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FIRST AMERICAN CAPITAL CORP /KS  
Form 10QSB  
November 14, 2003

United States Securities and Exchange Commission  
Washington, D.C. 20549

FORM 10-QSB

(Mark One)

QUARTERLY REPORT UNDER SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT  
OF 1934

For the quarterly period ended September 30, 2003.

TRANSITION REPORT UNDER SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT  
OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission file number : 0-25679  
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FIRST AMERICAN CAPITAL CORPORATION  
-----

(Exact Name of small business issuer in its charter)

----- Kansas ----- 48-1187574 -----  
(State of incorporation) (I.R.S. Employer Identification Number)

1303 S.W. First American Place Topeka, Kansas 66604  
-----

(Address of principal executive offices)

Issuer's telephone number (785) 267-7077  
-----

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Sections 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

State the number of shares outstanding of each of the issuer's classes of common equity, as of the latest practicable date.

Common Stock, \$.10 Par Value - 4,687,078 shares as of November 1, 2003

Transitional Small Business Disclosure Format (check one): Yes  No

FIRST AMERICAN CAPITAL CORPORATION

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FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

FIRST AMERICAN CAPITAL CORPORATION

CONDENSED CONSOLIDATED BALANCE SHEETS

	(Unaudited) September 30, 2003 -----	December 31, 2002 -----
ASSETS		
Investments:		
Securities available for sale, at fair value:		
Fixed maturities (amortized cost, \$10,757,409 in 2003 and \$10,096,482 in 2002)	\$11,461,723	\$10,760,529
Investments in real estate	274,564	274,564
Policy loans	103,729	65,011
Notes receivable (net of valuation allowance of \$0 in 2003 and \$2,368 in 2002)	20,868	28,204
Short-term investments	349,466	416,801
	-----	-----
Total investments	12,210,350	11,545,109
Cash and cash equivalents	509,448	400,062
Investments in related parties	107,131	131,549
Accrued investment income	205,204	177,598
Accounts receivable	394,806	322,421
Deferred policy acquisition costs (net of accumulated amortization of \$2,082,421 in 2003 and \$1,682,954 in 2002)	3,927,125	3,186,587
Property and equipment (net of accumulated depreciation of \$352,974 in 2003 and \$264,976 in 2002)	2,867,787	2,952,046
Other assets	17,897	31,144
	-----	-----
Total assets	\$20,239,748 =====	\$18,746,516 =====

See notes to condensed consolidated financial statements.

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	(Unaudited) September 30, 2003 -----
LIABILITIES AND SHAREHOLDERS' EQUITY	
Policy and contract liabilities:	
Annuity contract liabilities	\$ 4,344,656
Life policy reserves	2,906,855
Liability for policy claims	96,548
Policyholder premium deposits	219,038
Deposits on pending policy applications	9,969
Reinsurance premiums payable	34,767
	-----
Total policy and contract liabilities	7,611,833
Commissions, salaries, wages and benefits payable	48,416
Other liabilities	216,158
Note payable	1,855,529
Federal income taxes payable:	
Deferred	638,805
	-----
Total liabilities	10,370,741
Shareholders' equity:	
Common stock, \$.10 par value, 8,000,000 shares authorized; 5,449,578 shares issued and 4,687,078 shares outstanding in 2003 and 2002	544,958
Additional paid in capital	12,380,523
Accumulated deficit	(2,234,438)
Accumulated other comprehensive income	563,447
Less: Treasury stock held at cost (762,500 shares in 2003 and 2002)	(1,385,483)
	-----
Total shareholders' equity	9,869,007
	-----
Total liabilities and shareholders' equity	\$ 20,239,748 =====

See notes to condensed consolidated financial statements.

FIRST AMERICAN CAPITAL CORPORATION  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)  
Three months ended

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	September 30, 2003	September 30, 2002	September 2003
	-----	-----	-----
Revenues:			
Gross premium income	\$ 808,266	\$ 871,974	\$ 2,916,
Reinsurance premiums assumed	1,756	-	4,
Reinsurance premiums ceded	(27,553)	(26,557)	(102,
	-----	-----	-----
Net premium income	782,469	845,417	2,819,
Net investment income	138,342	168,261	425,
Net realized gain on disposal of assets	4,479	39,153	4,
Rental income	54,046	53,856	161,
Other income	-	254	
	-----	-----	-----
Total revenue	979,336	1,106,941	3,411,
Benefits and expenses:			
Increase in policy reserves	120,105	154,396	597,
Policyholder surrender values	22,837	13,992	52,
Interest credited on annuities and premium deposits	80,378	46,993	214,
Death claims	81,058	3,013	214,
Commissions	246,138	391,461	975,
Policy acquisition costs deferred	(281,729)	(456,257)	(1,140,
Amortization of deferred policy acquisition costs	178,051	182,638	399,
Salaries, wages, and employee benefits	240,748	344,821	921,
Miscellaneous taxes	32,338	7,462	102,
Administrative fees - related party	-	222,794	
Other operating costs and expenses	417,536	331,532	1,566,
	-----	-----	-----
Total benefits and expenses	1,137,460	1,242,845	3,904,
Loss before income tax expense	(158,124)	(135,904)	(493,
	-----	-----	-----
Income tax (benefit) expense	20,594	106,392	(335,
	-----	-----	-----
Net loss	\$ (178,718)	\$ (242,296)	\$ (157,
	=====	=====	=====
Net loss per common share - basic and diluted	\$ (0.04)	\$ (0.05)	\$ (0
	=====	=====	=====

See notes to condensed consolidated financial statements.

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FIRST AMERICAN CAPITAL CORPORATION

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

	(Unaudited) September 30, 2003 -----	(Unaudited) September 30, 2002 -----
OPERATING ACTIVITIES:		
Net loss	\$ (157,599)	\$ (463,530)
Adjustments to reconcile net loss to net cash used in operating activities:		
Interest credited on annuities and premium deposits	214,701	117,718
Net realized investment gain	(4,820)	(22,848)
Provision for depreciation and amortization	93,599	99,673
Equity loss in investment in affiliate	34,418	21,612
Amortization of premium and accretion of discount on fixed maturity and short-term investments	55,091	40,348
Interest credited to certificates of deposit balances	-	(7,020)
Provision for deferred federal income taxes	(335,941)	263,689
Increase in accrued investment income	(27,606)	(26,019)
Increase in accounts receivable	(72,385)	(150,200)
Decrease in accounts receivable from affiliate	-	124,881
Increase in deferred policy acquisition costs, net	(740,538)	(819,475)
Increase in policy loans	(38,718)	(25,776)
Decrease (increase) in other assets	13,247	(31,375)
Increase in policy reserves	597,996	585,790
Increase in liability for policy claims	17,877	3,014
Decrease in deposits on pending policy applications	(187,044)	(94,290)
(Decrease) increase in reinsurance premiums payable	(5,119)	7,162
(Decrease) increase in commissions, salaries, wages and benefits payable	(6,814)	75,744
Decrease in accounts payable to affiliate	-	(18,022)
Increase in other liabilities	108,083	48,087
	-----	-----
Net cash used in operating activities	\$ (441,572)	\$ (270,837)

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FIRST AMERICAN CAPITAL CORPORATION

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (continued)

	(Unaudited) September 30, 2003 -----	(Unaudited) September 30, 2002 -----
INVESTING ACTIVITIES:		
Purchase of available-for-sale fixed maturities	\$ (1,862,911)	\$ (3,966,200)

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Sale or maturity of available-for-sale fixed maturities	1,154,000	2,983,351
Additions to property and equipment, net	(9,340)	(23,855)
Purchase of investments in affiliates	(10,000)	(9,805)
Changes in notes receivable, net	7,336	(30,555)
Short-term investments disposed, net	64,786	1,392,343
	-----	-----
Net cash (used in) provided by investing activities	(656,129)	345,279
 FINANCING ACTIVITIES:		
Payments on note payable	(33,315)	(58,248)
Purchase of treasury stock	-	(1,141,225)
Deposits on annuity contracts, net	1,251,534	957,750
Policyholder premium deposits, net	(11,132)	75,914
	-----	-----
Net cash provided by (used in) financing activities	1,207,087	(165,809)
	-----	-----
 Increase (decrease) in cash and cash equivalents	 109,386	 (91,367)
Cash and cash equivalents, beginning of period	400,062	463,363
	-----	-----
 Cash and cash equivalents, end of period	 \$ 509,448	 \$ 371,996
	=====	=====

See notes to condensed consolidated financial statements.

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### FIRST AMERICAN CAPITAL CORPORATION

#### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

##### 1. BASIS OF PRESENTATION

The accompanying condensed consolidated financial statements of First American Capital Corporation and its Subsidiaries (the "Company") for the three month and nine month periods ended September 30, 2003 and 2002 are unaudited. However, in the opinion of the Company, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been reflected therein.

Certain financial information which is normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America, but which is not required for interim reporting purposes, has been omitted. The accompanying condensed consolidated financial statements should be read in conjunction with the financial statements and notes thereto included in the Company's Form 10-KSB for the fiscal year ended December 31, 2002. Certain reclassifications have been made in the prior period financial statements to conform to the current period presentation.

##### 2. INVESTMENTS IN RELATED PARTIES

The Company owns a 50% interest in First Computer Services, LLC ("FCS"). FCS owns the computer hardware and software that operates a Company policy

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administration, underwriting, claim processing, and accounting system. The company uses the equity method to account for this investment, which is owned jointly by the Company and First Alliance Corporation ("FAC") of Lexington, Kentucky. At September 30, 2003, the carrying value of the FCS investment was \$65,331. This amount represents total capital contributions of \$135,000 reduced by the Company's \$69,669 share of the cumulative net operating losses to date. Selected financial data for FCS at September 30, 2003 and for the period ended September 30, 2003 is listed below.

Total Assets:	\$ 130,662
Total Liabilities:	0
Total Liabilities and Equity:	130,662
Loss from Operations:	(68,836)

### 3. NET EARNINGS PER COMMON SHARE

Net income per common share for basic and diluted earnings per share is based upon the weighted average number of common shares outstanding during each period. The weighted average number of common shares outstanding was 4,687,078 for the three and nine months ended September 30, 2003. The weighted average number of common shares outstanding was 5,262,952 and 5,270,267 for the three and nine months ended September 30, 2002, respectively.

### 4. FEDERAL INCOME TAXES

Current taxes are provided based on estimates of the projected effective annual tax rate. Deferred taxes reflect the net effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

Effective June 30, 2003, the Company commenced calculating deferred taxes based on a consolidated income tax return approach. In conjunction therewith, the Company reduced the tax rate used to calculate deferred taxes from 35% to 20%. The impact of this change in accounting estimate is reflected in the nine months ended September 30, 2003 summary of operations. Income tax expense was reduced by \$532,546, or \$.11 per share, for the nine months ended September 30, 2003, resulting in an income tax benefit of \$335,941 for the nine months ended September 30, 2003.

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FIRST AMERICAN CAPITAL CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

### 5. NOTE PAYABLE

On April 22, 2003, the Company refinanced the note to Columbian Bank and Trust Company with a note from Western National Bank. The note is secured by the home office building. The note will mature on April 22, 2013. The note is payable in 120 monthly payments of \$13,534 each with a final payment of the unpaid



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principal balance and interest on April 22, 2013. Interest will be accrued at 6% until April 22, 2008 at which time the rate may change. The interest rate change will be the Wall Street Journal Prime Rate of Interest, subject to a floor of 6% and a ceiling of 9.5%.

Required future principal payments are as follows:

Year	Principal Payment
-----	-----
2003	\$ 12,522
2004	51,400
2005	54,936
2006	58,373
2007	62,024
Thereafter	1,616,274
-----	-----
Total	\$1,855,529
	=====

### 6. COMPREHENSIVE INCOME

The components of comprehensive income along with the related tax effects for the three months and nine months ended September 30, 2003 and 2002 are as follows:

	Three Months Ended September 30, 2003	September 30, 2002	Septem -----
	-----	-----	-----
Unrealized (loss) gain on available-for-sale securities:			
Unrealized holding (loss) gain during the period	\$ (130,670)	\$ 201,504	\$
Tax benefit (expense)	26,134	(70,526)	
	-----	-----	-----
Other comprehensive (loss) income	\$ (104,536)	\$ 130,978	\$ 1
	=====	=====	=====
Net loss	\$ (178,718)	\$ (242,296)	\$ (1
Other comprehensive (loss) income net of tax effect:			
Unrealized investment (loss) gain	(104,536)	130,978	1
	-----	-----	-----
Comprehensive loss	\$ (283,254)	\$ (111,318)	\$ (
	=====	=====	=====
Net loss per common share-basic and diluted	\$ (0.06)	\$ (0.02)	\$
	=====	=====	=====

FIRST AMERICAN CAPITAL CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

7. SEGMENT INFORMATION

The operations of the Company and its subsidiaries have been classified into two operating segments as follows: life and annuity insurance operations and corporate operations. Segment information for the three months and nine months ended September 30, 2003 and 2002 and as of September 30, 2003 and December 31, 2002 is as follows:

	Three Months Ended September 30, 2003	September 30, 2002	Nin September 2003
	-----	-----	-----
Revenues:			
Life and annuity insurance operations	\$ 897,723	\$ 949,254	\$ 3,158,87
Corporate operations	81,613	157,687	252,28
	-----	-----	-----
Total	\$ 979,336	\$ 1,106,941	\$ 3,411,16
	=====	=====	=====
Income (loss) before income taxes:			
Life and annuity insurance operations	\$ 120,464	\$ 43,099	\$ 442,85
Corporate operations	(278,588)	(179,003)	(936,39
	-----	-----	-----
Total	\$ (158,124)	\$ (135,904)	\$ (493,54
	=====	=====	=====
Depreciation and amortization expense:			
Life and annuity insurance operations	\$ 178,051	\$ 182,638	\$ 399,46
Corporate operations	30,631	33,778	93,59
	-----	-----	-----
Total	\$ 208,682	\$ 216,416	\$ 493,06
	=====	=====	=====

Segment asset information as of September 30, 2003 and December 31, 2002

:

September 30, 2003	December 31, 2002
-----	-----

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Assets:		
Life and annuity insurance operations	\$14,409,718	\$12,090,507
Corporate operations	5,830,030	6,656,009
	-----	-----
Total	\$20,239,748	\$18,746,516
	=====	=====

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### ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OR PLAN OF OPERATION

The Company makes forward-looking statements from time to time and desires to take advantage of the "safe harbor" which is afforded such statements under the Private Securities Litigation Reform Act of 1995 when they are accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statements.

The statements contained in this report, which are not historical facts, are forward-looking statements that involve risks and uncertainties that could cause actual results to differ materially from those set forth in the forward-looking statements. Any projections of financial performances or statements concerning expectations as to future developments should not be construed in any manner as a guarantee that such results or developments will, in fact, occur. There can be no assurance that any forward-looking statement will be realized or that actual results will not be significantly different from that set forth in such forward-looking statement. In addition to the risks and uncertainties of ordinary business operations, the forward-looking statements of the Company referred to above are also subject to risks and uncertainties.

The following discussion should be read in conjunction with the consolidated financial statements and notes thereto.

#### Financial Condition

Significant changes in the condensed consolidated balance sheets from December 31, 2002 to September 30, 2003 are highlighted below.

Total assets increased from \$18,746,516 at December 31, 2002 to \$20,239,748 at September 30, 2003. The Company's available-for-sale fixed maturities had a fair value of \$11,461,723 and \$10,760,529 at September 30, 2003 and December 31, 2002, respectively. This investment portfolio is reported at market value with unrealized gains and losses, net of applicable deferred taxes, reflected as a separate component in Shareholders' Equity.

Policy loans increased \$38,718 or 60% from \$65,011 at December 31, 2002 to \$103,729 at September 30, 2003. The increase in policy loans was due to policyholders using policy cash values to pay premiums.

Short-term investments decreased from \$416,801 at December 31, 2002 to \$349,466 at September 30, 2003. The reduction of short-term investments held by the Company is attributable to bonds maturing during the nine months ended September 30, 2003, and the proceeds being used to purchase available-for-sale securities

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and short-term investments. This resulted in a \$67,335 or 16% decrease in short-term investments.

Cash and cash equivalents increased \$109,386 from \$400,062 at December 31, 2002 to \$509,448 at September 30, 2003. Refer to the statement of cash flows for sources and uses of cash.

Investments in related parties decreased from \$131,549 at December 31, 2002 to \$107,131 at September 30, 2003. The decrease was due to the Company's \$34,418 loss in share of FCS, which is offset by a capital contribution of \$10,000.

Accounts receivable increased 22% from \$322,421 at December 31, 2002 to \$394,806 at September 30, 2003. The increase is due to a \$23,125 increase in amounts due from agents, a \$67,956 increase in due premiums, and an \$18,696 decrease in other receivables. These amounts are expected to be fully recoverable.

Deferred policy acquisition costs, net of amortization, increased 23% from \$3,186,587 at December 31, 2002 to \$3,927,125 at September 30, 2003 resulting from the capitalization of acquisition expenses related to the increasing sales of life insurance. These acquisition expenses include commissions and other fees incurred in the first policy year.

Property and equipment net of accumulated depreciation decreased by \$84,259 at September 30, 2003 as compared to December 31, 2002. The decrease is attributable to depreciation expense of \$93,599, capitalization of assets of \$12,440 and the disposition of assets with a book value of \$3,100.

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Liabilities increased to \$10,370,741 at September 30, 2003 from \$8,851,559 at December 31, 2002. A significant portion of this increase is due to life insurance related policy liabilities. Policy reserves established due to the sale of life insurance increased \$597,996 or 26% from December 31, 2002 to September 30, 2003. These reserves are actuarially determined based on such factors as insured age, life expectancy, mortality and interest assumptions. Liabilities for policy claims increased \$17,877 at September 30, 2003 compared to December 31, 2002.

There was a 50% increase in the amount of \$1,455,694 for annuity contract liabilities from December 31, 2002 to September 30, 2003. According to the design of FLAC's primary life insurance product, first year premium payments are allocated 100% to life insurance and renewal payments are split 50% to life and 50% to annuity. In the first nine months of 2003, annuity contract liabilities increased as additional policies reached the second policy year.

Deposits on pending policy applications decreased from \$197,013 at December 31, 2002 to \$9,969 at September 30, 2003 because of the timing issues associated with receipt and application of premium payments.

Other liabilities increased \$108,083 from \$108,075 at December 31, 2002 to \$216,158 at September 30, 2003. There was an increase of \$83,866 in accounts payable due to the timing of the receipt of significant invoices for legal and actuarial services.

Federal income taxes payable have decreased 40% from \$1,066,390 at December 31, 2002 to \$638,805 at September 30, 2003. Federal income taxes payable represent deferred taxes established based on timing differences between income recognized for financial statement purposes and taxable income for the Internal Revenue

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Service. These deferred taxes are based on the operations of the Company and on unrealized gains of fixed maturities. The decrease in deferred income taxes payable is primarily attributable to the reduction in the tax rate used to calculate deferred taxes under a consolidated tax return approach from 35% to 20%.

### Results of Operations

Revenues for the nine months ended September 30, 2003 totaled \$3,411,164 as compared to \$3,098,861 for the same period of 2002. The increase is primarily due to a 14% increase in net premium income of \$352,986 resulting from the growth in the policyholder base. The increase in net premium income has been driven by increased sales of the Company's Final Expense product and renewal year premiums collected on the Company's FA2000 product. First year premiums collected on the FA2000 product have decreased from prior year as a result of the disruptive affect of the Company's 2003 proxy contest on its customers, shareholders and its marketing agents used to market the Company's FA2000 product.

Revenues for the three months ended September 30, 2003 totaled \$979,336 as compared to \$1,106,941 for the same period of 2002. The decrease is primarily due to a 7% decrease in net premium income of \$62,948 resulting from the disruptive affect of the Company's 2003 proxy contest on its customers, shareholders and its marketing agents used to market the Company's FA2000 product.

Benefits and expenses totaled \$3,904,704 and \$3,298,514 for the nine months ended September 30, 2003 and 2002, respectively. In total, benefits and expenses increased \$606,190, or 18%. Other operating costs accounted for \$509,769 of the total increase resulting from significant increases in legal fees of \$367,542, annual meeting expense of \$143,549, audit fees of \$26,813 and board fees of \$26,403. The increases in legal fees, annual meeting expense and board fees are directly related to the Company's 2003 proxy contest and the litigation surrounding such contest. The increase in audit fees is a result of additional work being required due to the growth of the Company and the audit now being performed on a stand-alone basis. The increase in other operating costs is also attributable to \$165,000 in legal settlement fees paid to AF&L. See "Other Information". These increases were offset by decreases in agency related expenses of \$107,679 and travel, meals and entertainment expenses of \$54,174. The decreases in agency related expenses and travel, meals and entertainment expenses are the result of management implementing tighter control of these expense areas during 2003. As a result of the growth in the policyholder base, the increase in policy reserves was \$12,206 greater than the same period in 2002. Salaries and wages decreased \$109,175 as a result of a decrease in the number of employees. Commissions increased \$19,736 due to the increase in premium income and increased sales of the Final Expense product.

Commission rates paid on first year premiums received on the Final Expense product are typically higher than those paid on the other products being marketed by FLAC. Administration fees decreased \$288,936 when compared to the same period in 2002 due to the termination of the management agreement with First Alliance Corporation. Death claims for the nine months ended September 30, 2003 totaled \$214,528 as compared to \$4,087 at September 30, 2002. The increase is due to the maturation of policies. Interest credited on annuities and premium

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deposits increased \$96,983 for the nine months ended September 30, 2003 compared to September 30, 2002. The increase is due to the design of FLAC's primary life insurance product whereby first year premium payments are allocated 100% to life insurance and renewal payments are split 50% to life and 50% to annuity. In the first nine months of 2003, interest credited on annuities increased as additional policies reached the second policy year.

Benefits and expenses totaled \$1,137,460 and \$1,242,845 for the three months ended September 30, 2003 and 2002, respectively. In total, benefits and expenses decreased \$105,385, or 8%. Other operating costs increased \$86,004 for the three months ended September 30, 2003 and 2002. The increase was due to a significant increase in legal fees of \$173,269. The increase in legal fees is directly related to the Company's 2003 proxy contest and litigation surrounding such contest. These increases were offset by decreases in agency related expenses of \$20,803, travel, meals and entertainment expenses of \$24,104, and office expenses of \$30,306. The decreases in agency related expenses, travel, meals and entertainment expenses and office expenses are the result of management implementing tighter control of these expense areas during 2003. The increase in policy reserves was \$34,291 less than the same period in 2002. Salaries and wages decreased \$104,073 as a result of a decrease in the number of employees. Commissions decreased \$145,323 due to the decrease in premium income on first year sales of the FA2000 product. Administration fees decreased \$222,794 when compared to the same period in 2002 due to the termination of the management agreement with First Alliance Corporation. Death claims for the three months ended September 30, 2003 totaled \$81,058 as compared to \$3,013 at September 30, 2002. The increase is due to the maturation of policies. Interest credited on annuities and premium deposits increased \$33,385 for the three months ended September 30, 2003 compared to September 30, 2002. The increase is due to the design of FLAC's primary life insurance product whereby first year premium payments are allocated 100% to life insurance and renewal payments are split 50% to life and 50% to annuity.

### Liquidity and Capital Resources

During the quarters ended September 30, 2003 and 2002, the Company maintained liquid assets sufficient to meet operating demands, while continuing to utilize excess liquidity for fixed maturity investments. Net cash used in operating activities during the nine months ended September 30, 2003 and 2002 totaled \$441,572 and \$270,837, respectively. The increase in net cash used in operating activities during the nine months ended September 30, 2003 is directly related to the Company's 2003 proxy contest and the litigation surrounding such contest.

FLAC's insurance operations generally receive adequate cash flows from premium collections and investment income to meet their obligations. Insurance policy liabilities are primarily long-term and generally are paid from future cash flows. Cash collected from deposits on annuity contracts and policyholder premium deposits are recorded as cash flows from financing activities. A significant portion of the Company's invested assets are readily marketable and highly liquid.

The Company's former president has made a demand on the Company for the payment of \$250,000 in severance benefits under his employment agreement. The Company denies the allegation. If this claim is found to be meritorious, the Company's liquidity could be adversely affected.

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### ITEM 3. CONTROLS AND PROCEDURES

#### Evaluation of Disclosure Controls and Procedures

Our Chief Executive Officer and Chief Financial Officer, after evaluating the design and effectiveness of our disclosure controls and procedures as of the end of the period covered by this report (the "Evaluation Date"), have concluded that as of the Evaluation Date, our disclosure controls and procedures were adequately designed and operating effectively to ensure that material information relating to us would be made known to them by others within the Company, particularly during the period in which this Form 10-QSB Quarterly Report was being prepared.

#### Changes in Internal Controls

There were no significant changes in our internal controls over financial reporting that has materially affected or is reasonably likely to materially affect internal control over financial reporting subsequent to the date of the most recent evaluation, nor any significant deficiencies or material weaknesses in such internal controls over financial reporting requiring corrective actions. As a result, no corrective actions were taken.

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## PART II

### OTHER INFORMATION

#### Item 1. LEGAL PROCEEDINGS

As previously reported, the Company recently settled litigation arising from the proxy contest for the election of directors at the Company's 2003 annual meeting.

On May 30, 2003, Rickie D. Meyer and Michael M. Fink, shareholders, directors and former officers of the Company, initiated a lawsuit in the District Court of Shawnee County, Kansas (the "District Court") seeking a declaratory judgment determining that the Company was then engaging in conduct which violated and interfered with the voting rights of the Company's shareholders in connection with the Company's 2003 annual meeting. The action sought a temporary restraining order, temporary injunction and a permanent injunction restraining the Company from holding its June 2, 2003 annual meeting of shareholders pending a final disposition of a regulatory application filed by Harold E. Riley, Mark A. Oliver and Citizens, Inc. ("Citizens") with the Kansas Insurance Department (the "Department") for permission to change the control of the Company. Initiation of the lawsuit by Fink and Meyer followed a May 23, 2003 determination by the Department that voting of the proxy cards solicited by the First American Committee for the Protection of Shareholder Value (the "Committee"), a group formed by Meyer, Fink and others to nominate and elect an alternate slate of directors, would violate the Kansas Insurance Holding Companies Act.

On May 31, 2003, the District Court issued a temporary restraining order (the "Restraining Order") permitting the Company to hold its annual meeting of shareholders on June 2, 2003, as scheduled, but prohibiting the Company from certifying any final results of the election of the board of directors at the meeting or seating any new members of the board until further order of the

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District Court. In the Restraining Order, the District Court directed Meyer and Fink to deliver to the District Court (and not the annual meeting) any proxies which they claimed should be eligible to be voted and counted at the annual meeting, including the white proxy cards solicited by the Committee, to be held by the District Court until their validity under Kansas insurance laws could be determined.

The Company subsequently responded by filing its answer in the action generally denying Meyer's and Fink's allegations and asserting certain counterclaims against these individuals.

The settlement of the litigation was part of a global settlement contained in a settlement agreement dated August 8, 2003 (the "Agreement") among the Company, the Committee, Citizens, Riley, Oliver, Fink and Meyer. Under the settlement, Fink and Meyer agreed to dismiss the lawsuit and to dissolve the Restraining Order. Citizens, Riley and Oliver agreed, as part of the settlement, to withdraw the pending application seeking the Department's approval to a change of control of the Company. Other material terms of the Agreement include: (i) the Company's agreement to dismiss its counterclaims in the lawsuit; (ii) the Committee members' agreement to dissolve the Committee; (iii) Citizens' agreement not to acquire, directly or indirectly, any securities of the Company for a period of two years; (iv) Riley's and Oliver's agreements to revoke the irrevocable proxies granted to them by Fink, Meyer and others; and (v) the parties' release of certain claims against the others. On August 8, 2003, the lawsuit was dismissed and the Restraining Order was dissolved.

### Item 5. OTHER INFORMATION

On August 8, 2003, the Company settled a claim that it had breached various marketing agreements with AF&L, a long-term care insurance company, and certain of its affiliates through the payment to AF&L of \$150,000 plus \$15,000 in attorney fees. AF&L initially claimed that its damages were approximately \$560,000. The Company denies any liability in connection with the claim.

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### Item 6. EXHIBITS AND REPORTS ON FORM 8-K

a) Index to Exhibits

Exhibit No.	Description
3.1	Articles of Incorporation of First American Capital Corporation (Incorporated by reference from Exhibit 2.1 to the Registrant's amended Form 10-SB filed August 13, 1999)
3.2	Amendment II To Bylaws of First American Capital Corporation (Incorporated by reference from Exhibit 3.2 to the Registrant's Form 10-KSB filed March 31, 2003)
4	Certificate of Designations, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations, and Restrictions Thereof of 6% Non-Cumulative, Convertible, Callable Preferred Stock (Incorporated by reference from Exhibit 3 to the Registrant's



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amended Form 10-SB filed August 13, 1999)

- 10.1 Form of Advisory Board Contract (Incorporated by reference from Exhibit 6.2 to the Registrant's amended Form 10-SB filed August 13, 1999)
  - 10.2 Service Agreement effective January 1, 2002 between First American Capital Corporation and First Life America Corporation (Incorporated by reference from Exhibit 10.3 to the Registrant's Form 10-KSB filed March 31, 2003)
  - 10.3 Operating Agreement of First Computer Services, LLC dated December 1, 2001 (Incorporated by reference from Exhibit 10.10 to the Registrant's Form 10-KSB filed March 31, 2003)
  - 10.4 Automatic Umbrella and Bulk ADB Reinsurance Agreements effective September 1, 1998 between First Life America Corporation and Business Men's Assurance Company of America (Incorporated by reference from Exhibit 6.8 to the Registrant's Form 10-SB filed August 13, 1999)
  - 21 Subsidiaries of First American Capital Corporation (Incorporated by reference from Exhibit 21 to the Registrant's Form 10-KSB filed March 31, 2003)
  - 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (\*)
  - 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (\*)
  - 32.1 Certificate of Chief Executive Officer pursuant to Section 18 U.S.C. Section 1350 (\*)
  - 32.2 Certificate of Chief Financial Officer pursuant to Section 18 U.S.C. Section 1350 (\*)
- (\*) Filed herewith
- b) Reports on Form 8-K
- The Company filed a current report on Form 8-K dated August 12, 2003 disclosing its issuance of a press release announcing the results of the shareholder's election of directors and the settlement of its proxy contest.

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### SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

FIRST AMERICAN CAPITAL CORPORATION

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Date: 11/14/03  
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By: /s/ Vincent L. Rocereto  
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Vincent L. Rocereto  
President and Chief Executive Officer

Date: 11/14/03  
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By: /s/ Harland E. Priddle  
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Harland E. Priddle  
Secretary, Treasurer & Chief  
Financial Officer