



## Law Offices of Jason M. Zoladz

+1-917-698-9995 jason@zoladzlaw.com P.O. Box 26954, Los Angeles, California 90026

June 10, 2025

### VIA E-MAIL

Robert Berleth  
Appointed Receiver  
Berleth & Associates, PLLC  
9950 Cypresswood Dr., Suite 200  
Houston, TX 77070  
[rberleth@berlethlaw.com](mailto:rberleth@berlethlaw.com)

**Re: Montague Capital Partners, LLC - Proof of Claim in Cyberlux Corporation  
Receivership in Connection with Atlantic Wave Holdings, LLC, et al. v. Cyberlux  
Corporation, et al., Cause No. 2024-48085, 129th Judicial District Court of Harris  
County, Texas**

Dear Honorable Receiver Robert Berleth:

I represent Montague Capital Partners, LLC ("Montague") in connection with amounts due under the January 1, 2023 Amended and Restated Consulting Agreement ("Agreement"), and associated January 5, 2023 Memorandum ("Memorandum") (collectively, the "2023 Consulting Agreement"), between Montague and Cyberlux Corporation ("Cyberlux"). I write to submit documentation of Montague's claims against Cyberlux Corporation in the above-referenced receivership proceedings.

### **Background**

#### *Montague's Work on Behalf of Cyberlux*

Montague and Cyberlux have maintained a close working relationship since 2019, formalized in the original January 1, 2019 Consulting Agreement (Encl. 1) and subsequently amended and restated via the 2023 Consulting Agreement (Encls. 2 & 3). Montague, and its Managing Partner, Denis Kalenja, was the driving force behind Cyberlux's most important acquisitions and was responsible for sourcing and negotiating

the commercial agreements that account for the overwhelming majority of Cyberlux's revenues to date. Highlights of Montague's work on behalf of Cyberlux include:

- Formulating and leading Cyberlux's transition from a small company focused on lighting systems to legitimate defense subcontractor;
- Guiding Cyberlux's acquisition of the (then-distressed) high-speed drone manufacturer Catalyst Machineworks ("Catalyst") and advising on Catalyst's transformation from drone-enthusiast company to the military/law-enforcement drone manufacturing arm of Cyberlux;
- Leading, negotiating and closing on Cyberlux's acquisition of Datron World Communications, Inc. ("Datron") and subsequently integrating Datron—and its tactical military communications equipment manufacturing capabilities—into Cyberlux; and
- Sourcing and negotiating the contract underlying Cyberlux's most significant revenue stream—Cyberlux's \$79M August 29, 2023 contract with Huntington Ingalls Industries ("HII") to deliver FlightEye Model K8 drones for use in Ukraine.

In exchange for Montague's strategic business development services, work in identifying and developing acquisitions, and assistance with sourcing, negotiating and closing commercial contracts, Cyberlux agreed to pay Montague substantial fees and commissions (detailed below) pursuant to the 2023 Consulting Agreement.

#### *Relevant Terms of the 2023 Consulting Agreement*

Section 3.2 of the Agreement provides:

As base compensation for the Services and the rights granted to Cyberlux in this Agreement, Cyberlux shall pay Consultant a fixed fee of \$250,000.00 (the "Fees") per annum, payable in equal monthly installments on the first business day of each month, commencing January 3, 2023.

Section 3.3 of the Agreement states:

In addition to the Fees, Consultant shall be entitled to receive two percent (2%), with the exception of any Ukraine-related commercial contracts for which the Consultant shall be entitled [sic] to five percent (5%), of the gross amounts payable to Cyberlux (the "Commission") under commercial contracts sourced by

Consultant, including, without limitation, the proceeds of joint ventures, licenses and software as service agreements (collectively, the "Commissionable Contracts"). **Commissionable Contracts**, including designated lines of business, work orders, and similar **in effect on the date hereof are listed on Schedule 2** hereto.

(emphasis added).

Schedule 2 of the Agreement provides:

**The following are Commissionable Contracts and/or work orders in effect as of January 1, 2023.**

- That certain line of business related to the sale of tactical drones from time to time for use by the Ministry of Defense of Ukraine, including without limitation, Order no. 220/9169 dated September 21, 2022 for 1,000 tactical drones type FlightEye KOA031831, plus training, service and maintenance for use by Ministry of Defense of Ukraine.

And the January 5, 2023 Memorandum states (in relevant part):

The Agreement cited in Schedule 2, that certain Order no. 220/9169 dated September 21, 2022 for 1,000 tactical drones type FlightEye KOA031831. The Parties desire to memorialize that such order was subsequently increased to 2,000 units, as to which 5% commission is payable pursuant to the Agreement.

Montague is entitled to receive commissions "for two years after the termination of the provision of Services under [the] Agreement" (see Section 3.3(a)) and the Agreement does not terminate naturally until January 1, 2026 (see Section 2: "the term of this Agreement shall continue for a period of three years or until earlier terminated by either party").

Those terms—Section 3.2, Section 3.3, Schedule 2, and the excerpted portion of the Memorandum—form the primary basis for Montague's claims for amounts payable and owing by Cyberlux under the 2023 Consulting Agreement.

Further, Montague is entitled to additional penalty payments, and interest payments, on unpaid commissions. Specifically, Section 3.3(c) provides:

In respect of any underpayment of Commission, Cyberlux will pay interest on such underpayment at a rate of one percent (1%) per month; provided that if any payment in respect of any Commissionable Contract is underpaid by an amount in excess of ten percent (10%) of the amount payable thereunder in any month, the Parties agree that such underpayment represents willful misconduct or gross negligence on the part of Cyberlux, and must be cured within ten (10) business days with an additional payment premium of an amount equal to ten (10) percent of the underpayment amount.

Moreover, Section 3.5 provides:

Consultant shall have the right to charge interest on any unpaid Fees, Commission and expenses at the rate of one percent (1.0%) per month, commencing 15 days after the due date thereof, subject to the additional amount in respect of underpaid Commission set forth in Section 3.3 above.

In addition to the fees and commissions due under the 2023 Consulting Agreement, Montague is entitled to receive monthly statements (see Section 3.3(a): "Cyberlux will, within the first five (5) business days of each month provide Consultant with a statement of all payments made under Commissionable Contracts in the prior month") and "have access to the books and records of Cyberlux in respect of all Commissionable Contracts in order to review and confirm the amounts payable as Commission." (See Section 3.3(c).)

*Payments to Cyberlux Under the Ukraine-related Commissionable Contract*

As you know, on or about August 29, 2023, Cyberlux entered into a contract with HII to deliver FlightEye Model K8 drones for use by the Ministry of Defense of Ukraine. That contract, with an initial total value of approximately \$79 million, represents the culmination of Montague's strategic efforts to position Cyberlux as a key supplier in the defense sector. Based on information available to Montague, including Cyberlux's public financial disclosures, Cyberlux received approximately \$38.7 million in payments under this contract during 2023. Furthermore, according to your June 4, 2025 correspondence, HII is expected to make an additional payment of \$25,795,303.38 to Cyberlux in the near term. These payments are subject to Montague's entitlement to commissions at the contractual rate of 5% under the 2023 Consulting Agreement.

### **Material Breaches of Consulting Agreement by Cyberlux**

Cyberlux has materially breached multiple provisions of the 2023 Consulting Agreement, depriving Montague of millions of dollars in rightfully earned compensation while simultaneously failing to provide the transparency promised under the Agreement. These breaches are not mere technical violations but represent a fundamental failure to honor the contractual relationship that has been instrumental to Cyberlux's success.

#### *Cyberlux's Failure to Pay Commissions*

Despite receiving approximately \$38.7 million in payments during 2023 under the Ukraine drone contract—a Commissionable Contract expressly identified in Schedule 2 of the Agreement and subject to the 5% commission rate—Cyberlux has failed to pay Montague any portion of the \$1,935,000 in commissions due on these receipts. This complete failure to pay commissions constitutes not only a material breach of Section 3.3 of the Agreement but also triggers the willful misconduct provisions of Section 3.3(c), as the underpayment exceeds 10% of the amount payable (indeed, it represents a 100% underpayment). Under the Agreement's terms, this gross underpayment subjects Cyberlux to both interest charges at 1% per month and an additional penalty equal to 10% of the underpayment amount.

#### *Cyberlux's Failure to Pay Consulting Fees From January 2025 through the Present*

In addition to the commission obligations, Cyberlux has failed to pay the monthly consulting fees required under Section 3.2 of the Agreement. Beginning with the January 2025 payment and continuing through the present, Cyberlux has failed to make six (6) of the required monthly payments of \$20,833.33. As of the date of this letter, the unpaid consulting fees total \$125,000 for the period January through June 2025, exclusive of interest. This ongoing failure to pay base compensation represents a separate and independent material breach of the Agreement.

#### *Cyberlux's Failure to Provide Required Statements*

Compounding these payment failures, Cyberlux has breached its reporting obligations under Section 3.3(a) of the Agreement by failing to provide monthly statements detailing payments received under Commissionable Contracts. Despite the clear requirement that such statements be provided within the first five business days of each month, Montague has received no statements whatsoever regarding the substantial payments Cyberlux has received under the Ukraine drone contract. This lack of

transparency has forced Montague to rely on incomplete public information and third-party sources to determine the extent of amounts owed, thereby frustrating the Agreement's provisions designed to ensure accurate and timely commission payments.

### **Montague's Claims and Records Demands**

Based on the foregoing breaches, Montague requests:

1. **Payment of All Amounts Due:** Cyberlux owes (a) \$1,935,000 in unpaid commissions on the approximately \$38.7 million received during 2023, (b) \$193,500 representing the 10% penalty on such underpayment pursuant to Section 3.3(c), (c) accrued interest on the unpaid commission at 1% per month from the date each payment was due, (d) \$125,000 in unpaid monthly consulting fees for January through June 2025, and (e) accrued interest on unpaid consulting fees at 1% per month from each payment's due date.
2. **Commission on Pending HII Payment:** Upon receipt of the \$25,795,303.38 payment from HII referenced in the Receiver's correspondence, Cyberlux will owe Montague the 5% commission due thereon (\$1,289,765.17) within ten business days. Cyberlux's failure to timely pay this commission triggers the 10% penalty provisions of Section 3.3(c).
3. **Provision of Monthly Statements:** Please cause Cyberlux to provide all monthly statements required under Section 3.3(a) from January 2023 through the present, detailing all payments received under the Ukraine drone contract and any other Commissionable Contracts.
4. **Access to Books and Records:** Pursuant to Section 3.3(c), Montague requests access to all books and records of Cyberlux relating to Commissionable Contracts, including but not limited to all invoices, payment records, correspondence with HII, and banking records showing receipt of payments.

Montague understands that Cyberlux's receivership status will require Court approval for certain actions. Montague will work constructively with you to ensure Cyberlux's obligations are satisfied in accordance with applicable law and court orders.

### Summary of Claims

Based on Montague's review of available information and the contractual terms, Montague's claims (before applicable interest) total approximately \$3,543,265.17, comprising:

#### A. Unpaid Commissions on Ukraine Drone Contract

The Agreement expressly designates the Ukraine drone contract as a Commissionable Contract subject to a 5% commission rate. The January 5, 2023 Memorandum specifically acknowledged that Order No. 220/9169 was increased from 1,000 to 2,000 units and confirmed the 5% commission rate.

1. **Commission on 2023 payments** (~\$38.7 million): \$1,935,000.00
2. **Commission on 2025 HII payment** (\$25,795,303.38): \$1,289,765.17
3. **10% penalty on unpaid 2023 commissions** (per Section 3.3(c)): \$193,500.00

Total unpaid commissions (before applicable interest) total: **\$3,418,265.17**

#### B. Unpaid Monthly Consulting Fees

- January 2025 through June 2025: 6 months × \$20,833.33 = \$125,000.00

Interest accrues at 1% per month on all unpaid amounts pursuant to Sections 3.3(c) and 3.5 of the Agreement.

### Impending Lawsuit and Document Preservation

Given the magnitude of Cyberlux's breaches and the substantial sums at stake, Montague will commence litigation soon to enforce its rights under the 2023 Consulting Agreement. Such litigation will seek not only the amounts currently due but also declaratory relief regarding Cyberlux's ongoing commission obligations, specific performance of the audit and reporting provisions, and all available damages.

Accordingly, please preserve all documents, electronic records, and other evidence relating to (i) the Ukraine drone contract and all payments received thereunder, (ii) all Commissionable Contracts and payments received thereunder, (iii) Montague's services under the 2023 Consulting Agreement, and (iv) all communications regarding commission obligations, payment disputes, or Montague's rights under the Agreement.

Letter to Honorable Receiver Robert Berleth

June 10, 2025

Page 8

I appreciate your attention to this matter and look forward to working with you to maximize recoveries for all stakeholders. Please do not hesitate to contact me if you require any additional information or documentation.

Very truly yours,



Jason M. Zoladz

Unofficial Copy Office of Marilyn Burdette District Clerk