

FILED

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

2021 NOV -3 PM 2:15

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

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

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 RECEIPT OF SUBSIDENCE
ESCROW FUNDS FROM TIMOTHY DIXON, ESQUIRE**

By motion of October 8, 2021, the Special Receiver and Timothy Dixon, in-house counsel to a former affiliate of ERP Environmental Fund, Inc. ("ERP"), jointly sought permission of the Court for Mr. Dixon to transfer—and for the Special Receiver to receive—certain escrow funds (totaling \$200,000) that were previously set aside by ERP Environmental Fund, Inc. ("ERP") to cover claims of potential subsidence damage to a residential structure above one of ERP's underground mines in Marion County, WV.

Both the Receiver and Mr. Dixon agree that the \$200,000, plus interest, currently escrowed in Mr. Dixon's attorney escrow account is the property of the Receiver and should be turned over to the Receiver in accordance with paragraphs 15 and 16 of the Receivership Order, less any bank fees for closing the segregated bank account and wiring the funds to the Receiver.

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:

(i) The Court directs Mr. Dixon to the transfer the \$200,000, plus interest, less bank fees, to the Receiver promptly after this Order becomes final and non-appealable; and

(ii) The Court further orders that the \$200,000, plus interest, less bank fees, shall be held by the Receiver and may not be accessed or acted against by any person, including any persons with liens, claims, or other encumbrances against the Receivership Estate, until further order of the Court regarding proper disposition of the funds.

ENTERED this 3 day of November, 2021.



CHRSTOPHER WILKES

Presiding Judge

Date: 11/3/21
Certified copies sent to:
____ counsel of record C. Hunter
____ parties S. Thompson
____ other T. Dixon
(please indicate)
By ☒ certified/1st class mail S. Bailey
____ fax C. Penn
____ hand delivery J. Bunn
____ interdepartmental
Other directives accomplished: Business Court
C. Hunter
Deputy Circuit Clerk

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 3
DAY OF Nov 2021
C. Hunter CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA