be disclosed or  
15 made available only to the Court, to counsel for a party (including the paralegal,  
16 clerical, and secretarial staff employed by such counsel), and to the "qualified  
17 persons" designated below.

- 18       (a) a party, or an officer, director, or employee of a party deemed  
19 necessary by counsel to aid in the prosecution, defenses, or settlement  
20 of this action;
- 21       (b) experts or consultants (together with their clerical staff) retained by  
22 such counsel to assist in the prosecution, defense, or settlement of this  
23 action;
- 24       (c) court reporter(s) employed in this action;
- 25       (d) a witness at any deposition or other proceeding in this action;
- 26       (e) an outside copying service designated by either party to make copies of  
27 exhibits and third party document productions for production to the  
28 defendant;

1 (f) any employee of the United States Securities and Exchange  
2 Commission and/or the Department of Justice; and

3 (g) any other person as to whom the parties in writing agree.

4 Prior to receiving any Confidential Material, each "qualified person" shall be  
5 provided with a copy of this order and shall execute a nondisclosure agreement in  
6 the form of Attachment A, a copy of which shall be provided forthwith to counsel  
7 for each other party and for the parties.

8 Nothing herein shall impose any restrictions on the use or disclosure by a  
9 party of material obtained by such party independent of discovery in this action,  
10 whether or not such material is also obtained through discovery in this action, or  
11 from disclosing its own Confidential Material as it deems appropriate. If  
12 Confidential Material, including any portion of a deposition transcript designated  
13 as Confidential, is included in any papers to be filed in Court, such papers shall be  
14 labeled "Confidential-Subject to Court Order" and filed under seal until further  
15 order of this Court. *Any request to file under seal shall be made*  
*strictly pursuant to L.R. 79.5-1.*

16 In the event that any Confidential Material is used in any court proceeding in  
17 this action, it shall not lose its confidential status through such use, and the party  
18 using such shall take all reasonable steps to maintain its confidentiality during such  
19 use.

20 This Order shall be without prejudice to the right of the parties (i) to bring  
21 before the court at any time the question of whether a particular document or  
22 information is confidential or whether its use should be restricted or (ii) to present  
23 a motion to the Court under Fed. R. Civ. P. 26(c) for a separate protective order as  
24 to any particular document or information, including restrictions differing from  
25 those as specified herein. This Order shall not be deemed to prejudice the parties in  
26 any way in any future application for modification of this Order.

27 This Order is entered solely for the purpose of facilitating the exchange of  
28 documents and information between the parties to this action without involving the

1 Court unnecessarily in the process. Nothing in this Order nor the production of any  
2 information or document under the terms of this Order nor any proceedings  
3 pursuant to this Order shall be deemed to have the effect of an admission or waiver  
4 by either party or of altering the confidentiality or nonconfidentiality of any such  
5 document or information or altering any existing obligation of any party or the  
6 absence thereof.

7 SO ORDERED.

8 Dated: 1.18.2012

  
JAY C. GANDHI, MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT

11 AGREED AS TO FORM:

13 Dated: \_\_\_\_\_

/s/ Stanley C. Morris  
Attorneys for Plaintiff  
Kexuan Yao

16 Dated: \_\_\_\_\_

\_\_\_\_\_  
Kenneth G. Eade  
Attorneys for Crisnic, S.A.  
and Anthony Gentile

28 EXHIBIT A

PROTECTIVE ORDER - 5

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**CONFIDENTIALITY AGREEMENT**

1. I, \_\_\_\_\_, have read and understand the Stipulation and Order Regarding Confidential Information in this action, dated December \_\_, 2011 (the "Order"), and agree to be bound by its terms.

2. As set forth in the Order, I shall use Confidential Material, and the information contained in that Confidential Material, solely for the purpose of this litigation, and for no other purpose and no other case. I shall not disclose Confidential Material or the information in that Confidential Material except as permitted in the Order.

3. I hereby submit myself to the jurisdiction of the United States District Court for the Central District of California for the enforcement of these agreements and the Order.

Executed this \_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Type or Print Name]