

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION (CHICAGO)**

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Civil Action No. 1:07cv1208
	:	ECF
ONE OR MORE UNKNOWN PURCHASERS OF	:	Judge Lindberg
CALL OPTIONS FOR THE COMMON STOCK OF	:	
TXU CORP., et al.,	:	
	:	
Defendants.	:	

**AGREED MOTION TO IDENTIFY UNKNOWN PURCHASER #2
AS MARCOS MONTERO AND ENTER AGREED FINAL JUDGMENT
AGAINST DEFENDANT MONTERO**

Plaintiff Securities and Exchange Commission (“Commission”) files this Agreed Motion to Identify Unknown Purchaser #2 as Marcos Montero and Enter Agreed Final Judgment Against Defendant Montero, and respectfully shows the Court as follows:

1. On March 2, 2007, the Commission filed suit against One or More Unknown Purchasers of Call Options for the Common Stock of TXU Corp. and sought emergency *ex parte* relief in the form of an asset freeze to preserve the status quo pending the determination of the Commission’s request for injunctive relief. The Court entered an Order granting the requested relief on March 2, 2007.

2. On March 28, 2007, the Court entered an order which, among other things, permanently enjoined Unknown Purchaser #2 from violating certain of the federal securities laws, ordered the unknown defendants to identify themselves, and continued, for the duration of the litigation, the Court-ordered asset freeze.

3. On June 19, 2007, in a letter to the Court and to Commission staff, Marcos Montero, a Spanish citizen residing in Switzerland, identified himself as the person referred to in this action as “Unknown Defendant #2.” A true and correct copy of that letter (without exhibits) is attached to this motion as “Exhibit A” and is fully incorporated herein.

4. Since that time, the Commission and Defendant Montero (“Defendant”) have engaged in settlement discussions, resulting in the presentation of an offer of settlement to the Commission, which the Commission accepted. Defendant’s settlement offer is contained in his signed Consent, which the Commission is filing simultaneously with this agreed motion. A true and correct copy of the Consent is attached as Exhibit B to this motion.

5. Under the terms of the settlement agreement, Defendant has consented to the entry of a final judgment that permanently restrains and enjoins him from violating, directly or indirectly, certain of the federal securities laws.

6. As a term of his Consent, Defendant has agreed that the Commission could present the Agreed Final Judgment to the Court without further notice. However, counsel for the Commission has conferred with Defendant Montero, *pro se*, and represents to the Court that this motion is unopposed. The proposed Agreed Final Judgment Against Defendant Montero is attached to this motion.

7. The proposed Agreed Final Judgment provides that the Defendant will remit all payments due per the terms of the Judgment to the registry of this Court. Once the funds are received, the Commission will move the Court to appoint a distribution agent to oversee the distribution of the funds to the harmed investors.

8. Accordingly, the Commission respectfully requests that the Court: (1) identify Marcos Montero as the Defendant previously referred to as “Unknown Purchaser #2 Through Fimat”; and (2) enter the proposed Agreed Final Judgment.

DATED: January 12, 2009

Respectfully submitted,

/s/Jennifer D. Brandt
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of January 2009, I electronically filed the foregoing *Agreed Motion to Identify Unknown Purchaser #2 as Marcos Montero and Enter Final Judgment Against Defendant Montero* and *Notice of Presentment* with the Clerk of the Court for the Northern District of Illinois, Eastern Division, by using the CM/ECF system which will send a notice of electronic filing to the CM/ECF participants, and also served the Motion and Notice on all known adverse parties by causing a true and correct copy thereof to be delivered to each of them in the manner indicated below:

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