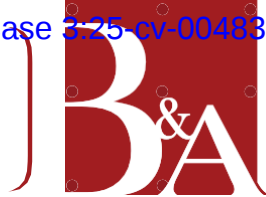


# **Exhibit**

**1**



# Berleth & Associates, PLLC

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Robert Berleth  
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June 4, 2025

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Dallas, TX 75201

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via email

Arcadi Jackson  
Attn: Greg Jackson  
2911 Turtle Creek Blvd., Ste. 800  
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Counsel for HII  
via email

Bell Nunnally  
Attn: David A. Walton  
2323 Ross Avenue, Ste. 1900  
Dallas, TX 75201

Counsel for Atlantic Wave  
via email

Re: Cause No. 2024-48085, *Atlantic Wave Holdings, LLC v. Cyberlux Corp.*,  
in the 129<sup>th</sup> Judicial District Court of Harris County, Texas.

Messrs.,

This letter is a formal response from the undersigned Receiver to the letters regarding payment of \$25,795,303.38 (the “Funds” or “Corpus”) from HII Mission Technologies Corp. (“HII”) dated May 28, 2025, and the responsive letter from Cyberlux Corporation (“Cyberlux”) dated May 30, 2025, respectively. *See* enclosures 1 & 2. The Receiver has three responsive points. First, both letters inaccurately state the total indebtedness, omits creditors to Cyberlux, and fail to properly triage the debts. Secondly, because Cyberlux is under a receivership, all payments must go through the Receiver for credit against the judgment(s). Any funds paid directly from HII to Cyberlux may result in the receivership court ordering HII to pay the funds a second time through the receivership. Lastly, Cyberlux does not have the authority to enter into a settlement agreement nor release HII from the current indebtedness. In short, a careful and measured approach is necessary to properly resolve this matter and eliminate years of protracted litigation.

Cyberlux has significant indebtedness to various creditors, triaged into four classes:

Class 1: Creditors with a final judgment or perfected lien against Cyberlux.

1. **Atlantic Wave Holdings, LLC.** Cause No. 2024-48085, styled *Atlantic Wave Holdings, LLC, et al. v. Cyberlux Corporation, et al.*, in the 129<sup>th</sup> Judicial District Court, Harris County, Texas. This is the originating receivership case, in the amount of \$2,111,086.01. See enclosure 3, Order Appointing Receiver.
2. **Legalist SPV III, LP**, secured via a UCC, in the amount of \$7,313,627.17 with fees accruing at a daily rate of \$4,364.46 by virtue of their failure to satisfy their obligations under the Loan Agreement.” (Doc. 1-3, pp. 16-19.) See enclosure 4, Legalist UCC Form 1.
3. **Aerotek, Inc.** In Case No. 24CV034906-910, styled *Aerotek, Inc. v. Cyberlux Corporation et al.*, in the General Court of Justice, Superior Court Division, State of North Carolina, filed on October 29, 2024. Aerotek, Inc. alleges that Cyberlux failed to pay for payroll expenses in the amount of \$204,705.45, plus interest and attorney fees. (Doc. 1-3, pp. 22-29.) On April 11, 2025, in Wake County Superior Court, an order was entered against Cyberlux Corporation et al. in favor of Aerotek, Inc., in the amount of \$235,411.27. See enclosure 5.
4. **Berleth & Associates, PLLC.** Pursuant to the Order Appointing Receiver at page 18, paragraph 53, in Cause No. 2024-48085, styled *Atlantic Wave Holdings, LLC, et al. v. Cyberlux Corporation, et al.*, in the 129<sup>th</sup> Judicial District Court, Harris County, Texas. The Receiver’s fees and expenses shall be later determined by the court.
5. Any other final judgment or secured creditor, in chronological order of final judgment date.

Class 2: Creditors with pending litigation claims, in order of date of filing:

1. **Thin Air Gear, LLC.** In Case No. 1:25-cv-00805, styled *Thin Air Gear, LLC v. Cyberlux Corporation*, in the United States District Court for the District of Colorado, filed on March 12, 2025, Thin Air Gear, LLC alleges that Cyberlux is indebted to Thin Air Gear, LLC. A Motion for Default Judgment is pending before the court that amounts to \$1,631,221.32. See Enclosure 6.
2. **ARG Group, LLC.** In Case No. 25CV004246-310, styled *The ARG Group, LLC v. Cyberlux Corporation*, in the General Court of Justice, Superior Court Division, State of North Carolina, filed on April 24, 2025, ARG Group, LLC alleges that Cyberlux is indebted for amounts due and owed under a distributor partner agreement.
3. **Atlantic Wave Holdings, LLC.** Case No. CL24-3910, in the Circuit Court of the City of Richmond, Virginia. Atlantic Wave Holdings asserts Cyberlux did not comply with its contractual obligations regarding marketable stock and price, and brings a derivative action claim for \$6,017,250.00. These are considered investment or stock claims.
4. **R.B. Capital Partners.** In Case No. 3:24-cv-01434, styled *R.B. Capital Partners v. Cyberlux Corporation et al.* filed on August 12, 2024. R.B. Capital Partners alleges that Cyberlux is indebted to R.B. Capital Partners \$5,686,960 plus interest and attorney fees. These are considered investment or stock claims.
5. Any other pending litigation that is yet to be discovered or filed.

Class 3: Creditors with a contractual obligation from Cyberlux, but without a final judgment or pending litigation.

1. **Third Generation Development, L.P.** \$238,014.00 lease amount due for Spring, Texas manufacturing facility.
2. **Thompson Coburn.** Fees and expenses for the contractual obligation to pay for legal services provided to Cyberlux during this and other litigations around the country.
3. **Catalyst Machineworks, LLC.** Cyberlux purchased the corporate interests and intellectual property. The current amount due to the previous owners of Catalyst is \$1,860,017.08 in unpaid wages and compensation. See enclosure 9.
4. **Atlantic Wave Holdings, LLC.** Cause No. 4:25-cv-01689 in the Southern District of Texas, the second removal to federal court, which awarded attorneys fees for the two federal court removals.
  - a. \$21,677.50 - Attorneys' fees for second removal to Law Firm of Shawn M. Grady, PLLC. See Enclosure 10.
  - b. \$21,880.00 Attorney's fees for post-judgment expenses to Vargo Law Firm, P.C.
5. **Montague Capital Partners, LLC.** Montague provided consulting and investment advice, strategic business development services, and assisting with securing commercial and defense related contracts. Pursuant to several contracts, including a renewal in 2023, the current alleged amount due is over \$3,000,000.
6. **Advanced Navigation & Positioning Corporation ("ANPC").** A purchase agreement between Cyberlux and ANPC, with the final payment of \$2,830,050 still owed and due. See enclosure 11.

Class 4: Creditors with invalid or nonsensical claims the receiver does not intend to pay.

1. **Patrzalek.** In Case No. 5:25-cv-00439, styled *Patrzalek et al v. United States Department of Defense et al*, in the United States District Court for the Western District of Oklahoma.
2. Creditors with statutorily expired or unsubstantiated claims.

**Receivership Levy:** Payments from HII to Cyberlux will only be recognized if the payment is processed by the Receiver. Thus, failure to comply with the Receiver's levy may result in HII being ordered to pay the funds twice. It is disputable that HII is a party to the receivership case; however, being a party to the litigation is irrelevant. Courts must grant full faith and credit to orders appointing receivers from other states. *See, e.g., Peden v. Pohl*, App. No. 01-08-00373-CV, 2009 Tex. App. LEXIS 7115 (Tex. Sep. 10, 2009) ("The Ohio injunction against suits in other states that may interfere with the receivership process is entitled to full faith and credit in Texas."); *see also Bard v. Charles R. Myers Ins. Agency, Inc.*, 839 S.W.2d 791, 795 (Tex. 1992). Other states have similarly granted full faith and credit to injunctions entered by sister states prohibiting suits that may interfere with the receivership process. *See, e.g., Brown v. Link Belt Div. of FMC Corp.*, 666 F.2d 110 (5th Cir. 1982) (Louisiana federal court upheld injunction by Illinois receivership court); *State ex rel. Low v. Imperial Ins. Co.*, 140 Ariz. 426, 682 P.2d 431, 439 (Ariz. Ct. App. 1984) (injunction by California receivership court); *Integrity Ins. Co. v. Martin*, 105 Nev.

16, 769 P.2d 69, 70 (Nev. 1989) (injunction by New Jersey receivership court); *Nasef v. U & I Invs., Inc.*, 755 P.2d 136, 138 (Or. Ct. App. 1988) (injunction by Indiana receivership court).

It is undisputed HII has been properly notified of the active receivership. If nothing else, **this letter is proof of such notification.** Not to be confused with a garnishment, the Receiver served a levy upon HII, which remains effective in perpetuity until the receivership is terminated. HII is obligated to forward any funds held or paid to Cyberlux to the Receiver. *See* Order Appointing Receiver regarding a third party's responsibilities to the Receiver at page 15, para. 37 and page 6-7, para. 19. It is clear the funds are subject to *custodia legis*, and regardless of HII's status as a party in the above-styled litigation, the funds must be paid to the Receiver by that third party for proper credit.

**Settlement Authority:** Settlement and release authority with third parties lies solely with the Receiver, ratified via court order. "A trial court has an affirmative duty to enforce its judgment." *In re Crow-Billingsley Air Park*, 98 S.W.3d 178, 179 (Tex. 2003) (citing TEX. R. CIV. P. 308). Thus, even after a court's plenary power has expired, it has the power to enforce its judgment and to aid the judgment creditor in collecting on that judgment until the judgment is satisfied. "... if a court of competent jurisdiction, Federal or state, has taken possession of property, or by its procedure has obtained jurisdiction over the same, such property is withdrawn from the jurisdiction of the courts of the other authority as effectually as if the property had been entirely removed to the territory of another sovereignty." *Palmer v. Texas*, 212 U.S. 118, 29 S. Ct. 230, 53 L. Ed. 435 (1909). During the pendency of a receivership, the property held in *custodia legis* is free from interference, with the exclusive custody and possession the court assumes over it. *See Neel v. Fuller*, 557 S.W.2d 73, 76 (Tex. 1977). Once a turnover order appointing a receiver is signed, all of the judgment debtor's non-exempt property becomes property in *custodia legis*. *Tex. Am. Bank/W. Side v. Haven*, 728 S.W.2d 102, 104 (Tex. App.—Fort Worth 1987, no writ); *see First S. Props. v. Vallone*, 533 S.W.2d 339, 343 (Tex. 1976). The court appointing a receiver has exclusive jurisdiction over property subject to the receivership. *Chimp Haven, Inc. v. Primarily Primates, Inc.*, 281 S.W.3d 629, 633 (Tex. App.—San Antonio 2009, no pet.).

Settlement authority with third parties is in *custodia legis* pursuant to the directions of the Receiver and the Turnover Order. *See* Order Appointing Receiver page 8-9, para. 22 ("... no decision may be made or carried out without the express approval of the Receiver."). Further, the proceeds from HII is a non-exempt asset and the Receiver has demanded possession of the asset pursuant to the Order Appointing Receiver. This is the best outcome for HII because a district court will enter an order releasing HII from any and all future liability to Cyberlux and, inversely, Cyberlux will be released from any contractual obligations to HII. Settlement authority rests solely with the Receiver as a non-exempt asset. *See* Order Appointing Receiver at page 15, para. 37 and page 6-7, para. 19. The Receiver has a right to intervene in any matter which the Debtor may have an interest. *See Vallone*, 533 S.W.2d at 343; *M&E Endeavours LLC v. Air Voice Wireless LLC*, No. 01-18-00852-CV, 2020 WL 5047902, at \*8 (Tex. App.—Houston [1st Dist.] Aug. 27, 2020, no pet.) (mem. op.). The Debtor has an interest in the funds of HII and the Receiver has intervened on the Debtors behalf.

Further, the Receiver may obtain approval to settle any claims between HII and Cyberlux via a court order, which would further indemnify HII or other settlors from future litigation. All parties will be invited to attend such hearing and/or informed of any motion that will be heard by submission. A proposed settlement agreement and release has been sent directly to HII through counsel contemporaneously with this letter.

Once the corpus of funds has been received from the federal government by HII, the Receiver expects to enter a final settlement and release with HII, then transfer the funds from HII to the receivership. Hopefully, this transfer will be accompanied by an agreed distribution order that will also terminate the receivership. In the interim, the Receiver seeks to abandon and return the Spring, Texas Cyberlux manufacturing facility back to Cyberlux. Please feel free to contact me for any questions or comments. I thank each of you for your continued efforts in this case, and look forward to an amicable and prompt resolution.

I remain,

Sincerely yours,



Robert Berleth

APPOINTED RECEIVER

Cc:

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via email

Enclosures: (12)

1. Letter from HII dated May 28, 2025.
2. Letter from Cyberlux dated May 30, 2025.
3. Atlantic Wave Holdings v. Cyberlux Order Appointing Receiver.
4. Legalist UCC.
5. Aerotek Final Judgment.
6. Thin Air Default Judgment.
7. RB Capital Partners Petition
8. Letter from HII dated June 2, 2025.
9. Catalyst Machineworks, LLC Demand Letter
10. Memorandum Opinion on Second Federal Removal
11. ANPC Demand Letter
12. Patrzalek Original Petition

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THIS IS AN ATTEMPT BY A DEBT COLLECTOR TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. YOU ARE NOW COMMUNICATING WITH A DEBT COLLECTOR.