Plaintiff, Helmut Boehm ("Plaintiff"), by and through his attorneys, alleges upon information and belief, except to paragraph 12 which is alleged upon personal knowledge, as follows:

SUMMARY OF THE ACTION

1. This is both an individual action and a shareholder class action brought by Plaintiff on behalf of holders of the common stock of Capital Gold Corporation ("Capital Gold" or the "Company") to enjoin the acquisition of the publicly owned shares of Capital Gold common stock by Gammon Gold Inc. ("Gammon Gold"), and its wholly owned subsidiary Capital Gold AcquireCo, Inc. ("Capital Gold AcquireCo"), as detailed herein (the "Proposed Transaction").

2. On October 1, 2010, Capital Gold and Gammon Gold entered into a definitive Agreement and Plan of Merger ("Merger Agreement"), whereby Gammon Gold, through its wholly owned subsidiary, would acquire all outstanding shares of Capital Gold. Under the terms
of the Proposed Transaction, Capital Gold shareholders will receive a combination of cash and stock equal to $0.79 in cash and 0.5209 validly issued, fully paid and nonassessable common shares, no par value, of Gammon Gold for each Capital Gold share they own. The Proposed Transaction is valued at approximately $288 million or $4.57 per Capital Gold share based on Gammon Gold’s closing price on September 24, 2010.

3. In pursuing the plan to induce Capital Gold shareholders to approve the Proposed Transaction, each of the defendants violated applicable state law by directly breaching and/or aiding the other defendants’ breaches of their fiduciary duties of loyalty, due care, diligence, good faith and fair dealing, independence, and candor.

4. The Proposed Transaction is unfair and undervalued. Indeed, according to Thomson/First Call, at least one financial analyst values Capital Gold common stock at $8.74 per share and the average Wall Street analyst target price is $6.02 per share, which is well in excess of the $4.57 per share Capital Gold’s Board of Directors (the “Board”) has accepted as adequate consideration for the Proposed Transaction. Interestingly, Capital Gold has refused to negotiate in good faith with competing bidders, such as Timmins Gold Corp. (“Timmins Gold”), who made an offer to the Company of 2.27 Timmins Gold shares for each Capital Gold share. Instead of negotiating with Timmins Gold, Capital Gold’s President, Colin Sutherland (“Sutherland”), persuaded Capital Gold’s Board to sell the Company to Gammon Gold, where Sutherland held an executive office and director position during 2004 to 2007. By entering into the Proposed Transaction, the Board has prevented an open auction sales process to the detriment of Capital Gold’s shareholders.

5. Gammon Gold is well aware of Capital Gold’s intrinsic enterprise value. Knowing that the economy and the Company’s performance is recovering, Gammon Gold
recognized that it had an opportunity to cash in on Capital Gold's undervalued stock price by acquiring the Company before it felt the full effects of the economic turnaround and reached analyst targets. As such, Gammon Gold, in possession of non-public information regarding the Capital Gold, is taking advantage of its position to acquire the Company at a substantial discount to its true value. More troubling is that Capital Gold's Board is allowing Gammon Gold to buy the Company on the cheap.

6. To ensure the success of the Proposed Transaction, Capital Gold's Board locked up the deal in favor of Gammon Gold by agreeing to impermissible "deal-protection" devices, effectively rendering the Proposed Transaction a fait accompli. For example, the Board agreed to: (i) a "no-shop" provision that prevents the Company from negotiating with or providing confidential Company information to competing bidders except under extremely limited circumstances; (ii) a "matching rights" provision that allows Gammon Gold five (5) business days to match any competing proposal in the unlikely event that one emerges; (iii) a $10.3 million termination fee to be paid to Gammon Gold if the Board agrees to a competing proposal; and (iv) each officer and director of the Company has entered into a voting and support agreement pledging its support for the Proposed Transaction.

7. Similarly, in an attempt to induce shareholder approval of the unfair Proposed Transaction, Defendants caused to be filed with the Securities and Exchange Commission ("SEC") a false and misleading registration statement, Form F-4, on November 4, 2010 (the "Registration Statement"), which also serves as the proxy for the required vote by Capital Gold shareholders. ¹ See Gammon Gold Inc., Registration Statement under the Securities Act of 1933 (Form F-4) (Nov. 4, 2010). Among other things, the Registration Statement misstates and/or

¹ The Registration Statement itself acknowledges that it will serve as the proxy statement for Capital Gold Shareholders, by describing the document as a "proxy statement/prospectus.” Registration Statement at 1.
fails to disclose material information concerning: (1) the process which led to the decision to retain the investment banking services of Cormark; (2) the basis for which the M&A Committee determined that a sale of the Company, as opposed to additional strategic alternatives, was the appropriate course of action, and what specific strategic alternatives, if any, the Board considered; (3) the reasons why the negotiations with the several other companies to pursue alternative transactions were terminated; (4) whether the Capital Gold Board of Directors considered any other financial advisors to provide the “fairness opinion” for the Proposed Transaction or the criteria used by the Board to select Stifel Nicolaus; and (5) the fact that certain Individual Defendants on the Capital Gold Board have prior affiliations with Gammon Gold that seriously call into question the independence and fairness of the decision by Capital Gold to be acquired by Gammon Gold. The material misstatements and omissions contained in the Registration Statement constitute violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”).

8. For these reasons and as set forth in detail herein, Plaintiff seeks to enjoin Defendants (defined below) from taking any steps to consummate the Proposed Transaction or, in the event the Proposed Transaction is consummated, recover damages resulting from the Individual Defendants’ (defined below) violations of their fiduciary duties of loyalty, good faith, due care, and full and fair disclosure.

JURISDICTION AND VENUE

9. This Court has jurisdiction over all claims asserted herein pursuant to 28 U.S.C §1331 in that plaintiff's claims arise in part under the Constitution and laws of the United States, including the Exchange Act [15 U.S.C. §78aa] and 28 U.S.C. §1331. This Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a).
10. This Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1332(a),
(c), and (d) as Plaintiff and the defendants are citizens of and domiciled in different states and the
amount in controversy exceeds $75,000, exclusive of interests and costs. Given that the
Proposed Transaction is valued at $288 million, the injunctive relief sought herein will exceed a
sum or value of $75,000. This action is not a collusive one to confer jurisdiction on this Court.

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because one or more
of the defendants, including Capital Gold, either resides in or maintains executive offices in this
District, and a substantial portion of the transactions and wrongs that are the subject of this
complaint occurred in substantial part in this District. Finally, the defendants have received
substantial compensation in this District by doing business here and engaging in numerous
activities that had an effect in this District.

THE PARTIES

12. Plaintiff Helmut Boehm, is, and at all relevant times was, a continuous
stockholder of defendant Capital Gold. Plaintiff is a citizen of Michigan.

13. Capital Gold is a corporation organized and existing under the laws of Delaware,
with its principal executive offices located at 76 Beaver Street, 14th Floor, New York, NY
10005. Capital Gold is a gold exploration and production company. The Company, through its
Mexican subsidiaries and affiliates, owns the El Chanate gold property in Sonora, Mexico.

14. Defendant Stephen M. Cooper ("Cooper") has served as Chairman of the Board
since March 2010. Cooper is a citizen of Colorado and resides at 7283 S. Fillmore Cir.,
Centennial, Colorado.

15. Defendant Colin P. Sutherland ("Sutherland") has served as President and a
Director of the Company since June 30, 2010 and August 2, 2010, respectively. Sutherland was
also a Director and Chief Financial Officer of Gammon Gold from 2004 to 2007. Sutherland is a citizen of Canada.

16. Defendant Scott Hazlitt ("Hazlitt") has served as Chief Operating Officer for the Company since July 1, 2010 and is also a Director of the Company. Hazlitt is a citizen of Colorado and resides at 9428 W. U.S. Highway 50, Salida, Colorado.

17. Defendant John Cutler ("Cutler") has served as a Director of the Company since September 3, 2009. Cutler is a citizen of Texas and resides at 4190 Lively Lane, Dallas, Texas.

18. Defendant Gary Huber ("Huber") was appointed the Independent Director of the Company effective August 27, 2010. Huber was also a founder of Canyon Resources Corporation, a precious metal and industrial mineral mining company. Huber is a citizen of Colorado and resides at 2101 E. Euclid Avenue, Centennial, Colorado.

19. Gammon Gold, Inc. is a corporation organized and existing under Part 1A of the Companies Act (Quebec), with its principal executive offices located at 1701 Hollis Street, Founders Square, Suite 400, Halifax, Nova Scotia B3J 3M8. Gammon Gold is a gold and silver producer engaged in the mining, development, exploration and acquisition of resource properties in North America.

20. Capital Gold AcquireCo is a Delaware corporation and a direct, wholly owned subsidiary of Gammon Gold formed to effectuate the Proposed Transaction.

21. Defendants in paragraph 14 through 18 are collectively referred to hereinafter as the "Individual Defendants."

22. Each of the Individual Defendants herein is sued individually, and as an aider and abettor, as well as in his or her capacity as an officer and/or director of the Company, and the
liability of each arises from the fact that he or she has engaged in all or part of the unlawful acts, plans, schemes, or transactions complained of herein.

23. Collectively, the Individual Defendants, Capital Gold, Gammon Gold and Capital Gold AcquireCo are referred to herein as the “Defendants.”

THE FIDUCIARY DUTIES OF THE INDIVIDUAL DEFENDANTS

UNDER STATE LAW

24. By reason of the Individual Defendants’ positions with the Company as officers and/or directors, said individuals are in a fiduciary relationship with Plaintiff and the other shareholders of Capital Gold and owe Plaintiff and the other members of the Class (defined herein) the duties of good faith, fair dealing, loyalty and full and candid disclosure.

25. By virtue of their positions as directors and/or officers of Capital Gold, the Individual Defendants, at all relevant times, had the power to control and influence, and did control and influence and cause Capital Gold to engage in the practices complained of herein.

26. Each of the Individual Defendants is required to act in good faith, in the best interests of the Company’s shareholders and with such care, including reasonable inquiry, as would be expected of an ordinarily prudent person. In a situation where the directors of a publicly traded company undertake a transaction that may result in a change in corporate control, the directors must take all steps reasonably required to maximize the value shareholders will receive rather than use a change of control to benefit themselves, and to disclose all material information concerning the proposed change of control to enable the shareholders to make an informed voting decision. To diligently comply with this duty, the directors of a corporation may not take any action that:

(a) adversely affects the value provided to the corporation’s shareholders;
(b) contractually prohibits them from complying with or carrying out their fiduciary duties;
(c) discourages or inhibits alternative offers to purchase control of the corporation or its assets;
(d) will otherwise adversely affect their duty to search for and secure the best value reasonably available under the circumstances for the corporation’s shareholders; or
(e) will provide the directors and/or officers with preferential treatment at the expense of, or separate from, the public shareholders.

27. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Transaction, violated duties owed to Plaintiff and the other shareholders of Capital Gold, including their duties of loyalty, good faith and independence, insofar as they, inter alia, engaged in self-dealing and obtained for themselves personal benefits, including personal financial benefits, not shared equally by Plaintiff or the other shareholders of Capital Gold common stock.

CLASS ACTION ALLEGATIONS

28. Plaintiff brings the Exchange Act claims on behalf of himself individually. Plaintiff brings the state law claims pursuant to Rule 23 on behalf of himself and as a class action, on behalf of all holders of Capital Gold common stock who are being and will be harmed by Defendants’ actions described below (the “Class”). Excluded from the Class are Defendants herein and any person, firm, trust, corporation or other entity related to or affiliated with any of the Defendants.

29. This action is properly maintainable as a class action because:

(a) The Class is so numerous that joinder of all members is impracticable. As of October 7, 2010, there were 48.56 million shares of Capital Gold
common stock issued and outstanding. The actual number of public shareholders of Capital Gold will be ascertained through discovery;

(b) There are questions of law and fact which are common to the Class, including inter alia, the following:

(i) whether the Individual Defendants have breached their fiduciary duties of undivided loyalty, independence or due care with respect to plaintiff and the other members of the Class in connection with the Proposed Transaction;

(ii) whether the Individual Defendants have breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of Plaintiff and the other members of the Class in connection with the Proposed Transaction; and

(iii) whether Plaintiff and the other members of the Class would suffer irreparable injury were the Proposed Transaction complained of herein consummated; and

(c) Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature and will fairly and adequately protect the interests of the Class;

(d) Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class;

(e) The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to
individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class; and

(f) Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

SUBSTANTIVE ALLEGATIONS

A. Background

30. Capital Gold is a gold exploration and production company. The Company, through its Mexican subsidiaries and affiliates, owns the El Chanate gold property in Sonora, Mexico.

31. Gold, as a precious metal, has become the best commodity in the current financial market and has shown recent stellar performance.

1 Year Gold Price Chart
32. On February 10, 2010, Capital Gold entered into a business combination agreement with Nayarit Gold Inc. ("Nayarit"), whereby it agreed to pay $45 million to acquire Nayarit. Nayarit, a Canadian mineral exploration company engaged in locating, acquiring and exploring for gold, silver and base metals primarily in Mexico, would become a great asset to Capital Gold. At the time, Sutherland was the Chief Executive Officer of Nayarit.

33. On August 2, 2010, Capital Gold completed the acquisition of Nayarit and Mr. Sutherland gave up his post as Chief Executive Officer of Nayarit and became President of Capital Gold.

34. On September 27, 2010, Timmins Gold announced that it has made a proposal to merge with Capital Gold. In particular, Timmins Gold stated as follows:

**Vancouver, British Columbia — Timmins Gold Corp. ("Timmins Gold") (TSX-V:TMM) made, on August 31, 2010, a non-binding proposal (the "Proposal") to the directors of Capital Gold Corporation ("Capital Gold") (TSX:CGC; NYSE AMEX:CGC) to merge on a negotiated basis with Capital Gold based on a value of CDN$4.50 per common share of Capital Gold ("a CGC Share") which, at the time of the Proposal and based on closing prices as of that date, equated to a share exchange ratio of 2.27 Timmins Gold shares issued for every 1 CGC Share. The Proposal represented a premium of 26% to the 20-day volume-weighted average price of CGC Shares on the Toronto Stock Exchange for the period ended August 31, 2010. Timmins Gold believes that the transaction, if completed, would result in a Proposed Transaction of two equal-sized companies with regional and operational synergies that would benefit both companies' shareholders by creating a mid-tier, low cost, Mexico-focused gold producer. These benefits include:

- complementary operating teams and exploration assets
- management team with proven ability to access capital markets and create shareholder value
- stronger market presence
- creation of a company with a larger market capitalization that would be attractive to certain institutional investors.

Despite repeated requests, Capital Gold’s board of directors has not been receptive to Timmins Gold’s Proposal.
Capital Gold shareholders representing approximately 17% of the outstanding CGC Shares have confirmed to Timmins Gold that they would support the Proposal (subject to customary conditions).

Bruce Bragagnolo, CEO and Director of Timmins Gold, comments: “Our proposed Proposed Transaction with Capital Gold presents a great opportunity for the shareholders of both companies. In putting it forward, we are responding to the expressed wishes of Capital Gold shareholders, including the 17% who have signed support agreements, that this Proposed Transaction take place. The absence of meaningful dialogue with the directors of Capital Gold has driven us to bring this process into the public arena.

“We are prepared to move quickly to arrive at a mutually agreeable transaction. Given our familiarity with Capital Gold’s operations and management team, we believe that due diligence will move very quickly.”

Timmins Gold has retained M Partners Inc. as an advisor in connection with the Proposal.

35. The Board refused to negotiate in good faith with Timmins Gold and instead rushed to enter into the Proposed Transaction with Sutherland’s former employer, Gammon Gold. Indeed, Capital Gold’s apparent disapproval of any merger with Timmins Gold is the result of the conflicts of interest arising out of certain Capital Gold Board members’ prior affiliations with Gammon Gold.

B. The Proposed Transaction

36. On October 1, 2010, Gammon Gold and Capital Gold issued a joint press release announcing the Proposed Transaction which stated:

October 1, 2010 – Toronto, ON and New York, New York – Gammon Gold Inc. (“Gammon Gold”) (NYSE: GRS, TSX: GAM) and Capital Gold Corporation (“Capital Gold”) (TSX and NYSE AMEX: CGC) have entered into a definitive Proposed Transaction agreement pursuant to which Gammon Gold will offer to acquire all of the issued and outstanding common shares of Capital Gold in a cash and share transaction (the “Acquisition”). The total consideration for the purchase of 100% of the fully diluted in-the-money shares of Capital Gold is approximately US$288 million or US$4.57 per Capital Gold share based on Gammon Gold’s closing price on September 24, 2010 on the NYSE.

The Acquisition has the unanimous support of both companies’ Boards of Directors and Officers and strengthens Gammon’s position as a leading Mexico focused, growing gold producer.
Under the terms of the Acquisition, each common share of Capital Gold will be exchanged for 0.5209 common shares of Gammon Gold and a cash payment in the amount of US$0.79 per share. Based on the September 24, 2010 closing price of Capital Gold’s shares on the NYSE AMEX, the acquisition price represents a 20% premium to the close on September 24th and a 30% premium to the 20-day volume weighted average price on the NYSE AMEX ending on that date.

Capital Gold owns and operates the El Chanate gold mine located in Sonora, Mexico as well as the Orion development project in Nayarit, Mexico.

Commenting on behalf of Capital Gold, Stephen Cooper, Chairman of the Board of Directors stated; “The Capital Gold team should be congratulated for their many achievements. They have transformed the El Chanate gold mine from a small exploration property to a low cost, quality asset with tremendous upside potential. They have increased reserves at El Chanate by 1.3 million gold ounces (535%) since 2002, and there is additional potential yet to be realized.” He continued, “This is an exciting value-add transaction that allows Capital Gold shareholders to participate in both the future success of El Chanate and Gammon’s well established portfolio of gold assets. Both Gammon Gold and Capital Gold have operating teams that possess extensive experience in Mexico, which supported by Gammon Gold’s strong financial foundation will allow El Chanate and Orion’s potential to be fully realized. The Capital Gold Board of Directors is confident that the shareholders of both companies will benefit from this business combination and we look forward to the continued success of the combined companies.”

Commenting on behalf of Gammon Gold, Rene Marion, President and CEO, stated; “We anticipate that this transaction will transform Gammon Gold into a well diversified Mexican gold producer with an attractive suite of operating assets and an enhanced pipeline of development and exploration stage projects that will increase our exposure to gold in a positive gold price environment. Following the transaction, we anticipate Gammon Gold will be among the lowest cost producers in the industry with an exciting organic growth profile.” He continued, “We believe that our offer to Capital Gold shareholders is highly compelling as it offers an attractive opportunity and provides ongoing participation in a large, well-funded, liquid, producing company focused on Mexico. Both sets of shareholders will also be able to participate in the substantial operating and financial synergies we expect to derive from this transaction. This transaction positions Gammon to become a leading consolidator in the attractive but fragmented Mexican gold sector.”

Stifel, Nicolaus & Company, Incorporated has provided a fairness opinion to the Board of Directors of Capital Gold that the consideration offered pursuant to the Acquisition is fair, from a financial point of view, to the shareholders of Capital Gold. The Board of Capital Gold unanimously recommends that holders of
Capital Gold shares vote in favour of the Acquisition. The senior officers and directors of Capital Gold have agreed to vote in favour of the Acquisition.

The Acquisition will be completed by way of a Proposed Transaction under the General Corporation Law of the State of Delaware. After completion of the Acquisition, it is expected that current Capital Gold shareholders will own approximately 20% of Gammon Gold on a fully diluted basis. The transaction is subject to receipt of approval of holders of at least 50% plus one of the outstanding Capital Gold shares, and, if required by law, approval by shareholders excluding directors and officers holding approximately 1.1% of Capital Gold shares, who are entitled to change of control payments, regulatory approvals, and the satisfaction of certain other customary conditions. The transaction is expected to close in late 2010.

If the transaction is not completed, Capital Gold has agreed to pay a break fee of US $10.3 million to Gammon Gold under certain circumstances. Capital Gold may also be entitled to a break fee of up to US $2.0 million under certain circumstances. Capital Gold has, among other things, agreed to provide Gammon Gold with certain other customary deal protections, including a non-solicitation provision and a right to match.

37. The Proposed Transaction is unfair and undervalued. Indeed, according to Thomson/First Call, at least one financial analyst values Capital Gold common stock at $8.74 per share and the average analyst target price is $6.02 per share, which is well in excess of the $4.57 per share Capital Gold’s Board has accepted as adequate consideration for the Proposed Transaction. Interestingly, Capital Gold has refused to negotiate in good faith with competing bidders, such as Timmins Gold, who made an offer to the Company of 2.27 Timmins Gold shares for each Capital Gold share. Instead of negotiating with Timmins Gold, Capital Gold’s President, Sutherland, persuaded Capital Gold’s Board to sell the Company to Gammon Gold, where Sutherland held an executive office and director position during 2004 to 2007.

38. In addition, certain of the Individual Defendants will receive lavish compensation, benefits or change of control and severance benefits. For example, Mr. Sutherland is in line to receive $900,000 in change in control benefits after two months of employment with Capital Gold for selling his company to his former employer.
C. **The Preclusive Deal Protection Devices**

39. As part of the Merger Agreement, the Individual Defendants agreed to certain onerous and preclusive deal protection devices that operate conjunctively to make the Proposed Transaction a *fait d’accompli* and ensure that no competing offers will emerge for the Company.

40. First, the Merger Agreement contains a strict “no shop” provision prohibiting the members of the Capital Gold’s Board from taking any affirmative action to comply with their fiduciary duties to maximize shareholder value, including soliciting alternative acquisition proposals or business combinations. Specifically, §7.11(a) of the Merger Agreement precludes the Board and any Company personnel from attempting to procure a price in excess of the amount offered by Gammon Gold.

41. Similarly, §7.11(d) of the Merger Agreement provides a matching rights provision whereby the Company must notify Capital Gold of any unsolicited competing bidder’s offer within 24 hours. Then, if and only if the Board determines that the competing offer constitutes a “Superior Offer,” Capital Gold is granted five business days to amend the terms of the Merger Agreement to make a counter-offer that the Company must consider in determining whether the competing bid still constitutes a “Superior Offer.”

42. Thus, even if the Capital Gold Board receives an intervening bid that appears to be “superior” to Gammon Gold’s offer, they are precluded from even entering into discussions and negotiations unless they first reasonably determine in good faith that the alternative proposal is, in fact, “superior,” and give Gammon Gold 5 business days to match the competing offer. Consequently, this provision prevents the Capital Gold Board from exercising their fiduciary duties and precludes an investigation into competing proposals unless, as a prerequisite, the majority of the Capital Gold Board first determines that the proposal is “superior.”
43. In addition to the no-shop and matching rights provisions, the Proposed Transaction Agreement includes a $10.3 million termination fee that in combination will all but ensure that no competing offer will be forthcoming.

44. In a further effort to lock up the Proposed Transaction, the Individual Defendants have also entered into Voting Agreements whereby they committed to vote their shares in favor of the Proposed Transaction.

45. These provisions cumulatively discourage bidders from making a competing bid for the Company.

46. Accordingly, Plaintiff seeks injunctive and other equitable relief to prevent the irreparable injury that Company shareholders will continue to suffer absent judicial intervention.

D. The Materially Misleading And/Or Incomplete Registration Statement

47. In order to secure shareholder approval of this unfair deal, Defendants filed with the SEC a materially misleading and incomplete Registration Statement on November 4, 2010. The Registration Statement, which recommends that Capital Gold shareholders vote in favor of the Proposed Transaction, omits and/or misrepresents material information about the unfair sale process, the unfair consideration, and the true intrinsic value of the Company. Specifically, the Registration Statement omits/or misrepresents the material information set forth below in contravention to Sections 14(a) and 20(a) of the Exchange Act.

48. The Registration Statement fails to provide the Company’s shareholders with material information and/or provides them with false and materially misleading information thereby rendering the shareholders unable to cast an informed vote regarding the Proposed Transaction.
49. The Registration Statement does not describe in sufficient detail the sales process leading up to the Proposed Transaction. For example, the Registration Statement states that Capital Gold formally engaged Cormark on August 19, 2010 to provide financial advisory services and to assist the Company in assessing, structuring and negotiating a business combination to the extent a suitable transaction could be identified. Registration Statement at 55. However, the Company fails to describe in sufficient detail the process which led to the selection of Cormark, the reason Cormark had already been providing services to Capital Gold related to a transaction with Gammon Gold for almost one month prior to its retention, the specific criteria used during the selection process, and the identity of the other financial advisors that were considered by the Board during the selection process.

50. Further, from August 19, 2010 to August 23, 2010, Cormark, the Company’s M&A Committee and the Board, compiled a list of qualified potential buyers and potential merger partners and assessed each potential buyer or partner on the basis, among others, of its likely strategic fit and ability to effect a transaction on a timely basis. Registration Statement at 56. The Registration Statement explains that the M&A Committee came to the preliminary view that it should explore a sale of Capital Gold as an alternative to pursuing an acquisition, strategic partnership or remaining independent. Id. However, the Registration Statement fails to disclose the basis for which the M&A Committee determined that a sale of the Company, as opposed to additional strategic alternatives, was the appropriate course of action to maximize shareholder value. The Registration Statement also fails to disclose what specific strategic alternatives, if any, the Board considered.

51. The Registration Statement then states that Cormark was in contact with a total of eleven companies, including Gammon Gold, from August 23, 2010 to September 9, 2010. Id.
Of the eleven companies contacted, Capital Gold only pursued subsequent negotiations with four companies (Gammon Gold, Timmins Gold, and two companies referred to as "Company A" and "Company B"). Id. at 56-64. The Registration Statement, however, fails to state the reasons why the negotiations with the other seven companies terminated. Indeed, three of these seven companies participated in discussions with Cormark and were given access to Capital Gold's due diligence site, yet the Registration Statement also fails to disclose the identity, material terms offered, if any, and disposition of the negotiations with these three companies. Id. at 56.

52. Suddenly, on September 14, 2010, the M&A Committee engaged Stifel Nicolaus to provide investment banking services, including using its commercially reasonable efforts to provide its "fairness opinion" of the consideration to be paid to the Capital Gold shareholders in connection with the Proposed Transaction. Registration Statement at 60. The Registration Statement fails to state why Stifel Nicolaus was engaged at that time to provide the fairness opinion, and does not state whether the Board considered any other financial advisors or the criteria used by the Board to select Stifel Nicolaus. Further, the Registration Statement fails to state whether Cormark was asked to render a fairness opinion and it refused.

53. The Registration Statement also notes the September 27, 2010 press release issued by Timmins Gold, which publicly announced the proposal submitted to Capital Gold on September 1, 2010, and had garnered support from holders of approximately 17% of Capital Gold's outstanding shares. Registration Statement at 62. Similarly, the Registration Statement notes an October 5, 2010 press release again issued by Timmins Gold indicating that since its announcement on September 27, additional Capital Gold stockholders had indicated they would support the Timmins Gold proposal. Id. at 63. Finally, the Registration Statement explains that Capital Gold counsel sent Timmins Gold a letter on October 14, 2010 advising that Capital
Gold’s Board had determined that Timmins Gold’s offer did not constitute a “superior proposal” as that term is defined in the Merger Agreement. Id. at 64. However, the Registration Statement fails to disclose that certain Individual Defendants on the Capital Gold Board have prior affiliations with Gammon Gold that seriously call into question the independence and fairness of the decision by Capital Gold to be acquired by Gammon Gold, and the Board’s refusal to continue negotiations with Timmins Gold.

54. Moreover, the fairness opinion prepared by Stifel Nicolaus on September 30, 2010 is plagued by materially false statements and omissions. The opinion of Stifel Nicolaus fails to disclose information which would allow shareholders to intelligently determine whether or not they should vote in favor of the Proposed Transaction. Registration Statement at 66-74. In particular, the Registration Statement is deficient and should provide, inter alia, the following:

(a) The identity of the “Wall Street equity research analysts” and their respective share price targets for Capital Gold observed by Stifel Nicolaus in its Wall Street Equity Research Analyst Stock Price Targets section;

(b) A description of the criteria and multiples observed by Stifel Nicolaus for each company in the Comparable Company Analysis for Capital Gold and Gammons Gold. Further, a description of the criteria used to select the reference ranges used in the analysis. Further, the numerical results in dollars and cents observed in the analysis;

(c) A description of the criteria and multiples observed by Stifel Nicolaus for each company in its Selected Precedent Gold M&A Transaction Analysis for Capital Gold. Further, the numerical results in dollars and cents observed in the analysis;

(d) A description of the premiums observed by Stifel Nicolaus for each company in the “premium paid” analysis portion of its Selected Precedent Gold M&A Transaction;

(e) A description of whether the Net Asset Value Analysis for Capital Gold and Gammons Gold included consideration of stock-based
compensation and whether the analysis takes into consideration NOLs (if any);

(f) A description of the criteria used to select a range of discount rates of 2.5% and 7.5% in its Net Asset Value Analysis for Capital Gold and Gammons Gold; and

55. A description of any other analyses performed by Stifel Nicolaus in rendering its fairness opinion and an explanation as to why those other analyses were not included in the Registration Statement.

56. The complete set of projections for Capital Gold relied upon by the Board and Stifel Nicolaus in rendering its fairness opinion, which must include Capital Gold’s free cash flows or the components necessary to reach free cash flows (e.g. depreciation, change in working capital, operating income, assumed tax rate and whether stock based compensation was included as a cash expense).

57. The information requested above in paragraphs 49-56 collectively amounts to the key inputs necessary for one to be able to evaluate and understand the sales process and analysis rendered in connection with the Proposed Transaction. Therefore, the aforementioned omitted information is highly relevant and material to Capital Gold shareholders.

58. Accordingly, because the foregoing material misstatements and omissions represent a violation of federal law, Plaintiff seeks injunctive and other equitable relief to prevent the irreparable injury that Company shareholders and he will continue to suffer absent judicial intervention.

COUNT I

On Behalf of Plaintiff for Violations of Section 14(a) of the Exchange Act Against the Individual Defendants and Capital Gold

59. Plaintiff brings this Exchange Act claim on behalf of himself as an individual.
60. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

61. Defendants have issued the Registration Statement with the intention of soliciting shareholder support for the Proposed Transaction.

62. Rule 14a-9, promulgated by the SEC pursuant to Section 14(a) of the Exchange Act, provides that such communications with shareholders shall not contain "any statement which, at the time an in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading." 17 C.F.R. §240.14a-9.

63. Specifically, the Registration Statement violates Section 14(a) and Rule 14a-9 because it omits material facts, including those set forth above. Moreover, in the exercise of reasonable care, Defendants should have known that the Registration Statement is materially misleading and omits material facts that are necessary to render it non-misleading.

64. The misrepresentations and omissions in the Registration Statement are material to Plaintiff, who will be deprived of his entitlement to cast a fully informed vote if such misrepresentations and omissions are not corrected prior to the vote on the Proposed Transaction. As a direct and proximate result of Defendants' conduct, Plaintiff will be irreparably harmed.

COUNT II

On Behalf of Plaintiff for Violations of Section 20(a) of the Exchange Act Against the Individual Defendants and Capital Gold

65. Plaintiff brings this Exchange Act claim on behalf of himself as an individual.

66. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.
67. The Individual Defendants acted as controlling persons of Capital Gold within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of Capital Gold, and participation in and/or awareness of the Company’s operations and/or intimate knowledge of the false statements contained in the Registration Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading.

68. Each of the Individual Defendants and Capital Gold were provided with or had unlimited access to copies of the Registration Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

69. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same. The Registration Statement at issue contains the unanimous recommendation of each of the Individual Defendants to approve the Proposed Transaction. They were, thus, directly involved in the making of this document.

70. Capital Gold also had direct supervisory control over the composition of the Registration Statement and the information disclosed therein, as well as the information that was omitted and/or misrepresented in the Registration Statement. Capital Gold, in fact, disseminated the Registration Statement and is, thus, directly responsible for materially misleading shareholders because it permitted the materially misleading Registration Statement to be published to shareholders.
71. In addition, as the Registration Statement sets forth at length, and as described herein, the Individual Defendants and Capital Gold were each involved in negotiating, reviewing, and approving the Proposed Transaction. The Registration Statement purports to describe the various issues and information that the Individual Defendants reviewed and considered. The Individual Defendants and Capital Gold participated in drafting and/or gave their input on the content of those descriptions.

72. By virtue of the foregoing, the Individual Defendants and Capital Gold have violated Section 20(a) of the Exchange Act.

73. As set forth above, the Individual Defendants and Capital Gold had the ability to exercise control over and did control a person or persons who have each violated Section 14(a) and SEC Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' conduct, Plaintiff will be irreparably harmed.

**COUNT III**

**On Behalf of Plaintiff and the Class for Breach of Fiduciary Duties Against the Individual Defendants**

74. Plaintiff repeats and realleges each allegation set forth herein.

75. The Individual Defendants have violated fiduciary duties of care, loyalty, candor and good faith owed to public shareholders of Capital Gold.

76. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, are attempting to unfairly deprive Plaintiff and other members of the Class of the true value of their investment in Capital Gold.

77. As demonstrated by the allegations above, the Individual Defendants failed to exercise the care required, and breached their duties of loyalty, good faith, candor and
independence owed to the shareholders of Capital Gold because, among other reasons, they failed to take steps to maximize the value of Capital Gold to its public shareholders. Moreover, the Individual Defendants failed to secure safeguards on behalf of the Company’s shareholders, against the decline in the value of the stock component of the consideration to be paid to Gammon Gold’s shareholders in the Proposed Transaction.

78. The Individual Defendants dominate and control the business and corporate affairs of Capital Gold, and are in possession of private corporate information concerning Capital Gold’s assets, business and future prospects. Thus, there exists an imbalance and disparity of knowledge and economic power between them and the public shareholders of Capital Gold which makes it inherently unfair for them to benefit their own interests to the exclusion of maximizing shareholder value.

79. By reason of the foregoing acts, practices and course of conduct, the Individual Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Plaintiff and the other members of the Class.

80. As a result of the actions of the Individual Defendants, Plaintiff and the Class will suffer irreparable injury in that they have not and will not receive their fair portion of the value of Capital Gold’s assets and businesses and have been and will be prevented from obtaining a fair price for their common stock.

81. Unless the Individual Defendants are enjoined by the Court, they will continue to breach their fiduciary duties owed to Plaintiff and the members of the Class, all to the irreparable harm of the members of the Class.

82. Plaintiff and the members of the Class have no adequate remedy at law. Only through the exercise of this Court’s equitable powers can Plaintiff and the Class be fully
protected from the immediate and irreparable injury which the Individual Defendants’ actions threaten to inflict.

**COUNT IV**

On Behalf of Plaintiff and the Class
Against Capital Gold, Gammon Gold and Capital Gold AcquireCo, Inc. for Aiding and Abetting the Individual Defendants’ Breaches of Fiduciary Duty

83. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

84. Capital Gold has acted and is acting with knowledge of, or with reckless disregard to, the fact that the Individual Defendants are in breach of their fiduciary duties to Capital Gold’s public shareholders, and has participated in such breaches of fiduciary duties.

85. Capital Gold knowingly aided and abetted the Individual Defendants’ wrongdoing alleged herein. In so doing, Capital Gold rendered substantial assistance in order to effectuate the Individual Defendants’ plan to consummate the Proposed Transaction in breach of their fiduciary duties.

86. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands injunctive relief in his favor and in favor of the Class and against Defendants as follows:

A. Declaring that this action is properly maintainable as a Class action and certifying Plaintiff as Class representative;

B. Enjoining Defendants, their agents, counsel, employees and all persons acting in concert with them from consummating the Proposed Transaction, unless and until the Company adopts and implements a procedure or process to obtain a Proposed Transaction agreement providing the best possible terms for shareholders;
C. Rescinding, to the extent already implemented, the Proposed Transaction or any of the terms thereof, or granting Plaintiff and the Class rescissory damages;

D. Directing the Individual Defendants to account to Plaintiff and the Class for all damages suffered as a result of the Individual Defendants wrongdoing;

E. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys’ and experts’ fees; and

F. Granting such other and further equitable relief as this Court may deem just and proper.

Dated: November 22, 2010

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