



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

Division of Enforcement
Bureau of Consumer Protection

Samuel J. Gerson, Chairman
Filene's Basement, Inc.
40 Walnut Street
Wellesley, MA 02187

January 22, 1999

Dear Mr. Gerson:

The staff of the Federal Trade Commission's Division of Enforcement has conducted an investigation of Filene's Basement, 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 Filene's was representing diamond weights 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 "[i]t is unfair or deceptive to misrepresent the weight of a diamond."

Filene's and Jewelry Promotions, Inc. ("JPI"), the company that operates the jewelry department at Filene's Basement and advertises diamond products as "The Jewelers Of Filene's Basement," informed staff that they represent the weight of diamonds in their newspaper advertisements and advertising circulars using decimal parts of a carat, *e.g.*, .50 carat, which they state are accurate to the last decimal place. JPI informed staff that if it begins representing the weight of diamonds in its advertisements using fractional parts of a carat, the company's policy is to disclose in close proximity to the representation that the weight is approximate, and to disclose, in the form of a chart, the range of weights being used for each fraction. In addition, JPI informed staff that, because JPI tags some of its diamond products with weights represented as fractional parts of a carat, a chart stating that diamond weights are approximate, and listing the weight ranges used, currently is posted on the counter of the diamond case at Filene's stores. The disclosures are clear and conspicuous and consumers are confronted with the disclosures prior to purchasing a diamond product. According to JPI, its policy with respect to diamond weight representations includes informing its diamond product suppliers that they must adhere to specific acceptable diamond weight tolerances, which are those displayed at its jewelry counters. JPI further informed staff that it has instituted a program of randomly spot-checking diamond products received from its suppliers to ensure that diamond weights fall within JPI's accepted tolerances.

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.

Sincerely,

Elaine D. Kolish
Associate Director

cc: John G. Fabiano, Esq.
Robert A. Sherman, Esq.