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INVESTORSHUB.COM, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

KENNETH EADE,

Plaintiff,

v.

INVESTORSHUB.COM, INC., a
Florida corp., DOE 1, aka NO
DUMMY, DOE 2, aka JANICE
SHELL, DOE 3, aka FASTER183,
DOE 4, aka STOCK MAVIN, DOE 5,
aka RENEE, DOE 6, aka VIRTUAL
DREW, DOE 7, aka BOB 41, DOE 8
aka OVERACHIEVER, DOE 9, aka
DOBERMAN, and DOE 10,

Defendants.

Case No. CV11-01315 JAK (CWx)

**DEFENDANT INVESTORSHUB.COM,
INC.'S REPLY IN SUPPORT OF
APPLICATION FOR ORDER TO
SHOW CAUSE WHY A CONTEMPT
CITATION SHOULD NOT ISSUE
AGAINST KENNETH EADE FOR
FAILURE TO COMPLY WITH COURT
ORDERS**

Date: April 18, 2013

Time: 10:00 am

Courtroom: 750

1 **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**

2 As with most of his papers, Kenneth Eade (“Eade”), in his untimely filed
3 opposition, again misrepresents the Court record and his financial situation in an
4 attempt to persuade the Court that he is the aggrieved party. Eade continues to file
5 self-serving declarations regarding his lack of financial assets and his inability to
6 comply with the Court orders while conveniently excluding various assets or
7 information which is relevant to his ability to pay the two Court orders. The fact is
8 that Kenneth Eade has had the ability to pay and continues to have the ability to pay
9 but chooses to not comply with the Court’s orders. Information has been provided to
10 the Court by Investorshub.com, Inc. which confirms that Eade is not being candid
11 with the Court in regards to his assets and/or ability to pay. It is clear that Eade is not
12 concerned with providing factually accurate statements to the Court and/or
13 Investorshub.com, Inc., nor is he concerned with abiding by the Court’s orders. For
14 the aforementioned reasons and those identified in the moving papers, the Court
15 should issue an Order to Show Cause requiring Kenneth Eade to explain why he
16 should not be held in contempt of court for failure to abide by the September 27,
17 2011 and July 2, 2012 Court orders.

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19 **I.**

20 **EADE CONTINUES TO TRY AND MISLEAD THE COURT**

21 On March 26, 2012, the Court ordered that Eade undergo a Debtor’s
22 Examination in order that Defendant Investorshub.com, Inc. could ascertain a more
23 accurate picture of Eade’s finances and ability to pay the two Court Orders. While a
24 true and accurate picture of Eade’s financial situation remains shadowy at best, what
25 is clear is that Eade has not been transparent with his disclosures to the Court and/or
26 Investorshub.com, Inc., in spite of the Court’s orders and Code requiring full
27 disclosure on his part. Eade has shown a pattern of only disclosing assets which he
28

1 believes Investorshub.com, Inc. is aware of. Eade conveniently forgets to identify
2 other assets which could satisfy the Court's orders but he believes are unknown to
3 Investorshub.com, Inc.

4 While the Court may have not been inclined to grant civil contempt in March
5 2012 based on the available information, what Eade fails to acknowledge in his
6 opposition papers is that "unusual circumstances" have been subsequently
7 revealed after Eade underwent the Court ordered Debtors Examination, namely his
8 lack of candor with the Court for the last year regarding his financial assets and
9 obligations. It has been necessary for Investorshub.com, Inc. to ferret out financial
10 assets that Eade has omitted from his disclosures and the uncovering of contradictions
11 in his sworn testimony, including the conveniently timed transfer of assets to his wife
12 after being ordered to pay Investorshub.com, Inc. There is potential evidence of other
13 assets which Eade has not yet disclosed, evidence which Investorshub.com, Inc. is in
14 the process of confirming. If true, this would only further confirm Eade's deception
15 on the Court. These are issues that must be addressed in the Order To Show Cause
16 Re Contempt Hearing.

17 18 II.

19 ALL EVIDENCE PRESENTED TO THE COURT SHOWS THAT EADE HAS 20 THE ABILITY TO PAY THE COURT ORDER AND THEREFORE HIS 21 VIOLATION IS WILLFUL AND IN BAD FAITH

22 Eade has not abided by the Court Order and has not paid the costs and fees
23 award as required. Neither the sanctions nor monthly update ordered by the Court
24 has been complied with by Eade either. Eade has refused to provide "actual financial
25 data" in connection with his claims of inability to pay the Court's orders as requested
26 by the Court. (Docket 69, Court Civil Minutes from February 13, 2012.)

27 The Court advised Eade to make payments in line with his spousal support

1 obligations being reduced. Eade has not followed the Court's strong
2 recommendation. Eade has only made two payments of \$1,000.00, the first one on
3 November 19, 2012, the same day as a Status Conference. The other payment was on
4 January 3, 2013, the same day he filed a Status Report. The two token payments
5 were merely an illusion to make it appear that he was making a sincere attempt to
6 satisfy the Court's order. Other than the two payments of dubious timing, Eade has
7 made no further payments; though by his own stated intention to the Court in his
8 November 13, 2012 declaration, he should have made five such payments by now.

9 Eade has assets from which he can satisfy the Court's orders, but has refused to
10 do so. Eade's continual misrepresentation to the Court are willful and clearly in bad
11 faith. Again, at no time prior to January 3, 2013, did Eade identify in any of his
12 declarations that he was awarded \$125,000 and the return of 3 million shares of
13 Independent Film Development Corporation in July 30, 2012. While Eade indicated
14 in his declaration that "he does not believe the monetary judgment is collectible, and
15 the transfer agent has not yet issued [him] the 3 million shares" his declaration does
16 not explain why he had not previously disclosed this asset to the Court. (Docket 95,
17 Status Report Re: Motion for Contempt, and/or Monetary Sanctions, dated January 3,
18 2013.) Eade still has no credible explanation for the transfer of his shares to his
19 wife.

20 As a lawyer and therefore an officer of the Court, he should know that he is
21 required to make truthful and full disclosures to the Court. It is Investorshub.com,
22 Inc's contention that Eade has been anything but truthful, and therefore acting in
23 willful bad faith. Irrespective, these are issues to be addressed by the Court in the
24 Order to Show Cause Re Contempt Hearing.

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1 IV.

2 **EADE’S CONTEMPT OF COURT ORDERS IS ENFORCEABLE BY**
3 **CONTEMPT**

4 As stated in the moving papers, Federal Courts have the inherent power to
5 impose sanctions against parties and attorneys for willful disobedience of Court
6 orders or bad faith misconduct. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 43-44,
7 111 S.Ct. 2123 (1991); *see also Fink v. Gomez*, 239 F. 3d 989, 991 (9th Cir. 2001)
8 (federal court has “inherent power to levy sanctions...for willful disobedience of a
9 court order”) (internal quotations omitted). Federal courts also have inherent “power
10 to punish for contempts.” *See Chambers*, 501 U.S. at 44. Eade argues that the Order
11 is a judgment and, therefore, cannot be enforced by contempt. First, he is wrong as to
12 the law. Second, the order is not a judgment as he attempts to classify it. As
13 identified in *Melbostad v. Fisher*, 165 Cal. App. 4th 987 (2008), an attorney fees
14 award in an anti-SLAPP case is “an order made after a judgment”. In this matter, the
15 Motion to Strike the Complaint was entered on July 12, 2011. The Order Awarding
16 Attorneys Fees was granted on September 27, 2011. Clearly this is an order after
17 judgment. As such, it is an order that is still in the inherent powers of the Court and
18 subject to Court’s contempt power.

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IV.

CONCLUSION

For the foregoing reasons, Investorshub.com, Inc. respectfully requests that this Court issue an Order to Show Cause requiring Kenneth Eade to explain why he should not be held in contempt of court for failure to abide by the September 27, 2011 and July 2, 2012 Court orders and further order that all payments be made within ten (10) days.

Dated: March 22, 2013

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