# STATE OF NORTH CAROLINA

**Department of The Secretary of State**

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| In The Matter of: | ) | |
| **THE NORTH CAROLINA SECURITIES DIVISION,** | ) | |
| Petitioner, | ) | **FINAL ORDER DENYING REGISTRATION** |
| **vs.** | ) | |
| **AMERICAN CAPITAL ADVISORS L.L.C. and** | ) | |
| **RICHARD DUANE WHITE,** | ) | **FILE NO. 08SEC042** |
| Respondents. | ) | |

**THIS CAUSE** coming on before the undersigned, upon the record in the above-captioned matter, to consider the request made in the Administrative Petition filed in this matter on the 20th day of March, 2008, for issuance of a Final Order to Deny Registration against **RESPONDENT AMERICAN CAPITAL ADVISORS L.L.C. and RESPONDENT RICHARD DUANE WHITE** ("Respondents") from registration as an investment adviser or an investment adviser representative in North Carolina.

**BASED UPON** the record in this administrative proceeding and the representations of counsel, the undersigned makes the following:

## FINDINGS OF FACT

1. On March 20, 2008, Petitioner, the North Carolina Securities Division of the Department of the Secretary of State, filed an Administrative Petition containing certain allegations against Respondents, in which Petitioner requested both summary postponement and final denial of registration as investment advisers or investment adviser representatives of Respondents pursuant to N.C.G.S. §§78C-19(c) and 78C-19(f).

2. On March 20, 2008, the Administrator, through her Deputy Securities Administrator, entered an Order of Summary Postponement against the Respondents in this matter.

3. On March 20, 2008, Respondents were personally served with copies of the aforesaid Administrative Petition, Order of Summary Postponement, and a Notice of Rights and Opportunity for a Hearing.

4. The Notice of Rights and Opportunity for a Hearing served upon Respondents informed them that, upon their failure to request a hearing in writing, file a responsive pleading, or make a submission within (30) business days following service, that the Order of Summary Postponement shall become final and remain in effect unless modified or vacated by the Administrator.

5. Respondents have failed to file a request for hearing, responsive pleading, submission or otherwise appear in this administrative proceeding within the time allowed by N.C.G.S. §78C-19(c).

6. The Order of Summary Postponement issued on March 20, 2008 in this matter, including the Findings of Fact and Conclusions of Law therein, is hereby incorporated completely by reference thereto.

7. The entry and issuance of this Final Order Denying Registration is in the public interest, with respect to N.C.G.S. §78C-19(a)(1).

8. The entry and issuance of this Final Order Denying Registration is also necessary or appropriate in the public interest or for the protection of investors and clients and consistent with the purposes fairly intended by the policy and provisions of the North Carolina Investment Advisers Act.

**BASED ON THE FOREGOING** Findings of Fact, the undersigned makes the following:

## CONCLUSIONS OF LAW

1. The Administrator has jurisdiction over the person of the Respondents and over the subject matter of this administrative proceeding.

2. The Administrator has statutory authority pursuant to N.C.G.S. §78C-19(a) to enter and issue an order denying registration as an investment adviser and investment adviser representative against the Respondents as they have both failed to request a hearing, file a responsive pleading, or otherwise appear in or contest this matter.

3. Respondent Richard Duane White is disqualified from registration as an investment adviser representative in North Carolina, pursuant to N.C.G.S. §§78C-19(a)(2)(b), 78C-19(a)(2)(g) and 78C-19(a)(2)(i).

4. Respondent American Capital Advisors L.L.C. is disqualified from registration as an investment adviser in North Carolina, pursuant to N.C.G.S. §§78C-19(a)(2)(b), 78C-19(a)(2)(g) and 78C-19(a)(2)(i).

5. Respondents are now subject to the entry of a permanent and Final Order Denying Registration by operation of law under N.C.G.S. §§78C-19(c) and 78C-19(a).

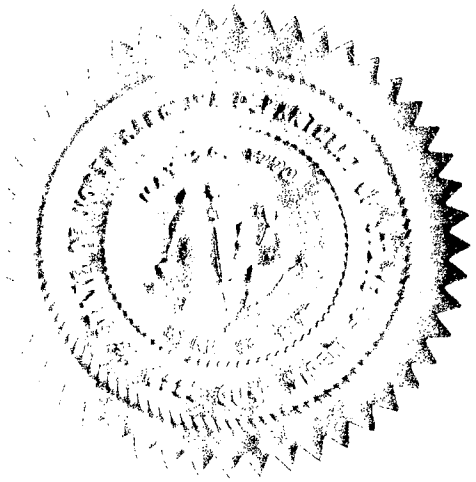
6. The entry and issuance of this Final Order Denying Registration is also necessary or appropriate in the public interest or for the protection of investors and clients and consistent with the purposes fairly intended by the policy and provisions of the North Carolina Investment Advisers Act.

**BASED UPON THE FOREGOING** Findings of Fact and Conclusions of Law, the Administrator hereby enters the following order:

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED**, pursuant to the authority contained in **N.C.G.S. §78C-19(a)** that Respondents **AMERICAN CAPITAL ADVISORS L.L.C. and RICHARD DUANE WHITE** shall be denied registration as an investment adviser or an investment adviser representative in North Carolina.

**WITNESS MY HAND AND THE OFFICIAL SEAL** of the North Carolina Department of the Secretary of State, this the 3rd day of June, 2008.

Time of entry: 4:53 P. M.



**ELAINE F. MARSHALL**
**SECRETARY OF STATE**
**OF NORTH CAROLINA and**
**Securities Administrator**

By:
David S. Massey
Deputy Securities Administrator