

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D. C. 20549

**FORM 10-K/A**

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
**For the fiscal year ended December 31, 2009**

COMMISSION FILE NUMBER: 1-10104

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**UNITED CAPITAL CORP.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**04-2294493**

(I.R.S. Employer  
Identification No.)

**9 Park Place, Great Neck, NY**

(Address of principal executive offices)

**11021**

(Zip Code)

**516-466-6464**

(Registrant's telephone number, including area code)

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**Securities registered pursuant to Section 12(b) of the Act:**

**Title of each class**

**Name of each exchange on which registered**

**Common Stock (Par Value \$.10 Per Share)**

**NYSE Amex**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act.  Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K/A or any amendment to this Form 10-K/A .

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

The aggregate market value of the shares of the voting stock held by nonaffiliates of the registrant as of June 30, 2009 was approximately \$34,633,000.

The number of shares of the registrant's \$.10 par value common stock outstanding as of April 28, 2010 was 9,056,377.

### PART III

#### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

As of April 28, 2010, the executive officers and directors of United Capital Corp. (“we,” “our” or the “Company”) are as follows:

<u>Name</u>	<u>Principal Occupation</u>	<u>Age</u>
A.F. Petrocelli	Chairman of the Board, President and Chief Executive Officer	66
Michael T. Lamoretti	Vice President – Real Estate Operations	42
Howard M. Lorber *	President and Chief Executive Officer of Vector Group Ltd.	61
Robert M. Mann *	Private Investor	68
Anthony J. Miceli	Vice President, Chief Financial Officer and Secretary	47
Arnold S. Penner *	Self-employed real estate investor and broker	73
Michael J. Weinbaum	Vice President – Real Estate Operations	43

\* Independent Director under rules established by the NYSE Amex. The Company is a “Controlled” company under such rules in that Mr. Petrocelli owns more than 50% of the outstanding Common Stock of the Company.

A.F. PETROCELLI, has been Chairman of the Board and Chief Executive Officer of the Company since December, 1987, President of the Company since June, 1991 and from June, 1983 to March, 1989 and a Director of the Company since June, 1981. Mr. Petrocelli is also a director of Nathan’s Famous, Inc. (“Nathan’s”), a chain of fast food restaurants. Mr. Petrocelli was nominated to the Board because of his exceptional day-to-day leadership as our Chief Executive Officer and extensive knowledge of our operations and industries.

MICHAEL T. LAMORETTI, has been a Director of the Company since April, 2005 and has been a Vice President in the Company’s real estate operations since 1994. Mr. Lamoretti is a son-in-law of Mr. Petrocelli. Mr. Lamoretti is a member of the Real Estate Board of New York, the International Council of Shopping Centers and a member of the board of the Great Neck Plaza Management Council. Mr. Lamoretti was nominated to the Board because of his breadth of knowledge about real estate matters, as well as the Company’s businesses and operations and his extensive contacts and relationships in the community.

HOWARD M. LORBER, has been a Director of the Company since 1991. In addition, Mr. Lorber has been the President and Chief Executive Officer of Vector Group Ltd. since January 2006. Previously, Mr. Lorber served as the President and Chief Operating Officer of Vector Group Ltd. from January 2001 until December 2005 and has served as a director of Vector Group Ltd. since January 2001. From November 1994 to December 2005, Mr. Lorber served as President and Chief Operating Officer of New Valley Corporation, where he also served as a Director. Mr. Lorber was Chairman of the Board of Hallman & Lorber Associates, Inc., consultants and actuaries of qualified pension and profit sharing plans, and various of its affiliates from 1975 to December 2004 and has been a consultant to these entities since January 2005; a stockholder and a registered representative of Aegis Capital Corp., a broker-dealer and a member firm of the Financial Industry Regulatory Authority, from 1984 to 2009; Chairman of the Board of Directors since 1987 and Chief Executive Officer from November 1993 to December 2006 of Nathan’s; and Chairman of the Board of Ladenburg Thalmann Financial Services, Inc. from May 2001 to July 2006 and Vice Chairman since July 2006. Mr. Lorber was also a director of SP Acquisition Holdings, Inc., a blank check company, from June 2007 to October 2009. He is also a trustee of Long Island University. Mr. Lorber was nominated to the Board because of his experience as a real estate investor and expertise as an executive officer and a director at numerous companies which qualifies him as a “financial expert” under the Securities and Exchange Commission’s rules and regulations.

ROBERT M. MANN, has been a Director of the Company since June 2001. Mr. Mann has been a private investor for more than five years. Mr. Mann was nominated to the Board because of his executive management expertise which adds significant value and diversity to our board. Also, he is a prominent businessman in the New York area and has many contacts to generate new business.

ANTHONY J. MICELI, has been a Director, a Vice President and Chief Financial Officer of the Company since June, 1996 and prior thereto was the Corporate Controller of the Company for more than eight years. Mr. Miceli is a Certified Public Accountant and a member of the American Institute of Certified Public Accountants and New Jersey Society of Certified Public Accountants. Mr. Miceli was nominated to the Board because of his expertise in accounting, financial reporting, internal controls, corporate governance, risk management, and regulatory compliance, as well as his vast business and day-to-day operational knowledge.

ARNOLD S. PENNER, has been a Director of the Company since 1989 and has worked for more than the past five years as a private real estate investor and as a self-employed real estate broker in New York. Mr. Penner was nominated to the Board because of his past extensive business background and his expertise in the real estate industry.

MICHAEL J. WEINBAUM, has been a Director of the Company since April, 2005 and has been a Vice President in the Company's real estate operations since 1994. Mr. Weinbaum is a son-in-law of Mr. Petrocelli. Mr. Weinbaum is a member of the International Council of Shopping Centers. Mr. Weinbaum was nominated to the Board because of his breadth of knowledge about real estate matters, as well as the Company's businesses and operations and his extensive contacts and relationships in the community.

## **CORPORATE GOVERNANCE**

The Company operates within a comprehensive plan of corporate governance for the purpose of defining responsibilities, setting high standards of professional and personal conduct and assuring compliance with such responsibilities and standards. The Company regularly monitors developments in the area of corporate governance. In July 2002, Congress passed the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley Act") which, among other things, establishes, or provides the basis for, a number of new corporate governance standards and disclosure requirements. In addition, the NYSE Amex has instituted corporate governance and listing requirements.

### **Audit Committee**

The Company has an Audit Committee consisting of Messrs. Lorber, Mann and Penner. The Company has determined that Mr. Lorber is a "Financial Expert" as defined by the rules promulgated under the Sarbanes-Oxley Act.

### **Code of Business Conduct and Ethics**

We have also adopted a Code of Business Conduct and Ethics for directors, officers and employees of the Company. It is intended to promote honest and ethical conduct, full and accurate reporting and compliance with laws as well as other matters. Such Code of Business Conduct and Ethics can be found on the Company's website at [www.unitedcapitalcorp.net](http://www.unitedcapitalcorp.net) and was filed as an exhibit to the Company's report on Form 10-Q for the quarter ended June 30, 2006.

## **ITEM 11. EXECUTIVE COMPENSATION**

The Company's chief executive officer, chief financial officer and other two executive officers are referred to below individually as the Named Executive Officer ("NEO") and collectively as the Named Executive Officers ("NEOs").

### **Compensation Philosophy and Objectives**

The philosophy of our Compensation and Stock Option Committee is to closely align compensation paid to executive officers with the achievement of the Company's annual and long-term performance goals. In establishing compensation for our NEOs, the following are the Compensation and Stock Option Committee's objectives:

- Setting levels of compensation designed to attract and retain superior executives in a highly competitive business environment;
- Providing incentive compensation that varies directly with the Company's financial performance and the impact of individual initiative and achievement of such financial performance;
- Linking compensation to elements which effect the Company's annual and long-term performance;
- Evaluating the competitiveness of executive compensation programs based upon information drawn from a variety of sources; and
- Establishing salary levels and bonuses intended to be consistent with competitive practice and level of responsibility, with salary increases and bonuses reflecting competitive trends, the overall financial performance of the Company, the performance of the individual executive and the contractual arrangements that may be in effect with the individual executive.

To achieve these objectives, our overall compensation program aims to pay our NEOs competitively, consistent with our success and their contribution to that success.

We have not retained a compensation consultant to review our policies and procedures with respect to executive compensation, although the Compensation and Stock Option Committee may elect to retain such a consultant in the future, if it determines that so doing would be helpful in developing, implementing or maintaining compensation plans.

The Compensation and Stock Option Committee annually reviews the aggregate level of executive compensation, as well as the mix of elements used to compensate our NEOs. In addition, the Compensation and Stock Option Committee has historically taken into account input from publicly available data relating to the compensation practices and policies of other companies within and outside our industry. The Compensation and Stock Option Committee considers our executive compensation versus the compensation paid by such peer companies. While such comparisons may not always be appropriate as a stand-alone tool for setting compensation due to the aspects of our business and objectives that may be unique, we generally believe that such information is an important part of our compensation-related decision-making process.

Although, generally, we believe that executive base salaries should be targeted taking into consideration the median range of salaries for executives in similar positions at comparable companies, we recognize that, to attract and retain superior key individuals, such as the NEOs, the Compensation and Stock Option Committee may determine that it is in our best interests to negotiate total compensation packages with our NEOs that may deviate from the general principle of targeting total compensation at the median level of our peers. The Company does not benchmark compensation against the compensation of other companies. Actual pay for each NEO is determined within this structure, driven by performance of the NEO over time, as well as our annual performance.

### **Employment Agreement**

Due to Mr. Petrocelli's unique qualifications, and his position in the Company, we have an employment agreement with Mr. Petrocelli. We entered into an Amended and Restated Employment Agreement with Mr. Petrocelli dated as of November 17, 2003 (the "Employment Agreement"), providing for the employment of Mr. Petrocelli as Chairman of the Board, President and Chief Executive Officer. The Employment Agreement provided a base salary in the amount of \$750,000 which was subsequently increased by the Compensation and Stock Option Committee to \$800,000 effective January 2006. The Employment Agreement further provides for the potential payment of bonuses to Mr. Petrocelli as determined by the Compensation and Stock Option Committee.

The bonus paid to Mr. Petrocelli, is based on, among other things, the Company's prior year performance and the Company's total revenue for the previous year. At the Company's 2009 annual meeting of stockholders, the stockholders approved a proposal which provided that in any year that the total revenues of the Company exceed \$50 million, the Chief Executive Officer would be entitled to receive a bonus. Since the Company's revenues exceeded \$50 million for the year ended December 31, 2009, Mr. Petrocelli received a bonus.

Mr. Petrocelli's Employment Agreement contains non-competition, non-solicitation, and confidentiality provisions which apply for one-year after cessation of employment. In the event of a change of control of the Company, as defined in the Employment Agreement, we will pay Mr. Petrocelli a lump sum severance payment equal to three years salary and purchase outstanding options owned by Mr. Petrocelli. The Employment Agreement provides for successive one-year terms, unless either we or Mr. Petrocelli gives the other written notice that the

Employment Agreement is terminated, and also provides a death benefit which the Company secures through an insurance policy.

### Deductibility of Executive Compensation

Section 162(m) of the Internal Revenue Code of 1986, as amended (the “Code”), prohibits a publicly held corporation, such as the Company, from claiming a deduction on its federal income tax return for compensation in excess of \$1 million paid for a given fiscal year to the Chief Executive Officer (or person acting in that capacity) at the close of the corporation’s fiscal year and the four most highly compensated officers of the corporation, other than the chief executive officer, at the end of the corporation’s fiscal year. The \$1 million compensation deduction limitation does not apply to “performance-based compensation.” The Company believes that the bonus received by Mr. Petrocelli in 2010 for services rendered during 2009 is “performance-based” since the Company’s revenues exceeded \$50 million for the year ended December 31, 2009, which is the performance criterion the Company is required to achieve in order for the Chief Executive Officer to be eligible to receive a bonus, as approved by the Company’s stockholders at the Company’s 2009 Annual Meeting of Stockholders. In addition, the Company believes that any compensation received by executive officers in connection with the exercise of options granted under the Incentive and Non-Qualified Stock Option Plan (the “Plan”) or the 1988 Joint Incentive and Non-Qualified Stock Option Plan (the “Joint Plan”) qualifies as “performance-based compensation.”

### Termination or Change in Control

The only NEO that the Company has an employment contract with is Mr. Petrocelli. In the event of a change of control of the Company, as defined in the Employment Agreement, the Company shall pay Mr. Petrocelli a lump sum severance payment equal to three years salary at his current rate and purchase outstanding options owned by Mr. Petrocelli. The aggregate intrinsic value of the outstanding options owned by Mr. Petrocelli as of December 31, 2009 was \$25,399,000, which represents the difference between the Company’s closing stock price on such date (\$23.82) and the exercise price of each option, multiplied by the number of “in-the-money” options.

### SUMMARY COMPENSATION TABLE

The following table sets forth compensation, including costs paid by the Company related to certain perquisites, to the NEOs with respect to the fiscal years ended December 31, 2009 and 2008.

<u>Name and Principal Position</u>	<u>Year</u>	<u>Salary</u>	<u>Bonus</u>	<u>All Other Compensation</u> <sup>(1)</sup>	<u>Total</u> <sup>(2)</sup>
A.F. Petrocelli .....	2009	\$ 800,000	\$ 800,000	\$ 72,878	\$1,672,878
<i>Chairman of the Board, President and Chief Executive Officer</i>	2008	800,000	750,000	84,124	1,634,124
Michael T. Lamoretti .....	2009	250,000	140,000	56,884	446,884
<i>Vice President – Real Estate Operations</i>	2008	250,000	140,000	61,481	451,481
Anthony J. Miceli .....	2009	275,000	150,000	19,043	444,043
<i>Vice President and Chief Financial Officer</i>	2008	275,000	140,000	18,187	433,187
Michael J. Weinbaum .....	2009	250,000	140,000	72,772	462,772
<i>Vice President – Real Estate Operations</i>	2008	250,000	140,000	41,825	431,825

(1) This column includes the total amount of all perquisites paid by the Company during 2009 and 2008 for our NEOs. These amounts include the following (individually greater than \$25,000 or 10% of the total amount of the perquisites received): (1) total automobile related payments made by the Company of \$29,812, \$15,001, \$16,519, and \$13,040 in 2009 and \$43,214, \$17,455, \$16,519, and \$16,305 in 2008 for Messrs. Petrocelli, Lamoretti, Miceli, and Weinbaum, respectively; and (2) club membership dues of \$43,066, \$36,034, and \$53,883 in 2009 and \$40,910, \$39,889, and \$21,383 in 2008 for Messrs. Petrocelli, Lamoretti, and Weinbaum, respectively. In addition, the Company has a proportionate interest in a corporate aircraft that is available for use by the executive officers of the Company. The total cost of the proportionate interest in the corporate aircraft was approximately \$498,000 and \$417,000 during 2009 and 2008, respectively.

(2) The values in this table were determined using the aggregate incremental cost to the Company and could differ substantially from those used for income tax purposes.

## Grant of Equity Awards

The Company did not grant any stock options in the fiscal year ended December 31, 2009 to any employees, including the NEOs.

## Outstanding Equity Awards at Year-End

The following table sets forth information regarding the outstanding options that have been granted to our NEOs under each of the Plan and the Joint Plan, but remain unexercised or unvested as of December 31, 2009.

Name	Option Awards		Option Exercise Price	Option Expiration Date
	Number of Securities Underlying Unexercised Options			
	Exercisable	Unexercisable		
A.F. Petrocelli .....	600,000	—	\$ 6.53	6/07/2010
	600,000	—	11.93	6/12/2011
	600,000	—	12.20	6/11/2012
	454,000	—	21.80	6/10/2013
Michael T. Lamoretti .....	66,000	—	\$11.93	6/12/2011
	66,000	—	12.20	6/11/2012
	68,000	—	21.80	6/10/2013
Anthony J. Miceli .....	66,000	—	\$11.93	6/12/2011
	66,000	—	12.20	6/11/2012
	68,000	—	21.80	6/10/2013
Michael J. Weinbaum .....	20,000	—	\$ 6.53	6/07/2010
	66,000	—	11.93	6/12/2011
	66,000	—	12.20	6/11/2012
	68,000	—	21.80	6/10/2013

## Retirement Benefits

The Company has a noncontributory defined benefit pension plan (the “Pension Plan”) that covers substantially all full-time employees including the NEOs of the Company. The Company contributed \$150,000 and \$1,500,000 to the Pension Plan for the years ended December 31, 2009 and 2008, respectively. The Company contributed \$650,000 to the Plan during the first quarter of 2010. Subject to compensation limitations under the Employee Retirement Security Act of 1974 which were \$245,000 in 2009, benefits are computed as follows: For each year of credited service after June 30, 1989, the sum of one percent (1%) of annual compensation, as defined, up to \$25,000 plus one and one-half percent (1 ½ %) of annual compensation in excess of \$25,000. The Pension Plan, which provides defined benefits based on years of service and compensation level, was frozen in September 2009 ceasing the accrual of further benefits. The estimated credited years of service for Mr. Petrocelli, Mr. Lamoretti, Mr. Miceli, and Mr. Weinbaum are 31 years, 18 years, 21 years, and 18 years, respectfully. As of December 31, 2009, each of our NEOs are fully-vested in the Pension Plan with present value of accumulated benefits for Mr. Petrocelli, Mr. Lamoretti, Mr. Miceli, and Mr. Weinbaum in the amount of approximately \$1,256,000, \$35,000, \$67,000, and \$38,000, respectively.

The Company also has a Supplemental Retirement and Death Benefit Program (the “Supplemental Program”) which was terminated over ten years ago. All participants at that time retained their benefits under the plan. Messrs. Petrocelli and Miceli are included in this group. As of December 31, 2009, the net present value of Mr. Petrocelli’s and Mr. Miceli’s benefits under the Supplemental Program were approximately \$134,000 and \$49,000, respectively. Under the Supplemental Program, participants, upon death or retirement at the age of 55 or later, receive a supplemental benefit, as defined, in equal quarterly installments over a ten year period, as stated in the plan. Retirement benefits are proportionally reduced for early retirement prior to age of 65.

The Company provides most salaried employees with the opportunity to participate in a 401(k) Plan, which is a tax-qualified retirement savings plan under Section 401(k) of the Code. Eligible employees, who are 21 years of age and over, can participate on the first day of the calendar quarter following the date they have completed six months of service with the Company. Historically, the Company has not made matching contributions.

## Director Compensation

Directors of the Company who are not employees of the Company are entitled to receive compensation for serving as directors in the amount of \$6,000 per annum and \$500 per Board meeting and committee meeting attended. The following table reflects all compensation earned and paid to the non-employee directors of the Company during the 2009 calendar year for services rendered to the Company:

Name	Fees Earned or Paid in Cash
Howard M. Lorber .....	\$ 11,000
Robert M. Mann .....	10,500
Arnold S. Penner .....	11,500

The aggregate number of outstanding stock options held by each independent, non-employee director as of December 31, 2009 was 80,000, 100,000 and 80,000 for Messrs. Lorber, Mann and Penner, respectively. No director was granted any stock options, stock awards or received any other compensation from the Company in the fiscal year ended December 31, 2009.

## ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The following table sets forth information concerning ownership of the Company's Common Stock, as of April 28, 2010, by each person known to be the beneficial owner of more than five percent of the Common Stock, each director, each executive officer and by all directors and executive officers of the Company as a group:

Name and Address of Beneficial Owner	Shares Beneficially Owned	Percentage of Class (9)
A.F. Petrocelli 9 Park Place Great Neck, NY 11021	7,923,448(1)(2)	74.0%
Beverly Petrocelli c/o 9 Park Place Great Neck, NY 11021	7,923,448(2)	74.0%
Anthony J. Miceli	156,900(3)	1.7%
Michael T. Lamoretti	149,000(4)	1.6%
Michael J. Weinbaum	159,036(5)	1.7%
Howard M. Lorber	198,000(6)	2.2%
Robert M. Mann	41,400(7)	*
Arnold S. Penner	118,000(8)	1.3%
All executive officers and directors as a group (7 persons)	8,745,784(1)(3)(4) (5)(6)(7)(8)(9)	77.3%

\* Represents beneficial ownership of less than 1%.

- (1) Mr. Petrocelli owns directly 5,269,448 shares of Common Stock and presently exercisable options to purchase 1,654,000 shares of Common Stock. Also includes 1,000,000 shares held by Mrs. Petrocelli, the wife of Mr. Petrocelli. Such shares may be deemed to be beneficially owned by Mr. Petrocelli. Does not include shares held by the adult children or grandchildren of Mr. Petrocelli. Mr. Petrocelli disclaims beneficial ownership of the shares held by his wife, adult children and grandchildren.

- (2) Mrs. Petrocelli is the wife of Mr. Petrocelli. Includes 1,000,000 shares of Common Stock held by Mrs. Petrocelli and 6,923,448 shares held by Mr. Petrocelli (which includes presently exercisable options to purchase 1,654,000 shares of Common Stock). Such shares may be deemed to be beneficially owned by Mrs. Petrocelli. Mrs. Petrocelli disclaims beneficial ownership of all shares held by Mr. Petrocelli. Does not include shares held by the adult children or grandchildren of Mrs. Petrocelli. Mrs. Petrocelli disclaims beneficial ownership of the shares held by her adult children and grandchildren.
- (3) Consists of 22,900 shares of Common Stock and presently exercisable options to purchase 134,000 shares of Common Stock.
- (4) Consists of 15,000 shares of Common Stock held by Mr. Lamoretti and presently exercisable options to purchase 134,000 shares of Common Stock. Does not include 363,600 shares held in trust (with the wife of Mr. Lamoretti serving as trustee) for the benefit of the minor children of Mr. Lamoretti. Mr. Lamoretti disclaims beneficial ownership of the shares held in trust for his children.
- (5) Consists of 25,036 shares of Common Stock held by Mr. Weinbaum and presently exercisable options to purchase 134,000 shares of Common Stock. Does not include 363,600 shares held in trust (with the wife of Mr. Weinbaum serving as trustee) for the benefit of the minor children of Mr. Weinbaum. Mr. Weinbaum disclaims beneficial ownership of the shares held in trust for his children.
- (6) Includes 18,000 shares of Common Stock owned by Mr. Lorber and 100,000 shares of Common Stock owned by Lorber Alpha II, L.P. (an entity in which Mr. Lorber may be deemed to be a control person). Mr. Lorber disclaims beneficial ownership of all shares owned by Lorber Alpha II, L.P. Also includes presently exercisable options to purchase 80,000 shares of Common Stock.
- (7) Consists of 1,400 shares of Common Stock and presently exercisable options to purchase 40,000 shares of Common Stock.
- (8) Consists of 38,000 shares of Common Stock and presently exercisable options to purchase 80,000 shares of Common Stock.
- (9) Includes the shares of Common Stock subject to options which are presently exercisable and held by directors and executive officers as a group for purposes of calculating the respective percentages of Common Stock owned by such individuals or by the executive officers and directors as a group.

### Equity Compensation Plan Information

The Company maintains two stock option plans. Both plans provide for the granting of incentive or non-qualified stock options. The Company has no outstanding warrants or rights or plans which provide for the grant or issuance of warrants or rights. The following table gives information about stock option awards under these plans as of December 31, 2009. See Note 10 of Notes to Consolidated Financial Statements for further discussion on these plans.

<b>Plan Category</b>	<b>Number of securities to be issued upon exercise of outstanding options, warrants and rights</b> (a)	<b>Weighted-average exercise price of outstanding options, warrants and rights</b> (b)	<b>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))</b> (c)
Equity compensation plans approved by security holders	3,184,668	\$ 13.18	—
Equity compensation plans not approved by security holders	—	—	—
Total	<u>3,184,668</u>	<u>\$ 13.18</u>	<u>—</u>

### **ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The following sets forth the transactions involving the Company and its subsidiaries and its executive officers and/or Directors from January 1, 2009.

The Company has a 50% interest in an unconsolidated limited liability corporation, whose principal assets are two distribution centers leased to Kmart Corporation, which are accounted for as leveraged leases. Also participating in this transaction were Mrs. Petrocelli (the wife of Mr. Petrocelli, the Company's Board Chairman), Mr. Lorber and Mr. Penner, Directors of the Company, as well as Ms. Madaleine Berley (the wife of Mr. Penner), who together have approximately an 8% interest in this transaction. Mr. Petrocelli disclaims beneficial ownership of the participation interest held by his wife and Mr. Penner disclaims beneficial ownership of the participation interest held by his wife. Income on leveraged leases is recognized by a method which produces a constant rate of return on the outstanding investment in the lease, net of the related deferred tax liability in the years in which the investment is positive. Accordingly, although the Company received \$776,000 in cash distributions from this investment, it did not record any income during the year ended December 31, 2009. Cash distributions from this investment to each of Mrs. Petrocelli, Mr. Penner, Ms. Berley, and Mr. Lorber were approximately \$36,000, \$26,000, \$26,000, and \$26,000, respectively, in 2009. Mrs. Petrocelli, Mr. Penner, Ms. Berley, and Mr. Lorber originally invested \$275,000, \$200,000, \$200,000 and \$200,000, respectively, in the transaction.

During July 2009, the Company purchased a \$5.0 million participation in a note secured by a warehouse located in New York of which Mrs. Petrocelli holds a 20% interest. The participation, which matures in July 2012, bears interest at 18% per annum payable monthly. The participants also received a commitment fee of 1% in connection with the note.

The Company has Indemnity Agreements with certain directors (individually, each an "Indemnitee"), indemnifying each Indemnitee against the various legal risks and potential liabilities to which such individuals are subject due to their position with the Company, in order to induce and encourage highly experienced and capable persons such as the Indemnitees to continue to serve as Directors of the Company.

In March 2009 and June 2009, Mr. Petrocelli and Mr. Penner exercised options to purchase 600,000 and 20,000 shares of the Company's Common Stock, respectively, at an exercise price of \$7.03. In addition, during July 2009, Messrs. Lamoretti, Lorber, and Weinbaum exercised options to purchase 60,000, 20,000 and 60,000 shares of the Company's Common Stock, respectively, at an exercise price of \$7.03 and sold 45,000, 20,000 and 60,000 shares to the Company, respectively, at prices between \$18.65 and \$19.05 per share. The shares acquired by the Company were acquired pursuant to the Company's previously announced stock buy back plan.

In April 2010, Messrs. Petrocelli, Lamoretti, Weinbaum, Miceli, and Mann exercised options to purchase 600,000, 66,000, 86,000, 66,000, and 60,000 shares of the Company's Common Stock, respectively, at exercise prices ranging from \$6.53 to \$11.93 per share and sold such shares to the Company at prices of \$24.60 and \$22.90 per share. The sales prices were the closing price of the Company's Common Stock on March 29, 2010 (with respect to options exercised by Messrs. Petrocelli, Lamoretti, Weinbaum, and Miceli) and April 12, 2010 (with respect to options exercised by Mr. Mann), respectively.

#### **Director Independence**

The Company has elected to be a controlled company pursuant to NYSE Amex rules. The Company is eligible to make this election because Mr. Petrocelli, the Company's Chairman of the Board, President and Chief Executive Officer, beneficially owns more than 50% of the Company's outstanding stock. As a result of being a controlled company, the Company is not required to comply with the following corporate governance requirements of the NYSE Amex: (i) majority of independent directors, (ii) fully independent nominating committee, and (iii) fully independent compensation committee. While the Company currently has a fully independent compensation committee, it does not have a majority of independent directors or a fully independent nominating committee. As a result, the quality of Board oversight may be reduced as compared with companies which have a fully independent nominating committee and a majority of independent directors and the Company has a greater risk of conflicts of

interest without these safeguards. In addition, the lack of an independent nominating committee increases the possibility that the Company will not have independent directors serving on the Board of Directors.

The Board of Directors has determined that the following Directors of the Company are independent directors under NYSE Amex rules: Howard M. Lorber, Robert M. Mann, and Arnold S. Penner. As described above, the Company and Messrs. Lorber and Penner are involved in certain transactions. Notwithstanding such transactions, both Mr. Lorber and Mr. Penner are independent directors as such term is defined by NYSE Amex Rule 803(A) of the NYSE Amex listing standards.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The Company’s independent public accountants for the years ended December 31, 2009 and 2008 were Holtz Rubenstein Reminick LLP (“Holtz”).

The aggregate fees billed to or accrued by the Company by Holtz for services performed for the years ended December 31, 2009 and 2008 are as follows:

	<u>2009</u>	<u>2008</u>
Audit Fees .....	\$105,000	\$101,000
Audit Related Fees .....	27,000	26,000
Tax Fees .....	113,000	100,000
All Other Fees .....	—	—

**Audit Fees**

The aggregate audit fees for the years ended December 31, 2009 and 2008 were primarily related to the audit of the Company’s annual financial statements and review of those financial statements included in the Company’s quarterly reports on Form 10-Q.

**Audit Related Fees**

Audit related fees for the years ended December 31, 2009 and 2008 were primarily incurred in connection with the audits of the Company’s employee benefit plans.

**Tax Fees**

Tax fees for the years ended December 31, 2009 and 2008 were primarily related to tax and other related services.

**All Other Fees**

The Company did not engage Holtz to provide any other services during the fiscal years ended December 31, 2009 and 2008.

**PART IV**

**ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

(a) (1) Consolidated Financial Statements. The required Financial Statements were previously filed on this Form 10-K.

(b) Exhibits

- 3.1 Amended and Restated Certificate of Incorporation of the Company (incorporated by reference to exhibit 3.1 filed with the Company’s report on Form 10-K for the fiscal year ended December 31, 1993).
- 3.2 Amendment to the Amended and Restated Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.2 filed with the Company’s report on Form 10-K for the fiscal year ended December 31, 2003).

- 3.3 By-laws of the Company (incorporated by reference to exhibit 3.2 filed with the Company's report on Form 8-K dated April 14, 2005).
- 10.1 Incentive and Non-Qualified Stock Option Plan of the Company, as amended (incorporated by reference to exhibit 10.1 filed with the Company's report on Form 10-K for the fiscal year ended December 31, 2000).
- 10.2 Additional amendment to Incentive and Non-Qualified Stock Option Plan of the Company (incorporated by reference to exhibit 4.2 filed with the Company's report on Form S-8 dated August 23, 2002).
- 10.3 1988 Joint Incentive and Non-Qualified Stock Option Plan, as amended (incorporated by reference to exhibit 10.2 filed with the Company's report on Form 10-K for the fiscal year ended December 31, 1998).
- 10.4 Amended and Restated Employment Agreement dated as of November 17, 2003 by and between the Company and A. F. Petrocelli (incorporated by reference to exhibit 10.4 filed with the Company's report on Form 10-K for the fiscal year ended December 31, 2003).
- 10.5 Form of Indemnity Agreement dated as of May 7, 1991, by and between the Company and A.F. Petrocelli, Arnold S. Penner and Howard M. Lorber (incorporated by reference to exhibit 10.5 filed with the Company's report on Form 10-Q for the quarter ended June 30, 2009).
- 10.6 Supplemental Retirement and Death Benefit Program, as amended and restated (incorporated by reference to exhibit 10.6 filed with the Company's report on Form 10-Q for the quarter ended June 30, 2009).
- 14. Code of Business Conduct and Ethics (incorporated by reference to exhibit 14 filed with the Company's report on Form 10-Q for the quarter ended June 30, 2006).
- \*\*21. Subsidiaries of the Company.
- \*\*23.1 Consent of Independent Registered Public Accounting Firm – Holtz Rubenstein Reminick LLP.
- \*31.1 Certification of the Chief Executive Officer pursuant to Rule 13a-15(e) and 15d-15(e).
- \*31.2 Certification of the Chief Financial Officer pursuant to Rule 13a-15(e) and 15d-15(e).
- \*32.1 Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- \*32.2 Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\* Filed herewith

\*\* Previously filed on the Company's Report on Form 10-K for the fiscal year ended December 31, 2009.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

### UNITED CAPITAL CORP.

By: /s/ Anthony J. Miceli  
 Anthony J. Miceli, Vice President  
 and Chief Financial Officer

Dated: April 28, 2010

## CERTIFICATION OF CHIEF EXECUTIVE OFFICER

EXHIBIT 31.1

I, A.F. Petrocelli, certify that:

1. I have reviewed this report on Form 10-K/A of United Capital Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13(a)-15(e) and 15(d)-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 28, 2010

By: /s/ A.F. Petrocelli  
A.F. Petrocelli  
Chairman, President and Chief Executive Officer

## CERTIFICATION OF CHIEF FINANCIAL OFFICER

EXHIBIT 31.2

I, Anthony J. Miceli, certify that:

1. I have reviewed this report on Form 10-K/A of United Capital Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13(a)-15(e) and 15(d)-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 28, 2010

By: /s/ Anthony J. Miceli  
Anthony J. Miceli  
Chief Financial Officer

**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned, A. F. Petrocelli, Chairman, President and Chief Executive Officer of United Capital Corp., (the "Company"), does hereby certify, with respect to the Annual Report of the Company on Form 10-K/A for the period ended December 31, 2009 (the "Report") that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: April 28, 2010

By: /s/ A. F. Petrocelli  
A. F. Petrocelli  
Chairman, President and Chief Executive Officer

**CERTIFICATION OF THE CHIEF FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned, Anthony J. Miceli, Chief Financial Officer of United Capital Corp., (the "Company"), does hereby certify, with respect to the Annual Report of the Company on Form 10-K/A for the period ended December 31, 2009 (the "Report") that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: April 28, 2010

By: /s/ Anthony J. Miceli  
Anthony J. Miceli  
Chief Financial Officer