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"Court Tests a Borrower's Ability to Block Loan Transfers to Competitors" by Jon Kibbe, Brian Fraser and Eric Rosen

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In a recent decision, Judge Jed S. Rakoff of the United States District Court for the Southern District of New York granted a preliminary injunction blocking the sale of a participation in a borrower's loan. Judge Rakoff halted the sale not because the sale violated any of the terms or conditions of the governing Credit Agreement, but because the sale violated the covenant of good faith and fair dealing implied in every contract. In this memorandum, Richards Kibbe & Orbe LLP attorneys Jon Kibbe, Brian S. Fraser and Eric S. Rosen highlight the implications of this ruling on the secondary market for bank loans.

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