

RAPAPORT CALLS FOR STANDARDIZATION OF **DIAMOND GRADING TERMINOLOGY**

Rapaport Comment on the Proposed FTC Jewelry Guides
"Jewelry Guides, 16 CFR Part 23, Project No. G711001"

To: The Federal Trade Commission

Re: Standardization Diamond Grading Terminology

The Gemological Institute of America (GIA), established in 1931, created terminology to describe the color and clarity of diamonds. So as to differentiate their language from a broad range of confusing terms that were commonly used in the trade, the GIA begins their color grading scale using the letter D instead of A, AA, AAA, etc. The GIA defines their diamond grading terminology standards by grading millions of diamonds each year and applying the GIA terminology to their diamond grading reports. The GIA Gem Trade Laboratory (GTL) maintains and uses master samples to define various gemological characteristics such as color, clarity, fluorescence, etc. The use of GIA diamond grading terminology has become the de facto language used to describe diamond qualities and gemological characteristics.

Over the years numerous additional and competitive diamond grading laboratories have emerged. Almost all use GIA terminology while applying GIA grading standards. Unfortunately, in recent years, a number of diamond grading laboratories have been issuing diamond grading reports using GIA grading terminology to significantly overstate the color and clarity of diamonds. Evidence of such deceptive practices has been presented in a court case where two 3-carat diamonds color graded as G by EGL International were later graded by the GIA as N and M colors — a disparity of six to seven colors representing a \$113,000 value difference according to the lawsuit. Please note, that while we will be using diamond color differentials to highlight overgrading, such overgrading also takes place regarding diamond quality, cut and other gemological characteristics. The attached article, "Honest Grading,"

published in the *Rapaport Magazine*, November 2014, provides important additional information and is included in this submission.

Unfortunately, the gross misrepresentation of diamond quality by unscrupulous diamond laboratories, dealers and retailers has become rampant. Hundreds of thousands of consumers have been sold "overgraded" diamonds, whose qualities have been misrepresented through the fraudulent use of GIA grading terminology. Such abuse is destroying a level playing field and constitutes unfair competition.

An honest jeweler selling a legitimate honestly graded G color diamond must charge a significantly higher price than a dishonest jeweler offering the consumer an overgraded G color. What is the jeweler to do? Some are being forced to compete by overstating the quality of the diamonds they sell and/or using fraudulent grading reports that overstate quality. Furthermore, the ability of consumers to competitively shop and compare prices is being undermined. What are consumers to do when faced with alternative grading reports or representations, both of which claim a diamond is a G color? They might naturally go for the less expensive item, mistakenly thinking that a fair comparison has been made. Finally, the value of an overgraded diamond will be significantly less upon resale. Consumers are being led to believe that the quality of what they have purchased is significantly greater than what it actually is. Upon resale, consumers will find out the true grade of their diamonds and the resultant significant difference in value. This will not only hurt the consumers but also significantly reduce consumer confidence in all diamonds, including honestly graded and fairly priced

diamonds from legitimate retailers. It should be clear that all of the above point to unfair competition and consumer fraud.

Some of the entities overgrading diamonds try to justify their actions by falsely claiming that since diamond grading requires the subjective skill of a trained diamond grader there are no diamond grading standards and they can therefore use GIA terminology to misrepresent diamond qualities. While diamond grading may in fact be subjective, such subjectivity is relevant only within a reasonable tolerance range. Legitimate graders might disagree about a one color or clarity difference but a difference of five or six colors is outright misrepresentation and fraud. No legitimate diamond grader would be off by more than one color or clarity. Furthermore, retail jewelers are deemed to be experts in their dealings with consumers; they should not be allowed to misrepresent the quality of the diamonds they sell by abusing GIA diamond grading terminology.

For all of the above reasons, this writer appeals to the Federal Trade Commission (FTC) to make the following changes and/or additions to the FTC Jewelry Guides.

1. It is an unfair business practice to communicate the grade of a diamond using GIA terminology while applying non-GIA standards that systematically overgrade the quality of a diamond.

a. Definition: An overgraded diamond is a diamond whose quality is communicated by the seller using GIA terminology and when graded by the GIA is found to be more than one color or clarity below the grade represented by the seller.

2. Diamond sellers are responsible for the quality of the diamonds they sell. In the event that a seller describes a diamond using GIA terminology and the diamond is graded by the GIA and found to be more than one color or clarity below the grade communicated by the seller, the buyer may return the diamond to the seller within a period of one year and obtain a full refund.

In the event that the Commission is concerned about the level of diamond grading subjectivity, it may wish to modify the above rules by allowing for a two color or clarity differential.

Please note, in the event that the Commission is unable to include the above rules, I request the following addition to the rules.

“The standard for diamond grading when using GIA terminology shall be the results generated by the GIA Gem Trade Laboratory.”

In the event that the Commission holds any hearings regarding changes to the rules, please notify me, as I would like to attend.

Thank you for your time and consideration.

Martin Rapaport

Chairman, Rapaport Group

RAPAPORT CALL TO ACTION

Members of the diamond trade are encouraged to communicate directly with the Federal Trade Commission (FTC) regarding misrepresentation of diamond quality. Please send an email or letter supporting our submission to the FTC and/or request that the FTC add these two rules to their guidelines.

1. Those using GIA terminology must use GIA grading standards.

2. Those selling diamonds using GIA terminology must provide a refund if within one year the diamond is graded by the GIA and found to be more than one color, clarity or cut grade below the grade the seller communicated.

- Write “Jewelry Guides, 16 CFR Part 23, Project No. G711001” on your comment.

- File comment online at <https://ftcpublic.commentworks.com/ftc/jewelryguidesreview> or

Mail your comment to Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex O), Washington, DC 20580