

EXHIBIT 13

CAUSE NO. 2024-48085

ATLANTIC WAVE HOLDINGS, LLC	§	IN THE DISTRICT COURT
and SECURE COMMUNITY, LLC.,	§	
<i>Plaintiffs, Judgment-Creditors,</i>	§	
	§	
v.	§	129 TH JUDICIAL COURT
	§	
CYBERLUX CORPORATION and	§	
MARK D. SCHMIDT, individually,	§	IN AND FOR
<i>Defendants, Judgment-Debtors.</i>	§	HARRIS COUNTY, TEXAS

MOTION TO SUPPLEMENT RECEIVERSHIP

COMES NOW, the Receiver ROBERT BERLETH, as Receiver for CYBERLUX CORPORATION and MARK D. SCHMIDT respectfully requests an order supplementing the original order appointing receiver in this Motion to Supplement Receivership, and for good cause shows the following:

I. Procedural History

1. Mr. Berleth was appointed Receiver by the Court over Judgment Debtors CYBERLUX CORPORATION (“Cyberlux”) to collect a judgment owed to ATLANTIC WAVE HOLDINGS, LLC in an Order Appointing Receiver (“OAR”). The Receiver has now worked diligently on this case, nearly 24/7 since his appointment. There have literally been hundreds of pages filed by Cyberlux.

2. Soon after his appointment, the Receiver was contacted by multiple debtors of Cyberlux.

3. On June 24, 2025, HII Mission Technologies Corporation (“HII”) filed an Interpleader action, cause no. 3:25-cv-483, styled *HII Mission Tech. Corp. v. Cyberlux, et. al.* in the Federal District Court of the Eastern District of Virginia-

Richmond Division (“Federal Interpleader Action”). The Receiver worked diligently to organize, sort, certify credibility, and seek an amicable agreement in the Federal Interpleader Action. The Receiver is named as a party in the Federal Interpleader Action.

4. This Motion is brought to protect the interests of valid and creditable creditors of Cyberlux. *See* U.S. CONST. art. IV, § 1; *Dalton v. Dalton*, 551 S.W.3d 126, 135 (Tex. 2018); and *In re Oltivero*, 07-24-00022-CV (Tex. App. Jan 07, 2025).

II. Additional Judgments

5. HII is anticipating a payment due to Cyberlux in the amount of **\$25,795,303.38** (“Corpus”). Due to the various shenanigans of Cyberlux before and during the termination of the federal contract, HII has incurred additional attorney’s fees approximating \$300,000. Cyberlux has done everything possible to gain access to the Corpus, and abscond with the funds.

6. Despite this, it appears the Receiver may be successful in his collection efforts resulting in a large surplus of funds, which should be made available to pay the other creditors of Cyberlux.

7. The Receiver has discovered a total of eight outstanding judgments and/or litigations against Cyberlux. Pursuant to the Order Appointing Receiver Paragraph 22, the Receiver may obtain permission for this and other courts to satisfy several judgments against the same debtor. *Barrera v. State*, 130 S.W.3d. 253 (Tex .App.--Houston [14th Dist.] 2004, no pet.) The Receiver asks this Court

to supplement the OAR to add the additional Judgments in the following series¹ to the current receivership:

- (a) United States Department of Treasury, part of the United States of America (“**United States**”) is named as a party defendant pursuant to 28 U.S.C. § 2410 as it may claim an interest in the Disputed Funds (as defined below) by virtue of federal tax liens asserted by the Internal Revenue Service (“**IRS**”) against Cyberlux’s property interests. The IRS holds liens against Cyberlux in the amount of \$582,800.38;
- (b) Secure Community, LLC, (“**Secure Community**”) is a Virginia limited liability company with its principal place of business in Richmond, Virginia. Secure Community is in active litigation against Cyberlux, claiming \$8,660,739.10 in Virginia court Cause No. CL-24-003910, styled *Atlantic Waves Holdings, LLC v. Cyberlux Corporation, et. al.*, in the Circuit Court of the City of Richmond, Virginia;
- (c) Caudle & Caudle, P.C. (“**Caudle**”) is a judgment creditor for \$9,392.50 against Cyberlux for legal services performed, with an address of 1910 Byrd Avenue, Ste. 118, Richmond, Virginia 23230, Cause No. CL23-07422, in the Circuit Court of the City of Richmond, Virginia;
- (d) Aerotek, Inc. Aerotek, Inc. (“**Aerotek**”) is a Maryland stock corporation authorized to do business in Virginia, with its principal place of business in Hanover, Maryland. Aerotek is a judgment creditor for \$344,227.25, in Cause No. 24CV034906-910, styled *Aerotek, Inc. v. Cyberlux Corporation, et. al.* in the General Court of Justice, Superior Court Division, in Wake County, North Carolina;
- (e) Thin Air Gear, LLC, (“**Thin Air**”) is a Nevada limited liability company with its principal place of business in Colorado Springs, Colorado, and is a judgment creditor for \$1,224,275.14 in United States Federal District Court of Colorado, Cause No. 1:25-cv-00805, styled *Thin Air Gear, LLC v. Cyberlux Corporation et al.*,
- (f) Phillip R. Tucker (“**Tucker**”) is a natural person and an adult citizen of Texas. Neill Whitely (“**Whiteley**”) is a natural person and an adult

¹ “Series” means that the first judgment is to be paid in full prior to moving to the next. The Receiver should collect his fee on each judgment paid as they resolve.

citizen of Texas, and also generally recognize the class of unpaid employees from Cyberlux's Spring, Texas facility. They seek \$2,676,378.58. They jointly are plaintiffs in Cause No. 4:2025cv02770, *Tucker, et. al v. Cyberlux Corp.* in the United States Federal District Court, Southern District of Texas- Houston Division;

- (g) The ARG Group, LLC ("**The ARG Group**") is an North Carolina limited liability company with its principal place of business a registered office at 231 Sloop Point Loop Rd, Hampstead, NC 28443. The ARG Group has pending litigation seeking \$13,500,000 for the Disputed Funds, Cause No. 25CV004246-310, styled *The ARG Group v. Cyberlux Corp, et. al.*, in the General Court of Justice, Superior Court Division, in Wake County, North Carolina; and
- (h) Third Generation Development, L.P., ("**Third Generation**") is a Texas limited partnership with its principal place of business in Spring, Texas. Third Generation is the landlord for the Spring, Texas manufacturing facility owed back rent and facing significant cleanup costs, estimated at \$342,478.34.

8. The Receiver requests supplement of the Receivership Order dated May 22, 2025 and to add the above-listed judgments and cause numbers for collection in this receivership.

III. Receiver's Fee Structure

9. Due to the complex nature of this collection, requiring years of litigation experience as a receiver, the tenacity and veracity with which Cyberlux has attacked both the receivership and the Receiver personally, expert skill in department of defense work, multiple applicable state and federal laws, and considerable expenses paid by the Receiver in this case, the parties have agreed to the presumptive Receiver's fees as previously ordered by this Court. The *Bergron* factors only speak to the effectiveness of receivership, and do not require a lodestar application for fees. This is only a presumptive fee, and must still be proven at the

final disbursement in accordance with meeting the *Bergeron* and *Moyer* elements and *Rohrmoos Venture* requirements.

IV. Prayer

WHEREFORE, PREMISES CONSIDERED, Receiver, Robert Berleth, respectfully requests that the Court enter an order supplementing the judgment from the above-listed cause numbers at ¶7, a-h, into this Receivership, and for any other relief at law or equity, general or specific to which they are justly entitled.

Respectfully submitted by:



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APPOINTED RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that on Friday, August 29, 2025, a true and correct copy of the above and foregoing was forwarded to all counsel of record via certified mail, return receipt requested, regular mail, e-mail and/or facsimile. Electronic records were also forwarded in accordance with local rules through the E-file or CM/ECF system.

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