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9 Tel: 310.282.2500 / Fax: 310.282.2501

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egray@thompsoncoburn.com
11 1909 K Street, NW Suite 600
Washington, D.C. 20006
12 Tel: 202.585.6967 / Fax: 202.585.6969

13 **ALLEN CHESSON**
DOUGLAS GRIMES (*pro hac vice application to be filed*)
14 dgrimes@allenchesson.com
505 N. Church Street
15 Charlotte, NC 28202
Tel: 704.755.6012

16 Attorneys for Defendant CYBERLUX
17 CORPORATION

18 **UNITED STATES DISTRICT COURT**
19 **SOUTHERN DISTRICT OF CALIFORNIA**

20 ATLANTIC WAVE HOLDINGS,
21 LLC, a Virginia limited liability
company; and SECURE
22 COMMUNITY, LLC, a Virginia
23 limited Liability company,

24 Plaintiffs,

25 v.

26 CYBERLUX CORPORATION, a
27 Nevada Corporation;

28 Defendant.

Case No. 3:24-cv-00482-RBM-VET

Honorable Ruth Bermudez Montenegro

**DECLARATION OF MARK D.
SCHMIDT IN SUPPORT OF
CYBERLUX CORPORATION'S
MOTION TO VACATE SISTER-STATE
JUDGMENT**

**NO ORAL ARGUMENT UNLESS
ORDERED BY THE COURT**

Hearing Date: June 3, 2024

1 I, Mark D. Schmidt, declare:

2 1. I am the President and Chief Executive Officer of Cyberlux Corporation
3 (“Cyberlux”), the entity against which Atlantic Wave Holdings, LLC and Secure
4 Community LLC sought and obtained entry of a Sister-State Judgment. I have
5 personal knowledge of the facts contained within this Declaration based upon me
6 being involved with the transactions that are the subject of this action and this
7 Declaration. If called as a witness, I would competently testify as to the following
8 facts based on my personal knowledge.

9 2. On or about June 15, 2023, Cyberlux, myself, Atlantic Wave Holdings,
10 LLC (“Atlantic Wave”), Secure Community, LLC (“Secure”), and Strikepoint
11 Consulting, LLC (“Strikepoint”) entered into a settlement agreement (“Settlement
12 Agreement”) arising from the lawsuit entitled *Atlantic Wave Holdings, LLC; and*
13 *Secure Community, LLC v. Cyberlux Corporation and Mark D. Schmidt*, Circuit
14 Court of the City of Richmond, Virginia, Case No. CL22-3882 (the “Virginia
15 Action”). A true and correct copy of the Settlement Agreement is attached hereto as
16 **Exhibit A**, which is the subject of a concurrently filed Motion to Seal due to a
17 provision of the Settlement Agreement that deems the entirety of the Settlement
18 Agreement to be confidential.

19 3. Pursuant to the terms of the Settlement Agreement, an Amended Final
20 Order and Judgement [sic] (“Settlement Judgement”) was filed and entered in the
21 Virginia Action on June 28, 2023, a true and correct copy of which is attached hereto
22 as **Exhibit B**. The Settlement Judgment provides, in part, that “the parties hereto have
23 reached a settlement agreement that resolves the current need for continuing
24 litigation.” Settlement Judgment at Page 1.

25 ///
26 ///
27 ///
28 ///

1 4. Following the Settlement Agreement reached in the Virginia Action,
2 Cyberlux made payments to Atlantic Wave and Strikepoint as follows:

3 Date	Payee	Amount
4 7/3/2023	Atlantic Wave Holdings, LLC	\$10,737.50
5 7/3/2023	Atlantic Wave Holdings, LLC	\$5,364.75
6 7/3/2023	Atlantic Wave Holdings, LLC	\$4,513.89
7 9/8/2023	Atlantic Wave Holdings, LLC	\$575,000.00
8 9/8/2023	Strikepoint Consulting, LLC	\$50,000.00
9 10/4/2023	Strikepoint Consulting, LLC	\$20,000.00
10 11/2/2023	Strikepoint Consulting, LLC	\$19,000.00
11 12/4/2023	Strikepoint Consulting, LLC	\$19,000.00
12 1/2/2024	Strikepoint Consulting, LLC	\$19,000.00
2/1/2024	Strikepoint Consulting, LLC	\$19,000.00
3/1/2024	Strikepoint Consulting, LLC	\$19,000.00
4/1/2024	Strikepoint Consulting, LLC	\$19,000.00
TOTAL		\$779,616.14

13 True and correct copies of the wire payment confirmations are attached hereto
14 as **Exhibit C**. As more fully set forth in the concurrently filed Declaration of
15 Douglas Grimes, Cyberlux’s payments were either made by the deadlines provided
16 in the Settlement Agreement (including the 3-day cure period), or were timely based
17 upon the Plaintiffs’ agreed-to modification of the Settlement Agreement, upon
18 which Cyberlux relied.

19 5. In fact, as more fully explained in the concurrently filed Declaration of
20 Douglas Grimes, the parties agreed to a different payment plan post-settlement.
21 Further, as confirmed by William Welter, Atlantic Wave’s principal and legal
22 counsel, following Cyberlux’s overpayment of September 8, 2023, equal to \$575,000,
23 Cyberlux had an “overage” of \$167,402.56 to apply to future payments.

24 6. Under the Settlement Agreement, the combined principal amount owed
25 to Strikepoint was \$650,000, and the combined principal amount owed to Atlantic
26 Wave was \$1,110,363.89. To date, \$254,000 has been paid to Strikepoint, leaving a
27 principal balance of \$396,000, and \$595,616.14 has been paid to Atlantic Wave,
28 leaving a principal balance of \$591,102.45.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 10th day of April, 2024, at Houston, Texas.

Mark D. Schmidt
CB9EE73498DE446...

Mark D. Schmidt

EXHIBIT A

FILED UNDER SEAL
EXHIBIT A: SETTLEMENT
AGREEMENT

EXHIBIT B

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

_____)
ATLANTIC WAVE HOLDINGS, LLC)
AND SECURE COMMUNITY, LLC)

 Plaintiffs,)

v.)

CYBERLUX CORPORATION and)
MARK D. SCHMIDT, individually)

 Defendants.)
_____)

Case No: CL22-3882 - 4

AMENDED FINAL ORDER AND JUDGEMENT

BEFORE THE COURT is a Motion for Entry of an Amended Final Order and Judgment by Plaintiffs ATLANTIC WAVE HOLDINGS, LLC AND SECURE COMMUNITY, LLC, and agreed to by Defendants CYBERLUX CORPORATION and MARK D. SCHMIDT, individually, and as the authorized representative for CYBERLUX CORPORATION, and

IT APPEARING to the Court that the parties hereto have reached a settlement agreement that resolves the current need for continuing litigation.

UPON CONSIDERATION of the pleadings, the evidence, argument of counsel, the consent of the parties, and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED that judgement is GRANTED in favor of Plaintiffs ATLANTIC WAVE HOLDINGS, LLC and SECURE COMMUNITY, LLC, and against Defendants CYBERLUX CORPORATION and MARK D. SCHMIDT, jointly and severally, as follows:

- a. The Court awards Plaintiffs the sum of **ONE MILLION FIVE HUNDRED SEVENTY-TWO THOUSAND AND FIVE HUNDRED DOLLARS (\$1,572,500)** in compensatory damages, jointly and severally, against Defendants CYBERLUX CORPORATION

and MARK D. SCHMIDT, to resolve the claims alleged in Plaintiffs' Complaint and certain other claims as agreed to by the parties pursuant to the parties' separate agreement.

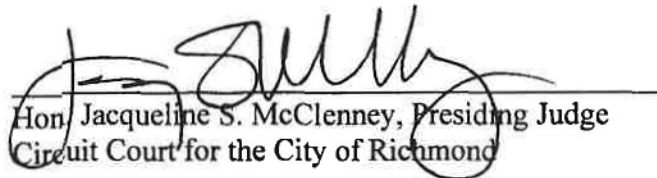
b. The parties agree that this Final Judgement shall not be dischargeable in bankruptcy to the fullest extent permissible at law, and Defendants hereby waive all rights of reconsideration or appeal. Nor shall it be subject to any contribution or reduced through the payment(s) of any other parties in this matter. Rather it shall be the sole obligation of Defendants.

c. That the Plaintiffs be awarded all of their costs, including reasonable attorney's fees of \$177,126.19 per the parties' settlement agreement, evidenced by affidavits, and consented to by defendants, plus sanctions of \$3,895.00 and \$6,842.50, as provided by the Court's previous Orders, and post judgment interest at the rate of 12% per annum, as provided in the parties' agreement, from the date of entry of this order on the damages incurred in this matter.

d. That the parties have agreed to a security interest and lien interest in all property of Defendants in favor of Plaintiffs until all sums are paid, and such security interest may be further memorialized through the filing of appropriate UCC-1 forms and the filing of appropriate Liens.

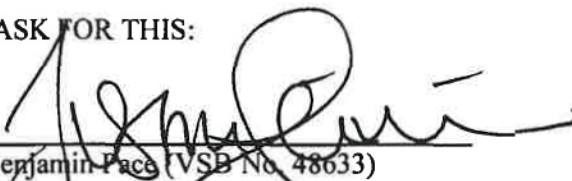
e. Plaintiffs' Complaint is hereby dismissed without prejudice. THIS CAUSE IS ENDED.

ENTERED this 22nd day of June, 2023.


Hon. Jacqueline S. McClenney, Presiding Judge
Circuit Court for the City of Richmond

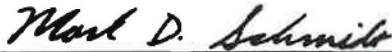
A Copy
Teste: EDWARD F. JEWETT, CLERK
BY:  D.C.

WE ASK FOR THIS:




W. Benjamin Pace (VSB No. 48633)
Justin S. Feinman (VSB No. 83511)
WILLIAMS MULLEN, PC
200 South 10th Street, 16th Floor
Richmond, Virginia 23219
804.420.6442
wpace@williamsmullen.com
jfeinman@williamsmullen.com
Counsel for Plaintiffs

SEEN and AGREED:



Mark D. Schmidt and Cyberlux Corporation
800 Park Offices Drive, Suite 3209
Research Triangle Park, NC 27709 By
Mark D. Schmidt, *Individually and as
President of Cyberlux Corporation*



Charles Watts, Jr, in his capacity as Special Counsel
for Cyberlux Corporation and Mark D. Schmidt

EXHIBIT C

From: Mark Schmidt <mschmidt@cyberlux.com>
Date: April 1, 2024 at 7:18:01 AM EDT
To: Charles Watts <legal_cybl@cyberlux.com>
Subject: Fwd: Confirmation of Atlantic Wave and Strikepoints wires

September 2023

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

From: Kerri Thebado <Kerri.Thebado@townebank.net>
Sent: Friday, September 8, 2023 4:03:28 PM
To: Mark Schmidt <mschmidt@cyberlux.com>
Cc: Shellie Mellady <Shellie.Roberts@townebank.net>
Subject: RE: Confirmation of Atlantic Wave and Strikepoints wires

Yes they have been



Kerri Thebado
Banking Officer | Member Service Specialist
T: [919-534-7407](tel:919-534-7407)
Kerri.Thebado@townebank.net | TowneBank.com
5000 Vallestone Dr, Suite 110, Cary, NC 27519
Serving Others. Enriching Lives.

From: Mark Schmidt <mschmidt@cyberlux.com>
Sent: Friday, September 8, 2023 3:48 PM
To: Shellie Mellady <Shellie.Roberts@townebank.net>; Kerri Thebado <Kerri.Thebado@townebank.net>
Subject: Confirmation of Atlantic Wave and Strikepoints wires

CAUTION: External Email

Shellie/Kerri, will you please confirm that the Atlantic Wave and Strikepoints wires have been executed.

Atlantic Wave Holdings, LLC
Bank of America Routing Number: [REDACTED]
Account number: [REDACTED]
Amount: \$575,000.00

Strikepoints Consulting, LLC
Bank of America Routing Number: [REDACTED]
Account number: [REDACTED]
Amount: \$50,000.00

TYVM!

Mark Schmidt | President and CEO

mschmidt@cyberlux.com

919-434-6608



[Visit our Website](#)

From: Mark Schmidt <mschmidt@cyberlux.com>
Date: April 1, 2024 at 7:17:22 AM EDT
To: Charles Watts <legal_cybl@cyberlux.com>
Subject: Fwd: Wire out

October 2023

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

From: Kerri Thebado <Kerri.Thebado@townebank.net>
Sent: Wednesday, October 4, 2023 2:47:30 PM
To: Mark Schmidt <mschmidt@cyberlux.com>
Subject: RE: Wire out

Will do!



Kerri Thebado
Banking Officer | Member Service Specialist
T: [919-534-7407](tel:919-534-7407)
Kerri.Thebado@townebank.net | TowneBank.com
5000 Vallestone Dr, Suite 110, Cary, NC 27519
Serving Others. Enriching Lives.
Towne Family Careers

From: Mark Schmidt <mschmidt@cyberlux.com>
Sent: Wednesday, October 4, 2023 2:46 PM
To: Kerri Thebado <Kerri.Thebado@townebank.net>
Subject: Wire out

CAUTION: External Email

Kerri, when possible, please wire from our 6642 account:

Strikepoints Consulting, LLC
Bank of America Routing Number: [REDACTED]
Account number: [REDACTED]
Amount: \$20,000.00

TYVM!

Mark Schmidt | President and CEO

CYBERLUX CORPORATION

mschmidt@cyberlux.com

919-434-6608

www.Cyberlux.Com

From: Mark Schmidt <mschmidt@cyberlux.com>
Date: April 1, 2024 at 7:17:04 AM EDT
To: Charles Watts <legal_cybl@cyberlux.com>
Subject: Fwd: Wire out

November 2023

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

From: Kerri Thebado <Kerri.Thebado@townebank.net>
Sent: Thursday, November 2, 2023 14:32
To: Mark Schmidt <mschmidt@cyberlux.com>
Subject: RE: Wire out

Sending it now 😊



Kerri Thebado
Banking Officer | Member Service Specialist
T: [919-534-7407](tel:919-534-7407)
Kerri.Thebado@townebank.net | TowneBank.com
5000 Vallestone Dr, Suite 110, Cary, NC 27519
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From: Mark Schmidt <mschmidt@cyberlux.com>
Sent: Thursday, November 2, 2023 2:24 PM
To: Kerri Thebado <Kerri.Thebado@townebank.net>
Subject: Wire out

CAUTION: External Email

Kerri, when possible, please wire from our 6642 account:

Strikepoints Consulting, LLC
Bank of America Routing Number: [REDACTED]
Account number: [REDACTED]
Amount: \$19,000.00

TYVM!

Mark Schmidt | President and CEO
CYBERLUX CORPORATION

mschmidt@cyberlux.com

919-434-6608

www.Cyberlux.Com

From: Mark Schmidt <mschmidt@cyberlux.com>
Date: April 1, 2024 at 7:15:34 AM EDT
To: Charles Watts <legal_cybl@cyberlux.com>
Subject: Fwd: Wire out of 7189

December 2023

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

From: Leticia Green <lgreen@cyberlux.com>
Sent: Monday, December 4, 2023 11:29
To: Mark Schmidt <mschmidt@cyberlux.com>
Subject: RE: Wire out of 7189

Good Morning Mark!

I will start processing this wire now.

Does this company send out invoices or do we have a consulting agreement on file? Would you send that to me when its convenient please.

Thank you,

Letty Green
lgreen@cyberlux.com

CYBERLUX®
Harnessing the Future

[Visit our Website](#)

From: Mark Schmidt <mschmidt@cyberlux.com>
Sent: Monday, December 04, 2023 8:10 AM
To: Leticia Green <lgreen@cyberlux.com>
Subject: Wire out of 7189

Good morning Letty, will you please send the following wire out from 7189? This is also a monthly payment going forward.

Strikepoints Consulting, LLC
Bank of America Routing Number: [REDACTED]
Account number: [REDACTED]
Amount: \$19,000.00

TYVM - Mark

Mark Schmidt | President and CEO

CYBERLUX CORPORATION

mschmidt@cyberlux.com

919-434-6608

www.Cyberlux.Com

From: Mark Schmidt <mschmidt@cyberlux.com>
Date: April 1, 2024 at 12:29:08 PM EDT
To: Charles Watts <legal_cybl@cyberlux.com>
Subject: Fwd: Strikepoints February Wire

January 2024 and February 2024.

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

From: Leticia Green <lgreen@cyberlux.com>
Sent: Monday, April 1, 2024 11:37
To: Mark Schmidt <mschmidt@cyberlux.com>
Subject: RE: Strikepoints February Wire

Hi Mark,

I created two wires for Strikepoint (attached).

The wire dated 1/2/2024 was for January and the wire dated 2/1/24 was for February. Unfortunately, I do not receive an invoice from Strikepoint so I do not have a reference point to add to our backup. If what I am showing is correct, we did not pay them in February unless you paid them directly from Townebank.

I would suggest we request invoices from all consultants to minimize confusion with payments in the future.

Thank you,

Letty Green
lgreen@cyberlux.com
[Visit our Website](#)

From: Mark Schmidt <mschmidt@cyberlux.com>
Sent: Monday, April 01, 2024 4:30 AM
To: Leticia Green <lgreen@cyberlux.com>
Subject: Strikepoints February Wire



Letty, I am looking for proof of the Strikepoints payment for February. Letty, do you have any email or wire out info?

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

Initiate Payments - Initiation Status

[Close](#)

[Print](#)

Account	Trace ID	Template ID	Template Name	Type	Value/Send Date	Beneficiary	Amount	Status
██████████	██████████			Domestic	01/02/2024	 Strikepoints Consulting, LLC 	19,000.00 USD	Pending Approval

Created by: Letty Green - 01/02/2024 06:20 PM EST



Quick Search by Trace ID Report

Initiation Date: Monday, January 29, 2024

01/29/2024 02:42:57 PM

Account Summary		CYBERLUX CORPORATION OPERATING					Amount	Count	
						Total Debits :	19,000.00 USD	1	
Account	Trace ID	Template ID	Template Name	Type	Value / Send Date	Beneficiary	Amount	Status	Fed Ref No.
[REDACTED]	[REDACTED]	CBLX 011	STRIKEPOINTS CONSULT	Domestic	2/1/2024	Strikepoints Consulting, LLC	19,000.00 USD	Pending Approval	

Beneficiary Bank
 ID: [REDACTED]
 Name: BANK OF AMERICA, N.A., NY
 Address: NEW YORK, NY

Beneficiary Information
 Account: [REDACTED]
 Address: 900 N. TAYLOR ST. APT 1826
 ARLINGTON, VA 22203-1877

Audit History
 Initiated by: Letty Green 01/29/2024 01:52 PM ET

OBI: JAN24

Grand Totals							Amount	Count
						Total Debits :	19,000.00 USD	1

Begin forwarded message:

From: Mark Schmidt <mschmidt@cyberlux.com>
Date: April 1, 2024 at 7:10:30 AM EDT
To: Charles Watts <legal_cybl@cyberlux.com>
Subject: Fwd: Wite out

March 2024

Mark Schmidt | President and CEO
CYBERLUX CORPORATION
mschmidt@cyberlux.com
919-434-6608
www.Cyberlux.Com

From: Kerri Thebado <Kerri.Thebado@townebank.net>
Sent: Friday, March 1, 2024 12:57
To: Mark Schmidt <mschmidt@cyberlux.com>
Subject: RE: Wite out

Just Completed! 😊



Kerri Thebado

Banking Officer | Member Service Specialist

Kerri.Thebado@townebank.net

Tel: [919-534-7407](tel:919-534-7407)

5000 Valleystone Dr, S, Ca , N ,275
uite 110 ry C 19

TowneBank.com

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From: Mark Schmidt <mschmidt@cyberlux.com>
Sent: Thursday, February 29, 2024 3:46 PM

To: Kerri Thebado <Kerri.Thebado@townebank.net>

Subject: Wite out

CAUTION: External Email

Kerri, when possible today/tomorrow, please wire from our 6642 account:

Strikepoints Consulting, LLC

Bank of America Routing Number: [REDACTED]

Account number: [REDACTED]

Amount: \$19,000.00

TYVM!

Mark Schmidt | President and CEO

CYBERLUX CORPORATION

mschmidt@cyberlux.com

919-434-6608

www.Cyberlux.Com