

# THOMPSON COBURN LLP

September 27, 2012

Federal Trade Commission  
Office of the Secretary  
Room H-113 (Annex O)  
600 Pennsylvania Avenue NW  
Washington, DC 20580

Re: Jewelry Guides, 16 CFR Part 23, Project No. G711001  
TSI Holding Company Comments

Dear Madam Secretary:

On behalf of TSI Holding Company ("TSI"), we are writing in response to the notice published by the Federal Trade Commission ("FTC") inviting interested parties to file written comments concerning the Guides for the Jewelry, Precious Metals and Pewter Industries ("Jewelry Guides"). *See Guides for the Jewelry, Precious Metals and Pewter Industries, 77 Fed. Reg. 39201 (July 2, 2012).* Pursuant to a notice of extension of the deadline, public comments are due on or before September 28, 2012. *See 77 Fed. Reg. 50056 (August 20, 2012).*

TSI is a private holding company whose company portfolio includes a variety of metal related distribution and manufacturing companies, including TSI Accessory Group, Inc., d/b/a Roman Company and Sunstone. Roman Company® is a designer and distributor of high quality fashion jewelry. Roman Company sells a wide range of jewelry products including necklaces, earrings, bracelets, pendants and pins to major department stores and retailers in the United States. Sunstone is one of the nation's largest designers, importers and distributors of Sterling Silver jewelry. Sunstone has over 30 years of experience in providing elegant and contemporary jewelry to retailers who demand quality and value for their customers.

We understand that, pursuant to inquiries received by the FTC staff in recent years regarding the Jewelry Guides, the FTC is considering modifying the Jewelry Guides to improve industry and consumer understanding of the same. Among other issues, the FTC seeks comments on whether the Jewelry Guides should provide particular guidance on the content of alloys and alloy products that contain precious metals in amounts that fall below the minimum thresholds reflected in the current Jewelry Guides. In response to the FTC's request, TSI submits the following comments:

**Question 13: Are there any provisions in the Guides setting forth particular requirements that do not accurately and fairly reflect the accepted customs, practices, and patterns of dealing prevalent in the industry, including the terminology and nomenclature customarily used in the course of trade?**

Currently, the Jewelry Guides do not reference and/or clearly define terminology or nomenclature such as “Silver Plated”, “Silver Filled”, “Silver Overlay”, “Rolled Silver Plate”, “Silver Bonded”, “Sterling Silver Plated”, “Sterling Silver Filled”, “Sterling Silver Overlay”, “Rolled Sterling Silver Plate” or “Sterling Silver Bonded”. However, similar phrases for gold are used and defined within the Jewelry Guides. As with gold, all of these silver terms are prevalent in the industry and customarily used in the course of trade and are accepted descriptions for silver plated or sterling silver plated jewelry. Accordingly, as discussed in greater detail below, the Jewelry Guides should acknowledge the use of these terms and set forth uniform meanings and standards applicable to these terms.

**Question 23: Should the Guides be amended to provide guidance on how to describe non-deceptively the content of precious metal alloys and alloy products that contain less than the minimum standard amounts (*i.e.*, 10 karats for gold, 925/1,000ths for silver, 500 parts per thousand for platinum)? If so, what guidance should be provided?**

The Jewelry Guides provide that it is deceptive to mark a product as being plated or coated with silver unless all significant surfaces of the product or part contain a plating or coating of silver that is of substantial thickness. 16 CFR 23.6(d). Additionally, in order to use the phrase “silver” or “sterling silver”, the Jewelry Guides require a minimum content amount of 925/1000 pure silver. However, the guides do not set forth specific standards for using silver phrases such as “Silver Plated”, “Silver Filled”, “Silver Overlay”, “Rolled Silver Plate”, “Silver Bonded” and sterling silver phrases such as “Sterling Silver Plated”, “Sterling Silver Filled”, “Sterling Silver Overlay”, “Rolled Sterling Silver Plate” or “Sterling Silver Bonded”.

Contrary to the provisions regarding misrepresentation as to silver content (16 CFR 23.6), the Jewelry Guides do contain the specifications for similar phrases applicable to gold, including “Gold Plate”, “Gold Plated”, “Gold Filled”, “Gold Overlay” and “Rolled Gold Plate”. See 16 CFR 23.4. Accordingly, similar to the gold guidelines, silver phrases such as “Silver Plated”, “Silver Filled”, “Silver Overlay”, “Rolled Silver Plate”, “Silver Bonded” and sterling silver phrases such as “Sterling Silver Plated”, “Sterling Silver Filled”, “Sterling Silver Overlay”, “Rolled Sterling Silver Plate” or “Sterling Silver Bonded” should be specifically referenced in part 23.6 of the Jewelry Guides as non-deceptive markings or descriptions for silver content.

Furthermore, part 23.6 should be modified to set forth specific the standards for silver phrases such as “Silver Plated”, “Silver Filled”, “Silver Overlay”, “Rolled Silver Plate”, “Silver Bonded” and sterling silver phrases such as “Sterling Silver Plated”, “Sterling Silver Filled”,

“Sterling Silver Overlay”, “Rolled Sterling Silver Plate” or “Sterling Silver Bonded”. As noted above, the Jewelry Guides currently contain the vague requirement that “all significant surfaces of the product or part contain a plating or coating of silver that is of substantial thickness.” 16 CFR 23.6(d). Footnote 3 further defines “substantial thickness” to mean that

“...all areas of the plating are of such thickness as to assure a durable coverage of the base metal to which it has been affixed. Since industry products include items having surfaces and parts of surfaces that are subject to different degrees of wear, the thickness of plating for all items or for different areas of the surface of individual items does not necessarily have to be uniform.”

Rather than continuing with this vague standard for articles containing silver content, TSI proposes that the Jewelry Guides should follow the gold guidelines, requiring the one-half micron (or approximately 20 millionths of an inch) thickness for any surface or part. Utilizing this standard would be consistent with historical plating standards and would meet consumer expectations that have developed as a result of these gold standards having been in effect for so many years. Further, we note that the use of a higher standard than this would result in the mandate of a standard that is higher than is required to meet the purpose of the standard, thus severely limiting the consumers’ options, while not serving a meaningful purpose.

Hence, because a thickness of 20 millionths of an inch has historically been the standard required for gold, and therefore generally used for silver, because consumer expectation has been shaped by the historical use of this standard, because such standard provides the consumer with more purchasing options and because higher standards are more than is necessary to achieve the purpose of the standard, TSI believes and strongly advocates that a standard for silver plating similar to that used for gold plating should be adopted. Specifically, TSI recommends that part 23.6 of the Jewelry Guides should provide that silver phrases such as “Silver Plated”, “Silver Filled”, “Silver Overlay”, “Rolled Silver Plate”, “Silver Bonded” and sterling silver phrases such as “Sterling Silver Plated”, “Sterling Silver Filled”, “Sterling Silver Overlay”, “Rolled Sterling Silver Plate” or “Sterling Silver Bonded”, mean that silver equivalent to a minimum thickness of one-half micron (or approximately 20 millionths of an inch) throughout is applied by any process on all significant surfaces. *See* part 23.4(c)(2).

Implementing these more defined and uniform rules for representing silver content will benefit both the industry and consumers. Clearly defined standards for silver articles will level the playing field among manufacturers. It would also ensure that consumers are receiving a consistent quality of products containing silver and that they are not misled by various marking and advertising practices in the industry.


September 27, 2012

Page 4

Please do not hesitate to contact the undersigned should you have any questions regarding this submission or require additional information.

Very truly yours,

Thompson Coburn LLP

By 

Teresa M. Polino