

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

FEDERAL TRADE COMMISSION

CIVIL ACTION

VERSUS

NO: 89-1740

**NATIONAL BUSINESS
CONSULTANTS, INC., et al**

SECTION: "M"(1)

ORDER

NAMER'S MOTION TO RECONSIDER THE MAGISTRATE'S ORDER ON HIS MOTION TO VACATE THE ORDER TO APPOINT RECEIVER AND/OR FOR A HEARING TO ASSERT EXEMPTIONS FOR SAFE DEPOSIT ITEMS (Rec. doc. 1154)

GRANTED IN PART AND DENIED IN PART

Before the undersigned is the motion of Robert Namer ("Namer") to reconsider the May 1, 2006 order (Rec. doc. 1142) denying his motion to assert exemptions for safe deposit items.¹ The motion to assert exemptions (Rec. doc. 950) urges that items in the safe deposit box do not belong to Namer, but to members of his family. Rec. doc. 950. It is supported with affidavits from his mother, Patricia Namer, and his wife, Barbara Namer. Rec. doc. 1118. The plaintiff, the Federal

¹ Namer's motion for reconsideration of the order of May 1, 2006 was granted for the limited purpose of receiving testimony and other evidence from Namer's wife and mother concerning the ownership of items found in the safe deposit box. A hearing was scheduled for August 9, 2006. Rec. doc. 1190. In light of the District Court's order of July 25, 2006 in Civil Action No. 06-2511 (Rec. doc. 26), Namer's motion was submitted on briefs, without oral argument and without any further submissions by the parties.

Trade Commission (“FTC”), contends that he did not carry his burden of proof to demonstrate that the items did not belong to him. The court determined that the affidavits were insufficient. Namer was required to present evidence from disinterested persons that the objects did not belong to him. He seeks reconsideration of the May 1, 2006 order.

It is undisputed that: (1) Namer’s father, Joseph B. Namer, was a physician who died and is survived by his wife, Patricia Namer; (2) Barbara and Robert Namer are husband and wife; and (3) they have at least three daughters. The inventory of the objects found in the safe deposit box reveals that at least some items were stored for the benefit of persons other than Namer.² For example, item nos. 78 and 79 are a marriage certificate and contract for one of Namer’s daughters. The mere fact that an object was found in the safe deposit box does not mean that it belonged to Namer.

The affidavits identify those objects that Patricia and Barbara Namer contend belong to persons other than Namer. The inventory and photographs of the contents are more revealing. For example, item no. 6 is a money clip with the name “Joe” inscribed on it. In light of the undisputed facts and the affidavit of Patricia Namer, there is sufficient evidence to establish that this money clip once belonged to Dr. Namer. It is unlikely that anyone could provide evidence from independent, disinterested persons that such personal items were given by a husband to his spouse. It is equally unlikely that Dr. Namer or most other persons in the possession of such objects would prepare an act of donation for them. In many situations it is unlikely that a succession descriptive list would

² At the request of the FTC, an in camera inventory was made of the contents of the safe deposit box. Rec. docs. 884 and 888.

be prepared identifying such items. Namer has presented sufficient evidence to carry his burden of proof that the money clip and other similar items do not belong to him, but belong either to his mother, wife or daughters.

Namer's proof falls, however, short with respect to certain items. For example, item no. 39 refers to two loose pearls, and item no. 40 refers to a set of eight silver coins. Barbara Namer states that the pearls belong to her daughter, Dana, and the silver coins belong to another daughter. Unlike the money clip and other items, there is nothing in the character of the loose pearls or the coins to suggest that they belong to the two daughters.

The court has determined that the following items do not belong to Namer:

<u>Item No.</u>	<u>Description</u>
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1	Two gold cufflinks with the symbol for doctors and the letters or initials "M.D."
2.	Two gold colored cufflinks with the initials "J.N."
3.	A lapel pin gold color with the symbol for a doctor.
4.	A lapel pin also in gold, slightly different.
5.	Bronze colored cufflinks with 32 nd Degree Mason crest.
6.	Money clip gold in color with the name "Joe" inscribed on it.
7.	A lapel pin in gold color, script initials "JBN."
8.	A lapel pin gold in color with a Mason's emblem.
9.	A lapel pin gold in color, a little smaller with Mason symbol.
10.	A lapel pin in gold color, initials "M.D.", again the symbol for doctor.
11.	A gold colored chain with a tablet which appears to be the ten commandments.

13. A set of cufflinks gold in color with a black background with the symbol of doctor on them.
14. A gold colored chain with eight charms, one with an Israeli flag, one with a Mason symbol, one with the American Academy of Physicians, the doctor's symbol, two more Mason symbols, a coin and what appears to be the ten commandments.
15. A gold colored bracelet with what appears to be the medical symbol with wings on either side.
16. A charm gold in color Star of David.
17. A gold colored bracelet with the initials "M.D." and "JBM."
18. A necklace, blue and gold beads and a matching bracelet.
19. Charm gold in color with a diamond in the middle Star of David.
21. A yellow chain necklace and a pendant which appears to be a purple stone surrounded by diamond-like stones.
25. Two small gold colored earrings.
26. A pendant which appears to be glass trimmed in gold with a diamond-like substance in the middle.
27. A Shriner's pin, in pewter color with diamonds, or diamond-like substances.
28. A pin which is smaller, also in silver color with some diamond-like substance.
30. Two pendants which are gold colored nuggets.
31. A gold colored pin with a butterfly with a center with a small diamond-like substance.
35. A bracelet gold in color and on its face it says 1 gram Fine gold, 999.9 Suisse.
36. A bracelet gold in color with what appears to be diamond-like substance down the length of it.
37. A gold colored bracelet with some engraving as decoration.
41. A ring with what appear to be circular diamonds and a red colored stone in the middle.
42. A gold colored men's ring with a Masonic emblem and a diamond-like substance in the

middle.

43. A gold colored ladies ring with what appears to be emerald color stone in the middle with four small diamond-like stones.
44. A gold colored men's ring with a doctor's symbol.
45. A gold colored ring with initials "J.N." in what appears to be in diamond-pavre.
46. A woman's ring, gold colored with blue stones and what appear to be diamond-like stones in a flower pattern.
47. A woman's gold colored ring with a coin, a woman's bust.
48. A gold ring with a missing stone, gold colored.
50. A man's Shriner ring with what appears to be pavre diamond-like substances and a camel on one side and the Shriner star on the other.
51. A man's Shriner ring with a large diamond-substance on front, Shriner's Star on the side.
52. A man's gold Masonic ring with the Masonic symbols all around.
53. A woman's gold colored ring with a fairly large diamond-like stone.
54. A woman's gold colored ring, round with diamonds and surrounded by either blue or black stones.
56. A Masonic gold colored ring with pavre diamond appearing stone on either side and a larger diamond appearing stone in the middle.
57. A man's gold colored nugget ring with what appears to be diamond-like stone scarred across the front.
58. A gold colored man's ring with name "Jose" in script across the front.
59. A small gold colored ring marked 1967 with emblem in Mother of Pearl.
60. A gold colored Star of David pendant with three ruby color stones.
61. A small round gold colored pendant with five ruby colored stones around and Hebrew letters down the middle.
62. A gold colored pendant with credit Suisse engraved on the front, 2.5 grams fine gold.

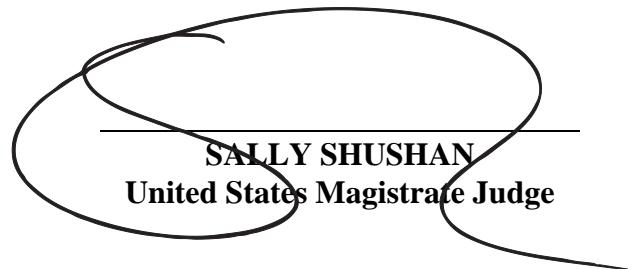
63. A gold colored small Star of David with what appears to be a small diamond-like stone in the middle.
64. A small gold colored Star of David with a gold colored chain.
65. A larger gold colored Star of David with what appears to be pavre like diamonds.
66. A gold colored longer pendant with four very small ruby colored and four very small emerald colored stones.
72. A large gold Star of David on a gold colored chain with a Hebrew HI in the middle.
73. Two gold earrings, one clip on and one pierced. Both are gold colored, both have blue colored stones.
74. One gold colored pendant with blue stones and diamond-like stones.
78. Dana Namer's marriage certificate, July 8, 2000. Jewish Marriage Certificate, Certificate for State of Louisiana, Parish of Orleans.
79. A marriage contract between Mark Steven Massett and Dana Chris Namer, three pages in length, executed June 24, 2000.

Namer has not presented sufficient proof in support of the statements by Patricia and Barbara Namer that the following items do not belong to him:

12. A gold colored coin which has the head of a man on the front and what appears to be an eagle on the back.
39. Two loose pearls.
40. Set of eight silver in color coins labeled, One Dollar Silver Eagle Collection, dated 1986-1993.
69. Two 1924 Silver One Dollar Coins.
71. Three coins, U.S.A. 10 oz. fine gold \$50 coin dated 1998; and the other two are identical.

IT IS ORDERED that: (1) Namer's motion to reconsider the order denying his motion to assert exemptions for safe deposit items (Rec. doc. 1154) is GRANTED in PART and DENIED in PART as specified in this order ; and (2) within twenty-one (21) calendar days of the entry of this order the FTC shall release the objects in the safe deposit box that are identified in this order as the property of persons other than Namer.

New Orleans, Louisiana, this 31st day of July, 2006.



SALLY SHUSHAN
United States Magistrate Judge