

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:16-cv-00848-FDW-DSC

CARGILL INCORPORATED and CARGILL
MEAT SOLUTIONS CORPORATION,

Plaintiffs,

v.

WDS INC., JENNIFER MAIER, and
BRIAN EWERT,

Defendants.

**ORDER SETTING BOND
AND OTHER RELIEF**

THIS MATTER is before the Court following the June 21, 2018, hearing at which Brian Ewert was ordered to appear and respond to questions about his assets. *See* Doc. 425.

On April 25, 2018, Plaintiffs moved for issuance of an arrest warrant and injunctive relief against Ewert. Doc. 381. This Court granted the request for issuance of an arrest warrant under N.C. Gen. Stat. § 1-355—deferring the request for injunctive relief to Judge Whitney—and ordered a hearing for Ewert to appear and respond to questions regarding his assets. Doc. 423. The arrest warrant was issued on June 11, 2018, Doc. 424, and stayed the next day, Doc. 425, after the parties informed chambers they were cooperating as to counsel’s availability for the hearing and Ewert’s attendance. This Court set the evidentiary hearing for June 21, 2018. Doc. 425.

On June 18, 2018, the Court was informed by the U.S. Marshals Service that, according to the U. S. Department of State, Ewert had applied for an expedited passport that day, to be picked up on June 20, 2018. *See* Doc. 426. The Court lifted the stay of the arrest warrant under seal, Doc. 424, unsealing that Order on June 21, 2018, Doc. 433, at which point the warrant was

executed on Ewert, who was present for the evidentiary hearing.¹

The evidentiary hearing followed, with both sides introducing documentary evidence and live testimony of Ewert.² Having considered the evidence introduced by the parties at the June 21, 2018, hearing, the Court issued an oral ruling. This written Order follows.

The Court **FINDS** that Plaintiffs met their burden under N.C. Gen. Stat. § 1-355—having demonstrated the danger of Ewert’s leaving the State and that he has property which he has unjustly refused to apply to the judgment—but that several factors mitigate in favor of a moderate bond amount.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. Ewert **SHALL** post a surety in the amount of \$25,000.
2. Ewert **SHALL** appear for a **status hearing with this Court at 9:30 AM EST on June 26, 2018**, with proof of the bond. Failure to appear with proof of bond will result in Ewert’s detention.
3. Ewert **SHALL** surrender his passport (or cancel his application if not yet issued) immediately.
4. Ewert **SHALL** surrender all remaining private plane use hours to Plaintiffs immediately.

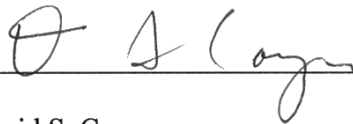
¹ On June 19, 2018, the Court held a phone conference with counsel for Plaintiffs and Ewert, at which the parties confirmed their understanding Ewert would appear at the June 21 hearing. The Court also understands that, on June 20, 2018, Plaintiffs took Ewert’s deposition in advance of the hearing.

² Ewert was represented by Terpening Wilder. Counsel for the Ewert Entities, Rayburn Cooper & Durham, was present at defense counsel table but has not yet entered an appearance in this matter. Plaintiffs were represented by Faegre Baker Daniels and Robinson Bradshaw. Trial counsel for WDS and Maier from Tuggle Duggins and Bell Davis Pitt were present in the courtroom but did not formally appear at the hearing.

5. Ewert **SHALL** transfer control of all Ewert Entities to the Finley Group immediately. Such Ewert Entities include, regardless of incorporation status or name changes, WDS, WDS Laundry, WDS Canada, WDS Automation, DLP, DLP Holdings, ODDS, B-Pak, BCD, Resnex, RFS, RTL, TBE, JMA, JIT, and their subsidiaries or affiliates, and all other entities not yet disclosed by Ewert. Ewert **SHALL NOT** take any action to influence or interfere with the Finley Group's judgment.
6. Ewert **SHALL** comply with further requests for information from Plaintiffs.
7. Ewert **SHALL NOT** dispose of any assets that are not exempt from execution.

SO ORDERED.

Signed: June 26, 2018



David S. Cayer
United States Magistrate Judge

