

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

WARD KLUGMANN, Individually and on  
behalf of all others similarly situated,

*Plaintiff,*

*v.*

AMERICAN CAPITAL LTD., MALON  
WILKUS, JOHN R. ERICKSON,  
IRA WAGNER, SAMUEL A. FLAX, and  
RICHARD E. KONZMANN,

*Defendants.*

**Civil Action No. 8:09-CV-00005-PJM**

**NOTICE OF PENDENCY OF PROPOSED  
SETTLEMENT OF CLASS ACTION AND SETTLEMENT HEARING**

**TO: ALL PERSONS AND ENTITIES WHO PURCHASED SHARES OF THE PUBLICLY-TRADED COMMON STOCK OF AMERICAN CAPITAL, LTD. (THE "SHARES") BETWEEN OCTOBER 31, 2007 AND NOVEMBER 7, 2008, INCLUSIVE (THE "SETTLEMENT CLASS" AND THE "SETTLEMENT CLASS PERIOD").**

**IMPORTANT**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF LITIGATION AND CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS.**

**Purpose of Notice and Description of Litigation**

The purpose of this Notice is to inform you of a proposed settlement of the Litigation as described below. This Notice describes rights you may have under the proposed settlement and what steps you may take in relation to this Litigation. This Notice is not an expression of any opinion by the Court as to the merits of any of the claims or defenses asserted by any party in this Litigation, or the fairness or adequacy of the proposed settlement. This Notice incorporates by reference the definitions set forth in the Parties' Stipulation of Settlement (the "Settlement Stipulation"), and all capitalized terms used, but not defined herein, shall have the same meanings as in the Settlement Stipulation.

**Notice of Settlement Hearing**

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and the February 2012 Order of the United States District Court, District of Maryland, a hearing will be held on June 7, 2012, at 10:30 a.m., before the Honorable Peter J. Messitte, United States District Court Judge, United States District Court, District of Maryland, Courtroom 4C, 6500 Cherrywood Lane, Greenbelt, MD 20770 (the "Settlement Hearing") to determine: (1) whether the settlement of the Litigation in the amount of \$18,000,000, plus any accrued interest thereon (the "Settlement") should be approved as fair, reasonable, and adequate to the Settlement Class; (2) whether the proposed Plan of Allocation is fair, reasonable, and adequate; (3) whether the motion of IZARD NOBEL LLP ("IZARD NOBEL") and Brower Piven, A Professional Corporation ("Brower Piven") as Co-Lead Counsel for the Settlement Class ("Co-Lead Counsel") for an award of attorneys' fees, costs and expenses (the "Fee and Expense Award") and for an award to Plaintiffs relating to their representation of the Settlement Class (the "Plaintiffs' Expense Award") should be approved; and (4) whether the Litigation and claims of the Settlement Class Members against Defendants should be dismissed on the merits and with prejudice as set forth in the Settlement Stipulation filed with the Court. To share in the distribution of the Settlement Fund, Settlement Class Members must establish their rights and submit the Proof of Claim and Release form accompanying this Notice on or before **July 20, 2012**. If you desire to be excluded from the Settlement Class or to object to the Settlement, the Fee and Expense Award and/or Plaintiffs' Expense Award, you must submit a request for exclusion or file your objection by **May 24, 2012**.

**Summary of the Settlement**

**Recovery to the Settlement Class:** The aggregate amount of the Settlement Fund proposed to be distributed to the Class is \$18,000,000 plus interest earned thereon and less the costs of notice to the Settlement Class, costs of administration of the Settlement Fund, taxes and tax expenses associated with the Settlement Fund, and any amounts awarded by the Court to Co-Lead Counsel for attorneys' fees and reimbursement of costs and expenses, and any amounts awarded by the Court to Plaintiffs. Co-Lead Counsel estimate that the average recovery per damaged share of common stock under the Settlement is approximately \$0.24, before deduction of Court-awarded attorneys' fees and expenses. A Settlement Class Member's actual recovery will be a proportion of the Net Settlement Fund determined by the authorized claimant's claim as compared to the total recognized claims of all Settlement Class Members who submit acceptable Proofs of Claim and Releases. Individual Settlement Class Members' actual recoveries under the Settlement will vary, depending upon when their Shares were purchased, the amount they paid for their Shares, the amount of

proceeds they received, if any, if the Shares were sold, when the Shares were sold, and the number of claimants who actually file Proofs of Claim and Releases.

Potential Outcome of the Case: The Parties disagree on both liability and damages and do not agree on the amount of damages per Share that would be recoverable if Plaintiffs were to have prevailed on each claim alleged. Among other things, the Parties do not agree on (i) whether Defendants made any misrepresentations; (ii) whether any Defendants acted with knowledge or deliberate recklessness with respect to the alleged misrepresentations; (iii) whether any alleged damages are attributable to the alleged misrepresentations; (iv) whether any drops in the price of the shares after the Settlement Class Period are attributable to the alleged misrepresentations; (v) the appropriate damages model for measuring the alleged damages attributable to the alleged misrepresentations; and (vi) the extent to which external factors (such as industry conditions and market forces) influenced the trading price of the Shares.

Attorneys' Fees, Costs and Expenses Sought: As compensation for their time and risk in prosecuting the Litigation on a contingent fee basis, Co-Lead Counsel intend to apply to the Court for an award of attorneys' fees not to exceed thirty-three and one-third percent ( $33\frac{1}{3}\%$ ) of the Settlement Fund (including interest accruing on the Settlement Fund). Co-Lead Counsel also intend to seek reimbursement of costs and expenses incurred on behalf of the Settlement Class not to exceed \$350,000. Co-Lead Counsel will also apply for an award to Plaintiffs not to exceed \$5,000 per Plaintiff relating to Plaintiffs' representation of the Settlement Class. If the amounts requested by Co-Lead Counsel for fees, costs and expenses are approved by the Court, the average cost per damaged share of common stock for these amounts will not exceed \$0.085.

Identification of Lawyers' Representatives: The following representatives of Co-Lead Counsel are available to answer questions from Settlement Class Members about any matter contained in this Notice: Jeffrey S. Nobel of IZARD Nobel, 29 South Main Street, Suite 215, West Hartford, CT 06107, Tel.: (860) 493-6292, email: jnobel@izardnobel.com; Charles Piven of Brower Piven, 1925 Old Valley Road, Stevenson, MD 21153, Tel.: (410) 332-0030, email: piven@browerpiven.com.

Reasons for Settlement: Co-Lead Counsel believe that the claims asserted in the Litigation have merit and that the information obtained and examined by Co-Lead Counsel supports the claims asserted. However, Co-Lead Counsel recognize that there are significant risks, uncertainty, and expense in proceeding with the Litigation through trial and any appeals. Co-Lead Counsel are also mindful of the inherent problems of proof under, and possible defenses to, federal securities law claims. Co-Lead Counsel believe that the Settlement confers substantial benefits upon the Settlement Class and each Settlement Class Member. Co-Lead Counsel have determined that a recovery now will provide an immediate benefit to Settlement Class Members, which is superior to the risk of proceeding with the Litigation. As a result of these considerations, and based upon extensive arms-length settlement negotiations, Plaintiffs and Co-Lead Counsel have determined that the Settlement is in the best interests of Plaintiffs and the Settlement Class and each Settlement Class Member.

Defendants' Denial of Liability: Defendants have denied and continue to deny each and all of the claims and contentions alleged by Plaintiffs on behalf of the Settlement Class and expressly deny that Defendants committed or intended to commit any wrongdoing or violations of law arising out of any of the conduct, statements, acts or omissions alleged in the Litigation, and maintain that their conduct was at all times proper and in compliance with applicable provisions of law. Defendants further deny that they made any material misstatements or omissions in ACAS's public filings, press releases, or other public statements, that Plaintiffs or the Settlement Class, have suffered any damages, or that Plaintiffs or the Settlement Class were harmed by any conduct alleged in the Litigation or that could have been alleged therein during the Settlement Class Period, when the NASDAQ declined forty-two percent. Each of the Individual Defendants denies the allegations against them concerning any alleged wrongdoing or violations of law, and further asserts that, at all relevant times, they acted in good faith and in a manner they reasonably believed to be in the best interests of the Company and its stockholders. Nonetheless, Defendants recognize the uncertainty and risks inherent in any litigation, especially in complex cases like this Litigation, have concluded that further conduct of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Stipulation in order to limit further expense, inconvenience and distraction, and to dispose of the burden of protracted litigation.

Defendants have, therefore, determined that it is desirable and beneficial to them that the Litigation be settled in the manner and upon the terms and conditions set forth in the Settlement Stipulation. Defendants entered into the Settlement Stipulation without in any way acknowledging any fault, liability, or wrongdoing of any kind. There has been no adverse determination by any court or otherwise against any of Defendants on the merits of the claims asserted by Plaintiffs.

### The Litigation

The Litigation was commenced in December 2008 as a putative class action under Rule 23 of the Federal Rules of Civil Procedure in the United States District Court, District of Maryland. By Order dated August 12, 2009, the Court appointed as Lead Plaintiff a group comprised of individual investors Charles E. Mendinhall, Ron Miller and Joseph J. Saville, and approved Plaintiffs' selection of IZARD Nobel and Brower Piven as Co-Lead Counsel. On November 6, 2009,

Plaintiffs filed their Consolidated Class Action Complaint (the "Complaint").

The Complaint asserts claims against Defendants for alleged violations of Section 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated by the Securities and Exchange Commission (the "fraud claims"), as well as claims by Plaintiff Nina van Dyke against Defendants for alleged violations of Sections 11 and 12(a)(2) of the Securities Act of 1933, and a claim by Plaintiffs Kent Nixon and Nina van Dyke against Defendant Wagner for violations of Section 20A of the Exchange Act in connection with his class period stock sales. The Complaint alleges that certain Defendants violated certain sections of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, and the Securities Act of 1933 from October 31, 2007 through November 7, 2008 (the "Settlement Class Period").

On January 29, 2010, Defendants served a motion to dismiss the Complaint; Plaintiffs served their opposition to Defendants' motion to dismiss on April 8, 2010; and, on May 7, 2010, Defendants served a reply brief. Plaintiffs filed a motion for leave to file a Sur-Reply brief on May 20, 2010, to which Defendants responded on June 2, 2010. On June 14, 2010, the Court heard oral argument and denied the motion to dismiss without prejudice.

Following the Court's denial of the motion to dismiss, the parties engaged in discovery in accordance with a schedule approved by the Court. Defendants produced, and Plaintiffs reviewed, over 3.5 million pages of documents, while Plaintiffs produced documents concerning ACAS, including their own trading in ACAS stock. In addition, Plaintiffs subpoenaed, and reviewed, documents from third parties.

### **The Proposed Settlement**

The Settlement was the result of arms-length settlement negotiations. On June 27, 2011, the parties participated in a mediation with retired federal judge Nicholas Politan, which did not result in a settlement. On December 6, 2011, the parties participated in a mediation with retired United States District Judge Layn Phillips. The December 6, 2011 mediation resulted in an agreement in principle to settle the Litigation on the terms described herein.

Under the terms of the Settlement Stipulation, an \$18,000,000 cash Settlement Fund will be established. After payment of (i) the costs of notice, and the costs of administering and distributing the Settlement Fund, including any taxes payable or tax expenses and (ii) the attorneys' fees and reimbursement of costs and expenses awarded by the Court, and any amounts awarded by the Court to Plaintiffs, the balance of the Settlement Fund, together with any interest earned thereon (the "Net Settlement Fund"), shall be distributed as set forth herein.

Under the terms of the Settlement Stipulation, you will release all "Released Claims" against the "Released Persons" (as defined below). "Released Claims" means all claims, demands, rights, liabilities, obligations, actions, and causes of action of every nature and description whatsoever, known or unknown (including "Unknown Claims," as defined below and including but not limited to any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses, or liability whatsoever), whether in contract, tort, equity or otherwise, whether or not concealed or hidden, asserted or that might have been asserted in this or any other forum or proceeding, including, without limitation, claims for negligence, gross negligence, indemnification, breach of duty of care and/or breach of duty of loyalty, fraud, misrepresentation, breach of fiduciary duty, negligent misrepresentation, unfair competition, insider trading, professional negligence, mismanagement, corporate waste, breach of contract, or violations of any federal, state, or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, known or unknown, domestic or foreign, by or on behalf of Plaintiffs, the Settlement Class, or any Settlement Class Member against the Released Persons, whether or not alleged in the Litigation, that concern, arise out of, refer to, are based upon, or are related in any way to any of the allegations, transactions, facts, matters, occurrences, representations, statements, or omissions which were set forth or referred to in the Litigation relating to the purchase, sale or holding of ACAS securities. Released Claims do not include any claims of any Party to enforce the terms of the Settlement Stipulation or the exhibits thereto.

"Unknown Claims" means any Released Claim which the Plaintiffs or any Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons, which, if known by him, her or it, would or might have affected his, her or its settlement with and release of the Released Persons, or would or might have affected his, her or its decision not to object to this Settlement. Plaintiffs or each of the Settlement Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiffs and the Class Members shall expressly, upon the Effective Date, be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever settled and released any and all Released Claims (including Unknown Claims, as defined herein), known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and Defendants acknowledge, and each of the Settlement Class Members by operation of law shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a key element of the Settlement, of which this release is a material and essential

part, and expressly waive the benefits of (i) the provisions of §1542 of the California Civil Code, which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR,

and (ii) any and all provisions or rights conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542.

“Released Persons” means Defendants and their respective Related Parties. “Related Parties” means any and all of Defendants’ respective present, former and future officers, directors, employees, managers, members, managing members, fiduciaries, managing directors, agents, managing agents, attorneys, legal counsel, advisors, consultants, insurers, co-insurers, reinsurers, accountants, auditors, trustees, underwriters, financial advisors, commercial bank lenders, investment bankers, associates, representatives, affiliates, parents, subsidiaries, partnerships, member firms, partners, joint ventures, limited liability companies, corporations, divisions, shareholders, principals, trusts, foundations, family members, beneficiaries, distributors, heirs, executors, personal representatives, estates, administrators, predecessors, successors and assigns, and their respective former, current and future direct or indirect equity holders, controlling persons, stockholders, general or limited partners or partnerships, or assignees and including, but not limited to, any directors, officers, agents, partners, members, managers, or employees of any of the foregoing.

### **Participation in the Class**

If you are one of the Persons falling within the definition of the Settlement Class (a “Settlement Class Member”), you will remain a Settlement Class Member unless you elect to be excluded from the Settlement Class by the procedure described below. All Settlement Class Members who do not request to be excluded from the Settlement will be bound by any judgment entered in the Litigation pursuant to the Settlement Stipulation, whether or not that Person files a Proof of Claim and Release and whether or not that Person receives a distribution from the Net Settlement Fund. If you wish to remain a Settlement Class Member, you need do nothing (other than timely file a Proof of Claim and Release in order to participate in the distribution of the Net Settlement Fund) and your rights will be represented by Co-Lead Counsel. If you wish, you may enter a legal appearance individually or through your own counsel at your own expense.

TO BE ELIGIBLE TO PARTICIPATE IN THE DISTRIBUTION OF THE NET SETTLEMENT FUND, YOU MUST TIMELY AND VALIDLY COMPLETE AND RETURN THE PROOF OF CLAIM AND RELEASE FORM THAT ACCOMPANIES THIS NOTICE. The Proof of Claim and Release (“Proof of Claim and Release”) must be postmarked and delivered to the Claims Administrator at the address below on or before **July 20, 2012**. Except as otherwise ordered by the Court, if you do not timely submit a valid Proof of Claim and Release, you will be forever barred from receiving any payments from the Net Settlement Fund, but will in all other respects be bound by the Settlement and the Judgment. If you do submit a valid and timely Proof of Claim and Release, and you are a Settlement Class Member, you will be eligible to share in the Net Settlement Fund.

### **Plan of Allocation**

The Net Settlement Fund shall be distributed pursuant to the calculation of “Recognized Loss” as set forth in the Plan of Allocation described below. Only Settlement Class Members who submit a valid, timely Proof of Claim and Release (“Authorized Claimants”), and who have a Recognized Loss under the Plan of Allocation will receive a distribution from the Net Settlement Fund.

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant’s entire Recognized Loss. However, if the amount in the Net Settlement Fund is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage that each Authorized Claimant’s claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants. No Person shall have any claim against Released Persons, Plaintiffs (whether individually or as representatives of the Settlement Class), Settlement Class Members, Co-Lead Counsel, the Claims Administrator or other Persons based on distributions made substantially in accordance with the Settlement Stipulation, the Settlement, the Plan of Allocation, or further orders of the Court. All Settlement Class Members who have failed to file a complete, valid and timely Proof of Claim in this Settlement shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Settlement Stipulation, including the terms of the Judgment entered and the releases given.

The Recognized Loss for each publicly-traded share of ACAS common stock (“Share(s)”) purchased during the Settlement Class Period and held **on or after November 10, 2008** shall be calculated as follows:

- (i) for each Share purchased **between October 31, 2007 and February 12, 2008, inclusive**, the Recognized Loss per Share shall be the **lesser** of: (a) the difference between the purchase price and \$7.87, or (b) \$1.18.
- (ii) for each Share purchased **between February 13, 2008 and May 12, 2008, inclusive**, the Recognized Loss

per Share shall be the **lesser** of: (a) the difference between the purchase price and \$7.87, or (b) \$2.95.

(iii) for each Share purchased ***between May 13, 2008 and August 11, 2008, inclusive***, the Recognized Loss per Share shall be the **lesser** of: (a) the difference between the purchase price and \$7.87, or (b) \$4.43.

(iv) for each Share purchased ***between August 12, 2008 and November 7, 2008, inclusive***, the Recognized Loss per Share shall be the **lesser** of: (a) the difference between the purchase price and \$7.87, or (b) \$5.90.

In determining whether a Settlement Class Member is an Authorized Claimant with a Recognized Loss and entitled to a distribution from the Net Settlement Fund, the following rules shall be applied:

- For each Share purchased prior to October 31, 2007, the Recognized Loss is \$0.
- For each Share sold prior to the opening of the market on November 10, 2008, the Recognized Loss is \$0.
- If an Authorized Claimant made a net profit through sale of Shares during the Settlement Class Period, then any such net profit will be offset against the Recognized Loss, if any, from Settlement Class Period purchases of ACAS common stock.
- For all purposes, the transaction date and not the settlement date shall be used as the date for determining eligibility to file a claim. Acquisition of shares of ACAS common stock other than through purchase of ACAS' publicly-traded shares (e.g., gifts, transfers and private purchases of securities) are not eligible purchases.
- No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.
- For purposes of calculating an Authorized Claimant's Recognized Loss, Settlement Class Period sales of the Shares will be matched against and offset by the most recent prior Settlement Class Period purchases of the Shares on a first-in, first-out ("FIFO") basis.

The Court has reserved jurisdiction to allow, disallow or adjust the claim of any Settlement Class Member on equitable grounds.

The Plan of Allocation is a matter separate and apart from the proposed Settlement, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the Settlement. The Plan of Allocation may be modified in connection with, among other things, a ruling by the Court without further notice to the Settlement Class.

#### **Exclusion from the Class**

If you do not want a payment from this Settlement, but you want to keep any right you may have to sue or continue to sue Defendants or the Released Persons, you may, if you so desire, request to be excluded from the Settlement Class. Defendants may withdraw from and terminate the Settlement if putative Settlement Class Members who purchased in excess of a certain amount of the Shares exclude themselves from the Settlement Class.

To exclude yourself from the Settlement Class, you must mail a written request to:

American Capital, Ltd., Securities Litigation  
Claims Administrator  
c/o GCG  
P.O. Box 9868  
Dublin, OH 43017-5768

The request for exclusion must state: (1) your name, address, and telephone number; (2) the name and address of the Person (or nominee) in whose name the Shares were registered; (3) your purchases and sales of the Shares made during the Settlement Class Period, including the dates, amounts of securities and price for each such purchase or sale; and (4) that you wish to be excluded from the Settlement Class. Your exclusion request must be postmarked on or before **May 24, 2012**. All Persons who submit valid and timely requests for exclusion in the manner set forth in this paragraph shall have no rights under the Settlement Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Settlement Stipulation or the Judgment.

All Persons falling within the definition of the Settlement Class who do not request exclusion in the manner set forth in the two immediately preceding paragraphs shall be members of the Settlement Class and shall be bound by the Settlement Stipulation and Judgment, whether or not they submit valid Proofs of Claim and Release or receive any distribution from the Net Settlement Fund.

#### **Dismissal and Releases**

If the proposed Settlement is approved, the Court will enter a Judgment (the "Judgment") with prejudice (as set forth in the Settlement Stipulation) dismissing the Released Claims against the Released Persons (as defined above and in the Proof of Claim and Release which accompanies this Notice), and Settlement Class Members may not thereafter assert such claims against the Released Persons. The Judgment will provide that the fact of the Settlement or the terms

thereof may not be used against Released Persons in any action or proceeding, except to enforce the Judgment.

The Judgment will also provide that all Settlement Class Members who do not validly and timely request to be excluded from the Settlement Class shall be deemed to have released and forever discharged all Released Claims against all Released Persons.

### **Conditions for Settlement**

The Settlement is conditioned upon, among other things: (1) entry of the Judgment by the Court as provided for in the Settlement Stipulation, and (2) finality of the Judgment via expiration of the time to appeal from the Judgment without an appeal occurring or via affirmance on appeal of the Judgment. If any one of the conditions described in the Settlement Stipulation is not met, the Settlement Stipulation might be terminated and, if terminated, will become null and void, and shall not prejudice the rights, claims, defenses or positions of any Party thereto.

### **The Right to Be Heard at the Hearing**

If you are a Settlement Class Member who has not validly and timely requested to be excluded from the Settlement Class, you may object to any aspect of the Settlement (including the Plan of Allocation, the Fee and Expense Motion, or any Plaintiffs' Expense Motion). Your objection must demonstrate your membership in the Settlement Class including (a) your name, address and telephone number; (b) the number of Shares you purchased and sold during the Settlement Class Period, and the dates of such transactions, including brokerage account or other documentary evidence of those transactions; and (c) a statement of the reasons for your objection. Your objection must be served no later than fourteen (14) days prior to the Settlement Hearing upon the Court, Co-Lead Counsel and counsel for Defendants, at the following addresses:

|   |  |   |  |
|---|--|---|--|
| Clerk of the United States<br>District Court<br>District of Maryland<br>6500 Cherrywood Lane<br>Greenbelt, MD 20770 | Jeffrey S. Nobel<br>IZARD NOBEL LLP<br>29 South Main Street,<br>Suite 215<br>West Hartford, CT 06107 | Charles Piven<br>BROWER PIVEN,<br>A Professional Corporation<br>1925 Old Valley Road<br>Stevenson, Maryland 21153 | John C. Massaro<br>ARNOLD & PORTER LLP<br>555 Twelfth Street, N.W.<br>Washington, D.C. 20004 |
|---|--|---|--|

Only members of the Settlement Class who have properly submitted written notices of objection in this manner will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise.

### **Examination of Papers**

This Notice is a summary and does not describe all of the details of the Settlement Stipulation. For full details of the matters discussed in this Notice, you may review the Settlement Stipulation filed with the Court, which may be inspected at the office of the Clerk of the United States District Court, District of Maryland, 6500 Cherrywood Lane, Greenbelt, MD 20770, during business hours, or viewed on the website [www.AmericanCapitalSecuritiesLitigation.com](http://www.AmericanCapitalSecuritiesLitigation.com). If you have any questions about the Settlement of the Litigation, you may contact Co-Lead Counsel as set forth above or your own personal attorney.

INQUIRIES SHOULD **NOT** BE DIRECTED TO THE COURT OR TO THE CLERK OF THE COURT OR TO DEFENDANTS

### **SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES:**

If you purchased the Shares during the Settlement Class Period as nominee for a beneficial owner, then, within fourteen (14) days after you receive this Notice, you must either: (1) send a copy of this Notice and the Proof of Claim and Release by first class mail to all such Persons, or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

American Capital, Ltd., Securities Litigation  
Claims Administrator  
c/o GCG  
P.O. Box 9868  
Dublin, OH 43017-5768

If you choose to mail the Notice and Proof of Claim and Release yourself, you may obtain (without cost to you) as many additional copies of these documents as you will need to complete the mailing from the Claims Administrator.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred in connection with forwarding the Notice and Proof of Claim and Release, and which would not have been incurred but for the obligation to forward the Notice and Proof of Claim and Release.

Dated: \_\_\_\_\_,

By Order of the United States District Court,  
District of Maryland