



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

Office of the Director
Bureau of Consumer Protection

February 2, 2005

Jodie Z. Bernstein, Esq.
Bryan Cave LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960

Re: Karat Platinum, LLC

Dear Ms. Bernstein:

You have asked for a staff opinion, on behalf of your client, Karat Platinum, LCC, regarding the application of the Commission's Guides for the Jewelry, Precious Metals, and Pewter Industries (Guides), 16 C.F.R. Part 23, to an alloy composed of 585 parts per thousand (ppt) pure platinum, but containing no other Platinum Group Metals (PGM). We understand your December 15, 2004 letter to request a staff opinion on whether the Guides specifically address the marketing of this alloy.

As you are aware, the FTC Guides are administrative interpretations of the application of Section 5 of the Federal Trade Commission Act (Section 5), 15 U.S.C. § 45(a). They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. 16 C.F.R. Part 17. Failure to follow the Guides may result in corrective action under Section 5. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

The Guides provide that, in order for a product to be marked or described as "platinum," the product must contain a minimum of 500 ppt pure platinum. 16 C.F.R. § 23.7(b)(3). In addition, the Guides provide that, if a product contains 500 ppt pure platinum but less than 850 ppt pure platinum, the marketer must disclose the amount in ppt of the remaining PGM in the product. 16 C.F.R. § 23.7(b)(2).

In our opinion, a literal reading of the Guides indicates that they do not address the marketing of the Karat Platinum alloy, except to the extent that they require a minimum of 500 ppt pure platinum. The provisions of Section 23.7 that address the misuse of the word "platinum" do not discuss how to mark or describe an alloy that contains over 500 ppt pure platinum but no other PGM.

Thus, the Guides neither allow nor prohibit the marketing of the Karat Platinum alloy. However, the marketing of this alloy would be subject to Section 23.1 of the Guides, which

Jodie Z. Bernstein

February 2, 2005

Page 2

contains a general prohibition on deception, as well as to Section 5. We further note that staff considers this alloy to be sufficiently different in composition from products composed of platinum and other PGM as to require clear and conspicuous disclosure of the differences. It does not appear to us that simple stamping of the jewelry's content (e.g., 585 Plat., 0 PGM) would be sufficient to alert consumers to the differences between the Karat Platinum alloy and platinum products containing other PGM. Separately, the Bureau will recommend publication of a Federal Register notice soliciting comment on whether the Guides should be amended to address products composed of 500-850 ppt pure platinum and no other PGM.

In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.3(c), this opinion reflects the views of staff of the Bureau of Consumer Protection, and does not necessarily reflect the views of the Commission or any individual Commissioner. In accordance with Section 1.4 of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.4, this response to your request will be placed on the public record, along with your request for advice.

Sincerely,

Lydia B. Parnes

Lydia B. Parnes
Acting Director