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Commissioner
2 MARY ANN SMITH
Deputy Commissioner
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11 Attorneys for Complainant

12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
13 OF THE STATE OF CALIFORNIA

14
15 In the Matter of:)
16)
17 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,)
18)
Complainant.) CONSENT ORDER
19)
v.)
20)
21 GOLD CORPORATION dba THE PERTH)
MINT,)
22)
Respondent.)
23)

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1 The Commissioner of Financial Protection and Innovation (Commissioner) and Gold
2 Corporation dba The Perth Mint (the Mint) hereby enter into this Consent Order (Consent Order)
3 with respect to the following:

4 **I.**

5 **Recitals**

6 A. The Commissioner has jurisdiction over the offer, sale, and purchase of commodities
7 in California under the California Commodity Law of 1990 (CCL) (Cal. Corp. Code §§ 29500-
8 29567).

9 B. At all relevant times, the Mint is and was a corporation completely owned and
10 guaranteed by the state of Western Australia. The Mint is located at 310 Hay Street, East Perth,
11 Western Australia, 6004.

12 C. State securities regulators, as part of a North American Securities Administrators
13 Association (NASAA) Working Group that includes regulators from the states of California,
14 Montana, and New York (NASAA Working Group), have investigated the Mint’s self-report that it
15 engaged in precious metals transactions that violated the commodity laws of nineteen (19) states.

16 D. The Mint has cooperated with the NASAA Working Group’s investigation by
17 responding to inquiries, providing documentary evidence and other materials, and providing access
18 to facts relating to the investigation and agreed to resolve the matter with the NASAA Working
19 Group and other participating states (each, a Jurisdiction and collectively, the Jurisdictions).

20 E. The Mint admits to the jurisdiction of the Commissioner for the entry of this Consent
21 Order, and while the Mint neither admits nor denies the findings of fact and conclusions of law
22 contained in this Consent Order, the Mint hereby consents to the entry of this Consent Order and the
23 orders herein by the Commissioner.

24 The Commissioner finds that entering into this Consent Order is in the public interest and
25 consistent with the purposes fairly intended by the policies and provisions of the CCL.

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II.

Findings of Fact and Conclusions of Law

1. The Commissioner has jurisdiction over this matter under the CCL.

2. The Mint is a Western Australian corporation that provides various precious metals supply chain services, including refining, manufacturing, distributing, investing, storing, and delivering of physical precious metal products.

3. Under CCL sections 29504 and 29515, precious metals are “commodities.”

4. Under CCL section 29505, a “commodity contract” means “any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for consumption by the offeree or purchaser”

5. Under CCL section 29520, it is unlawful for any person to sell or purchase or offer to sell or purchase any commodity under any commodity contract or commodity option unless the transaction is exempt or an exception applies.

6. At all relevant times, the Mint offered to sell and sold, and offered to purchase and purchased, commodities and entered into commodity contracts in California in violation of CCL section 29520.

7. The Mint never registered with the Commissioner, did not meet the criteria for an exemption on certain transactions, and did not obtain a waiver from registration in California during the relevant time period.

8. On July 15, 2024, The Mint became a member of a contract market designated by the Commodity Futures Trading Commission.

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the Commissioner and the Mint agree as follows:

III.

Terms and Conditions

9. Purpose. This Consent Order resolves the issues before the Commissioner in a manner that avoids the expense of a hearing and other possible court proceedings, protects

1 consumers, is in the public interest, and is consistent with the purposes, policies and provisions of
2 the CCL.

3 10. Finality of Consent Order. The Mint agrees to comply with this Consent Order and
4 stipulates this Consent Order is hereby deemed final.

5 11. Desist and Refrain Order. Pursuant to Corporations Code section 29542, the Mint is
6 hereby ordered to desist and refrain from offering, selling, and purchasing any commodity
7 under any commodity contract or commodity option in California in violation of Corporations Code
8 section 29520, unless and until the offer, sale, and/or purchase is exempt or excepted pursuant to the
9 CCL.

10 12. Exemption Order. On July 15, 2024, the Mint became a member of a contract market
11 designated by the Commodity Futures Trading Commission. The Commissioner finds that the Mint
12 has substantially complied with the exception to CCL section 29520 at CCL section 29530,
13 subdivision (a)(3). Pursuant to CCL section 29532, the Mint is exempted from compliance with CCL
14 section 29520 when selling or purchasing, or offering to sell or purchase precious metals from
15 California customers. The Commissioner may modify, amend, or revoke this Exemption Order at
16 any time.

17 13. Penalties. The Mint shall pay a penalty of \$10,000.00 for the violations recited herein.
18 The Commissioner acknowledges receipt of payment of the penalty from the Mint before or
19 contemporaneous with the execution of this Consent Order.

20 14. Exemption/Waiver Request. Entry of this Consent Order to resolve the above-
21 referenced multistate investigation shall not impact the ability of the Mint to apply for, or be granted,
22 registration with the Commissioner or request, or receive, an exemption/waiver from compliance
23 with the CCL.

24 15. Waiver of Notice and Hearing Rights. The Mint acknowledges the Commissioner is
25 ready, willing, and able to proceed with the filing of an administrative action on the charges
26 contained in this Consent Order. The Mint hereby waives the right to any hearings, and to any
27 reconsideration, appeal, or other right to review which may be afforded pursuant to the CCL, the
28 California Administrative Procedures Act, the California Code of Civil Procedure, or any other

1 provision of law. By waiving such rights, the Mint effectively consents to this Consent Order
2 becoming final.

3 16. Full and Final Resolution. The parties hereby acknowledge and agree that this
4 Consent Order is intended to constitute a full, final, and complete resolution of the violations
5 described herein, and that no further proceedings or actions will be brought by the Commissioner in
6 connection with these matters under the CCL or any other provision of law, excepting therefrom any
7 proceeding to enforce compliance with the terms of this Consent Order.

8 17. Information Willfully Withheld or Misrepresented. This Consent Order may be
9 revoked, and the Commissioner may pursue any and all remedies available under law against the
10 Mint if the Commissioner discovers that the Mint knowingly or willfully withheld or misrepresented
11 information used for and relied upon in this Consent Order.

12 18. Future Actions by Commissioner. If the Mint fails to comply with the terms of the
13 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
14 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
15 against the Mint, or any of its partners, owners, officers, shareholders, directors, employees, or
16 successors for any and all unknown violations of this Consent Order.

17 19. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s
18 ability to assist any other government agency (city, county, state or federal) with any prosecution,
19 administrative, civil or criminal action brought by that agency against the Mint or any other person
20 based on any of the activities alleged in this matter or otherwise.

21 20. No Presumption Against Drafter. Each party acknowledges that it has had the
22 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties
23 intend no presumption for or against the drafting party will apply in construing any part of this
24 Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or
25 corresponding provisions of any successor statute, which provide that in cases of uncertainty,
26 language of a contract should be interpreted most strongly against the party who caused the
27 uncertainty to exist.
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1 21. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
2 has had the opportunity to receive independent advice from an attorney(s) and/or representatives
3 with respect to the advisability of executing this Consent Order.

4 22. Headings. The headings to the paragraphs of this Consent Order are inserted for
5 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
6 the provisions hereof.

7 23. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
8 interest.

9 24. Reliance. Each of the parties represents, warrants, and agrees that in executing this
10 Consent Order, it has relied solely on the statements set forth herein and the advice of its own legal
11 counsel, if represented. Each of the parties further represents, warrants, and agrees that in executing
12 this Consent Order it has placed no reliance on any statement, representation, or promise of any
13 other party, or any other person or entity not expressly set forth herein, or upon the failure of any
14 party or any other person or entity to make any statement, representation, or disclosure of anything
15 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
16 any way fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of
17 parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

18 25. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
19 this Consent Order will be valid or binding unless it is in writing and signed by each of the
20 parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any other
21 provision. No waiver by either party of any breach of, or of compliance with, any condition or
22 provision of this Consent Order by the other party will be considered a waiver of any other condition
23 or provision or of the same condition or provision at another time.

24 26. Full Integration. This Consent Order is the final written expression and the complete
25 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
26 between the parties with respect to the subject matter hereof, and supersedes all prior or
27 contemporaneous agreements, negotiations, representations, understandings, and discussions
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1 between and among the parties, their respective representatives, and any other person or entity, with
2 respect to the subject matter covered hereby.

3 27. Governing Law. This Consent Order will be governed by and construed in
4 accordance with California law. Each of the parties hereto consents to the jurisdiction of such court
5 and thereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
6 forum to the maintenance of such action or proceeding in such court.

7 28. Effect Upon Future Proceedings. If the Mint applies for any license, permit or
8 qualification under the Commissioner’s current jurisdiction, or are the subject of any future action by
9 the Commissioner to enforce this Consent Order, then the subject matter hereof shall be admitted for
10 the purpose of such application(s) or enforcement proceeding(s).

11 29. Voluntary Agreement. The Mint hereby enters into this Consent Order voluntarily
12 and without coercion and acknowledges that no promises, threats, or assurances have been made by
13 the Commissioner or any officer, or agent thereof, about this Consent Order. The parties each
14 represent and acknowledge that he, she or it is executing this Consent Order completely voluntarily
15 and without any duress or undue influence of any kind from any source.

16 30. Counterparts. This Consent Order may be executed in one or more separate
17 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
18 together constitute a single document.

19 31. Notice. Any notice required under this Consent Order shall be provided to each party
20 at the following addresses:

21 To Gold Corporation dba The Perth Mint:

22 Katherine Cooper
23 Counsel for the Gold Corporation dba The Perth Mint
24 Bryan Cave Leighton Paisner, LLP
25 1290 Avenue of the Americas
26 New York, New York 10104-3300
27 Katherine.Cooper@bclplaw.com

28 To the Commissioner:

Danielle Stoumbos, Senior Counsel
Department of Financial Protection and Innovation
320 West 4th Street, Suite 750

Los Angeles, California 90013
Danielle.Stoumbos@dfpi.ca.gov

32. Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.

33. Public Record. The Mint hereby acknowledges that the Consent Order is and will be a matter of public record.

34. Effective Date. This Consent Order shall become final and effective when signed by all parties and delivered by the Commissioner’s agent via e-mail to Katherine Cooper at the following email address: Katherine.Cooper@bclplaw.com.

35. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: August 19, 2024
Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By _____
Mary Ann Smith
Deputy Commissioner
Enforcement Division

Dated: August 7, 2024

GOLD CORPORATION dba THE PERTH MINT

By: _____
Melanie Brown
Director

By: _____
Melissa Aldus
Company Secretary