



American Capital, Ltd.

Two Bethesda Metro Center, 14th Floor

Bethesda, MD 20814

(301) 951-6122

(301) 654-6714 fax

January 14, 2009

VIA ELECTRONIC MAIL
(shareholderproposals@sec.gov)
and FEDERAL EXPRESS

Securities and Exchange Commission
Division of Investment Management
Office of Legal and Disclosure
901 E Street, N.W.
Washington, D.C. 20549

Re: Securities Exchange Act of 1934 - Rule 14a-8 Shareholder Proposal
Submitted by the Massachusetts Laborers' Pension Fund

Ladies and Gentlemen:

American Capital, Ltd., a Delaware corporation (“ACAS” or the “Company”), in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), is filing this letter with respect to the shareholder proposal and supporting statement (together, the “Proposal”), attached as Exhibit I hereto, that the Company received from the Massachusetts Laborers’ Pension Fund (“Proponent”) for inclusion in the proxy materials (the “2009 Proxy Materials”) that ACAS intends to distribute in connection with its 2009 annual meeting of shareholders (the “2009 Annual Meeting”). The Proposal was sent to ACAS by letter dated December 1, 2008, which is also attached as part of Exhibit I hereto. Attached as Exhibit II hereto is a copy of the Company’s letter to the Proponent regarding procedural defects, dated December 15, 2008, and the Proponent’s response to such letter, dated December 16, 2008.

ACAS intends to omit the Proposal from the 2009 Proxy Materials pursuant to Rule 14a-8(i)(7) promulgated under the Exchange Act because the Proposal relates to ACAS' ordinary business operations.

We respectfully request the concurrence of the Staff (the “Staff”) of the Division of Investment Management of the Securities and Exchange Commission (the “Commission”) that it will not recommend any enforcement action if ACAS omits the Proposal from the 2009 Proxy Materials.

The Proposal

The Proposal requests that the board of directors of ACAS “adopt and disclose a written and detailed succession planning policy, including the following specific features:

- The Board of Directors will review the plan annually;
- The Board will develop criteria for the CEO position which will reflect the Company's business strategy and will use a formal assessment process to evaluate candidates;
- The Board will identify and develop internal candidates;
- The Board will begin non-emergency CEO succession planning at least 3 years before an expected transition and will maintain an emergency succession plan that is reviewed annually;
- The Board will annually produce a report on its succession plan to shareholders.”

Rule 14a-8(i)(7) Discussion

Rule 14a-8(i)(7) states that a company may omit a shareholder proposal from its proxy materials “if the proposal deals with a matter relating to the company's ordinary business operations.” As discussed below, we believe that the Proposal is excludable from the 2009 Proxy Materials under Rule 14a-8(i)(7) because it deals with matters relating to ACAS' ordinary business operations; specifically, the management of the Company's CEO succession policies and practices.

The Proposal is nearly identical to the proposals submitted by the Proponent and its affiliates during the 2008 proxy season and which were the subject of the following no-action letters from the Staff: Whole Foods Market (November 25, 2008); Merrill Lynch (February 12, 2008); Verizon Communications (February 12, 2008); Bank of America (January 4, 2008); and Toll Brothers, Inc. (January 2, 2008). Accordingly, we believe that this issue has been clearly settled by the Staff.

The policy rationale for the ordinary business exclusion was clarified by the Commission in Exchange Act Release No. 34-40018 (May 21, 1998) (the “1998 Release”). In the 1998 Release, the Commission summarized the principal considerations in the application of the ordinary business exclusion and observed that the general underlying policy of the ordinary business exclusion is consistent with the policy of most state corporate laws: “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.”

In the 1998 Release, the Commission stated that one of the two central considerations underlying the ordinary business exclusion is that “certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” The Commission cites examples such as the “management of the workforce, such as the hiring, promotion, and termination of employees...”

The second consideration underlying the policy of the ordinary business exception is the “degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” The Commission noted that this consideration may come into play in a number of circumstances, such as where the proposal “seeks to impose specific time-frames or methods for implementing complex policies.”

The Proposal clearly falls within the ordinary business exclusion based upon the application of the foregoing policies. CEO succession planning inherently involves the management of ACAS' workforce and decisions regarding the hiring, promotion and termination decisions by ACAS' board of directors. Further, by specifying detailed features of the proposed succession policy, the Proposal seeks to micro-manage ACAS' management of the workforce, which is a complex matter that shareholders cannot effectively supervise.

It is important to note that planning for and monitoring an executive succession plan, including CEO succession, is an identified function of the Compensation and Corporate Governance Committee of the ACAS Board of Directors (the “Committee”) in the Corporate Governance Guidelines adopted by the ACAS Board of Directors (the “Guidelines”) that are publicly available on ACAS' corporate website. The Guidelines state that the Committee “shall review its executive succession plans at least annually, including consideration of any changes to the criteria or qualifications for particular positions, developments with regard to internal candidates for positions and the continued validity of emergency succession plans.” Accordingly, CEO succession planning is not an area in which the Proponent is attempting to fill an existing void in corporate governance and business operations. On the contrary, the Proponent would be actively interfering with ordinary business operations.

Even prior to the 2008 no-action letters cited above, the Staff has historically applied the ordinary business exclusion in several no-action letters involving proposals relating to CEO employment and succession, such as: Wachovia Corporation (February 17, 2002) (stating that a stockholder proposal instructing the board of directors to seek and hire a new CEO within six months is excludible because the “termination, hiring, or

promotion of employees” relates to ordinary business operations); Willow Financial Bancorp, Inc. (August 16, 2007) (stating that a stockholder proposal recommending the replacement of the CEO and Chief Financial Officer is excludible because the “termination, hiring, or promotion of employees” relates to ordinary business operations); and The Boeing Company (February 10, 2005) (stating that a stockholder proposal urging that independent directors approve, rather than merely review, the hiring of certain senior executives is excludible because the “termination, hiring, or promotion of employees” relates to ordinary business operations).

Conclusion

Based on the foregoing, ACAS intends to omit the Proposal from the 2009 Proxy Materials for the 2009 Annual Meeting. We respectfully request that the Staff confirm that the Proposal may be omitted from such proxy materials.

Should you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact the undersigned at (301) 951-6122.

Pursuant to Rule 14a-8(j), we are enclosing herewith six copies of this letter, and a copy of this letter is being sent simultaneously to Proponent as notification of ACAS' intention to omit the Proposal from its 2009 Proxy Materials. ACAS expects to file its definitive proxy materials with the Commission on or about April 6, 2009. Pursuant to Rule 14a-8(j), this letter is being filed with the Commission no later than 80 days before ACAS files its definitive 2009 Proxy Materials. Please file-stamp the enclosed copy of this letter and return it to me in the enclosed self-addressed, postage-paid envelope.

Very truly yours,



Cydonii V. Fairfax
Vice President, Deputy General Counsel
and Assistant Secretary

Attachment

Securities and Exchange Commission
January 14, 2009
Page 5

cc: Mr. Thomas P.V. Masiello
Executive Director
Massachusetts Laborers' Pension Fund
P.O. Box 4000
Burlington, MA 01803-0900

Ms. Jennifer O'Dell
Assistant Director
LIUNA Department of Corporate Affairs
905 16th Street, NW
Washington, DC 20006

Exhibit I

MASSACHUSETTS LABORERS' BENEFIT FUNDS

14 New England Executive Park, Suite 200

P. O. Box 4000

Burlington, MA 01803-0900

Tel: 781.272.1000 Fax: 781.238.0717

Fax

To: Mr. Samuel Flax
Company: American Capital Strategies, Inc.

From: Thomas P.V. Masiello, Executive Director
 Massachusetts Laborers' Benefit Funds

Fax: 301-654-6714 **Pages:** 3 including cover page

Phone: **Date:** 12/1/08

Re: **cc:**

- Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

If you should have any problems receiving this transmission, please contact Gayle Otis, Ext: 534

MASSACHUSETTS LABORERS' PENSION FUND

14 NEW ENGLAND EXECUTIVE PARK • SUITE 200
P.O. BOX 4000, BURLINGTON, MASSACHUSETTS 01803-0900
TELEPHONE (781) 272-1000 OR (800) 342-3792 FAX (781) 272-2226

December 1, 2008

Via Facsimile
301-654-6714

Mr. Samuel Flax
EVP, General Counsel, Chief Compliance Officer and Corporate Secretary
American Capital Strategies, Ltd.
2 Bethesda Metro Center, 14th Floor
Bethesda, MD 20814

Dear Mr. Flax:

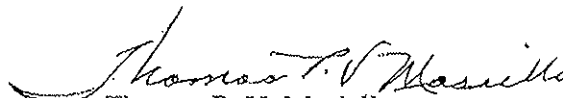
On behalf of the Massachusetts Laborers' Pension Fund ("Fund"), I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the American Capital Strategies, Ltd. ("Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission's proxy regulations.

The Fund is the beneficial owner of approximately 800 shares of the Company's common stock, which have been held continuously for more than a year prior to this date of submission. The Proposal is submitted in order to promote a governance system at the Company that enables the Board and senior management to manage the Company for the long-term. Maximizing the Company's wealth generating capacity over the long-term will best serve the interests of the Company shareholders and other important constituents of the Company.

The Fund intends to hold the shares through the date of the Company's next annual meeting of shareholders. The record holder of the stock will provide the appropriate verification of the Fund's beneficial ownership by separate letter. Either the undersigned or a designated representative will present the Proposal for consideration at the annual meeting of shareholders.

If you have any questions or wish to discuss the Proposal, please contact Ms. Jennifer O'Dell, Assistant Director of the LIUNA Department of Corporate Affairs at (202) 942-2359. Copies of correspondence or a request for a "no-action" letter should be forwarded to Ms. O'Dell in care of the Laborers' International Union of North America Corporate Governance Project, 905 16th Street, NW, Washington, DC 20006.

Very truly yours,


Thomas P. V. Masiello
Executive Director

TPVM/gdo
Enclosure

cc: Jennifer O'Dell

Resolved: That the shareholders of American Capital, Ltd. ("Company") hereby request that the Board of Directors adopt and disclose a written and detailed succession planning policy, including the following specific features:

- The Board of Directors will review the plan annually;
- The Board will develop criteria for the CEO position which will reflect the Company's business strategy and will use a formal assessment process to evaluate candidates;
- The Board will identify and develop internal candidates;
- The Board will begin non-emergency CEO succession planning at least 3 years before an expected transition and will maintain an emergency succession plan that is reviewed annually;
- The Board will annually produce a report on its succession plan to shareholders.

Supporting Statement:

CEO succession is one of the primary responsibilities of the board of directors. A recent study published by the National Association of Corporate Directors (NACD) quoted a director of a large technology firm: "A board's biggest responsibility is succession planning. It's the one area where the board is completely accountable, and the choice has significant consequences, good and bad, for the corporation's future." (*The Role of the Board in CEO Succession: A Best Practices Study, 2006*). The study also cited research by Challenger, Gray & Christmas that "CEO departures doubled in 2005, with 1228 departures recorded from the beginning of 2005 through November, up 102 percent from the same period in 2004."

In its 2007 study *What Makes the Most Admired Companies Great: Board Governance and Effective Human Capital Management*, Hay Group found that 85% of the Most Admired Company boards have a well defined CEO succession plan to prepare for replacement of the CEO on a long-term basis and that 91% have a well defined plan to cover the emergency loss of the CEO that is discussed at least annually by the board.

The NACD report identified several best practices and innovations in CEO succession planning. The report found that boards of companies with successful CEO transitions are more likely to have well-developed succession plans that are put in place well before a transition, are focused on developing internal candidates and include clear candidate criteria and a formal assessment process. Our proposal is intended to have the board adopt a written policy containing several specific best practices in order to ensure a smooth transition in the event of the CEO's departure. We urge shareholders to vote **FOR** our proposal.

Exhibit II



American Capital, Ltd.
Two Bethesda Metro Center, 14th Floor
Bethesda, MD 20814
(301) 951-6122
(301) 654-6714 fax

December 15, 2008

VIA FEDERAL EXPRESS

Thomas P.V. Masiello, Executive Director
Massachusetts Laborers' Pension Fund
14 New England Executive Park, Suite 200
P.O. Box 4000
Burlington, MA 01803-0900

RE: Stockholder Proposal

Dear Mr. Masiello:

American Capital, Ltd. (the "Company") has received your letter dated December 1, 2008, submitting a stockholder proposal for presentation at the 2009 annual meeting of stockholders and for inclusion in the Company's 2009 proxy statement on behalf of the Massachusetts Laborers' Pension Fund (the "Fund"). This letter is to notify you of certain procedural and eligibility deficiencies with respect to your proposal.

Pursuant to Rule 14a-8 promulgated under the Securities Exchange Act of 1934, as amended, in order to be eligible to submit a stockholder proposal to the Company, you must have continuously held at least \$2,000 in market value, or 1% of the Company's securities entitled to vote on the proposal at the Company's 2009 annual meeting of stockholders for at least one year by the date that you submitted the proposal. You must also provide the Company with a written statement that you intend to continue to hold the securities through the date of the meeting. Rule 14a-8 further requires that if you are not the registered holder of the Company's securities at the time that you submit the proposal, you must prove your eligibility to the Company.

You stated in your letter that the record holder of the Company's common stock owned by the Fund would provide the appropriate verification of the Fund's beneficial ownership by separate letter. Please note that we have not yet received this letter. Thus, you are required to provide the Company with the following evidence of ownership in accordance with Rule 14a-8:

- 1) A written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year; or

Thomas P.V. Masiello
December 15, 2008
Page 2

- 2) If you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms with the Securities and Exchange Commission, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins, you may submit:
 - (a) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level; and
 - (b) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement.

For your convenience, please find enclosed a copy of Rule 14a-8. Pursuant to Rule 14a-8, your response to this notification must be postmarked, or transmitted electronically, no later than 14 days from the date that you received this notification. If such a response complying with Rule 14a-8 is not received by the Company, the proposal will not be presented at the annual meeting or included in the proxy statement. Additionally, the Company reserves the right to make any other appropriate objections to the proposal.

You may contact the undersigned with any question regarding the foregoing.

[signature on following page]

Thomas P.V. Masiello
December 15, 2008
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read 'Cydonii W. Fairfax', with a long horizontal stroke extending to the right.

Cydonii W. Fairfax
Vice President, Deputy General Counsel
and Assistant Secretary

Enclosure

GENERAL RULES & REGULATIONS UNDER THE 1934 ACT

Rule 14a-8 -- Shareholder Proposals
Filed on 02/10/2006

GSI[®]

www.gsionline.com

SECURITIES EXCHANGE ACT OF 1934 RULES

Rule 14a-8 -- Shareholder Proposals

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) Question 1: What is a proposal?

A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?

(1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (240.13d-101), Schedule 13G (240.13d-102), Form 3 (249.103 of this chapter), Form 4 (249.104 of this chapter) and/or Form 5 (249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) Question 3: How many proposals may I submit?

Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) Question 4: How long can my proposal be?

The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) Question 5: What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (249.308a of this chapter) or 10-QSB (249.308b of this chapter), or in shareholder reports of investment companies under 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and mail its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and mail its proxy materials.

(f) Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under 240.14a-8 and provide you with a copy under Question 10 below, 240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?

Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) Question 8: Must I appear personally at the shareholders' meeting to present the proposal?

(1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?

(1) *Improper under state law:* If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or

foreign law to which it is subject;

Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Relates to election:* If the proposal relates to an election for membership on the company's board of directors or analogous governing body;

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) **Question 10: What procedures must the company follow if it intends to exclude my proposal?**

(1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) Question 11: May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) Question 12: If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) Question 13: What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, 240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it mails its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under 240.14a-6.

Regulatory History:

As last amended in Release No. 34-40018, effective June 29, 1998, 63 F.R. 29106.



STATE STREET.

Kevin Yakimowsky
Assistant Vice President
Specialized Trust Services

STATE STREET BANK
200 Newport Avenue - J027
N. Quincy, MA 02171

Telephone: 617-665-7712
Facsimile: 617-769-6695
kyakimowsky@statestreet.com

Sent Via Fax 301-654-6714

12/16/2008

Mr. Samuel Flax
EVP, General Counsel, Chief Compliance Officer and Corporate Secretary
American Capital Strategies, Ltd.
2 Bethesda Metro Center
14th Floor
Bethesda, MD 20814

Re: Certification of Shareholding in American Capital Strategies, Ltd.
<cusip 02503Y103> for MA Laborers Pension Fund

Dear Mr. Flax,

State Street Bank is the record holder for 800 shares of American Capital Strategies, Ltd. ("Company") common stock held for the benefit of the Massachusetts Laborers Pension Fund ("Fund"). The Fund has been a beneficial owner of at least 1% or \$2,000 in market value of the Company's common stock continuously for at least one year prior November 21, 2008, the date of submission of the shareholder proposal submitted by the Fund pursuant to Rule 14a-8 of the Securities and Exchange Commission rules and regulations. The Fund continues to hold the shares of Company stock.

As custodian for the Fund, State Street holds these shares at its Participant Account at the Depository Trust Company ("DTC"). Cede & Co., the nominee name at DTC, is the record holder of these shares.

If there are any questions concerning this matter, please do not hesitate to contact me directly.

Sincerely,

Kevin Yakimowsky