

Marcos Montero
Moosgaessli 1
CH-8835 Feusisberg

COPY

Via DHL

United States District Court
Northern District of Illinois
Eastern Division Chicago
Attn: Judge George W. Lindberg
United States Courthouse
219 South Dearborn Street
Chicago Illinois 60604
USA

Via DHL

Securities and Exchange Commission
Attn: Ms. Jennifer Brandt
Fort Worth District Office
801 Cherry Street 19th Floor
Fort Worth
Texas 76102-6882
USA

Feusisberg, 19 June 2007

***Transactions in Call Options for the Common Stock of TXU Corp.
Civil Action No. 07C-1208***

Dear Judge Lindberg, dear Ms. Brandt

Referring to the above referenced civil action No. 07C-1208 and the preliminary injunction order of the United States District Court Northern District of Illinois of 28 March 2007, I declare the following:

I. PRELIMINARY REMARKS

1. My name is Marcos Montero and I have traded call options for the common stock of TXU Corp. through Credit Suisse in February/March 2007.
2. Without acknowledging the jurisdiction of the US Courts in my case, I declare that I have received the preliminary injunction order of the United States District Court Northern District of Illinois of 28 March 2007.
3. Apparently, I am referred to as the "*unknown defendant number two*" in the civil action No. 07C-1208.
4. I am willing to cooperate, i.e. to comply with the requests in the preliminary injunction order and all future reasonable demands of the SEC or the Court.
5. The filing of this statement and the disclosure of the information required by the preliminary injunction order is **no confession of any kind of insider trading or any other fraudulent activities and no acceptance of the jurisdiction of the US Courts.**

EXHIBIT A

6. Referring to Ms. Brandt's telephone conversation with Michael L. Siegel and Carl E. Poli on 6 June 2007 and the confirmation letter of 7 June 2007, the SEC was willing to grant additional 10 business days to produce all information required by the preliminary injunction order. This time limit is met with today's filing.
7. Please take note that I am no longer represented by Michael L. Siegel and Carl E. Poli.

II. IDENTITY OF „DEFENDANT NUMBER TWO“

1. All transactions in call options for the common stock of TXU Corp. were made online by Marcos Montero via the account No. 167386-42-1 with Credit Suisse. This account is a joint account hold by **Marcos Montero** (son) and **Antonio Montero** (father). I am authorized to file this statement on behalf of my father Antonio Montero.
2. **In accordance with Sec II. (A) of the preliminary injunction order of the United States District Court Northern District of Illinois of 28 March 2007** I herewith disclose the identity of the so-called "*defendant number two*":

Marcos Montero

Private address: Moosgaessli 1 / CH-8835 Feusisberg

Business address: BNP PARIBAS (SUISSE) SA / Talstrasse 41 / CH-8022 Zurich

Citizen of: Spain

Phone: +41 43 538 66 54 (home)
 +41 58 212 68 68 (office)
 +41 78 634 35 41 (cell)
 +41 78 684 20 84
 +41 76 488 44 74

Fax: +41 58 212 68 30 (office)

Antonio Montero

Private address (1): Avenida Miramar 7/8 1c / ES-29640 Fuengirola Malaga

Private address (2): Gemsberg 4 / CH-4051 Basel

Business address: -- (retired)

Citizen of: Spain

Phone: +34 605 15 20 23
 +34 654 26 10 14

III. ACCOUNTS HOLD BY MARCOS AND ANTONIO MONTERO

1. In accordance with Sec II. (B) of the preliminary injunction order of the United States District Court Northern District of Illinois of 28 March 2007 I herewith disclose that the following accounts are maintained inter alia in my name:

| Bank Institute | Account-No. | Account-Holder |
|-----------------------|--------------------|-----------------------------------|
| Credit Suisse | 167386-42-1 | Antonio Montero Marcos Montero |
| | | Exhibit 1 |
| Credit Suisse | 167386-42-4 | Antonio Montero Marcos Montero |
| | | Exhibit 2 |
| Credit Suisse | 167386-42-5 | Antonio Montero Marcos Montero |
| | | Exhibit 3 |
| Credit Suisse | 167386-41 | Antonio Montero Marcos Montero |
| | | Exhibit 4 |
| Credit Suisse | 167386-42 | Antonio Montero Marcos Montero |
| | | Exhibit 5 |
| Credit Suisse | 586028-62 | Marcos Montero |
| | | Exhibit 6 |
| Credit Suisse | 586028-62-2 | Marcos Montero |
| | | Exhibit 7 |
| Credit Suisse | 586028-60 | Marcos Montero |
| | | Exhibit 8 |

| | | |
|----------------------|-----------------------|-------------------------------------|
| Credit Suisse | 586028-60-1 | Marcos Montero Exhibit 9 |
| Credit Suisse | 586028-61 | Marcos Montero Exhibit 10 |
| Credit Suisse | 586028-61-1 | Marcos Montero Exhibit 11 |
| Credit Suisse | 586028-61-4 | Marcos Montero Exhibit 12 |
| Credit Suisse | 586028-61-5 | Marcos Montero Exhibit 13 |
| Credit Suisse | 963942-81-945 | Marcos Montero Exhibit 14 |
| UBS AG | 230-268917.40Y | Marcos Montero Exhibit 15 |
| UBS AG | 230-268917-01 | Marcos Montero Exhibit 16 |

IV. INVESTMENT STRATEGY OF MARCOS MONTERO

1. I am a sophisticated investor with access to countless investment reports of different investment banks and I have used the entire spectrum of investment possibilities with a considerable sum of money for many years.
2. I embarked on the same investment strategy for many years with success. This strategy can be explained as follows:

STEP 1 → General research in all public available sources on a daily basis.

STEP 2 → Preliminary decisions to do additional researches in specific industries or companies.

STEP 3 → Valuation / estimation of the stock of one or several target companies.

STEP 4 → Decision whether the stock in a specific company is undervalued.

STEP 5 → Investment in the securities of such a specific company prior to the publication of the company results.

3. In order to make my general investment strategy clear, I would like to refer to the following investments that were all made prior to the publication of the company results.

a. I have invested CHF 196'814.75 in securities of Valora Holding AG between 7 and 22 August 2006. On 24 August 2006 Valora Holding AG published the semi-annual results.

EO: List of transactions dated 5 April 2007 **Exhibit 17**
Valora publication of 24 August 2006 **Exhibit 18**

b. I have invested CHF 102'716.00 in options of Lindt&Sprüngli on 15 February 2007. Lindt&Sprüngli has published the company results on 20 March 2007.

EO: List of transactions dated 5 April 2007 **Exhibit 17**
Lindt & Sprüngli publication of 20 March 2007 **Exhibit 19**

c. I have invested CHF 35'171.00 in options for the common stock of Holcim on 26 September 2006. Holcim has published the company results on 8 November 2006.

BO: List of transactions dated 5 April 2007 **Exhibit 17**
Holcim publication of 8 November 2006 **Exhibit 20**

4. The enclosed list of my investments via the account number 167386-41 with Credit Suisse in the last 12 months and the list with the last 100 entries and the specifically mentioned transactions in Valora, Lindt&Sprüngli and Holcim is evidence that:

a. I am doing investments with a considerable sum of money on a regular basis.

b. I had several investments in US companies in the past such as

- Memory Pharmaceutical
- Pacific Ethanol
- Valeant Pharmaceuticals Internationals

c. I usually invest in securities of companies prior to the publication of the company results.

- d. The TXU Corp. investment was in line with my long lasting general investment strategy.

EO: List of transactions dated 5 April 2007
List of last 100 entries

Exhibit 17
Exhibit 21

V. PUBLIC AVAILABLE INFORMATION ON TXU CORP.

1. Between December 2006 and February 2007 a multiplicity of public available information rated the TXU stock as a good investment. Simply for your information and as a shortlist, the following public sources (in chronological order) contained information on the Energy sector in general and the TXU Corp. stock in specific:

- a. The Morgan Stanley Research Report of 12 December 2006 explained that there is a mismatch between the actual and the expected price in US Energy stock.

"We see attractive valuations, indifferent to pessimistic sentiment, and high cash balances as important reasons to consider the group. Also, unlike the consensus, we think that the group can enjoy multiple expansion at this point in the cycle. [...] 100% of Energy stocks – i.e. every single one – went up in 2004 and 2005, while better than three out of four climbed positively in 2006. [...] our view is that one of the big surprises for 2007 could be that Energy stocks do well when there is no longer a mismatch between the actual and expected commodity price."

EO: Morgan Stanley Research Report of 12 December 2006 **Exhibit 22**

- b. Morgan Stanley mentioned TXU as one of the favourites in the energy sector and that M&A could be an issue.

"Our favourite is Arch Coal, which has been slammed after reporting disappointing earnings, and TXU, which sold off sharply on the heels of reduced guidance. [...] We also see M&A as an important catalyst. Bottom line, there are just fewer and fewer areas in the world that can actually deliver true production growth, and increasingly, the "good" producers are located in areas of "bad" geo-political tensions. Using our Current Operations Value analysis, investors appear to be assigning negative future growth to the Energy group versus a historical average of 19.2%. This pessimistic view compares with 17% of the market's current value being attached to future growth."

EO: Morgan Stanley Research Report of 12 December 2006 **Exhibit 22**

- c. The Morgan Stanley Research Report of 19 December 2006 referred to the TXU stock as an inexpensive stock.

"Conclusion: TXU is an inexpensive stock, in our opinion. We believe TXU's current valuation is over factoring the various risks facing the company. That being said, there is little doubt in our mind that TXU has an unusually challenging calendar over the next two months and the stock is likely to remain under pressure during that time. We believe many of the risky events will transpire without materially changing the company's long-term positive outlook. As a result, we believe TXU's stock is still poised to outperform the sector in 2007 as key sources of uncertainty firm up throughout the 1Q2007. [...] Additionally, we do not believe that the company's difficult calendar will lead to material changes to the company's earnings power or value. [...] Disclosure by the company that the new plant development costs are in the range of USD 1100 per kW; any firm estimate that reduces uncertainty would help the stock. [...] Additionally, we believe that many of the near-term legislative and regulatory events are unlikely to result in meaningful changes to TXU's earning power. [...] Price Target is USD 65: [...] Risks to our price target include delays and cost overruns in TXU DevCo's coal development effort, legislation imposing retail price controls in Texas, retail margins lower than our forecast, generation overbuild and falling gas prices in Texas resulting in lower margins for new and existing coal plants."

EO: Morgan Stanley Research Report of 19 December 2006 **Exhibit 23**

- d. Morgan Stanley recommended buying TXU Corp. stock in its Research Report of 9 January 2007.

"Overall, we feel that Energy is very close to staging a strong oversold rally, which could halt WTI Crude's decline between current levels and USD 52.30. [...] With sentiment growing very bearish in Energy and most Energy-related indices showing only short-term deterioration, but with long-term trends remaining intact, this sector could be one to dollar-cost average into as we near the seasonally strong February-April period. [...] We would buy into Energy here and add to the sector on further weakness. Finally, we outline three of our favorite longs and shorts from each of the 10 S&P GICS Level 1 sectors. We selected these stocks purely based on technical criteria. Utilities: PG&E, TXU Corp., Equitable Resources."

EO: Morgan Stanley Research Report of 9 January 2007

Exhibit 24

- e. The Morgan Stanley Research Report of 18 January 2007 qualified the TXU stock as mispriced:

"Revisiting our "Mispriced" Growth Theme: Our Mispriced Growth basket of stocks appears to be priced for slow growth and lots of adversity. In particular, Sunoco, Archer-Daniels Midland, TXU, Pfizer, ACE, General Motors, and Wellpoint all look to be discounting much slower growth than either his team or our team think is likely."

EO: Morgan Stanley Research Report of 18 January 2007 **Exhibit 25**

- f. The Morgan Stanley Research Report of 8 February 2007 explained that the TXU Corp. stock would at a price of USD 65 still be inexpensive.

*"We continue to believe that the legislators' main goal is to lower retail electricity prices. In our view, many of the more punitive proposals introduced today should fade away if, and when TXU and the legislators reach an agreement on that issue. [...] **Impact of lowering rates:** [...] **The stock would still be inexpensive** relative to the group on a PE basis even under the EPS cut scenario outlined below."*

EO: Morgan Stanley Research Report of 8 February 2007 **Exhibit 26**

- g. The Morgan Stanley Research Report of 19 February 2007 rated the TXU stock as inexpensive.

*"**The stock would still be inexpensive** relative to the group on a PE basis even under the EPS cut scenario outlined below. Under our high reduction case of USD16/Mwh, the 2008 PE multiple would just rise to 11.3x from 10.4x, still inexpensive relative to a diversified group trading at 14.2x consensus."*

EO: Morgan Stanley Research Report of 19 February 2007 **Exhibit 27**

- h. The Morgan Stanley Research Report of 20 February 2007 rated the TXU stock as one of the stocks with the highest potential.

*"Taking it to the sector and stock level: See inside for details, but our Long-only screen contains a number of companies from Energy, Materials and Utilities. Names to consider include COP, TXU and AA. [...] The punch line is that, on the Long side, our quant model still suggests buying **high quality, inexpensive stocks** with growth characteristics. **Our Top 50** Long ideas from the S&P 500 appear in Exhibit 7. Names that we think have **the greatest potential** include COP, TXU, and AA."*

EO: Morgan Stanley Research Report of 20 February 2007 Exhibit 28

2. Between December 2006 and February 2007 a multiplicity of public available information rated the TXU Corp. stock as a good investment. Morgan Stanley qualified the TXU Corp. stock with the following expressions:
- *"the greatest potential"*
 - *"high quality, inexpensive stocks"*
 - *"price target USD 65"*
 - *"our Top 50"*
3. The TXU stock quotation was always very volatile prior and after the publication of the company results (e.g. the stock price raised approximately 20% after the publication of the quarterly results on 2 May 2006).

EO: Development of stock price 25.04.05 – 25.04.07**Exhibit 29**

4. Investing in TXU Corp. securities in February 2007 was for any investor a comprehensible decision in consideration of the public available information and given that TXU Corp. announced that the company results would be published on 27 February 2007.

VI. TRANSACTIONS IN TXU CORP.

1. My investment in call options for the common stock of TXU Corp. was structured as follows (I have included the public announcements of the M&A on the time line for better comprehension.):

| DATE | TRANSACTION | INVESTMENT / RETURN |
|--------------------|---|----------------------------|
| Feb 21 | purchase of 1'060 call options in TXU (separated in 3 portions)* | – USD 27'706.62 |
| Feb 23 03.58 pm | sale of 500 call-options | + USD 34'075.23 |
| Feb 23 06.35 pm | <i>Bloomberg announced: "volatility is rising; larger near term event risk"</i> | |

| | | |
|---------------------|--|-------------------------|
| Feb 23 11.36 pm | <i>Bloomberg announced: "TXU: A purchase by KKR is planned."</i> | |
| Feb 26 | <i>TXU announced the details of the merger</i> | |
| Feb 27 | <i>TXU published the company results</i> | |
| March 7 | sale of 200 call-options | + USD 91'203.71 |
| March 9 | sale of 360 call-options | + USD 146'484.06 |
| TOTAL RETURN | | + USD 244'056.38 |

* The instruction to buy the last portion of 60 options was given on 21 February 2007 but Credit Suisse booked it on 22 February 2007 by a mistake.

| | |
|--|-------------------|
| EO: Purchases of call options | Exhibit 30 |
| Sales of call options | Exhibit 31 |
| Bloomberg-Announcement of 23 February 2007, 06.35 pm | Exhibit 32 |
| Bloomberg-Announcement of 23 February 2007, 11.36 pm | Exhibit 33 |

- The common stock of TXU Corp. opened at a rate of USD 56.45 on February 21 and closed at a rate of USD 57.46 on February 22. Given that on February 23 the common stock of TXU Corp. opened at a lower rate of only USD 57.41, I was worried that I could lose the invested money. Hence, I decided to sell 500 call options in order to cover my investment. I sold the 500 call options for a price of USD 0.70 which was with hindsight a very unreasonable decision given that the price of the call options climbed to over USD 2 that day.

EO: Overview daily quotations TXU Corp. **Exhibit 34**

- The sale of 500 call options a couple of hours prior to the announcement of a big take-over is the behaviour of an uninformed normal investor and not the behaviour of an insider.

VII. JURISDICTION

- Although, I traded in call options for the common stock of a US company, I herewith deny the jurisdiction of US Courts because I did not have sufficient "*minimum contact*" with a State in the United States. The exercise of jurisdiction in this case would violate the Due Process Clause of the United States Constitution.
- Hence, I herewith file a motion to dismiss claiming that the Court lacked *in personam* jurisdiction over my father Antonio Montero and me.**
- My father, Antonio Montero, did not make any transactions and was nothing more than a joined account holder. Based on *Securities and Exchange Commission v.*

Alexander, 2003 U.S. Dist. LEXIS 8504 (S.D.N.Y. 2003) the motion to dismiss with respect to my father Antonio Montero has to be granted because of a lack of minimum contact with the United States.

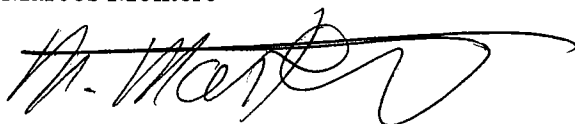
4. I am a Spanish citizen living in Switzerland. The transactions in call options of TXU Corp. were made via a Swiss bank institute. Hence, no part of the transaction occurred within the Northern District of Illinois and the motion to dismiss has to be granted because of a lack of minimum contact with the United States

VIII. FINAL REMARKS

- 1 I already mentioned above that I am no longer represented by a US attorney. By filing this statement and the Exhibits 1 - 34 I tried to comply with the preliminary injunction order of 28 March 2007 to the best of my knowledge.
- 2 Given that I have no knowledge of the US Legal system and/or the English legal terminology any failures to comply with the preliminary injunction order were unintentionally.
- 3 Given that I am willing to comply with the request in the preliminary injunction order and all future reasonable demands of the SEC or the Court **I kindly ask you to abstain from disclosing my identity for the time being**. Should the SEC decide to disclose my identity, I will without much doubt be fired by my employer and I will have no chance to find a new job in the banking industry in Switzerland. My career would be ruined in this case. Based on the generally accepted principle of the presumption of innocence, I would be very grateful for your understanding in this respect for the time being.
- 4 I reserve my right to make additional statements for the further course of the proceedings.
- 5 Please do not hesitate to contact me via the Swiss Federal Banking Commission should you have further questions.

Yours sincerely,

Marcos Montero



Exhibits mentioned

cc: - Swiss Federal Banking Commission, Mrs. Geneviève Berclaz

EXHIBITS

| | |
|----------------|--|
| Exhibit 1 - 16 | Bank Statements |
| Exhibit 17 | List of transactions dated 5 April 2007 |
| Exhibit 18 | Valora publication of 24 August 2006 |
| Exhibit 19 | Lindt & Sprüngli publication of 20 March 2007 |
| Exhibit 20 | Holcim publication of 8 November 2006 |
| Exhibit 21 | List of last 100 entries |
| Exhibit 22 | Morgan Stanley Research Report of 12 December 2006 |
| Exhibit 23 | Morgan Stanley Research Report of 19 December 2006 |
| Exhibit 24 | Morgan Stanley Research Report of 9 January 2007 |
| Exhibit 25 | Morgan Stanley Research Report of 18 January 2007 |
| Exhibit 26 | Morgan Stanley Research Report of 8 February 2007 |
| Exhibit 27 | Morgan Stanley Research Report of 19 February 2007 |
| Exhibit 28 | Morgan Stanley Research Report of 20 February 2007 |
| Exhibit 29 | Development of stock price 25.04.05 – 25.04.07 |
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| Exhibit 31 | Sales of call options |
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| Exhibit 34 | Overview daily quotations TXU Corp. |



Shipment Airwaybill

(Non negotiable)

4527479154

Quote this shipment number in an enquiry

ORIGIN: **DRA** DESTINATION: **FTW**

From (Sender)

Account no. **SH2RH06** Sender's name **Marcos Montero**
Sender's reference first twelve characters will be shown on invoice

Marcos Montero
Postgassli 1
8835 Feusisberg

Account code **135** Phone / Fax / Telex

To (Receiver)

Securities & Exchange Commission

Port Worth District Office
11 Cherry Street 19th Floor
Port Worth
Texas 76102-6882 / USA

Account code **5102-6882** Texas / USA

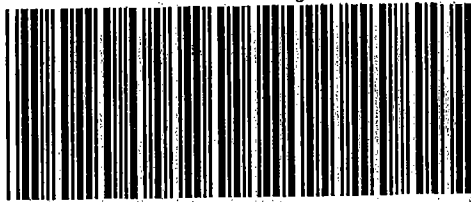
Contact person **Jennifer Brandt** Phone / Fax / Telex **+1-817-9783821**

Sender's authorisation and signature

I agree that DHL's standard terms apply to this shipment and limit DHL's liability to the Warsaw Convention may also apply (see reverse).

I understand that DHL does not transport cash or dangerous goods (see reverse)

Signature **[Handwritten Signature]** Date **19 / 06 / 07**



3 Shipment details

Not all payment and service options are available in all countries.

Services

- DOCUMENT
- WORLDWIDE PARCEL EXPRESS all declarables
- INTRA EC (in free circulation)
- EXPRESS DOCUMENT
- DOMESTIC
- WORLDMAIL Airmail/Printed Matter, specify one
- OTHER SERVICE specify

Transport charges

- Sender
- Cash / Cheque / Credit Card For approved customers only
- External Billing Agreement
- Transport Collect

Shipment insurance see reverse

- YES

Full description of contents

Documents

CASH

International Worldwide Parcel Express shipments only

| | |
|--|---------------------------------------|
| Declared value give currency | Sender's VAT / GST no. |
| Harmonised commodity code if applies | Receiver's VAT / GST no. or EIN / SSN |
| Type of export <input type="checkbox"/> PERMANENT <input type="checkbox"/> REPAIR/RETURN <input type="checkbox"/> TEMPORARY | |
| Destination duties / taxes If left blank receiver pays duties / taxes | |
| <input type="checkbox"/> Receiver <input type="checkbox"/> Sender <input type="checkbox"/> Other Specify destination approved account number | |

4 Size and weight

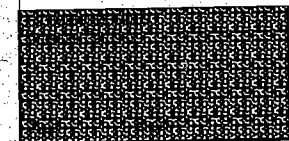
| | |
|-------------------------|--------|
| No. of pieces | Weight |
| 1 | kg |
| Dimensions cm L x W x H | |
| x | x |

VOLUMETRIC / CHARGED WEIGHT

| CODES | CHARGES Services |
|-------|------------------|
| | Special |
| | Insurance |
| | Other / VAT |

| | |
|---------------|---------------|
| CURRENCY CODE | TOTAL |
| | 145.15 |

TRANSPORT COLLECT STICKER No.



PICKED UP BY

Route No. **506577**

Time

Date

PF-1384 MW

Parcel copy

7