



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Enforcement
Bureau of Consumer Protection

March 11, 1999

Raymond Zimmerman
Chairman & CEO
Service Merchandise Company, Inc.
7100 Service Merchandise Drive
Brentwood, TN 37027

Dear Mr. Zimmerman:

The staff of the Federal Trade Commission's Division of Enforcement has conducted an investigation of Service Merchandise Company, Inc. to determine whether it engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. In particular, the investigation concerned whether Service Merchandise was representing diamond weight and synthetic gemstone products in accordance with the Federal Trade Commission's Guides for the Jewelry, Precious Metals and Pewter Industries ("Jewelry Guides"), 16 C.F.R. Part 23.

The Jewelry Guides provide that if diamond weight is stated as decimal parts of a carat, the figure should be accurate to the last decimal place. 16 C.F.R. § 23.17(b). The Guides also advise that fractional representations of diamond weight should be accompanied by a disclosure that the weight is not exact and a disclosure of either the range of weights for that fraction or the tolerance that is being used. *Id.* With respect to synthetic gemstones, the Jewelry Guides provide that "[i]t is unfair or deceptive to use the unqualified words 'ruby,' 'sapphire,' 'emerald,' 'topaz,' or the name of any other precious or semi-precious stone to describe any product that is not in fact a natural stone of the type described." 16 C.F.R. § 23.23(a).

Service Merchandise informed staff that, pursuant to company policy, its promotional materials include disclosures that fractional diamond weights are not exact and provide a chart detailing the range of weights for the fractional diamond weight representation. Service Merchandise has increased the type size of these disclosures and improved the placement of its disclosures in flyers, catalogs and on its website. The disclosures are clear and conspicuous and consumers are confronted with the information prior to purchasing a diamond product.

Service Merchandise also informed staff that its promotional materials consistently identify synthetic gemstone products, and carefully distinguish synthetic from natural gemstones. Service Merchandise requires that its gemstone product suppliers accurately describe and disclose the identity and quality of their gemstone products. The product descriptions must distinguish synthetic from natural gemstones. Further, Service Merchandise's sales staff are trained to distinguish synthetic from natural gemstones when orally describing gemstone products to consumers.

The staff has concluded that no further action is warranted by the Commission at this time. Accordingly, the investigation has been closed. This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,

Elaine D. Kolish
Associate Director

cc: William C. P'Pool, Esq.