

FILED

2021 JAN 15 PM 1:09

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

CATHY S. GIBSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

**HAROLD D. WARD, Director, Division of
Mining and Reclamation, West Virginia
Department of Environmental Protection**

Plaintiff,

v.

**Civil Action No. 20-C-282
Presiding Judge: Christopher C. Wilkes
Resolution Judge: James H. Young, Jr.**

ERP ENVIRONMENTAL FUND, INC.,

Defendant.

**ORDER GRANTING MOTION OF RECEIVER FOR ENTRY OF ORDER
AUTHORIZING SALE OF (ADDITIONAL) STOCK SHARES CLEAR OF LIENS,
CLAIMS AND ENCUMBRANCES**

By motion dated January 7, 2021, the Special Receiver sought permission of the Court to sell 3,000 additional shares of Series A Preferred stock (collectively, the "Additional Shares") in First Surety Corporation, a West Virginia corporation, to Indemnity National Insurance Company ("Indemnity") for an aggregate purchase price of \$1,125,000.00.

The Special Receiver represents that it has performed a commercially reasonable search for liens and encumbrances on the Additional Shares and that the Additional Shares are subject to potential liens held by Appalachian Headwaters, Inc. The Special Receiver advised the Court that it has reached an agreement with Appalachian Headwaters, Inc. with respect to its claims against the Additional Shares and that Appalachian Headwaters, Inc. does not object to the motion.


Having reviewed the motion and heard such parties as desired to be heard, the Court hereby GRANTS the motion and FINDS and ORDERS as follows:

As to the Additional Shares listed in the Special Receiver's *Motion for Entry of Order Authorizing Sale of (Additional) Stock Shares Clear of Liens, Claims and Encumbrances* filed by letter dated January 7, 2021, the Court finds that the Special Receiver has undertaken a commercially reasonable review of liens and

112-114

encumbrances and has notified all lienholders of the pending Motion. Accordingly, the Special Receiver may sell the Additional Shares free and clear of all liens and encumbrances.

ENTERED this 15th day of January, 2021.


CHRISTOPHER WILKES
Presiding Judge

Date: 1/19/2021
Certified copies sent to:
☒ counsel of record
☒ parties
☒ other (please indicate)
By: ☒ certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other directives accomplished:
L. Allen
Deputy Circuit Clerk

Bus Co
E. Cappellanti
J. Thompson
B. Bailey
J. Dixon

Berkeley County Judicial Center
380 West South Street
Martinsburg, WV 25401
304-264-1992
304-264-2163

**Business Court
Division**

Fax

To:	Cathy Gatson, Circuit Clerk	From:	Carol Miller
Fax:	304-357-0473	Pages:	3 (including fax coversheet)
Phone:	304-357-0440	Date	January 15, 2021
Re:	20-C-282	cc:	n/a

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

Following is an order signed by Judge Wilkes for distribution and filing. If you have any questions, please call me at the above number.