



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

Division of Enforcement
Bureau of Consumer Protection

May 26, 1999

Alan J. Flink, Esq.
Assistant General Counsel
Federated Department Stores, Inc.
151 West 34th Street
New York, NY 10001-2180

Re: Macy's East, Inc.

Dear Mr. Flink:

The staff of the Federal Trade Commission's Division of Enforcement has conducted an investigation of Macy's 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 Macy's was representing diamond weight and gemstone products in accordance with the Federal Trade Commission's Guides for the Jewelry, Precious Metals and Pewter Industries ("Jewelry Guides" or "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 gemstone products, the Jewelry Guides provide that "[i]t is unfair or deceptive to fail to disclose that a gemstone has been treated in any manner that is not permanent or that creates special care requirements, and to fail to disclose that the treatment is not permanent, if such is the case." 16 C.F.R. § 23.22.

Macy's informed staff that it represents the weight of diamonds in its advertising circulars using fractional parts of a carat, *e.g.*, ½ carat. According to Macy's, the company's fractional representations of diamond weight are accompanied by a disclosure that the weights are approximate, and a disclosure of the tolerance that is being used. A statement containing the aforementioned disclosures appears on every page of its advertising circulars where a fractional diamond weight representation is made, and on its website in close proximity to diamond weight representations. The disclosures are clear and conspicuous and consumers are confronted with the disclosures prior to purchasing a diamond product.

Further, Macy's has committed to require that its gemstone product suppliers disclose specific gemstone treatments when its vendors possess such information, and to follow Macy's policy of not accepting stones treated in certain ways. According to Macy's, it discloses gemstone treatments to consumers in several ways. Macy's has created a consumer brochure that

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contains a description of the most common gemstone treatments, and that states whether the treatments are permanent and/or create special care requirements. The brochure is provided to consumers purchasing gemstone products. Macy's also informed staff that its sales staff are trained to disclose gemstone treatments to consumers at the point-of-sale. In addition, Macy's newspaper, catalogue, and website advertising of gemstones includes disclosures regarding gemstone treatments.

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