Scott Gordon

JEWELER • GEMOLOGIST

May 16, 2016

TO: Federal Trade Commission

RE: Proposed Changes to the Jewelry Guides, 16 CFR Part 23, Project No. G711001

My name is Scott Gordon. I have worked as a gemologist-appraiser, custom jeweler (specializing in diamond engagement rings), and broker of new and estate jewelry (on consignment) in Oklahoma City for the past 25 years. Before that, I spent fourteen years in my family's retail jewelry business, founded here by my grandfather in 1904. I served as Chairman of the Gems and Jewelry discipline of the American Society of Appraisers from July 2013 until July 2015. Over the years I have been quoted in articles for various trade and consumer media, including Business Week magazine, Gemworld International's The Guide, the Rapaport Diamond Report, Today Show's Money 911, Wall Street Journal's Smartmoney.com and this month's InStyle magazine. With thanks to the Commission for the opportunity, I would like to comment on a few of the issues that the Commission has raised.

My perspective comes from having counseled hundreds of people over the years about how to dispose of gems and jewelry that, for a myriad of reasons, they no longer wish to own. I have seen first-hand their ignorance about what they have and their fears over selling it. If they were the original buyers, they are often disillusioned about some aspect of what they were told (or not told) by sellers. Some, seeing that there is a critical element of subjectivity in quality judgments (but not the reasonable range within which good grading practices limits our disagreements), come to doubt the very concept of quality in gems and jewelry; a few have been misled, whether intentionally or not, about their jewelry's actual identity and react with predictable anger. In either case, I have seen that it is not easy to describe our wares to consumers. Almost all of them are skeptical of the value of jewelry, sorrowfully concluding that this is an idea that has no meaning beyond "what someone is willing to pay."

The Commission's current questions, which address how we should describe our products, are vital. It is worth remembering that the modern practice of gemology began around 1908 in the service of the trade; early on, it provided the means to separate natural from cultured pearls and natural from synthetic rubies. Itself therefore a hybrid of science as applied to commerce, gemology still seeks to reconcile an objective understanding of these substances with the tradition of mystery, art, wealth and status, and love that is the source of their appeal. For all of us, consumers and tradespeople alike, the Guides embody this effort to identify what we deal in and what to call them. Far more than consumers know, retail jewelers, wholesale dealers, and gemologists struggle with themselves and one another about the proper names to give certain materials so as to present them accurately without prejudice towards their commercial appeal.

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The Guides face to a lesser degree the issue of how to describe the quality of our products, and mention appraising their value only in passing. Yet I believe they may come to embrace as crucial a role in promoting the consumer's interest in fair and clear description in these areas as they do now in the fundamental matter of the nomenclature of identity. (For a trenchant expression of the Guide's potential application to the issue of diamond quality nomenclature, see Rapaport USA - Martin Rapaport - Mar 28, 2016 #00033.)

I am offering brief comments on three specific issues the Commission has raised. As to the matter of products made of gold alloys below the current minimum threshold of 10-karat, I agree with the Jewelers Vigilance Committee's approach to allow disclosure, in percentage terms only, of those items' gold content in marketing materials; and not to permit stamping of any sort on the items themselves. This would preserve the traditional karat system, which has developed over many years and enjoys universal public understanding and acceptance, while allowing marketers to give accurate information to consumers about their products' gold content and wearability properties. I believe that to allow to be introduced, for instance, 4- or even 2-karat gold into the marketplace would lead to immediate devaluation of the long-established meaning of the term "gold" itself, with no benefit to consumers and the potential for harm to the fine jewelry industry. But if the factual information of percentage gold content is allowed to be given to consumers, they will receive the benefits of both innovation and tradition.

Regarding the issue of what to call corundum that has been infused with glass, many suggestions have been made in the gemological community. None is wholly satisfactory. Marketers of this product will generally prefer to use "ruby," whether with various modifiers, but I think the only adjective that would be not be misleading in that case is "imitation," which they are not likely to accept. I believe that "corundum/glass composite" is the term that truly reflects the character of this material at its lowest common denominator and also is clear consumers as to value. The Commission's proposal to identify whether the starting material is corundum or ruby seems plainly unworkable. As far as I know, there is no diagnostic test to make this determination by the time the finished product reaches the marketplace. Nor can it be determined by then whether the starting stock comprised fragments or a single crystal. It is because the material itself is so ambiguous that we in the trade have not agreed what to call it. I offer a clinical term that removes the material from the gemstone category and the need to quantify its makeup, which is indeterminable from a practical standpoint.

I believe we must dispose of the suggestion to use "cultured" in connection with synthetic diamond. Although the Commission suggests that prefacing this word with the term "lab-created" would be a curative for the inevitable confusion with the process for culturing pearls that would ensue, it would

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instead only be a palliative for a problem that would have been entirely of our own making. It is true in a large sense that crystals are grown or cultivated, but if we allow "cultured" as a new layer of expression for inorganic substances, we will unnecessarily revisit the decision the Commission made in 1959 to deny Carroll Chatham the use of that term to describe his synthetic emerald product, in exchange for which they ceded the term "created." It should be left there as a settled matter. Absolute clarity for the consumer, firmly established through decades of common use, results from continuing to restrict the use of "cultured" as applicable only to the organic products of organic processes.

My stands on these issues have been for keeping intact traditional usages of the terms "gold," "ruby," and "cultured." My position on the several references in the Guides to "appraiser," "appraisal," and "value" is consistent, in that I believe they should explicitly point to the definitions of these terms in the Uniform Standards of Professional Appraisal Practice (USPAP), which, beginning thirty years ago, "represents the generally accepted and recognized standards of appraisal practice in the United States."

How would this protect consumers from unfair or misleading trade practices? The Commission has commented that "the record does not contain evidence of widespread misrepresentations related to appraisals." Certainly it is fair to call for this evidence, which I (and many other gems and jewelry appraisers) can at present offer only anecdotally: that a great deal of misrepresentation has been perpetrated by "appraisals" that are actually sales statements containing unsupported value claims and undisclosed sellers' interests. These are produced every business day by well-meaning jewelry stores that should reserve the term "appraisal" to documents that follow proper ethics, valuation methodology and reporting standards. Some are generated to lend credence to a much lower purchase price, and a few by various parties with obvious intent to deceive on the basis of "investment." Corruption of the term "appraisal" has resulted in over- or under-insurance and bad buying decisions, to mention the most obvious harmful consumer outcomes.

Whatever terms are set to protect the consumer's interest, gems and jewelry appraisers are the principal custodians of the language that is agreed upon to identify, grade and value the products our industry sells (see §23.0 Note to Paragraph [B]). Making simple reference to USPAP definitions for appraising and value would take a long step towards recognizing that those who fulfill the appraisal function have professional obligations to the public, which include carrying out the aims of the Guide. I hope that the Commission will decide to reconsider this issue.

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