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

_____, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

ROBERT C. FLEXON, DARREN R.
JAMISON, JOHN J. JURIC, SCOTT W.
ROBINSON, and FREDERICK S.
HENCKEN III,

Defendants.

Case No.

**CLASS ACTION COMPLAINT
FOR VIOLATIONS OF THE
FEDERAL SECURITIES LAWS**

1 Plaintiff _____ (“Plaintiff”), individually and on behalf of all others similarly
2 situated, by and through her attorneys, alleges the following upon information and
3 belief, except as to those allegations concerning Plaintiff, which are alleged upon
4 personal knowledge. Plaintiff’s information and belief is based upon, among other
5 things, her counsel’s investigation, which includes without limitation: (a) review and
6 analysis of regulatory filings made by Capstone Green Energy Corp. (“Capstone” or
7 the “Company”) with the United States (“U.S.”) Securities and Exchange
8 Commission (“SEC”); (b) review and analysis of press releases and media reports
9 issued by and disseminated by Capstone; and (c) review of other publicly available
10 information concerning Capstone.

11 **NATURE OF THE ACTION AND OVERVIEW**

12 1. This is a class action on behalf of persons and entities that purchased or
13 otherwise acquired Capstone securities between June 14, 2021 and September 22,
14 2023, inclusive (the “Class Period”). Plaintiff pursues claims against the Defendants
15 under the Securities Exchange Act of 1934 (the “Exchange Act”).

16 2. Capstone is a California based gas turbine manufacturer that specializes
17 in microturbine power along with heating and cooling cogeneration systems.

18 3. On August 15, 2023, after the closing of trading, the Company
19 announced its inability to timely file a Form 10-Q due to an “ongoing review and
20 investigations by the Audit Committee of financial reporting and other matters.”

21 4. On this news, the Company’s stock price fell \$0.05, or 5%, to close at
22 \$0.89 August 16, 2023 on unusually high trading volume. The Company’s stock price
23 continued to fall another \$0.05, or 5%, to close at \$0.84 on August 17, 2023.

24 5. Days later, on August 18, 2023, after trading hours, the Company
25 announced it had entered into a Fifth Amendment to its Amended and Restated Note
26 Purchase Agreement among the Company, Goldman Sachs Specialty Lending Group,
27 L.P. and a purchaser party. Capstone also reported receipt of a notice from the
28

1 NASDAQ exchange that the Company was not in compliance with listing
2 requirements due to its failure to file periodic financial reports.

3 6. On this news, the Company's stock price fell \$0.26, or 30%, to close at
4 \$0.58 on the next trading day August 21, 2023, on unusually high trading volume.

5 7. Then, on September 22, 2023, after trading hours, the Company
6 disclosed that certain financial statements could no longer be relied upon "as a result
7 of apparent errors primarily related to revenue recognition associated with bill and
8 hold transactions that were identified in the course a review by the Audit
9 Committee[.]" The Company disclosed there were "numerous instances where bill
10 and hold transactions did not appear to meet the requirements for revenue recognition
11 under GAAP."

12 8. On this news, the Company's stock price fell \$0.02 or 4% to close at
13 \$0.55 on unusually high trading volume.

14 9. Shortly thereafter, on September 28, 2023 the Company announced it
15 had declared bankruptcy.

16 10. On this news, the Company's stock price fell \$0.10, or 17%, to close at
17 \$0.50.

18 11. Finally, on October 4, 2023, after trading hours, it was announced that
19 the company would be delisted, and the ticker symbol changed from CGRN to
20 CGRNQ.

21 12. On this news, the Company's stock plummeted, falling \$0.31, or 66%,
22 to close at \$0.04.

23 13. Throughout the Class Period, Defendants made materially false and/or
24 misleading statements, as well as failed to disclose material adverse facts about the
25 Company's business, operations, and prospects. Specifically, Defendants failed to
26 disclose to investors: (1) that the Company had engaged in "bill and hold transactions"
27 with customers; (2) that these transactions were not reported pursuant to generally
28 accepted accounting principles ("GAAP"); (3) that, "as a result of apparent errors

1 primarily related to revenue recognition associated with bill and hold transactions”
2 the Company lacked a reasonable basis to report certain financial results and was
3 reasonably likely to restate its financial statements; and (4) that, as a result of the
4 foregoing, Defendant’s positive statements about the Company’s business,
5 operations, and prospects were materially misleading and/or lacked a reasonable
6 basis.

7 **JURISDICTION AND VENUE**

8 14. The claims asserted herein arise under Sections 10(b) and 20(a) of the
9 Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated
10 thereunder by the SEC (17 C.F.R. § 240.10b-5).

11 15. This Court has jurisdiction over the subject matter of this action pursuant
12 to 28 U.S.C. § 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

13 16. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b)
14 and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in
15 furtherance of the alleged fraud or the effects of the fraud have occurred in this
16 Judicial District. Many of the acts charged herein, including the dissemination of
17 materially false and/or misleading information, occurred in substantial part in this
18 Judicial District.

19 17. In connection with the acts, transactions, and conduct alleged herein,
20 Defendants directly and indirectly used the means and instrumentalities of interstate
21 commerce, including the United States mail, interstate telephone communications,
22 and the facilities of a national securities exchange.

23 **PARTIES**

24 18. Plaintiff ____, as set forth in the accompanying certification, incorporated
25 by reference herein, purchased Capstone securities during the Class Period, and
26 suffered damages as a result of the federal securities law violations and false and/or
27 misleading statements and/or material omissions alleged herein.

Materially False and Misleading
Statements Issued During the Class Period

26. The Class period begins on June 14, 2021.¹ On that date, the Company submitted to the SEC its Annual Report Form 10-K for the fiscal year ended March 31, 2021 (“2021 10-K”). The 2021 10-K reported the following revenue (amounts in millions):

	Year Ended March 31,					
	2021			2020		
	Revenue	Megawatts	Units	Revenue	Megawatts	Units
Microturbine Product	\$ 34.1	33.5	234	\$ 33.8	33.2	214
Accessories	2.4			1.5		
Total Product and Accessories	36.5			35.3		
Parts and Service	31.1			33.6		
Total	\$ 67.6			\$ 68.9		

27. The 2021 10-K presents its financial results with this statement:

The following table presents unaudited quarterly financial information. *This information was prepared in accordance with GAAP, and, in the opinion of management, contains all adjustments necessary for a fair presentation of such quarterly information when read in conjunction with the financial statements included elsewhere herein.* Our operating results for any prior quarters may not necessarily indicate the results for any future periods.

28. The 2021 10-K further reported the below table indicating revenue:

(Unaudited)	Year Ended March 31, 2021			
	Fourth Quarter	Third Quarter	Second Quarter	First Quarter
Revenue	\$ 17,862	\$ 20,676	\$ 14,906	\$ 14,193
Cost of goods sold	20,413	17,204	12,344	10,820
Gross margin	(2,551)	3,472	2,562	3,373
Operating expenses:				
R&D	714	735	599	370
SG&A	5,158	4,816	4,872	3,546
Loss from operations	(8,423)	(2,079)	(2,909)	(543)
Net loss (1)	\$ (4,757)	\$ (7,595)	\$ (4,212)	\$ (1,823)
Net loss per common share—basic and diluted (1)	\$ (0.39)	\$ (0.69)	\$ (0.38)	\$ (0.17)

¹ Unless otherwise stated, all emphasis in bold and italics hereinafter is added.

1 29. The 2021 10-K describes the Company’s revenue recognition policy as
2 follows:

3 Our discussion and analysis of our financial condition and results of
4 operations is based upon *our consolidated financial statements, which*
5 *have been prepared in accordance with accounting principles*
6 *generally accepted in the United States of America (“GAAP”).*

7 * * *

8 *Our revenue consists of sales of products, parts, accessories and*
9 *service, which includes FPPs, net of discounts. Our distributors*
10 *purchase products, parts and FPPs for sale to end users and are also*
11 *required to provide a variety of additional services, including*
12 *application engineering, installation, commissioning and post-*
13 *commissioning service. Our standard terms of sales to distributors and*
14 *direct end users include transfer of title, care, custody and control at the*
15 *point of shipment, payment terms ranging from full payment in*
16 *advance of shipment to payment in 90 days, no right of return or*
17 *exchange, and no post-shipment performance obligations by us except*
18 *for warranties provided on the products and parts sold. We recognize*
19 *revenue when all of the following criteria are met: persuasive*
20 *evidence of an arrangement exists, delivery has occurred or service*
21 *has been rendered, selling price is fixed or determinable and*
22 *collectability is reasonably assured.*

23 * * *

24 Our inventories are valued at the lower of cost (determined on a first in
25 first out (“FIFO”) basis) or net realizable value[.]

26 30. The 2021 10-K goes on to describe the Company’s Controls and
27 Procedures including its Disclosure Controls and Procedures:

28 *We maintain disclosure controls and procedures* that are designed to
ensure that the information required to be disclosed in our reports under
the Exchange Act is recorded, processed, summarized, and reported
within the time periods specified in the SEC’s rules and forms, and that
such information is accumulated and communicated to management,
including our Chief Executive Officer (“CEO”) and Chief Financial
Officer (“CFO”), as appropriate, to allow timely decisions regarding
required disclosure.

* * *

Based on this evaluation, our CEO and CFO have concluded that our
disclosure controls and procedures were effective as of March 31, 2021
and provided reasonable assurance that the information required to be
disclosed by us in reports we submit under the Exchange Act is
recorded, processed, summarized, and reported within the time periods
specified in the rules and forms prescribed by the SEC and that such
information is accumulated and communicated to management,

1 including our CEO and CFO, as appropriate, to allow timely decisions
2 regarding required disclosure.

3 31. The 2021 10-K continues, describing the Management's Annual Report
4 on Internal Control Over Financial Reporting:

5 Our management is responsible for establishing and maintaining
6 adequate internal control over our financial reporting. Internal control
7 over financial reporting is defined in Rule 13a-15(f) or 15d-15(f) under
8 the Exchange Act as a process designed by, or under the supervision of,
9 our CEO and CFO and effected by our board of directors, management
10 and other personnel, to *provide reasonable assurance regarding the*
11 *reliability of financial reporting and the preparation of financial*
12 *statements for external purposes in accordance with GAAP and*
13 *includes those policies and* procedures that:

14
15 Pertain to the maintenance of records that in reasonable detail
16 accurately and fairly reflect the transactions and dispositions
17 of our assets;

18 *Provide reasonable assurance that transactions are*
19 *recorded as necessary to permit preparation of*
20 *financial statements in accordance with GAAP, and*
21 *that our receipts and expenditures are being made*
22 *only in accordance with authorizations of our*
23 *management and directors;* and

24 Provide reasonable assurance regarding prevention or timely
25 detection of unauthorized acquisition, use or disposition of
26 our assets that could have a material effect on the financial
27 statements.

28 We conducted an evaluation of the effectiveness of our internal control
over financial reporting based on the framework in *Internal Control—*
Integrated Framework issued by the Committee of Sponsoring
Organizations of the Treadway Commission (2013 framework). *Based*
on this evaluation, management concluded that we maintained
effective internal control over financial reporting as of March 31,
2021.

32. On July 14, 2022, the Company submitted to the SEC the Annual Report Form 10-K for the fiscal year ended March 31, 2022 (“2022 10-K”). The 2022 10-K reported the following about revenue (amounts in thousands, except for share amounts):

	Year Ended March 31,	
	2022	2021
Revenue:		
Product and accessories	\$ 37,181	\$ 36,517
Parts and service	32,464	31,119
Total revenue	69,645	67,636
Cost of goods sold:		
Product and accessories	40,483	42,025
Parts and service	20,624	18,756
Total cost of goods sold	61,107	60,781
Gross margin	8,538	6,855
Operating expenses:		
Research and development	3,359	2,417
Selling, general and administrative	22,980	18,391
Total operating expenses	26,339	20,808
Loss from operations	(17,801)	(13,953)
Other income	642	4,993
Interest income	21	30
Interest expense	(5,004)	(5,156)
Gain (loss) on debt extinguishment	1,950	(4,282)
Loss before provision for income taxes	(20,192)	(18,368)
Provision for income taxes	19	19
Net loss	(20,211)	(18,387)
Less: Deemed dividend on purchase warrant for common shares	—	15
Net loss attributable to common stockholders	\$(20,211)	\$(18,402)
Net loss per common share attributable to common stockholders —basic and diluted	\$ (1.37)	\$ (1.63)
Weighted average shares used to calculate basic and diluted net loss per common share attributable to common stockholders	14,727	11,280

33. The 2022 10-K described its backlog as follows:

Net product orders for Fiscal 2022 were \$31.8 million and contributed to an ending **backlog of \$25.3 million at March 31, 2022**. The book-to-bill ratio was 1.1:1 for Fiscal 2022. **Book-to-bill ratio is the ratio of new orders we received to units shipped and billed during a period. However, because our backlog represents only the estimated amount of future product revenue to be recognized under negotiated contracts as shipments convert backlog to recognized revenue for accounting purposes**, we may not be able to fully realize the revenue value reported in our backlog, and our backlog may not be indicative of future revenues. A portion of our backlog is concentrated in the international oil and gas market which may impact the overall timing of shipments or the conversion of backlog to revenue.

1 34. The 2022 10-K described the Company’s revenue recognition policy:
2 Our discussion and analysis of our financial condition and results of
3 operations is based upon *our consolidated financial statements, which*
4 *have been prepared in accordance with accounting principles*
5 *generally accepted in the United States of America (“GAAP”).*

6 * * *

7 *Our revenue consists of sales of products, parts, accessories and*
8 *service, which includes FPPs, net of discounts. Our distributors purchase*
9 *products, parts and FPPs for sale to end users and are also required to*
10 *provide a variety of additional services, including application*
11 *engineering, installation, commissioning and post-commissioning*
12 *service. Our standard terms of sales to distributors and direct end users*
13 *include transfer of title, care, custody and control at the point of*
14 *shipment, payment terms ranging from full payment in advance of*
15 *shipment to payment in 90 days, no right of return or exchange, and no*
16 *post-shipment performance obligations by us except for warranties*
17 *provided on the products and parts sold. We recognize revenue when all*
18 *of the following criteria are met: persuasive evidence of an*
19 *arrangement exists, delivery has occurred or service has been*
20 *rendered, selling price is fixed or determinable and collectability is*
21 *reasonably assured.*

22 * * *

23 Our inventories are valued at the lower of cost (determined on a first in
24 first out (“FIFO”) basis) or net realizable value

25 35. The 2022 10-K similarly stated that the Company’s disclosure controls
26 and procedures were “effective,” stating:

27 *We maintain disclosure controls and procedures* that are designed to
28 ensure that the information required to be disclosed in our reports under
the Exchange Act is recorded, processed, summarized, and reported
within the time periods specified in the SEC’s rules and forms, and that
such information is accumulated and communicated to management,
including our Chief Executive Officer (“CEO”) and Chief Financial
Officer (“CFO”), as appropriate, to allow timely decisions regarding
required disclosure.

* * *

Based on this evaluation, our CEO and CFO have concluded that our
disclosure controls and procedures were effective as of March 31, 2022
and provided reasonable assurance that the information required to be
disclosed by us in reports we submit under the Exchange Act is
recorded, processed, summarized, and reported within the time periods
specified in the rules and forms prescribed by the SEC and that such
information is accumulated and communicated to management,
including our CEO and CFO, as appropriate, to allow timely decisions
regarding required disclosure.

1 36. The 2022 10-K stated that the Company’s internal control over financial
2 reporting was “effective,” stating:

3 Our management is responsible for establishing and maintaining
4 adequate internal control over our financial reporting. Internal control
5 over financial reporting is defined in Rule 13a-15(f) or 15d-15(f) under
6 the Exchange Act as a process designed by, or under the supervision of,
7 our CEO and CFO and effected by our board of directors, management
8 and other personnel, to *provide reasonable assurance regarding the
9 reliability of financial reporting and the preparation of financial
10 statements for external purposes in accordance with GAAP and
11 includes those policies and* procedures that:

12 Pertain to the maintenance of records that in reasonable
13 detail accurately and fairly reflect the transactions and
14 dispositions of our assets;

15 *Provide reasonable assurance that transactions are
16 recorded as necessary to permit preparation of financial
17 statements in accordance with GAAP, and that our
18 receipts and expenditures are being made only in
19 accordance with authorizations of our management and
20 directors;* and

21 Provide reasonable assurance regarding prevention or
22 timely detection of unauthorized acquisition, use or
23 disposition of our assets that could have a material effect on
24 the financial statements.

25 We conducted an evaluation of the effectiveness of our internal control
26 over financial reporting based on the framework in *Internal Control—
27 Integrated Framework* issued by the Committee of Sponsoring
28 Organizations of the Treadway Commission (2013 framework). *Based
on this evaluation, management concluded that we maintained
effective internal control over financial reporting as of March 31,
2021.*

36. On August 11, 2022, Capstone announced its first quarter 2023 financial
results in a press release that stated, in relevant part:

First Quarter Fiscal 2023 Highlights:

Revenues for the first quarter ending June 30, 2022 were \$18.7
million, up 18% from \$15.8 million in revenue during the fourth quarter
ended March 31, 2022, and up 16% from revenues of \$16.1 million in
the year-ago June quarter.

* * *

Gross product bookings for the first quarter ending June 30, 2022,
were \$12.4 million, down slightly from \$12.7 million in the previous
quarter ended March 31, 2022.

1 The product Book-to-Bill Ratio dropped to 1.4:1 in first quarter
2 ending June 30, 2022, from 1.7:1 as a result of lower product shipments
3 in the previous quarter ended March 31, 2022. Ending product backlog
4 on June 30, 2022 was \$24.8 million compared to \$25.3 million on March
5 31, 2022.

6 38. The same day, Capstone filed its first quarter 2023 report on Form 10-Q
7 for the period ended June 30, 2022, affirming the previously reported financial results.
8 It also stated that the Company’s “disclosure controls and procedures were effective
9 as of June 30, 2022.”

10 39. On November 14, 2022, Capstone announced its second quarter 2023
11 financial results in a press release that stated, in relevant part:

12 Second Quarter and First Half Fiscal 2023 Highlights:

13 Revenues for the second quarter ending September 30, 2022, were
14 \$20.8 million, up 11% from \$18.7 million in revenue during the first
15 quarter ended June 30, 2022, and up 21% from \$17.2 million in the year-
16 ago September quarter.

17 Revenues for the first half of fiscal 2023 totaled \$39.4 million, up
18 18% from \$33.3 million from the first half of fiscal 2022, as the
19 Company executes its EaaS growth strategy.

20 * * *

21 Gross product bookings for the second quarter ending September
22 30, 2022, were robust at \$15.4 million, up from \$12.4 million in the
23 previous quarter ended June 30, 2022, demonstrating the ongoing
24 success of the company's current growth strategy.

25 The product Book-to-Bill Ratio improved to 1.6:1 in the second
26 quarter ending September 30, 2022. The ending product backlog on
27 September 30, 2022, was \$28.9 million, up \$4.1 million or 16.5% from
28 \$24.8 million on June 30, 2022.

40. The same day, the Company filed its quarterly report on Form 10-Q for
the period ended September 30, 2022, affirming the previously reported financial
results. The report also stated that the Company’s “disclosure controls and procedures
were effective as of September 30, 2022.”

41. On February 13, 2023, the Company announced its third quarter 2023
financial results in a press release that stated, in relevant part:

Third Quarter and Nine Months Fiscal 2023 Highlights:

1 Revenues for the third quarter ending December 31, 2022, were
2 \$19.6 million, down 6% from \$20.8 million in revenue during the second
3 quarter ended September 30, 2022, and down 5% from \$20.6 million in
4 the year-ago third quarter.

5 Revenues for the first nine months of fiscal 2023 totaled \$59.0
6 million, up 9.5% from \$53.9 million from the nine months of fiscal 2022.

7 * * *

8 Gross product bookings for the third quarter ending December 31,
9 2022, were \$6.9 million, down from \$16.3 million in the previous quarter
10 ended September 30, 2022, as bookings slowed in December.

11 42. On February 14, 2023, the Company filed its quarterly report on Form
12 10-Q for the period ended December 31, 2022, affirming the previously reported
13 financial results. It also stated that the Company's "disclosure controls and procedures
14 were effective as of December 31, 2022."

15 43. On June 30, 2023, the Company filed a notification of inability to timely
16 file its annual report on Form 10-K. Specifically, the Company stated:

17 The Company needs additional time as a result of the following:

18 The Company is still in the process of compiling required
19 information to complete the Annual Report and Marcum LLP
20 ("Marcum"), its independent registered public accounting firm, requires
21 additional time to complete its audit of the consolidated financial
22 statements as of and for the year ended March 31, 2023 to be
23 incorporated in the Annual Report, which includes, but is not limited to,
24 completing its procedures pertaining to certain matters being reviewed
25 by the Company's Audit Committee and matters relating to the NPA (as
26 defined below).

27 As the end of the year ended March 31, 2023 the Company was,
28 and the Company currently is, in violation of certain of its covenants,
including the minimum liquidity covenant, contained in its Amended and
Restated Note Purchase Agreement, as amended (the "NPA"), with
Goldman Sachs Specialty Lending Group, L.P. ("Goldman"). To address
those defaults and other matters (including the maturity of the notes on
October 1, 2023), the Company has been working with Goldman to enter
into a waiver and amendment to the NPA, which has consumed a
significant amount of the Company's finance and accounting personnel's
time. There can be no assurance that the Company will be able to enter
into a waiver and amendment, and such waiver and amendment will
likely impose additional burdens on the Company.

44. The above statements identified in ¶¶ 26-43 were materially false and/or
misleading, and failed to disclose material adverse facts about the Company's

1 business, operations, and prospects. Specifically, Defendants failed to disclose to
2 investors: (1) that the Company had engaged in “bill and hold transactions” with
3 customers; (2) that these transactions were not reported pursuant to GAAP; (3) that,
4 “as a result of apparent errors primarily related to revenue recognition associated with
5 bill and hold transactions,” the Company lacked a reasonable basis to report certain
6 financial results and was reasonably likely to restate its financial statements; and (4)
7 that, as a result of the foregoing, Defendant’s positive statements about the
8 Company’s business, operations, and prospects were materially misleading and/or
9 lacked a reasonable basis.

10 Disclosures at the End of the Class Period

11 45. On August 15, 2023, after the closing of trading, the Company
12 announced its inability to timely file a Form 10-Q due to an “ongoing review and
13 investigations by the Audit Committee of financial reporting and other matters.”
14 Specifically, the Company stated, in relevant part:

15 *The Company needs additional time because the Company still in the*
16 *process of compiling information* necessary to complete both the
17 Quarterly Report and the Company’s Annual Report on Form 10-K for
18 the fiscal year ended March 31, 2023 (the “Annual Report”), and
19 Marcum LLP (“Marcum”), the Company’s independent registered
20 public accounting firm, *requires additional time to complete its audit of*
21 *the consolidated financial statements* as of and for the year ended March
22 31, 2023 to be incorporated in the Annual Report, and will *need*
23 *additional time to review* the consolidated financial statements as of and
24 for the year ended March 31, 2023 to be included in the Quarterly Report,
25 once the Company has completed their preparation.

26 46. On this news, the Company’s stock price fell \$0.05, or 5%, to close at
27 \$0.89 August 16, 2023 on unusually high trading volume. The Company’s stock price
28 continued to fall another \$0.05, or 5%, to close at \$0.84 on August 17, 2023

47. On August 18, 2023, after trading hours, the Company announced it had
entered into a Fifth Amendment to its Amended and Restated Note Purchase
Agreement among the Company, Goldman Sachs Specialty Lending Group, L.P. and
a purchaser party.

1 48. On this news, the Company’s stock price fell \$0.26, or 30%, on the next
2 trading day August 21, 2023, on unusually high trading volume, to close at \$0.58.

3 49. Then, on September 22, 2023, after trading hours, the Company
4 disclosed that following an audit, certain financial statements could no longer be
5 relied upon “as a result of apparent errors primarily related to revenue recognition
6 associated with bill and hold transactions that were identified in the course a review
7 by the Audit Committee[.]” The Company disclosed that “the Audit Committee
8 identified numerous instances where bill and hold transactions did not appear to meet
9 the requirements for revenue recognition under GAAP. As a result, the Audit
10 Committee has concluded that, in most such cases, revenue should not have been
11 recognized until a later time when the products were subsequently shipped to the
12 customer.” The Audit Committee determined that

13 the Company’s previously issued consolidated financial statements as of
14 each and for each of the following fiscal periods are *materially incorrect*,
require restatement and should no longer be relied upon:

15 The first three fiscal quarters of the fiscal year ended March
16 31, 2023 and the comparable periods of the fiscal year ended
March 31, 2022;

17 The fiscal year ended March 31, 2022; and

18 The fiscal year ended March 31, 2021 (the “Subject
19 Periods”).

20 50. The Company’s September 22, 2023 filing further disclosed:

21 ***Due to the impact of the above matters on the presentation of the***
22 ***Company’s financial statements*** in its Form 10-K for the fiscal year
23 ended March 31, 2023, in its Form 10-Q for the quarter ended June 30,
24 2023 and in its Form 10-Q for the quarter ended September 30, 2023, ***the***
25 ***Company has not timely filed its Annual Report on Form 10-K for the***
fiscal year ended March 31, 2023 or its Quarterly Report on Form 10-
Q for the quarterly period ended June 30, 2023 with the SEC, and may
not timely file its Quarterly Report on Form 10-Q for the quarterly period
ended September 30, 2023.

26 51. On this news, the Company’s stock price fell \$0.02 or 4% to close at
27 \$0.55 on unusually high trading volume.

1 the market price of the Company's securities and market information relating to
2 Capstone, and have been damaged thereby.

3 61. During the Class Period, Defendants materially misled the investing
4 public, thereby inflating the price of Capstone's securities, by publicly issuing false
5 and/or misleading statements and/or omitting to disclose material facts necessary to
6 make Defendants' statements, as set forth herein, not false and/or misleading. The
7 statements and omissions were materially false and/or misleading because they failed
8 to disclose material adverse information and/or misrepresented the truth about
9 Capstone's business, operations, and prospects as alleged herein.

10 62. At all relevant times, the material misrepresentations and omissions
11 particularized in this Complaint directly or proximately caused or were a substantial
12 contributing cause of the damages sustained by Plaintiff and other members of the
13 Class. As described herein, during the Class Period, Defendants made or caused to
14 be made a series of materially false and/or misleading statements about Capstone's
15 financial well-being and prospects. These material misstatements and/or omissions
16 had the cause and effect of creating in the market an unrealistically positive
17 assessment of the Company and its financial well-being and prospects, thus causing
18 the Company's securities to be overvalued and artificially inflated at all relevant
19 times. Defendants' materially false and/or misleading statements during the Class
20 Period resulted in Plaintiff and other members of the Class purchasing the Company's
21 securities at artificially inflated prices, thus causing the damages complained of herein
22 when the truth was revealed.

23 **LOSS CAUSATION**

24 63. Defendants' wrongful conduct, as alleged herein, directly and
25 proximately caused the economic loss suffered by Plaintiff and the Class.

26 64. During the Class Period, Plaintiff and the Class purchased Capstone's
27 securities at artificially inflated prices and were damaged thereby. The price of the
28 Company's securities significantly declined when the misrepresentations made to the

1 market, and/or the information alleged herein to have been concealed from the market,
2 and/or the effects thereof, were revealed, causing investors' losses.

3 **SCIENTER ALLEGATIONS**

4 65. As alleged herein, Defendants acted with scienter since Defendants knew
5 that the public documents and statements issued or disseminated in the name of the
6 Company were materially false and/or misleading; knew that such statements or
7 documents would be issued or disseminated to the investing public; and knowingly
8 and substantially participated or acquiesced in the issuance or dissemination of such
9 statements or documents as primary violations of the federal securities laws. As set
10 forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt
11 of information reflecting the true facts regarding Capstone, their control over, and/or
12 receipt and/or modification of Capstone's allegedly materially misleading
13 misstatements and/or their associations with the Company which made them privy to
14 confidential proprietary information concerning Capstone, participated in the
15 fraudulent scheme alleged herein.

16 **APPLICABILITY OF PRESUMPTION OF RELIANCE**

17 **(FRAUD-ON-THE-MARKET DOCTRINE)**

18 66. The market for Capstone's securities was open, well-developed and
19 efficient at all relevant times. As a result of the materially false and/or misleading
20 statements and/or failures to disclose, Capstone's securities traded at artificially
21 inflated prices during the Class Period. On June 16, 2021, the Company's share price
22 closed at a Class Period high of \$7.35 per share. Plaintiff and other members of the
23 Class purchased or otherwise acquired the Company's securities relying upon the
24 integrity of the market price of Capstone's securities and market information relating
25 to Capstone, and have been damaged thereby.

26 67. During the Class Period, the artificial inflation of Capstone's shares was
27 caused by the material misrepresentations and/or omissions particularized in this
28 Complaint causing the damages sustained by Plaintiff and other members of the Class.

1 As described herein, during the Class Period, Defendants made or caused to be made
2 a series of materially false and/or misleading statements about Capstone's business,
3 prospects, and operations. These material misstatements and/or omissions created an
4 unrealistically positive assessment of Capstone and its business, operations, and
5 prospects, thus causing the price of the Company's securities to be artificially inflated
6 at all relevant times, and when disclosed, negatively affected the value of the
7 Company shares. Defendants' materially false and/or misleading statements during
8 the Class Period resulted in Plaintiff and other members of the Class purchasing the
9 Company's securities at such artificially inflated prices, and each of them has been
10 damaged as a result.

11 68. At all relevant times, the market for Capstone's securities was an
12 efficient market for the following reasons, among others:

13 (a) Capstone shares met the requirements for listing, and was listed
14 and actively traded on the NASDAQ, a highly efficient and automated market;

15 (b) As a regulated issuer, Capstone filed periodic public reports with
16 the SEC and/or the NASDAQ;

17 (c) Capstone regularly communicated with public investors via
18 established market communication mechanisms, including through regular
19 dissemination of press releases on the national circuits of major newswire services
20 and through other wide-ranging public disclosures, such as communications with the
21 financial press and other similar reporting services; and/or

22 (d) Capstone was followed by securities analysts employed by
23 brokerage firms who wrote reports about the Company, and these reports were
24 distributed to the sales force and certain customers of their respective brokerage firms.
25 Each of these reports was publicly available and entered the public marketplace.

26 69. As a result of the foregoing, the market for Capstone's securities
27 promptly digested current information regarding Capstone from all publicly available
28 sources and reflected such information in Capstone's share price. Under these

1 circumstances, all purchasers of Capstone’s securities during the Class Period
2 suffered similar injury through their purchase of Capstone’s securities at artificially
3 inflated prices and a presumption of reliance applies.

4 70. A Class-wide presumption of reliance is also appropriate in this action
5 under the Supreme Court’s holding in *Affiliated Ute Citizens of Utah v. United States*,
6 406 U.S. 128 (1972), because the Class’s claims are, in large part, grounded on
7 Defendants’ material misstatements and/or omissions. Because this action involves
8 Defendants’ failure to disclose material adverse information regarding the Company’s
9 business operations and financial prospects—information that Defendants were
10 obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All
11 that is necessary is that the facts withheld be material in the sense that a reasonable
12 investor might have considered them important in making investment decisions.
13 Given the importance of the Class Period material misstatements and omissions set
14 forth above, that requirement is satisfied here.

15 **NO SAFE HARBOR**

16 71. The statutory safe harbor provided for forward-looking statements under
17 certain circumstances does not apply to any of the allegedly false statements pleaded
18 in this Complaint. The statements alleged to be false and misleading herein all relate
19 to then-existing facts and conditions. In addition, to the extent certain of the
20 statements alleged to be false may be characterized as forward looking, they were not
21 identified as “forward-looking statements” when made and there were no meaningful
22 cautionary statements identifying important factors that could cause actual results to
23 differ materially from those in the purportedly forward-looking statements. In the
24 alternative, to the extent that the statutory safe harbor is determined to apply to any
25 forward-looking statements pleaded herein, Defendants are liable for those false
26 forward-looking statements because at the time each of those forward-looking
27 statements was made, the speaker had actual knowledge that the forward-looking
28 statement was materially false or misleading, and/or the forward-looking statement

1 was authorized or approved by an executive officer of Capstone who knew that the
2 statement was false when made.

3 **FIRST CLAIM**

4 **Violation of Section 10(b) of The Exchange Act and**

5 **Rule 10b-5 Promulgated Thereunder**

6 **Against All Defendants**

7 72. Plaintiff repeats and re-alleges each and every allegation contained
8 above as if fully set forth herein.

9 73. During the Class Period, Defendants carried out a plan, scheme and
10 course of conduct which was intended to and, throughout the Class Period, did: (i)
11 deceive the investing public, including Plaintiff and other Class members, as alleged
12 herein; and (ii) cause Plaintiff and other members of the Class to purchase Capstone's
13 securities at artificially inflated prices. In furtherance of this unlawful scheme, plan
14 and course of conduct, Defendants, and each defendant, took the actions set forth
15 herein.

16 74. Defendants (i) employed devices, schemes, and artifices to defraud; (ii)
17 made untrue statements of material fact and/or omitted to state material facts
18 necessary to make the statements not misleading; and (iii) engaged in acts, practices,
19 and a course of business which operated as a fraud and deceit upon the purchasers of
20 the Company's securities in an effort to maintain artificially high market prices for
21 Capstone's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-
22 5. All Defendants are sued either as primary participants in the wrongful and illegal
23 conduct charged herein or as controlling persons as alleged below.

24 75. Defendants, individually and in concert, directly and indirectly, by the
25 use, means or instrumentalities of interstate commerce and/or of the mails, engaged
26 and participated in a continuous course of conduct to conceal adverse material
27 information about Capstone's financial well-being and prospects, as specified herein.

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1 76. Defendants employed devices, schemes and artifices to defraud, while in
2 possession of material adverse non-public information and engaged in acts, practices,
3 and a course of conduct as alleged herein in an effort to assure investors of Capstone's
4 value and performance and continued substantial growth, which included the making
5 of, or the participation in the making of, untrue statements of material facts and/or
6 omitting to state material facts necessary in order to make the statements made about
7 Capstone and its business operations and future prospects in light of the circumstances
8 under which they were made, not misleading, as set forth more particularly herein,
9 and engaged in transactions, practices and a course of business which operated as a
10 fraud and deceit upon the purchasers of the Company's securities during the Class
11 Period.

12 77. Each of the Individual Defendants' primary liability and controlling
13 person liability arises from the following facts: (i) the Individual Defendants were
14 high-level executives and/or directors at the Company during the Class Period and
15 members of the Company's management team or had control thereof; (ii) each of
16 these defendants, by virtue of their responsibilities and activities as a senior officer
17 and/or director of the Company, was privy to and participated in the creation,
18 development and reporting of the Company's internal budgets, plans, projections
19 and/or reports; (iii) each of these defendants enjoyed significant personal contact and
20 familiarity with the other defendants and was advised of, and had access to, other
21 members of the Company's management team, internal reports and other data and
22 information about the Company's finances, operations, and sales at all relevant times;
23 and (iv) each of these defendants was aware of the Company's dissemination of
24 information to the investing public which they knew and/or recklessly disregarded
25 was materially false and misleading.

26 78. Defendants had actual knowledge of the misrepresentations and/or
27 omissions of material facts set forth herein, or acted with reckless disregard for the
28 truth in that they failed to ascertain and to disclose such facts, even though such facts

1 were available to them. Such defendants' material misrepresentations and/or
2 omissions were done knowingly or recklessly and for the purpose and effect of
3 concealing Capstone's financial well-being and prospects from the investing public
4 and supporting the artificially inflated price of its securities. As demonstrated by
5 Defendants' overstatements and/or misstatements of the Company's business,
6 operations, financial well-being, and prospects throughout the Class Period,
7 Defendants, if they did not have actual knowledge of the misrepresentations and/or
8 omissions alleged, were reckless in failing to obtain such knowledge by deliberately
9 refraining from taking those steps necessary to discover whether those statements
10 were false or misleading.

11 79. As a result of the dissemination of the materially false and/or misleading
12 information and/or failure to disclose material facts, as set forth above, the market
13 price of Capstone's securities was artificially inflated during the Class Period. In
14 ignorance of the fact that market prices of the Company's securities were artificially
15 inflated, and relying directly or indirectly on the false and misleading statements made
16 by Defendants, or upon the integrity of the market in which the securities trades,
17 and/or in the absence of material adverse information that was known to or recklessly
18 disregarded by Defendants, but not disclosed in public statements by Defendants
19 during the Class Period, Plaintiff and the other members of the Class acquired
20 Capstone's securities during the Class Period at artificially high prices and were
21 damaged thereby.

22 80. At the time of said misrepresentations and/or omissions, Plaintiff and
23 other members of the Class were ignorant of their falsity, and believed them to be
24 true. Had Plaintiff and the other members of the Class and the marketplace known
25 the truth regarding the problems that Capstone was experiencing, which were not
26 disclosed by Defendants, Plaintiff and other members of the Class would not have
27 purchased or otherwise acquired their Capstone securities, or, if they had acquired
28

1 such securities during the Class Period, they would not have done so at the artificially
2 inflated prices which they paid.

3 81. By virtue of the foregoing, Defendants violated Section 10(b) of the
4 Exchange Act and Rule 10b-5 promulgated thereunder.

5 82. As a direct and proximate result of Defendants' wrongful conduct,
6 Plaintiff and the other members of the Class suffered damages in connection with
7 their respective purchases and sales of the Company's securities during the Class
8 Period.

9 **SECOND CLAIM**

10 **Violation of Section 20(a) of The Exchange Act**

11 **Against the Individual Defendants**

12 83. Plaintiff repeats and re-alleges each and every allegation contained
13 above as if fully set forth herein.

14 84. Individual Defendants acted as controlling persons of Capstone within
15 the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their
16 high-level positions and their ownership and contractual rights, participation in,
17 and/or awareness of the Company's operations and intimate knowledge of the false
18 financial statements filed by the Company with the SEC and disseminated to the
19 investing public, Individual Defendants had the power to influence and control and
20 did influence and control, directly or indirectly, the decision-making of the Company,
21 including the content and dissemination of the various statements which Plaintiff
22 contends are false and misleading. Individual Defendants were provided with or had
23 unlimited access to copies of the Company's reports, press releases, public filings,
24 and other statements alleged by Plaintiff to be misleading prior to and/or shortly after
25 these statements were issued and had the ability to prevent the issuance of the
26 statements or cause the statements to be corrected.

27 85. In particular, Individual Defendants had direct and supervisory
28 involvement in the day-to-day operations of the Company and, therefore, had the

1 power to control or influence the particular transactions giving rise to the securities
2 violations as alleged herein, and exercised the same.

3 86. As set forth above, Capstone and Individual Defendants each violated
4 Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint.
5 By virtue of their position as controlling persons, Individual Defendants are liable
6 pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of
7 Defendants' wrongful conduct, Plaintiff and other members of the Class suffered
8 damages in connection with their purchases of the Company's securities during the
9 Class Period.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

12 (a) Determining that this action is a proper class action under Rule 23 of the
13 Federal Rules of Civil Procedure;

14 (b) Awarding compensatory damages in favor of Plaintiff and the other
15 Class members against all defendants, jointly and severally, for all damages sustained
16 as a result of Defendants' wrongdoing, in an amount to be proven at trial, including
17 interest thereon;

18 (c) Awarding Plaintiff and the Class their reasonable costs and expenses
19 incurred in this action, including counsel fees and expert fees; and

20 (d) Such other and further relief as the Court may deem just and proper.

21 **JURY TRIAL DEMANDED**

22 Plaintiff hereby demands a trial by jury.
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DATED: _____, 2023

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