

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:16-cv-00848-FDW-DSC

CARGILL, INC., and CARGILL MEAT)
SOLUTIONS, CORP.,)
)
Plaintiffs,)
)
vs.)
)
WDS, INC., JENNIFER MAIER, and)
BRIAN EWERT,)
)
Defendants.)
_____)

ORDER

THIS MATTER is before the undersigned on Plaintiffs’ application for an order charging the limited liability company and partnership interests held by Judgment Creditor Brian Ewert (“Ewert”) with payment of the Judgment in this action, plus post-judgment interest (the “Motion”). (Doc No. 375).

Plaintiffs have a Judgment against Ewert totaling \$111,872,369.81, plus post-judgment interest (collectively, the “Judgment”). (Doc. No. 366). The Judgment remains unsatisfied. Ewert is believed to own interests in ODDS, LLC; DLP, LLC (or any iteration of DLP, including, without limitation, “Diverse Label Printing” and “DLP Distribution”); DLP Holdings, LLC; Jet Me Around, LLC (or any iteration of the same, including, without limitation, “JMA”); B-Pak Manufacturing Solutions, LLC; Refrigerated Trucking & Logistics, LLC; WDS Canada, LLC; WDS Laundry Services, LLC; and TBE, LLC (each an “NC Entity” and collectively, the “NC Entities”).¹

¹ The Court takes judicial notice that the NC Entities (in at least one iteration) are registered with the North Carolina Secretary of State. Fed. R. Evid. 201.

Based upon the Motion, the supporting Memorandum, and the entire record in the case, for good cause shown, Ewert's ownership interests in the NC Entities are subject to the entry of a charging order under N.C. Gen. Stat. §§ 57D-5-03 and 59-703. Plaintiffs shall have the rights of an assignee of such interests, namely, the right to receive the distributions and allocations or any other payment obligation to Ewert to which Ewert becomes entitled based on his ownership interest in a NC entity.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. The Motion (Doc. No. 375) is GRANTED IN PART and DENIED IN PART.²
2. Ewert's ownership interests in ODDS, LLC; DLP, LLC (or any iteration of DLP, including, without limitation, "Diverse Label Printing" and "DLP Distributions"); DLP Holdings, LLC; Jet Me Around, LLC (or any iteration of the same, including, without limitation, "JMA, LLC"); B-Pak Manufacturing Solutions, LLC; Refrigerated Trucking & Logistics, LLC; WDS Canada, LLC; WDS Laundry Services, LLC; or TBE, LLC are charged with payment of the Judgment, including post-judgment interest.
3. An NC Entity shall make no distributions, allocations, dividends, or any payment whatsoever to Ewert on account of his ownership interest in such NC Entity until further Order of the Court.

² Upon discovery of other limited liability companies or partnerships in which Ewert now or in the future holds any interest, not identified herein, Plaintiff may apply for a charging order as to the newly identified limited liability company or partnership interests from a court of competent jurisdiction. If circumstances justify a charging order addressing any limited liability company or partnership in which Ewert now or in the future holds any interest, Plaintiff may apply for such order at such time. At this time, the Court declines to grant such relief.

4. Each NC Entity shall pay directly to Plaintiffs all distributions, allocations, dividends, or payments owing to Ewert by such NC Entity in satisfaction of the Judgment until the Judgment is satisfied or further Order of the Court.

5. If Ewert receives any distributions, allocations, dividends, or payments on account of his ownership interest from any NC Entity in violation of this Order, Ewert shall immediately deliver all such distributions, allocations, dividends, or payments on account of his ownership interest to Plaintiffs and shall hold all such funds in trust for Plaintiffs until so delivered.

6. Ewert is enjoined and prohibited from circumventing the terms or purposes of this Order.

IT IS SO ORDERED.

Signed: April 30, 2018

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

