

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of)
)
)
ZALE CORPORATION,) DOCKET NO. C-3738
)
a corporation)
)

COMPLAINT

The Federal Trade Commission, having reason to believe that Zale Corporation, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

1. Respondent Zale Corporation is a Delaware corporation with its principal office or place of business at 901 W. Walnut Hill Lane, Irving, Texas 75038.
2. Respondent operates the country's largest chain of retail jewelry stores with more than 1,200 locations throughout the United States, Guam, and Puerto Rico.
3. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed the "Ocean Treasures" line of imitation pearl jewelry, and numerous other lines of cultured pearl jewelry, to the public. These lines of jewelry have included bracelets, earrings, pendants, rings and strands. None of respondent's jewelry products has included natural pearls.
4. Federal Trade Commission industry guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. The Federal Trade Commission's Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 C.F.R. Part 23, 61 F.R. 27212 (May 30, 1996), state as follows:

A. § 23.2 Misleading Illustrations. It is unfair or deceptive to use, as part of any advertisement, packaging material, label, or other sales promotion matter, any visual representation, picture, televised or computer image, illustration, diagram, or other depiction which, either alone or in conjunction with any accompanying words or phrases, misrepresents the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment, substance, durability, serviceability, origin, preparation, production, manufacture, distribution, or any other material aspect of an industry product.

B. § 23.20 Misuse of terms such as "cultured pearl," "seed pearl," "Oriental pearl," "natura," "kultured," "real," "gem," "synthetic," and regional designations. It is unfair or deceptive to use the term "cultured pearl," "cultivated pearl," or any other word, term, or phrase of like meaning to describe, identify, or refer to any imitation pearl.

C. § 23.19 Misuse of the word "pearl." (c) It is unfair or deceptive to use the word "pearl" to describe, identify, or refer to an imitation pearl unless it is immediately preceded, with equal conspicuousness, by the word "artificial," "imitation," or "simulated," or by some other word or phrase of like meaning, so as to indicate definitely and clearly that the product is not a pearl.

5. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

6. Respondent has disseminated or has caused to be disseminated advertisements for its Ocean Treasures imitation pearl jewelry products, including but not necessarily limited to the attached Exhibits A through B. These advertisements contain the following statements and depictions:

1. "ZALES THE DIAMOND, SEMI-PRECIOUS AND PEARL STORE TM
Ocean Treasures TM Fine Jewelry
Created by nature, enhanced by man."
[Depictions of necklace, earrings, rings, and pendants,
all of which appear to contain pearls or cultured
pearls](Exhibit A)
2. "Ocean TreasuresTM Fine Jewelry
Created by nature, enhanced by man."
[Depictions of necklace, earrings, and pendant, all of
which appear to contain pearls or cultured pearls]
(Exhibit B)

7. Through the means described in Paragraph 6, respondent has represented, expressly or by implication, that the Ocean Treasures line of jewelry is composed of cultured pearls.

8. In truth and in fact, the Ocean Treasures line of jewelry is not composed of cultured pearls, but rather is composed exclusively of imitation pearls. A cultured pearl is a pearl formed by a mollusk as a result of an irritant placed in the mollusk's shell by humans. An imitation pearl is a manufactured product that is designed to simulate in appearance a pearl or cultured pearl. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twenty-eighth day of April, 1997, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A-B attached to paper copies of complaint, but not available in electronic form.]