

Edgar Filing: TOUSA INC - Form SC 13D

TOUSA INC
Form SC 13D
November 09, 2007

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 13D
Under the Securities Exchange Act of 1934

Tousa Inc.

(Name of Issuer)

Common Stock

(Title of Class of Securities)

878483106

(CUSIP Number)

Jeffrey Ruiz
Deutsche Bank AG
c/o Deutsche Bank Securities Inc.
60 Wall Street
New York, NY 10005
(212) 250-3667

(Name, Address and Telephone Number of Person Authorized to Receive Notices and
Communications)

October 26, 2007

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of Sections 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box [].

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Section 240.13d-7 for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The Information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

Cusip No. 878483106

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1 NAME OF REPORTING PERSON
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

Deutsche Bank AG

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP
(a)
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS WC
(See Item 3)

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS

IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION
Germany

7 SOLE VOTING POWER

39,551,813

8 SHARED VOTING POWER

9 SOLE DISPOSITIVE POWER

39,551,813

10 SHARED DISPOSITIVE POWER

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

39,551,813

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

39.9%

14 TYPE OF REPORTING PERSON

BK

Cusip No. 878483106

1 NAME OF REPORTING PERSON
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

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Deutsche Bank Trust Company Americas

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)

(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS
(See Item 3)

WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS

IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION
Delaware

7 SOLE VOTING POWER

39,551,813

NUMBER OF
SHARES
BENEFICIALLY
OWNED BY
EACH
REPORTING
PERSON

8 SHARED VOTING POWER

9 SOLE DISPOSITIVE POWER

39,551,813

10 SHARED DISPOSITIVE POWER

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

39,551,813

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

39.9%

14 TYPE OF REPORTING PERSON

BK

Item 1. Security and Issuer

This statement on Schedule 13D (this "Statement") relates to shares of common stock, par value \$0.01 per share (the "Common Stock"), of Touse Inc.(the

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"Issuer"). The address of the principal executive offices of the issuer is 4000 placeHollywood Boulevard, Suite 500 N, placeCityHollywood, StateFlorida PostalCode33021.

Item 2. Identity and Background

This Statement is being filed by Deutsche Bank Trust Company Americas ("DBTCA") and Deutsche Bank AG ("Deutsche Bank", together with DBTCA, the "Reporting Persons" and each, a "Reporting Person"). A joint filing agreement has been filed as Exhibit 1 to this Statement pursuant to Rule 13d-1(k) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

(b) The address of the principal place of business of Deutsche Bank is Taunusanlage 12, 60325 Frankfurt, Federal Republic of Germany. The address of the principal office of Deutsche Bank Trust Company Americas is 60 Wall Street, New York, New York 10005.

(c) and (f) The principal business of the Reporting Persons and the name, business address, principal occupation or employment and citizenship of each of the executive officers, directors, controlling persons and trustees, as applicable of each of the Reporting Persons and each corporation and other person ultimately in control of the Reporting Persons are set forth on Schedule 1 to this Statement which is incorporated herein.

Set forth on Schedule 1 to this Statement, and incorporated herein by reference, is a list of the executive officers and directors of Deutsche Bank and Deutsche Bank Trust Americas that contain the following information with respect to each such person: (i) name; (ii) business address; (iii) present principal occupation or employment and the name and business address of each corporation or organization in which each such employment is conducted; and (iv) citizenship.

(d) and (e) During the last five years, none of the Reporting Persons and, to the best knowledge of the Reporting Person, none of the persons named on Schedule 1 to this Statement has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or has been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction as a result of which such person was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration

On or about July 31, 2007, Deutsche Bank AG, through its Deutsche Bank Trust Company Americas ("DBTCA") affiliate, acquired 77,200 shares of 8% Series A Convertible Pay-in-Kind Preferred Stock of the issuer pursuant to that certain Settlement and Release Agreement (Senior Mezzanine) dated June 29, 2007 among DBTCA, the issuer, and the other parties thereto in consideration for the cancellation, satisfaction, retirement or termination of debt held by such persons and releases by such persons of the issuer and certain other persons from liability. The Settlement and Release Agreement (Senior Mezzanine) is included as an exhibit to this Schedule 13D and the information contained therein is incorporated by reference in answer to this item.

The holders of the convertible preferred stock are entitled at any time after October 26, 2007 (the date the conversion price was established) and before the mandatory redemption date of July 1, 2015, subject to prior optional redemption or repurchase, to convert any or all of their shares of convertible preferred stock into shares of Common Stock at the conversion price per share pursuant to,

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and subject to the restrictions, limitations, and other provisions in, the certificate of designation of the convertible preferred stock. The amount of shares of Common Stock to be delivered shall be the accreted value of the shares of convertible preferred stock delivered for conversion divided by the conversion price of \$1.61, subject to adjustment as set forth in the certificate of designation. The accreted value of the convertible preferred stock is the liquidation preference of the shares being redeemed and any other accrued and unpaid dividends whether or not declared. The initial liquidation preference of the convertible preferred stock is \$1,000 per share, subject to adjustment. The conversion price, the number of shares of Common Stock which Deutsche Bank AG is deemed to beneficially own, and the percentage of such class represented by such ownership first became ascertainable on dateMonth10Day26Year2007October 26, 2007 at the expiration of such period. The certificate of designation of the convertible preferred stock is included in this Schedule 13D as an exhibit and the information contained therein is incorporated by reference in answer to this item.

As part of the same settlement, the Issuer issued warrants (the "Stock Purchase Warrants") in two tranches exercisable into the Common Stock at exercise prices based on a share price of \$4.25 (established on October 26, 2007 based on the average trading price of the Common Stock during a designated period) multiplied by 1.25 in the case of one tranche (the "Lower Strike Stock Purchase Warrants") or 1.50 in the case of the other tranche (the "Higher Strike Stock Purchase Warrants"). On or about July 31, 2007, Deutsche Bank AG through its DBTCA affiliate acquired 5,045,662 Lower Strike Stock Purchase Warrants and 5,045,662 Higher Strike Stock Purchase Warrants pursuant to that certain Settlement and Release Agreement (Junior Mezzanine) dated June 29, 2007 among DBTCA, the issuer, and the other parties thereto in consideration for the cancellation, satisfaction, retirement or termination of debt held by such persons and releases by such persons of the issuer and certain other persons from liability. The Settlement and Release Agreement (Junior Mezzanine) is included as an exhibit to this Schedule 13D and the information contained therein is incorporated by reference in answer to this item.

The holders of the Stock Purchase Warrants are entitled to at any time after October 26, 2007 (the date on which the exercise prices were established) to and including July 31, 2012 to exercise the Stock Purchase Warrants into shares of Common Stock at their respective exercise prices per share pursuant to, and subject to the restrictions, limitations, and other provisions in, the Warrant Purchase Stock Certificate. The exercise price, the number of shares of Common Stock which Deutsche Bank AG is deemed to beneficially own, and the percentage of such class represented by such ownership first became ascertainable on dateMonth10Day26Year2007October 26, 2007. The information contained in the Stock Purchase Warrant Certificate is included with this Schedule 13D as an exhibit and the information contained therein is incorporated by reference in answer to this item.

Item 4. Purpose of Transaction

The securities were acquired for investment purposes. The Reporting Persons reserve the right to acquire, or cause to be acquired, additional securities of the Issuer or derivatives or other instruments related thereto, to dispose of, or cause to be disposed, such securities, derivatives or other instruments at any time and to formulate other purposes, plans or proposals regarding the Issuer or any of its securities, to the extent deemed advisable in light of general investment and trading policies of the Reporting Persons, market conditions or other factors. Except as set forth herein, the Reporting Persons do not have any plans or proposals at this time that relate to or would result in any of the transactions described in subparagraphs (a) through (j) of Item 4 of Schedule 13D.

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Item 5. Interest in Securities of the Issuer

(a) The reporting person declares that neither the filing of this statement nor anything herein shall be construed as an admission that such person is, for the purposes of Section 13(d) or 13(g) of the Act or any other purpose, the beneficial owner of any securities covered by this statement.

The reporting person declares that neither the filing of this statement nor anything herein shall be construed as an admission that such person is, for the purposes of Section 13(d) or 13(g) of the Act or any other purpose, (i) acting (or has agreed or is agreeing to act together with any other person) as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of the issuer or otherwise with respect to the issuer or any securities of the issuer or (ii) a member of any group with respect to the issuer or any securities of the issuer.

The aggregate number and percentage of the class of securities identified pursuant to Item 1 beneficially owned by the reporting person is stated in Items 11 and 13 on the cover page(s) hereto.

Deutsche Bank AG through its affiliates owns 77,200 shares of 8% Series A Convertible Pay-in-Kind Preferred Stock convertible into 47,950,267 shares of Common Stock subject to the restrictions, limitations and other provisions in the Certificate of Designations, including the provision in Section 7(a) which provides that a holder of the preferred stock does not have the right to convert into Common Stock if, after giving effect to such conversion, that person would become the beneficial owner of greater than 39.9% of the Common Stock then outstanding. Deutsche Bank AG through its DBTCA affiliate is the owner of 5,045,662 Lower Strike Stock Purchase Warrants exercisable into 652,958 shares of Common Stock, when the prevailing market price is at \$6.00 and 5,045,662 Higher Strike Stock Purchase Warrants exercisable into 494,673 shares of Common Stock, when the prevailing market price is at \$7.00, subject to the limitations on exercise contained in the Stock Purchase Warrant Certificate, including the provision in Section 15 which provides that a holder of warrants does not have the right to exercise warrants into Common Stock if, after giving effect to such exercise, that person would become the beneficial owner of greater than 39.9% of the Common Stock then outstanding. Due to the binding contractual limitations in Section 7(a) of the Certificate of Designation and Section 15 of the Stock Purchase Warrant Certificate, Deutsche Bank AG is not the beneficial owner of the shares of Common Stock in excess of 39,551,813 shares or 39.9% of the shares of Common Stock outstanding.

b) Number of shares of Common Stock as to which each reporting person has:

- (i) sole power to vote or to direct the vote:
See Item 7 on the cover page(s) hereto.
- (ii) shared power to vote or to direct the vote:
See Item 8 on the cover page(s) hereto.
- (iii) sole power to dispose or to direct the disposition of:
See Item 9 on the cover page(s) hereto.
- (iv) shared power to dispose or to direct the disposition of:
See Item 10 on the cover page(s) hereto.

(c) see Item 6

(d) Other persons may have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, shares of Common Stock that may be deemed to be beneficially owned by the reporting persons.

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(e) Not applicable.

The information required to be stated or provided or otherwise called for in this statement by Item 5 of Schedule 13D, if any, with respect to any person enumerated in Instruction C of Schedule 13D is stated or provided or otherwise given herein or in Schedule 1 hereto.

Item 6. Contracts, Arrangements, Understandings, or Relationships with Respect to Securities of the Issuer

The response to Item 3 of this Schedule 13D is hereby incorporated by reference in response to this Item 6. Transactions by the Reporting Person in the Common Stock effected during the past sixty days are set forth in Schedule 2 to this Schedule 13D.

From time to time, the Reporting Person may lend, pledge or enter into repurchase transactions relating to portfolio securities, including the Shares, to and with brokers, banks or other financial institutions. From time to time, effect, short sale transactions, and may purchase securities for the purpose of closing out short positions in such securities.

Except as set forth above, the Reporting Person does not have any contracts, arrangements, understandings or relationships with respect to any securities of the Issuer.

Item 7. Material to be Filed as Exhibits

Exhibit Description of Exhibit

10.1	Settlement and Release Agreement (Senior Mezzanine) dates as of dateMonth7Day29Year200
10.2	Settlement and Release Agreement (Junior Mezzanine) dated as of dateMonth7Day29Year200
10.3	Indenture relating to 14.75% Senior Subordinated PIK Election Notes due dateMonth7Day1
10.4	Registration Rights Agreement relating to 14.75% Senior Subordinated PIK Election Note dateMonth7Day1Year2015July 1, 2015(4)
10.5	Certificate of Designation relating to 8% Series A Convertible Pay-in-Kind Preferred S
10.6	Registration Rights Agreement relating to 8% Series A Convertible Pay-in-Kind Preferre
10.7	Stock Purchase Warrant dated dateMonth7Day31Year2007July 31, 2007(7)
10.8	Registration Rights Agreement relating to Lender Stock Purchase Warrants(8)

(1) Incorporated by reference to Exhibit 10.45 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.

(2) Incorporated by reference to Exhibit 10.46 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the

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period ended dateMonth6Day30Year2007June 30, 2007.

- (3) Incorporated by reference to Exhibit 4.14 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.
- (4) Incorporated by reference to Exhibit 4.18 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.
- (5) Incorporated by reference to Exhibit 3.6 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.
- (6) Incorporated by reference to Exhibit 4.17 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.
- (7) Incorporated by reference to Exhibit 4.16 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.
- (8) Incorporated by reference to Exhibit 4.19 to the report on Form 10-Q filed by TOUSA, Inc. on dateMonth8Day9Year2007August 9, 2007 for the period ended dateMonth6Day30Year2007June 30, 2007.

SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Statement is true, complete and correct.

Dated as of November 9, 2007

DEUTSCHE BANK AG

By: /s/ Jeffrey A. Ruiz

Name: Jeffrey A. Ruiz
Title: Director

DEUTSCHE BANK AG

By: /s/ Cesar A. Coy

Name: Cesar A. Coy
Title: Assistant Vice President

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Executive Officers, Directors, Controlling Persons and Trustees of
Deutsche Bank AG and each Person Ultimately in Control of Deutsche Bank AG

Deutsche Bank AG is organized under the laws of the Federal Republic of Germany. The principal business of Deutsche Bank AG is the provision of financial and related services. Deutsche Bank AG is the largest banking institution in the Federal Republic of Germany and is the parent company of a group consisting of banks, capital market and fund management companies, mortgage banks and property finance companies, installment financing and leasing companies, insurance companies, research and consultancy companies and other companies. Deutsche Bank AG is organized under the laws of Germany, the address of its principal place of business is Taunusanlage 12, 60325 Frankfurt, Germany.

Name	PRESENT PRINCIPAL OCCUPATION OR EMPLOYEMENT
	BUSINESS ADDRESS
	CITIZENSHIP
Dr. Josef Ackermann	Chairman of the Management Board and the Group Executive Committee, Deutsche Bank AG
	Deutsche Bank AG Taunusanlage 12 60325 Frankfurt, Germany
	Citizenship: Swiss
Dr. Hugo Banziger	Member of the Management Board, Deutsche Bank AG
	Deutsche Bank AG Winchester House 1 Great Winchester Street United Kingdom
	Citizenship: UK/Swiss
Dr. Tessen von Heydebreck	Member of the Management Board, Deutsche Bank AG
	Deutsche Bank AG Taunusanlage 12 60325 Frankfurt, Germany
	Citizenship: German
Mr. Anthony Di Iorio	Member of the Management Board, Deutsche Bank AG
	Deutsche Bank AG Taunusanlage 12 60325 Frankfurt, Germany
	Citizenship: United States
Mr. Hermann-Josef Lamberti	Member of the Management Board, Deutsche Bank AG
	Deutsche Bank AG Taunusanlage 12 60325 Frankfurt, Germany

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Citizenship: German

Executive Officers, Directors, Controlling Persons of Deutsche Bank Trust Company Americas.

Deutsche Bank Trust Company Americas ("DBTCA" (formerly, Bankers Trust Company)) was incorporated in New York in March, 1903. Deutsche Bank Trust Company Americas's common stock [voting stock] is 100 percent owned by Deutsche Bank Trust Corporation ("DBTC" formerly, Bankers Trust Corporation)). The Bank originates loans and other forms of credit, accepts deposits, arranges financings and provides numerous other commercial banking and financial services. DBTCA provides a broad range of financial advisory services to its clients. It also engages in the trading of currencies, securities, and bank-eligible derivatives.

Name	PRESENT PRINCIPAL OCCUPATION OR EMPLOYEMENT BUSINESS ADDRESS CITIZENSHIP
------	--

Dr.Hugo Banziger	Member of the Board of Directors Winchester House, 1 WinchesterStreet London, United Kingdom Citizenship: UK/SWISS
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Mr.George B. Beitzel	Member of the Board of Directors, Office of the Secretary 60 Wall Street New York, New York, 10005 Citizenship: US
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Mr.James T. Byrne	Member of the Board of Directors, Office of the Secretary 60 Wall Street New York, New York, 10005 Citizenship: US
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Mr.Richard C.S. Evans	Member of the Board of Directors, 60 Wall Street New York, New York, 10005 Citizenship: US
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Ms.Elizabeth R. Gile	Member of the Board of Directors, Office of the Secretary 60 Wall Street New York, New York, 10005 Citizenship: US
----------------------	--

Mr.William R. Howell	Member of the Board of Directors, Office of the Secretary 60 Wall Street New York, New York, 10005 Citizenship: US
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Mr.Clyde Mitchell	Member of the Board of Directors, Office of the Secretary 60 Wall Street New York, New York, 10005 Citizenship: US
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Mr.Seth H. Waugh	Member of the Board of Directors, 60 Wall Street New York, New York, 10005
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Citizenship: US

Mr.Scott Bowen	Senior Officer - Chief Financial Officer 60 Wall Street New York, New York, 10005 Citizenship: US
Mr. Stuart Clarke	Senior Officer - Chief Operating Officer 60 Wall Street New York, New York, 10005 Citizenship: US
Mr. Eric Gallineck	Senior Officer - Compliance 60 Wall Street New York, New York, 10005 Citizenship: US
Mr.Anthony McCarthy	Senior Officer - Group Technology and Operations 60 Wall Street New York, New York,10005 Citizenship: US
Mr. Patrick McKenna	Senior Officer - Credit Risk Management 60 Wall Street New York, New York, 10005 Citizenship: US
Mr. Robert Khuzami	Senior Officer - General Counsel 60 Wall Street New York, New York, 10005 Citizenship: US
Ms. Donna M, Milrod	Senior Officer - Independent Control Office 60 Wall Street New York, New York, 10005 Citizenship: US
Mr.Seth H. Waugh	Senior Officer - Chief Executive Office 60 Wall Street New York, New York, 10005 Citizenship: US
Mr. Richard Ferguson	Senior Officer - Treasurer 60 Wall Street New York, New York, 10005 Citizenship: US

JOINT FILING AGREEMENT

In accordance with Rule 13d-1(k) under the Securities Exchange Act of 1934, as amended, each of the persons named below agrees to the joint filing of a Statement on Schedule 13D (including amendments thereto) with respect to the Common Stock, of Touse Inc. and further agrees that this Joint Filing Agreement be included as an exhibit to such filings provided that, as contemplated by Section 13d-1(k)(ii), no person shall be responsible for the completeness or accuracy of the information concerning the other persons making the filing, unless such person knows or has reason to believe that such information is inaccurate. This Joint Filing Agreement may be executed in any number of counterparts, all of which together shall constitute one and the same instrument.

Dated as of November 9, 2007

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DEUTSCHE BANK AG

By: /s/ Jeffrey A. Ruiz

 Name: Jeffrey A. Ruiz
 Title: Director

DEUTSCHE BANK AG

By: /s/ Cesar A. Coy

 Name: Cesar A. Coy
 Title: Assistant Vice President

DEUTSCHE BANK Trust Company Americas

By: /s/ Jeffrey A. Ruiz

 Name: Jeffrey A. Ruiz
 Title: Director

Schedule 2 - 60 Day Trade History

Date	Transaction	Quantity	Price
09/19/07	S	90000	2.54
09/18/07	B	90000	2.54
09/18/07	S	90000	2.54
09/19/07	S	90000	2.54
09/19/07	B	90000	2.54
09/19/07	B	90000	2.54
10/02/07	B	55550	2.00
10/02/07	S	55550	2.00