

Complaint

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IN THE MATTER OF

J. R. STONE TRADING AS SPANISH DIAMOND CO.,
CHINESE RING CO., AND NATIONAL JEWELRY CO.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2866. Complaint, July 3, 1936—Decision, Nov. 3, 1936*

Where an individual, engaged in the sale of imitation and simulated diamonds and rings, and variously doing business as Spanish Diamond Co., Chinese Ring Co., and National Jewelry Co.; in advertising said products in newspapers and periodicals, and in booklets, testimonials, and other advertising literature—

- (a) Referred to said imitation and simulated diamonds as "gems" "which look like diamonds worth \$150.00" and other substantial amounts, and "cannot be told from the genuine costing many hundreds of dollars," and as "Spanish" or "Spanish Imitation," and as possessing "fire" and "flawless," and as "scientific reproductions of the genuine, which will wear a lifetime," and as "Spanish imported," or "Laboratory Made;" the facts being said diamonds were made of glass and other cheap compositions, did not baffle or deceive experts or have any such appearance, no such thing is known to the jewelry trade as a "Spanish" or "Spanish Imitation" diamond, they were not imported from Spain or "Laboratory Made," and said various representations were false;
- (b) Represented that his said ring mountings had a "Platinum Effect Finish" or were "White Gold-Appearing," or "Sterling," or "Chromium" reproductions of a \$300.00 diamond ring, and were finished in 18 Kt. white gold; the facts being said mountings were not finished with a material simulating platinum, and did not have any such appearance as above set forth;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all said representations were true, and with the result that a number of the consuming public purchased a substantial volume of his said imitation and simulated diamonds and rings, and trade was unfairly diverted to him from those engaged in sale of diamonds and rings and who truthfully advertise their products; to the substantial injury of competition in commerce:

Held, That such acts and practices were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. George Foulkes for the Commission.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the

Federal Trade Commission, having reason to believe that J. R. Stone, an individual, trading as Spanish Diamond Co., Chinese Ring Co., and National Jewelry Co., hereinafter referred to as respondent, has been and now is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, J. R. Stone, is an individual with his principal office and place of business located in the city of Wheeling, State of West Virginia. Respondent is now, and for more than five years last past has been, engaged in the business of selling imitation and simulated diamonds and rings which respondent distributes to purchasers, many of whom reside in States other than the State of West Virginia. When orders are received therefor they are filled by respondent by shipping said imitation and simulated diamonds and rings from the said city of Wheeling, West Virginia, into and through other States of the United States and in the District of Columbia, and there is now, and has been during the time hereinbefore mentioned, a constant current of trade and commerce in said imitation and simulated diamonds and rings so distributed and sold by respondent between and among the various States of the United States and in the District of Columbia.

In the course and conduct of his said business, said respondent was, and is, in substantial competition with other individuals, firms, partnerships, and corporations likewise engaged in the sale and distribution of diamonds and rings between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course of the operation of said business, and for the purpose of inducing individuals to purchase said imitation and simulated diamonds and rings, respondent has caused advertisements to be inserted in newspapers and magazines of general circulation throughout the United States. The advertising placed by respondent in newspapers, magazines, and periodicals is variously devised to show representations of diamond rings, and contains statements and representations, such as the following:

LOOKS \$250 FOR \$1.48

Beautiful Spanish

Imitation Diamond

Baffles Experts. White-Gold-Appearing Sterling. Ladies' or Gents', in Gift Box. SEND NO MONEY. Pay Postman \$1.48 plus postage. Money back if not delighted! State Size. Order Now! Address: SPANISH DIAMOND CO., Dept. 14, Wheeling, W. Va.

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Beautiful Life-Time White-Gold-Appearing Chromium Reproduction of a \$300 Diamond Ring. Baffles Experts. Ladies' or Gents' in Rich Gift Box. SEND NO MONEY. Pay Postman 99¢ plus postage (or, remit \$1 with order and we will pay postage). Money back if not delighted! Order at Once! SPANISH DIAMOND CO., Dept. 16, Wheeling, West Va.

FREE RING OFFER

To introduce our blue-white rainbow flash Gems, we will send free a 1 Kt. Spanish Imitation Diamond Ring (looks like \$150 stone), for this ad and 15¢ to help pay adv. and handling expense. National Jewelry Co., Dept. 25-D, Wheeling, West Va. (2 for 25¢)

All of said statements, together with many similar statements appearing in respondent's advertising literature, purport to be descriptive of respondent's product. In all of his advertising literature, respondent represents, through statements and representations herein set out, and other statements of similar import and effect, that the sets or stones in said rings (1) are gems, (2) baffle and deceive experts, (3) look like diamonds worth \$250 or \$300 or \$150, (4) cannot be told from genuine diamonds costing many hundreds of dollars, (5) are "Spanish Diamonds" or "Spanish Imitation Diamonds", (6) do not lose their fire, (7) are flawless, (8) are scientific reproductions of genuine diamonds, (9) will wear a lifetime, (10) are Spanish imported gems, and (11) are "Laboratory Made".

Further, in his advertising literature, respondent represents, through statements and representations herein set out, and other statements of similar import and effect, that the ring mountings (1) have a "Platinum Effect Finish", (2) are "White Gold-Appearing Sterling", (3) are White Gold Appearing Chromium reproductions of a \$300 diamond ring, and (4) are finished in 18 Kt. White Gold.

PAR. 3. The representations made by respondent with respect to his product are grossly exaggerated, false, misleading, and untrue. In truth and in fact the sets or stones sold by respondent as aforesaid, are not gems but are made of glass and other cheap compositions, and said sets or stones do not baffle and deceive experts, nor have they the appearance of diamonds worth \$250 or \$300 or \$150, or of any other substantial amount. Said sets or stones can be easily distinguished from genuine diamonds costing many hundreds of dollars. Respondent's products are not "Spanish Diamonds" nor are they "Spanish Imitation Diamonds" in that no such thing as a Spanish or a Spanish Imitation diamond has any existence or is known by the jewelry trade. Respondent's imitation and simulated diamonds are not flawless, and being composed chiefly of glass do not possess any "fire" as the term is used in the jewelry trade. Said

sets or diamonds are not scientific reproductions of genuine diamonds, nor will they wear a lifetime, but are, as aforesaid, an ordinary glass product. Said products are not imported from Spain nor are they "laboratory made".

The representations made by respondent in connection with the sale of the ring mountings are also false, misleading, and untrue. Said ring mountings are not finished with a material simulating platinum, nor do they have the appearance of white gold or 18 kt. white gold. Said rings do not have the appearance of diamond rings worth \$300 or any other substantial amount.

PAR. 4. Each and all of the false and misleading statements and representations made by respondent in designating and describing the imitation and simulated diamonds, as hereinabove set forth, in his advertising in newspapers, magazines, booklets, pamphlets, testimonials, and other advertising literature, in offering for sale, and selling, his imitation and simulated diamonds and rings, have had, and now has, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true. Further, as a direct consequence of the mistaken and erroneous belief induced by the advertisements and misrepresentations of respondent, as hereinabove detailed, a number of the consuming public purchased a substantial volume of respondent's imitation and simulated diamonds and rings, with the result that trade has been unfairly diverted to respondent from individuals, firms, partnerships, and corporations likewise engaged in the business of selling diamonds and rings, and who truthfully advertise their products. As a result thereof, substantial injury has been, and is now being done, by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 5. The above alleged acts and practices of respondent are each and all of them to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce within the meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on July 3, 1936, issued and served its complaint in this proceeding upon respondent J. R. Stone, an indi-

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vidual trading as Spanish Diamond Co., Chinese Ring Co., and National Jewelry Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by George Foulkes, attorney for the Commission, before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, and in defense of the allegations of the complaint by respondent; and said testimony and other evidence was duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and evidence, the right of counsel of the Commission and the respondent to file briefs and the presentation of arguments being expressly waived, and the Commission having duly considered the same, and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. J. R. Stone, respondent herein, is an individual with his principal office and place of business located in the city of Wheeling, State of West Virginia. Respondent is now, and for more than five years last past has been, engaged in the business of selling imitation and simulated diamonds and rings which respondent distributes to purchasers, many of whom reside in States other than the State of West Virginia.

When respondent receives orders for said imitation and simulated diamonds and rings he fills same by shipping said diamonds and rings from the said city of Wheeling, West Virginia, into and through other States of the United States and in the District of Columbia, and there is now, and has been during the time hereinbefore mentioned, a constant current of trade and commerce in said imitation and simulated diamonds and rings so distributed and sold by respondent between and among the various States of the United States and in the District of Columbia.

In the course and conduct of his said business, said respondent was, and is, in substantial competition with other individuals, firms, and partnerships, and corporations likewise engaged in the sale and distribution of diamonds and rings between and among the various States of the United States and in the District of Columbia.

PAR. 2. The respondent in the operation of his said business, and for the purpose of inducing individuals to purchase said imitation

and simulated diamonds and rings, has caused advertisements to be inserted in newspapers and magazines of general circulation throughout the United States.

The advertising placed by respondent in newspapers, magazines, and periodicals is variously devised to show representations such as the following:

LOOKS \$250 FOR \$1.48
BEAUTIFUL SPANISH
Imitation Diamond

Baffles Experts. White-Gold-Appearing Sterling. Ladies' or Gents' in Gift Box. SEND NO MONEY. Pay Postman \$1.48 plus postage. Money back if not Delighted! State Size. Order Now!! Address: SPANISH DIAMOND CO., Dept. 14, Wheeling, W. Va..

Beautiful Life-Time White-Gold-Appearing Chromium Reproduction of a \$300 Diamond Ring. Baffles Experts. Ladies' or Gents' in Rich Gift Box. SEND NO MONEY. Pay Postman 99¢ plus postage (or, remit \$1 with order and we will pay postage). Money back if not Delighted! Order at Once! SPANISH DIAMOND CO., Dept. 16, Wheeling, West Va.

FREE RING OFFER

To introduce our blue-white rainbow flash Gems, we will send free a 1 kt. Spanish Imitation Diamond Ring (looks like \$150 stone), for this ad and 15¢ to help pay adv. and handling expense. National Jewelry Co., Dept. 25-D, Wheeling, West Va. (2 for 25¢)

The above statements, together with many similar statements appearing in respondent's advertising literature, purport to be descriptive of respondent's product.

In all of his advertising literature, respondent represents, through statements and representations herein set out, and other statements of similar import and effect, that the sets or stones in said rings (1) are gems, (2) baffle and deceive experts, (3) look like diamonds worth \$250 or \$300 or \$150, (4) cannot be told from genuine diamonds costing many hundreds of dollars, (5) are "Spanish Diamonds" or "Spanish Imitation Diamonds", (6) do not lose their fire, (7) are flawless, (8) are scientific reproductions of genuine diamonds, (9) will wear a lifetime, (10) are Spanish imported gems, and (11) are "Laboratory Made".

Further, in his advertising literature, respondent represents, through statements and representations herein set out, and other statements of similar import and effect, that the ring mountings (1) have a "Platinum Effect Finish", (2) are "White Gold-Appearing Sterling", (3) are "White Gold-Appearing Chromium" reproductions of a \$300 diamond ring, and (4) are finished in "18 Kt. White Gold".

PAR. 3. The representations made by respondent with respect to his product are grossly exaggerated, false, misleading, and untrue.

In fact the sets or stones sold by respondent, as aforesaid, are not gems but are made of glass and other cheap compositions, and said sets or stones do not baffle and deceive experts, nor have they the appearance of diamonds worth \$250 or \$300 or \$150, or of any other substantial amount.

Respondent's sets or stones can be easily distinguished from genuine diamonds costing hundreds of dollars.

Respondent's products are not "Spanish Diamonds" nor are they "Spanish Imitation Diamonds" in that no such thing as a Spanish or a Spanish Imitation Diamond has any existence or is known by the jewelry trade.

Respondent's imitation and simulated diamonds are not flawless, and being composed chiefly of glass do not possess any "fire" as the term is used in the jewelry trade.

Respondent's sets or diamonds are not scientific reproductions of genuine diamonds, nor will they wear a lifetime, but are, as aforesaid, an ordinary glass product.

Said sets or diamonds are not imported from Spain and are not "laboratory made".

The representations made by respondent in connection with the sale of the ring mountings are also false, misleading, and untrue. Said ring mountings are not finished with a material simulating platinum, and do not have the appearance of white gold or 18 Kt. white gold. Said rings do not have the appearance of diamond rings worth \$300 or any other substantial amount.

PAR. 4. Each and all of the false and misleading statements and representations made by respondent in designating and describing the imitation and simulated diamonds, as hereinabove set forth, in his advertising in newspapers, magazines, booklets, pamphlets, testimonials, and other advertising literature, in offering for sale, and selling, his imitation and simulated diamonds and rings, have had, and now has, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true.

Further, as a direct consequence of the mistaken and erroneous belief induced by the advertisements and misrepresentations of respondent, as hereinabove detailed, a number of the consuming public purchased a substantial volume of respondent's imitation and simulated diamonds and rings, with the result that trade has been unfairly diverted to respondent from individuals, firms, partnerships, and corporations likewise engaged in the business of selling diamonds

and rings, and who truthfully advertise their products. As a result thereof, substantial injury has been, and is now being done, by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent, J. R. Stone, an individual, trading as Spanish Diamond Co., Chinese Ring Co., and National Jewelry Co., are to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, the filing of briefs and oral arguments having been expressly waived by counsel for the Commission and by respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the respondent, J. R. Stone, an individual trading as Spanish Diamond Co., Chinese Ring Co., and National Jewelry Co., his officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of imitation and simulated diamonds and rings in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

(1) That his imitation simulated diamonds and rings are (a) gems, (b) baffle and deceive experts, (c) look like diamonds worth \$150, \$250 or \$300, or any other substantial amount of money, (d) cannot be told from genuine diamonds costing many hundreds of dollars, (e) are "Spanish Diamonds," or "Spanish Imitation Diamonds," (f) possess what is known in the jewelry trade as "fire," (g) are flawless, (h) are scientific reproductions of genuine diamonds, (i) will wear

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a lifetime, (j) are Spanish imported gems, (k) are "Laboratory Made."

(2) That his ring mountings (a) have a "Platinum Effect Finish," (b) are "White Gold-Appearing Sterling," (c) are "White Gold-Appearing Chromium" reproductions of a \$300 diamond ring, or reproductions of a diamond ring worth any substantial amount of money, (e) are finished in 18-carat white gold.

It is further ordered, That the respondent shall, within 30 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Syllabus

IN THE MATTER OF

CHARLES OF THE RITZ DISTRIBUTORS CORPORATION

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2883. Complaint, July 28, 1936—Decision, Nov. 3, 1936

Where a corporation, engaged in the sale of a line of tonics, cosmetics, beauty and toilet preparations and lotions, commonly referred to as the "Ritz" and 'Charles of the Ritz' line, including "Eye Lotion Ritz," "Scalp Food Ritz," "Eye Cream Ritz," "Rejuvenescence Cream Ritz," and "Eyelash Grower Ritz"—

- (a) Represented, in its booklet "Beauty in the Modern Mode," distributed in large numbers through its distributors, sales branches, and sales people, that said "Eye Lotion" and "Eye Cream," as the case might be, constituted a tonic and beautifier for the eyes, strengthening the eye nerves, etc. and keeping the eyes clear and sparkling, and that the latter nourished the delicate tissues about the eyes, banishing lines and preventing crow's feet; facts being the former was merely a lotion which could in no way influence the delicate nerves of the eye or relieve functional strain, latter did not nourish underlying tissues, and the "Eyelash Grower" did not promote growth of the lashes;
- (b) Represented that its "Scalp Food" promoted the growth of the hair, facts being it did not accomplish said purpose when the hair follicle or hair root was no longer present, and could not act as a nourishing scalp food when applied externally, except that to a certain degree it was absorbed by the skin, although it did not reach the blood stream; and
- (c) Represented that its said "Rejuvenescence Cream" was an organic compound made of substances extracted from living tissue, and that it supplied the precious youth-giving element essential to young skins, and that it was absorbed by the skin immediately, etc., and that its basic elements penetrated the derma or true skin, revived the tissues, and gave the skin new life and vitality; facts being that it was not such a compound, did not supply the skin with such elements, or act as above set forth, and said representations were false;

With the result that a substantial number of the consuming public purchased a substantial volume of said preparations, and thereby unfairly diverted a substantial volume of trade and business to it which would otherwise have gone to competitors who did not use such unfair methods;

Held, That such acts and practices were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Before *Mr. John J. Keenan*, trial examiner.

Mr. Wm. T. Chantland for the Commission.

Mock & Blum, of New York City, for respondent.