

D

Starbird, Zack

From: Starbird, Zack
Monday, June 04, 2001 9:36 AM
To: Yovan, Sean; Wonzon, Vivian; Wingate, Terecina; Turberville, Michael; Tinkler, Pam; Thompson, Scot; Thompson, Greg; Thomas, Dave; Schivley, Steven; Sax, Tom; Sanders, Chip; Pollatos, Chris; Pfeffer, Brandon; Pearce, Tim; Pasquito, Joe; Oetting, Gregg; Nunziato, Carl; Nixon, Diane M.; Nicholson, James A.; Nelson, Sara; Moore, Robert; Mooney, Eric; Milman, Kevin; Milligan, Todd; Miller, Ryan A.; McDermott, Michael; McCluer, Ray; Mason, Blake; Manganiello, Richard; Linsider, Jed; Lee, Karen; Lee, Roger; Lawrence, Gartin; Lai, Rick; Kuenzli, Eric; Keefer, Brian; James, Melinda; Hurd, Craig; Hervert, Emily; Hendler, Jeffrey; Hemschot, Chris; Hector, Will; Hank, Paul; Gram, Mark; Gillespie, Andrew; 1155/Bd Rm 2209 (20 x6375); Frazier, Mike; Fitzgerald, Todd; Crowell, Casey; Crockett, Jay; Cowhig, Robert; Connelly, Scott; Coke, Hugh III; Chaney, Ken; Burgess, Jarrod; Brin, Daniel; Blankenship, Chris; Bellingier, Chris; Ballesteros, Saul; Atha, Paul; Alexander, Todd
Cc: Ragan, John W.; McDonald, Chris; Erd, Ron; Tinkler, Douglas; Duane, Vincent; Casanova, Laetitia (Mirant); Ramamurtie, Sailesh; Brown, Steve; Greene, Kimberly; Gallaspy, David T.; Adams, Edwin H. (Ed); Morsches, Gary
Subject: ICE Trading - Pre-arranged trades, wash trades, affiliate trades, and other nonsense
Importance: High

As you know, the six gas and power companies that joined ICE as founding members, Mirant, AEP, Aquila, Duke, El Paso, and Reliant, entered into a contract whereby each of the six stands to gain or lose equity in ICE, at the expense of the others, based on the relative volume of gas and power products each transacts on ICE. As a result, there have been a number of questions about the appropriateness of entering into pre-arranged trades, wash trades, or affiliate trades in order to artificially increase the apparent volume of a company's business transacted through ICE. It is Mirant's view that **it is both unlawful, and a breach of the original contract, to engage in these or any other trading activities that have no independent market justification, solely for the purpose of inflating reported trade volumes.** You are therefore directed to refrain from engaging in pre-arranged trades, wash trades, affiliate trades, and similar gimmicks. If a trader from AEP, Aquila, Duke, El Paso or Reliant appears to be asking you (however discreetly) to participate in this kind of conduct, please make sure they understand Mirant's position. If you suspect that one or more of these companies are using these gimmicks or are otherwise contriving trades, please inform Laetitia Casanova, so that Mirant may take steps to protect its investment in ICE.

If you are concerned about whether anything you might have done on behalf of Mirant crosses the line, please let me know. If you direct this type of communication to me, as an attorney, Mirant should be able to shield whatever you say from discovery by our competitors under the attorney-client privilege. If you send an email, letter, or memo, please do not cc: anyone else. After speaking with you, I will take responsibility for informing anyone else who needs to know. Our interest in speaking with you is primarily to determine what Mirant's potential liability is and to learn how to monitor our competitors' conduct going forward.

Thank you,

Zack Starbird
Managing Attorney, Litigation
Mirant Americas
578-579-5638

Mirant 00068
FOIA Confidential