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CAPITAL MANAGEMENT, LLC

ES 129204

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OFFICE OF THE SECRETARY

The U. S. Securities and Exchange Commission
Chairman Mary Schapiro
100 F Street, N.E.
Washington, D.C. 20549

Dear Chairman Schapiro:

"I'm mad as hell and I'm not going to take it anymore", a quote by news anchor Howard Beale in the 1976 movie *Network*, perfectly reflects my feelings about the stock market volatility and prompts me for the first time ever in my forty plus years in the investment counseling business to write a letter to a government official. I'm fed up with the wealth destroying casino called the stock market that appears to be out of control, unrestricted and unchecked by any means of discipline. A recent research study conducted by a major Wall Street firm, as well as numerous economic studies, compares the current violent swings of the stock market to that in the 1930's and indicate that this volatility appears to coincide with the removal of the "Uptick Rule" on July 7, 2007 by the SEC. Following its removal, I have witnessed ever increasing and dramatic 'bear raids" in the market on individual stocks which include Wachovia, AIG, Lehman, Merrill Lynch, HNI Corp and Harley Davidson. On March 4, 2009, 786,000 put options were purchased on GE common stock and an unprecedented 752,243,557 million shares were sold, plummeting the stock to $5.73 per share, a price level last reached 18 years ago. Jesse Livermore, an infamous stock market operator of the 1930s, spent his last days in prison convicted of stock market manipulation and bear raids. He would thrive in today's market with unlimited selling at any price, naked shorting and short-kiting and remain out of jail.

My firm, in its normal operation of security transactions, has experienced naked short postions that have prevented the orderly settlement of both stocks and bonds. In one case, we purchased 13,525 shares of American Capital. The trade did not settle for almost three weeks because the seller shorted the stock sale to us. The response to inquiries was simply, "the seller was short the

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stock". In another trade, we sold $3,700,000 General Electric Capital notes, but part of the trade failed because the custodian, the holder of our clients' securities, "loaned" out the notes and were "short" the notes for days beyond settlement date.

I'm asking that the SEC help restore order in a chaotic market place by reinstating the uptick rule, eliminate naked shorting, and impose heavy fines on firms which continue the practice. I'm also asking the SEC to work toward changing the current decimal system to fractions, (such as 1/16 or 1/8) by which the Uptick rule could be monitored and enforced more effectively.

Please inform me of the SEC's current view of the Uptick rule and the suggestions I've made by March 30, 2009.

Sincerely,

V. Randolph McMenamin, Jr.
Managing Director