



Alan Mirman at the podium for the Ask the Experts General Session.

## ASK THE EXPERTS

BY ALAN MIRMAN, SESSION PRODUCER

The Ask the Experts panel featured a lively combination of responses to questions from the audience, and “rants” from the experienced panel consisting of Marilyn Bessey, Marc Brooks, Ron Oliner, David Wald, and Alan Mirman, moderator. Among the many points covered were the following:

**Q:** When and how do operating funds become property of the receivership estate?

**A:** Typically, upon the court’s issuance of the order. Even though the receiver can’t take possession of the funds until the oath and bond are filed with the court, the receivership order usually provides that operating funds are property of the receivership and contains a temporary restraining

order barring the defendant(s) from using, disbursing or withdrawing those funds. If a defendant withdraws or disburses funds after the issuance of the order, the receiver can usually compel the defendant to return the funds to the estate.

**Q:** Is a state court receiver for a contaminated property protected from federal lawsuits?

**A:** No, but current federal policy makes it unlikely that a receiver will be subject to a federal claim.

**Q:** Is a receiver obligated to provide due diligence information or disclosures to a prospective note (loan) buyer?

**A:** No. Notes are sold by the lender not the receiver, unless the note itself is part of the receivership estate.

**Q:** Will the receivership business get busier or slower?

**A:** It depends upon how well the Fed manages interest rates and inflation, but the prevailing thought is that there will be at least a steady stream of defaulted and matured paper secured by real property, and a continuing need for receiverships.

Video of Ask the Experts is now available on [receivers.org](http://receivers.org).



Marilyn Bessey, Sacramento



David Wald, Marc Brooks, Los Angeles

