



American Capital, Ltd.

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CHAIRMAN'S  
CORRESPONDENCE UNIT

August 4, 2008

VIA FEDEX

The Hon. Christopher Cox, Chairman  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: Emergency Order in 1934 Act Release No. 58166

Dear Chairman Cox:

Several days ago, I wrote you to applaud the Securities and Exchange Commission's decisive action to address naked short-selling in the stocks of a group of financial services companies and to encourage the Commission to extend the order immediately to a much broader group of securities including those of my company. I am the Chairman, President and CEO of American Capital, Ltd. (Nasdaq: ACAS), which is an alternative asset management company and a member of the S&P 500. As I related in that letter, American Capital has been on the regulation SHO Threshold Security List the second longest of any S&P 500 stock.

I thought that you would be interested in the attached chart showing fail to deliver (FTD) activity in American Capital's Common Stock over the last several years. The chart shows that, with several notable exceptions, for the last four years there have been fewer than 500,000 American Capital FTD shares. That represents less than one-quarter of one percent of our outstanding shares.

However, beginning in February of this year, FTDs began to spike and by the end of March, FTDs were consistently in excess of 3,000,000 shares. (Information on FTDs after March 31, 2008 is not available to us.) This amount represents over 1.5% of our shares in FTD status or three times the Regulation SHO Threshold. Moreover, American Capital's existence on the Regulation SHO Threshold has now continued for over 110 days. Such a lengthy period of exceeding the regulation SHO Threshold clearly shows that there is significant naked short-selling in our stock. Such selling is nothing more than counterfeiting of shares and clearly a fraud on the market. The frequency, consistency and sheer magnitude suggest that this fraud is premeditated and not merely representing technical settlement factors. We would hope that your office not only extend your order to American Capital, but immediately open an investigation into this fraud on our shareholders.

The Hon. Christopher Cox, Chairman  
August 4, 2008  
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It is imperative that the SEC act quickly and decisively in order to address this situation.

Sincerely,

A handwritten signature in black ink, appearing to read "Malon", with a long horizontal flourish extending to the right.

Malon Wilkus  
Chairman and CEO

cc: James Brigagliano Associate Director,  
SEC Division of Trading and Markets

Robert Greifeld, CEO, NASDAQ OMX