

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES SECURITIES AND)	
EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	Case No. 2:05-cv-00531-MMD-GWF
vs.)	
)	
EXOTICS.COM, INC., et al.,)	
)	
Defendants.)	

**ORDER HOLDING DEFENDANT GARY THOMAS
IN CIVIL CONTEMPT**

This matter is before the Court on the Plaintiff’s, the United States Securities and Exchange Commission’s (“Commission” or “SEC”), Motion For An Order To Show Cause Why Defendant Gary Thomas (“Thomas”) Should Not Be Held In Civil Contempt. (ECF 547).

On August 14, 2018, the Court held an evidentiary hearing. The SEC was represented by Nancy E. Tyler and Marsha C. Massey. Thomas was present and appeared pro se.

The Court reviewed the Plaintiff’s Motion for an Order to Show Cause (ECF No. 547), Defendant's responses (ECF Nos. 449 and 550), Plaintiff's reply (ECF No. 551), and the Order Certifying Facts to the District Judge Under 28 U.S.C. § 636(E) (ECF No. 560).

Based on the pleadings, the testimony, and the parties’ admitted exhibits, the Court finds:

1. This Court entered Judgment against Thomas on December 22, 2006. (ECF No. 86). For the last twelve years, Thomas has evaded paying that Judgment.
2. On March 31, 2014, the Court entered an Installment Payment Plan Order (“Initial Payment Plan”) ordering Thomas to make payments of \$15,966 on the first day of each month beginning April 1, 2014 in satisfaction of his debt. (ECF No. 449).

3. On August 9, 2016, the Court entered an Order holding Thomas in civil contempt for failure to comply with the Court's Initial Payment Plan. The Court further directed the parties to work toward establishing a new payment plan for Thomas. (ECF No. 515).
4. On October 23, 2017, the Court entered a Revised Installment Payment Plan Order ("Second Installment Order") requiring Thomas to make payments of \$5,000 on the first day of each month beginning November 1, 2017. (ECF No. 544).
5. Thomas objected to the Second Installment Order contending that he supported himself via loans and had no disposable income.
6. At the hearing on August 14, 2018, the Court specifically overruled Thomas' objection and found that the financial records revealed that Thomas did not use the loans for business, but used them for personal expenses. The records further show that Thomas did not diminish his lifestyle and that any inability to comply with the Second Installment Order was of his own making.
7. The Court finds that the loans constituted disposable income and that Thomas had the ability to comply with the Second Installment Order but did not. The Court further finds that Thomas' piecemeal production of financial records to the Court and the Commission constitutes an effort to defy efforts to obtain compliance with the Judgment and that Thomas' excuses for nonpayment are not credible.
8. Because Thomas failed to comply with the Court's Second Installment Order to make monthly payments of \$5,000 on the following dates: November 1, 2017, December 1, 2017, January 1, 2018, February 1, 2018, March 1, 2018, April 1, 2018, May 1, 2018, June 1, 2018, July 1, 2018, and August 1, 2018 and had the ability to do so, the SEC

presented clear and convincing evidence that Thomas is again in contempt of the Court's Orders.

IT IS THEREFORE ORDERED that Gary Thomas is in Contempt of Court and that sanctions are appropriate. THE COURT ORDERS that:

1. No later than thirty (30) days following the entry of this Order, Thomas shall pay the sum of \$1,000.00 as a penalty for his failure to comply with the Court's Second Installment Payment Order;
2. No later than thirty (30) days following the entry of this Order, Thomas shall pay the Commission's expenses of \$1,836.63 for attendance at the hearing on August 14, 2018;
3. All payments shall be made by check or money order payable to the United States Securities and Exchange Commission and shall be mailed to the United States Securities and Exchange Commission, c/o Nancy E. Tyler, Assistant Chief Litigation Counsel, 100 F. Street, NE, Mail Stop 5631, Washington, D.C. 20549.
4. Because Thomas failed to establish an inability to comply with the Second Installment Payment Order, it shall remain in full force and effect and payments of \$5,000 per month shall begin on October 1, 2018.
5. Failure to comply with the Orders of this Court may lead to additional sanctions.

SO ORDERED on this 23rd day of August, 2018.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', written over a horizontal line.

The Honorable Miranda M. Du
United States District Court Judge