

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

HII MISSION TECHNOLOGIES CORP.,	§	
<i>Interpleader Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 3:25-cv-483
	§	
CYBERLUX CORP., <i>et al.</i> ,	§	
<i>Interpleader Defendants/Claimants.</i>	§	

**INTERPLEADER DEFENDANT’S, ROBERT W. BERLETH, AS RECEIVER,  
MEMORANDUM OF LAW IN OPPOSITION TO MOTIONS FOR SUMMARY  
JUDGMENT**

Interpleader Defendant/Claimant, Robert W. Berleth, as Receiver (the “**Receiver**”), by counsel, submits this Memorandum of Law in Opposition to the Motions for Summary Judgment filed by Thin Air Gear, LLC (“**TAG**”); ARG Group, LLC (“**ARG**”); Advanced Navigation and Positioning Corporation (“**ANPC**”); Legalist SPV III, LP (“**Legalist**”); Fairwinds Technologies LLC (“**Fairwinds**”); Atlantic Wave Holdings, LLC and Secure Community, LLC (jointly, “**Atlantic Wave**”); the United States of America (“**United States**”); Assure Global LLC d/b/a WeShield, Roman Investments PR LLC, MAS USA MGT LLC, and Michael Sinensky (collectively, “**WeShield**”); and Cyberlux Corporation (“**Cyberlux**”).<sup>1</sup> In support thereof, the Receiver states as follows:

**INTRODUCTION**

Though the Court is faced with various motions with competing claims to the \$23,736,937.56 Corpus,<sup>2</sup> none of them establish that the Receiver’s position in this case is

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<sup>1</sup> These parties will collectively be referred to herein as “**Movants**.” Following the Court’s Order denying Bilal Maadarani’s (“**Mr. Maadarani**”) Motion to Intervene [D.N. 190], the Receiver does not include any reference to Mr. Maadarani’s Motion for Summary Judgment.

<sup>2</sup> Capitalized, but undefined terms have the same meaning ascribed to them in [D.N. 176].

incorrect. Indeed, the Receiver caused the Corpus to be available in the first instance. Accordingly, the Receiver is entitled to not only his fee, but is also in the best position to handle the Corpus. In addition, the Texas Court's May 22, 2025 Order Appointing the Receiver (the "**Order**") pre-dates the instant litigation and permits this Court to expand the Receivership and allow the Receiver to satisfy the claims of creditors. The Receiver is prepared to take the Corpus, whether through an order from this Court, or even as appointment as receiver in this Court,<sup>3</sup> to ensure the legitimate creditors receive their share. And, regardless of the competing claims, the Order and the Receiver's actions in obtaining the funds for the Corpus give him a priority claim for his fees and costs.

**RESPONSES TO MOVANTS' ASSERTIONS OF UNDISPUTED FACTS**<sup>4</sup>

1. Cyberlux entered into valid agreements, or caused judgments and security agreements to be entered, entitling Movants to the Corpus after the Receiver's appointment. *See* [D.N. 186 at 4] (stating that Cyberlux's CEO executed a Security Agreement on September 24, 2025, which granted WeShield a security interest in all of Cyberlux's right, title, and interest in all accounts).

**RESPONSE:** The Receiver disputes that any agreement entered after the Order and without Receiver approval is valid. The Order grants the Receiver "exclusive possession and custody of [Cyberlux's] property" and provides that "any attempt by a judgment debtor to transfer any of his nonexempt property after the turnover order has been signed is void." Order ¶¶ 9, 10.

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<sup>3</sup> The Receiver, Robert W. Berleth, has been appointed by multiple federal courts as a receiver, and is a member of the National Association of Federal Equity Receivers, or NAFER.

<sup>4</sup> In an effort to comply with Local Rule 58(B) and the Court's 10-page brief limitation set forth in the March 31, 2026 Order ("**Summary Judgment Order**") [D.N. 158], Receiver groups the purportedly undisputed facts contained in the Motions together and addresses those certain facts that relate to the Receiver. Additionally, Receiver disputes any factual claim Movants make that are inconsistent with the undisputed facts Receiver listed in [D.N. 176] and expressly reserves the right to make additional arguments at any oral hearing on the various motions for summary judgment.

Therefore, any post-Order agreements made, transfers made or encumbrances incurred by Cyberlux without the Receiver's knowledge and authorization as required by the Order are void. *See* [D.N. 176 at 17]. Further, not only did Cyberlux commit to these additional debts without permission or authority from the Receiver, Cyberlux did so unilaterally and subversively; failing to answer the Receiver's discovery as set forth in the Order.

2. The Receiver was appointed solely to collect Atlantic Wave's judgment. *See* [D.N. 169 at 5]; [D.N. 175 at 7].

**RESPONSE:** The Receiver disputes the characterization that the Receivership was limited to the collection of Atlantic Wave's judgment. The Order appoints the Receiver to "locate, marshal, and administer" Cyberlux's assets and vests him with exclusive possession and custody over all of Cyberlux's non-exempt property. Order at ¶¶ 7, 9. Because the Receivership remains in effect, the Receiver continues to exercise authority over *all* of Cyberlux's non-exempt property and assets, including the Corpus. This Court, therefore, pursuant to Paragraph 23 of the Order, may expand the Receiver's authority, order the Corpus delivered to the Receiver, and cause the Receiver to effectuate payment to creditors. The other creditors are left with limited, if any, options.

3. The Texas Court "rejected the Receiver's expansion attempts, specifically ordering that the 'Motion to Expand Receiver's Authority is DENIED.'" [D.N. 175 at 9]; *see* [D.N. 169 at 5].

**RESPONSE:** The Receiver disputes that the Receivership was conclusively curtailed. Although the Texas Court denied a motion to expand the Receiver's authority, it stated that issues concerning the scope of authority were "best addressed and considered in the Virginia Interpleader

case.” [D.N. 161-1]. Moreover, the Texas Court did not, and has not, terminated the Receivership. Two additional receiverships are currently pending in Texas, should the Receivership terminate.

### ARGUMENT

#### **I. Despite arguments to the contrary, the Receiver is entitled to the Corpus.**

Movants repeatedly contend that the Receiver’s authority is confined to the Texas Action and does not extend to the Corpus. *See, e.g.*, [D.N. 165 at 18] (“The Receiver’s claim is not related to the interpleaded funds[.]”); [D.N. 167 at 20] (same); [D.N. 169 at 15] (“[Receiver] does not have authority to expand his receivership beyond Texas, and therefore, he has no claim to the funds.”); [D.N. 175 at 19] (“The Receiver has no claim to the [Corpus]. He was only vested with authority to collect the [Atlantic Wave] Judgment, which has now been satisfied . . . [Receiver] has no authority to seek claims on behalf of any creditor . . .”)<sup>5</sup>; [D.N. 180] at 18 (“The Receiver’s work, as related to [Atlantic Wave], is complete.”); [D.N. 186 at 17-22] (“[Receiver] was appointed as a turnover receiver for the limited purpose of collecting Atlantic Wave’s domesticated judgment . . . [Receiver] is a party to this suit ‘solely in his capacity as receiver’ for Atlantic Wave.”); [D.N. 188 at 16] (excluding Receiver from proposed order of priority.). These assertions ignore the Order, which grants the Receiver authority to “take possession of *all* leviable property of [Cyberlux].” Order ¶ 8 (emphasis added). The Order further authorizes the Receiver to control Cyberlux’s financial accounts, account receivables, negotiable instruments, contract rights, and other property. Order ¶¶ 14, 23, 25. The Corpus plainly falls within the category of property subject to the Receiver’s judicial lien and authority. *See M&E Endeavours LLC v. Air Voice Wireless LLC*, No. 01-18-00852-CV, 2020 WL 5047902, at \*5 (Tex. App. Aug. 27, 2020) (“Once a turnover

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<sup>5</sup> The Receiver disputes the current Atlantic Wave judgment has been satisfied, though it appears that after using the Receivership as a shield for a year, Cyberlux and Atlantic Wave (Cyberlux’s CEO was the President of Atlantic Wave at one point) purportedly settled their claims.

order appointing a receiver is signed, all of the judgment debtor's non-exempt property becomes property in *custodia legis*."). Notably, the only Interpleader Defendant besides Cyberlux, Atlantic Wave, and Secure Community (who were the original parties to the Receivership) to file a motion to intervene in the Receivership was Legalist.<sup>6</sup> However, Montague Capital Partners, LLC, an interpleader defendant in the original complaint, but not the amended complaint, also intervened in the Texas Court. Nevertheless, the Receiver has been involved in this matter for nearly two years, understands the parties, and was granted broad authority by the Texas Court and Order over Cyberlux's assets.

Movants' advancement of mutually exclusive theories of priority does not preclude summary judgment in the Receiver's favor. WeShield's "undisputed facts" rely on a September 24, 2025, security agreement and subsequent UCC-1 filings to claim a perfected security interest and third priority to the Corpus. [D.N. 186 at 4-5, 13-14]. That claim depends on the premise that Cyberlux retained authority to encumber its property post-Receivership. Because the Order was effective on September 24, 2025, and required Receiver approval for any transfer or encumbrance, the WeShield security agreement is void. *See* Order ¶¶ 9, 10. The same defect undermines certain amounts of Legalist's asserted priority. The Order placed Cyberlux's financial affairs squarely under the supervision of the Texas Court, vesting the Receiver with control over Cyberlux's contract rights and financial dealings. Once the Order was entered, any party seeking to extend new credit to Cyberlux was required to seek and obtain authorization from the Receiver. Despite knowledge of the Receivership, Legalist did not do so. It continued post-receivership lending. Therefore, such lending was undertaken in circumvention of the Order. Legalist made a calculated decision to continue advancing funds, and as discussed more below, it must bear the consequences

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<sup>6</sup> ANPC, ARG, and TAG, while not filing a motion to intervene in the Texas Court, did engage with the Receiver in efforts to attempt to satisfy their claims through the Receivership.

of that decision, including the Court’s equitable refusal to treat those post-receivership advances as a basis for inflating its priority claim against the Corpus.

And, though conflicts pervade the other Motions, with Movants disagreeing not only with the Receiver, but with each other about who holds priority and in what order, *see* [D.N. 165 at 13] (“TAG should have priority over all other parties other than possibly ARG”); [D.N. 167 at 16] (“ARG should have priority over all other parties and should be paid in full before all of them.”); [D.N. 169 at 14] (ANPC’s claim is behind the United States and Legalist, subject only to the Court upholding their assertions, but “ahead of and superior to” all other claims); [D.N. 178 at 6-7] (stating that only Legalist and the United States have a perfected security interest in the Corpus and all other claimants, including Fairwinds, take no priority over each other); [D.N. 180 at 13] (“[Atlantic Wave] asserts that it is in 2nd position behind government and ahead of all others . . . .”); [D.N. 183 at 7] (“The United States has perfected tax liens on the [Corpus] . . . and the liens have priority as to all other credits, with the exception of certain of Legalist’s claims.”); [D.N. 186 at 13-14] (listing the United States as first in priority with Legalist the WeShield as second and third in priority); [D.N. 188 at 15] (arguing that the Corpus should be distributed to Cyberlux first), those conflicts do not impede this Court’s ability to grant the Receiver summary judgment with respect to the Corpus.

## **II. The Receivership should be expanded.**

The Receiver does not dispute the docket entries filed in the Texas Court as they relate to the Receivership.<sup>7</sup> What is undisputed, however, is that the Receivership has not been terminated. Though Legalist notes that the case in which the Receiver has been appointed has been nonsuited,

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<sup>7</sup> While the Receiver did file a Report Motion to Distribute and Terminate the receivership in June 2025, Cyberlux, within one day, objected to the termination and continues to object to the Receiver’s actions.

[D.N. 175], the “termination of the litigation by dismissal does not, ipso facto, discharge the receiver.” *First Nat. Bank v. Cohen*, 55 S.W. 530, 533 (Tex. App. 1899). Instead, the Texas Court retains “continuing jurisdiction and control over the receiver and receivership property” until the trial court conducts proceedings “necessary to conclude the receivership and discharge the receiver.” *Moore v. Allstate Cnty. Mut. Ins. Co.*, No. 02-24-00117-CV, 2025 WL 353069, at \*2 (Tex. App. Jan. 30, 2025) (internal citations omitted); *see Bayoud v. Bayoud*, 797 S.W.2d 304, 310 (Tex. App. 1990) (“However and whenever a receivership ends, the trial court must conduct the necessary proceedings to discharge the receiver.”) (quoting *Humble Exploration Co. v. Walker*, 541 S.W.2d 941, 945 (Tex. App. 1982)).

“A receivership is unique in that the trial court can conduct proceedings long after judgment in the main case is final.” *Moore*, No. 02-24-00117-CV, 2025 WL 353069, at \*2. The Receiver’s authority “includes modifying the trial court’s previous orders to respond to new circumstances.” *Id.*; *see also Hill v. Hill*, 460 S.W.3d 751, 764 (Tex. App. 2015) (stating “even after issuing an order discharging a receiver, a trial court has power to continue the receivership if circumstances require.”). Ultimately, the Receivership remained, and remains, open for the Receiver to marshal assets and perform his obligations within the Order. Accordingly, because the Order allows and, at least, one party requests a receiver, this Court should expand the Receivership to permit the Receiver to fully carry out those obligations in connection with the Corpus.

“Under receivership law generally, a receiver is an officer of the court, the medium through which the court acts. He is a disinterested party, the representative and protector of the interests of all persons, including creditors, shareholders and others in the property in receivership.” *Rich v. Cantilo & Bennett, L.L.P.*, 492 S.W.3d 755, 760-61 (Tex. App. 2016) (internal quotations omitted); *see also S.E.C. v. Elfindepan, S.A.*, 169 F. Supp. 2d 420, 424 (M.D.N.C. 2001); *Ledbetter v.*

*Farmers Bank & Tr. Co.*, 142 F.2d 147, 150 (4th Cir. 1944). Expanding the Receivership here would further these principles by allowing the Receiver to continue overseeing the administration and distribution of the Corpus.

Expansion of the Receivership is particularly appropriate because the Receivership pre-dates the instant litigation and, as certain parties argue, the priority of a claim to the interpleaded funds is normally determined at the time the action is initiated. *See Texaco, Inc. v. Ponsoldt*, 118 F.3d 1367, 1371 (9th Cir. 1997). By the time this action commenced, the Receiver had already been appointed and vested with exclusive authority and control over Cyberlux's assets, including the ability to locate, marshal, and administer those assets pursuant to the Order. Many of the competing claims asserted by Movants arise directly from actions taken by Cyberlux while in the Receivership, further underscoring the Receiver's central role in the dispute. Moreover, at the time this action was filed, the Receiver had absolute authority to the Corpus pursuant to the Order and had already taken steps that enabled the Corpus to be secured and preserved.

Courts in the Fourth Circuit have assessed whether the appointment of a specific receiver would "likely do more good than harm," by examining the proposed receiver's familiarity with the assets and issues involved. *LNV Corp. v. Harrison Fam. Bus., LLC*, 132 F. Supp. 3d 683, 695 (D. Md. 2015). That standard is readily satisfied here. The Receiver is familiar with Cyberlux's financial structure, creditor relationships, and the claims asserted by the Interpleader Defendants and other creditors. Expanding the Receivership would promote continuity, efficiency, and equitable administration of the Corpus.

### **III. No genuine dispute exists as to Receiver's fees.**

While disputes run rampant between the Motions, it cannot be disputed that the Receiver is entitled to his fee for services rendered pursuant to the Order. Not one Movant affirmatively

disputes the Receiver's entitlement to fees incurred in the administration of the Receivership. Instead, most Movants simply ignore the issue altogether, while those who do address the Receiver do not allege that he is not entitled to be paid for his court-ordered work. At most, certain Movants argue that the Receiver lacks a substantive ownership interest in the Corpus. *See* Section I, *supra* at 4. This contention, however, is distinct from whether the Receiver is entitled to payment of his fees from property subject to the Receivership. That distinction matters.

The Receiver's right to reasonable compensation arises from the Order appointing him and from the services he performed under that Order, not from whether he ultimately prevails on a claim of priority or ownership as to a particular asset. The Order provides that the Receiver's fees and expenses "are considered costs of the court" and entitles the Receiver to a fee of "25% of all sales of assets that come into his actual, constructive, or legal possession, and all recoveries and credits against the judgment." Order ¶ 53. Thus, even Movants who contend that the Receiver has "no claim to the Corpus" do not—and cannot—argue that the Receiver is ineligible to be paid for acting as the Receiver and his involvement in ensuring the Corpus, in its entirety, was available for distribution amongst the Interpleader Defendants and ultimately, Cyberlux's creditors whom the Receiver has sought to ensure were paid—at least in part.

Because the material facts concerning the Receiver's appointment, his performance of his court-authorized duties, and his entitlement to reasonable compensation are undisputed, the Court should grant partial summary judgment declaring that the Receiver is entitled to summary judgment for his fees, in the amount of 25% of the remaining Corpus, or \$5,934,234.39.

### **CONCLUSION**

For the foregoing reasons, and the reasons asserted at any oral argument, the Receiver respectfully requests that the Court deny Movants' Motions for Summary Judgment and grant

Receiver's Motion for Summary Judgment and finding that he has priority to receive the Corpus for distribution to creditors pursuant to the Receivership, or, at a minimum, the Receiver's share of the remaining Corpus for fees and costs in the amount of \$5,934,234.39.

Dated: April 22, 2026

ROBERT W. BERLETH, as RECEIVER

*/s/ Robert N. Drewry*

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 22, 2026, the foregoing was electronically filed with the Clerk of Court using the CM/ECF System, which will then send the document and notification of such filing (NEF) to all counsel of record.

/s/ Robert N. Drewry