

1 does any section recite that the depositor creditors  
2 of an AJACK bank get distribution ahead of all other  
3 creditors in interest. No where in the code does it  
4 say that in an AJACK Chapter 11 reorganization the  
5 debtor may liquidate its cash in a manner that is  
6 not even assured that it will even go to the debtor  
7 creditors before -- and do this before it files a  
8 plan and disclosure statement, and confirms the  
9 plan.

10 Perhaps the Court is naive, but it had the  
11 idea that a sale was a transaction in which you gave  
12 the buyer something and got some cash. The Court  
13 believed the transaction where you turn over your  
14 assets to a third party for distribution to your  
15 creditors was an assignment for the benefit of  
16 creditors.

17 After careful consideration of whether or  
18 not the proposed transaction with Banco Mercantile  
19 in its present form is in the best interest of  
20 creditors, in the best interest of the estate or in  
21 the best interest of the reorganization, the Court  
22 concludes that the present form of this transaction  
23 is not and should not be approved.

x } 24 After careful consideration of the  
25 performance of the debtor in possession and the

1 administration of this estate, the Court concludes  
2 that the debtor in possession is inept and not  
3 sufficiently skillful or reliable to operate the  
4 debtor in possession.

5 It appears that the concept of maintaining  
6 and reorganizing or selling the debtor in possession  
7 as a going concern at least up until a few moments  
8 ago was no longer feasible, although even know that  
9 has reappeared.

10 Possibly a liquidating plan under Chapter  
11 11 might save some administrative expenses. Perhaps  
12 Chapter 7 is the way to go. I am not exactly  
13 certain, but I believe that there needs to be some  
14 competent, independent oversight to this mess.

15 The motion of the U.S. Trustee to appoint a  
16 trustee should be granted, and a Chapter 11 trustee  
17 should become involved in this DIP before the sun  
18 sets today.

19 Any trustee that is appointed should be  
20 forewarned that the Court will not approve a \$3  
21 million maximum statutory fee for taking possession  
22 of the approximately \$100 million in cash in this  
23 estate and distributing it. The trustee's  
24 opportunity for heavy duty compensation may come  
25 from what he or she is able to do in regard to the