

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND**

IN THE MATTER OF: \*

AMERICAN RIVER CAPITAL, INC. \* Securities Division No. 08-0203  
and  
AMERICAN RIVER CAPITAL GROUP \*  
and  
PROFITGATEWAY.COM, \*

RESPONDENTS. \*

\* \* \* \* \*

**FINAL ORDER TO CEASE AND DESIST**

WHEREAS, the Maryland Securities Commissioner (the “Commissioner”), pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Title 11, Corporations and Associations Article, Annotated Code of Maryland (2007 Repl. Vol. & Supp. 2008) (the “Securities Act”), initiated an investigation into the activities of American River Capital, Inc., American River Capital Group, and ProfitGateway.com (the “Respondents”); and

WHEREAS, as a result of that investigation the Commissioner determined that the Respondents have engaged and are about to engage in acts or practices constituting violations of the registration and antifraud provisions of the Securities Act; and

WHEREAS, on August 14, 2009, the Securities Commissioner issued a Summary Order To Cease And Desist (the “Summary Order”) to the Respondents, ordering each to cease and desist from offering or selling investments in or from Maryland; and

WHEREAS, the Summary Order gave each Respondent notice of the opportunity for a hearing in this matter, if requested in writing within fifteen days of service of that order, and gave notice that as to any Respondent not requesting a hearing, a Final Order To Cease And Desist would be issued imposing a bar from engaging in securities transactions on behalf of others and a monetary civil penalty; and

WHEREAS, none of the Respondents filed an Answer or requested a hearing, and the Commissioner has determined that immediate action against the Respondents is necessary;

NOW, THEREFORE, having determined that it is in the public interest to issue this Final Order To Cease And Desist, THE COMMISSIONER FINDS AND ORDERS:

### **I. JURISDICTION**

1. The Commissioner has jurisdiction in this proceeding and over the Respondents pursuant to section 11-701.1 of the Securities Act.

### **II. RESPONDENTS**

2. American River Capital, Inc. (“ARC”), with an address in Hyattsville, Maryland, purports to be a private equity fund and a company of investment-management professionals, accepting funds for investment in various investment programs or companies promising a high daily rate of return.

3. American River Capital Group (“ARCG”) is the name used by ARC to maintain its e-gold account for accepting investors’ deposits, and at times is used interchangeably with ARC by Respondents.

4. The American River Capital web site, <http://profitgateway.com/> , is used to describe the program, solicit investors, and provide the means of payment by investors.

### **III. FINDINGS OF FACT**

5. Beginning around summer 2008, using e-mail spam or addresses acquired from other sources, as well as its own website, ARC solicited investments in the company’s high-yield opportunities.

6. The ProfitGateway website tells potential investors that “You should know that there are large fund trading programs where investors start from [\$100 million]. ARC is already... founded to bring this internet solution to you.” ARC states that its programs offer professional investment services to grow e-gold and e-bullion funds through offshore financial partners.

7. According to the ARC website, the company is managed and operated by “a strong group

of traders...” Website at FAQ Page. It states that ARC is not a licensed bank or security.

8. The web page stresses that “all of your investments and funds are secured. You can view our certificate to let you trust in our company.” It adds “Check our legality! We are a registered company, incorporated in Belize,” and provides a photograph of “staff” holding an e-gold certificate, and of a certificate from the Securities Exchange Commission of the Republic of the Philippines.

9. The website instructs new investors how to open an e-gold account, how to fund the account, how to open an account online at ARC from its website, and how to then deposit funds from e-gold into the ARC account. There is a minimum investment of \$100; there is no maximum amount.

10. ARC offers investors a variety of investment plans: the daily profit depends on the amount invested and the number of days it remains invested. Thus, from \$1,000 - \$3,000 left for 45 days earns 1.0 - 1.9% interest daily; \$1,000 - \$10,000 left for 30 days earns 2.0 - 2.6% daily interest; \$10,000 or more left for 10 days earns 3-5% daily interest; and, in the 60-day plan, \$15,000 - 50,000 earns 4.5 - 6.5% daily interest.

11. The daily profit supposedly is paid directly to the investor’s e-gold account within 24 hours, and is available for the investor’s use after their initial investment period.

12. “There isn’t a risk involved with working in our investment program... our principal investment is always guaranteed...” the web page adds, but points out that “we are real traders and we invest members’ funds in major investments.”

13. ARC claims that because these are private transactions, this program is exempt from all federal and state securities laws.

14. ARC encourages individuals to “refer” additional investors to ARC, whereupon the referring sponsor would be entitled to 10% of the deposit made by the new investor.

Securities Offering from the state of Maryland

15. One investor in Texas invested \$1,000 at a rate of 2.4% daily interest, to be credited to his account after 30 days. When he attempted to withdraw the money, it was not there. ARC insists it credited

the money to his account, but will not provide him any details about the transaction. He cannot get the money, or a response.

16. An investor from New York invested \$5,000 for 30 days. Subsequently he tried to withdraw a part of his account, to which interest was to be paid daily and from which, after the thirty days, his initial deposit supposedly could be withdrawn. There is no money there, and ARC will neither transfer money nor provide an explanation.

17. An investor in Ireland deposited \$5,000, and was able to withdraw a little of the “interest” she earned. Encouraged, she deposited another \$10,000. She cannot get any money now, nor an explanation from ARC. She is out of pocket some \$14,600.

18. At least one Maryland investor put \$1000 into ARC. He has been unable to get his money back.

19. Respondents have failed to produce a list of Maryland or other investors.

20. The ProfitGateway website, which was down for a while, is now available again.

No Securities Registration or Exemption Filing

21. The Securities Division has no record of securities registration for an offering by the name of “American River Capital,” “American River Capital Group,” or “ProfitGateway.com,” nor has any claim of exemption or status as a federal-covered security been made with the Division for any such offering.

22. American River Capital Inc. is not registered with the Securities Division as a broker-dealer, securities agent, investment advisor or investment advisor representative.

23. American River Capital Group is not registered with the Securities Division as a broker-dealer, securities agent, investment advisor or investment advisor representative.

24. ProfitGateway.com is not registered with the Securities Division as a broker-dealer, securities agent, investment advisor or investment advisor representative.

#### **IV. CONCLUSIONS OF LAW**

24. Respondents violated section 11-501 of the Securities Act by offering and selling unregistered securities in Maryland in the form of investment contracts and participatory interests in a profit-sharing agreement, for which no claim of preemption or exemption has been filed.

25. Respondents violated section 11-401(a) of the Securities Act by transacting business in the offer or sale of securities in Maryland as a broker-dealer or securities agent, without being registered pursuant to the Securities Act.

26. Respondents violated section 11-402(a) of the Securities Act by employing unregistered agents for the offer and sale of securities in Maryland.

27. Respondents violated section 11-301 of the Securities Act by making material omissions and misrepresentations in connection with the offer and sale of securities.

#### **V. SANCTIONS**

##### **IT IS HEREBY ORDERED THAT:**

28. Respondents, and each of them, their employees, agents, and all persons acting under their control, permanently cease and desist from offering or selling securities, in or from Maryland, in violation of the Securities Act, from offering and selling any securities whether registered or exempt from registration, and from engaging in any transaction exempted under the Securities Act; and that

29. Respondents are permanently barred from engaging in the securities business in Maryland for or on behalf of others, or from acting as a principal or consultant in any entity so engaged; and that

30. Respondents, jointly and severally, are assessed a civil monetary penalty of \$40,000 for violations of the Securities Act pursuant to section 11-701.1(b) of the Act, payable by certified check to the Office of the Attorney General.

**VI. JURISDICTION RETAINED**

32. Jurisdiction is retained by the Securities Commissioner for the purpose of enabling any party to this Order to apply for such further orders and directions as may be necessary or appropriate for the construction or enforcement of this Order.

**VII. NOTICE OF APPEAL RIGHTS**

33. Pursuant to the Code of Maryland Regulations, COMAR 02.02.06.24, each Respondent has the right to file an appeal of this Order with the circuit court of Maryland. Any appeal must be filed within 30 days from the date this Order is mailed by the Securities Division.

**IT IS SO ORDERED:**

**Commissioner's Signature is  
on File with Original Document**

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MELANIE SENTER LUBIN  
SECURITIES COMMISSIONER

September 8, 2009