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# How to Spot Deceptive Trade Practices When Shopping For Fine Jewelry

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Last Thursday we published an article entitled "How to Buy Diamonds With Confidence and Knowledge." The purpose of that article was to provide basic factual information to assist consumers in buying diamonds intelligently. We are continuing that effort today by discussing various trade practices of which consumers should be aware which are common in the jewelry industry but which we feel are deceptive, unfair and, in many cases, illegal.

## The Categories of Deception

Deceptive trade practices in the jewelry industry tend to fall generally into two broad categories:

1. Practices which lead the consumer to believe that he is receiving a bargain purchase when, in fact, he is not (fake "sales"), and
2. Practices which lead the consumer to believe the quality, quantity or description of the article being purchased is more or better than that which is actually delivered (active or constructive misrepresentation of the product either by act or omission).

## The Law

The laws of the State of Nebraska address both of the above categories of deception. The Nebraska Consumer Protection Act specifically states that "Deceptive acts or practices in the conduct of any trade or commerce shall be unlawful." The concept of "Deceptive Trade Practices" is then discussed in depth in the Nebraska Uniform Deceptive Trade Practices Act, which states:

"A person engages in a deceptive trade practice when, in the course of his business, vocation, or occupation he:

Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

Represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;"

## Fake "Sales"

The concept of the fake "sale" is an old one. Basically, it plays on the desire of the consumer to obtain a bargain purchase. Here is how the scheme works: The jeweler places an exorbitant and fictitious "regular price" or "appraised value" or "reference price" on an article of jewelry. He then advertises "special sale prices" or "drastic reductions" or "storewide 50% off clearance sale" or something similar, and offers the article to the consumer for less than this fictitious "marked" price. The consumer buys the article thinking he has saved a bundle. In actuality, though, under the scheme, the jeweler has sold the article for the price he always intended to sell it for. It was never really marked down at all. In other words, the savings does not exist except in the mind of the uneducated consumer. As stated above, there are laws which technically make this practice illegal. Nonetheless, the practice flourishes to the extent that, in our opinion, the fake "sale" is the predominant tool used in advertised "price reduction" promotions in the jewelry industry today. Why would a jeweler risk criminal and civil prosecution to run such a fake "sale"? We are going to tell you:

1. The first and foremost reason is because the fake "sale" technique works. This sad but true fact can be cured only by increased consumer awareness and education. Psychological studies reveal that many consumers tend to place greater emphasis on how much they think they "save" than on how much they actually spend on a given purchase, so fictitious "savings" tends to take on more significance than the reality of the bottom line. These consumers are the bread and butter of jewelers who operate under the fake "sale" format.
2. The second reason is because jewelers do not think they realistically risk such prosecution. State Attorney General and County Prosecutor offices are over-burdened with case loads, and prosecution for fake "sale" violations has traditionally received a low priority, making the practice a calculated risk in favor of the jeweler. Recently, however, this subject has received wide press coverage in the jewelry industry trade journals, and some East and West coast jurisdictions have stepped up enforcement. Meanwhile, though, in other areas of the country, the fake "sale" scheme continues to cost uneducated consumers millions of dollars.

We suggest that when you encounter jewelry "sales" employing any of the above described characteristics or if you notice a jeweler running a seemingly perpetual "sale" on the same item

time after time, you proceed with caution and skepticism. Ask to see some definitive proof that the "before" prices are authentic prior actual selling prices of the identical product. Such proof can seldom be provided. The fake "sale" scheme has grown to epidemic proportions in the jewelry industry. Only through consumer awareness can the problem be eliminated. Ask questions and avoid being the next victim of this deceptive scheme.

## How Nebraska Diamond Guarantees You The Lowest Prices

At Nebraska Diamond our customers find that our regular everyday prices are substantially less than the most drastic "sale" prices offered by our competitors. We unequivocally guarantee you the lowest price before and after the sale. If you find a lower price on identical merchandise we will beat it. Period. Our track record speaks for itself: In a January, 1986, consumer survey, Nebraska Diamond was voted as having the lowest prices, best selection, best service and best guarantee. Even this, though, was not enough for us. In 1987, we introduced our exclusive Wedding Savings Package.™ Given free with each diamond engagement ring, the Wedding Savings Package™ can be worth hundreds and hundreds of dollars in preferential discounts on your wedding gown, flowers, photography, tuxedos, invitations and more... even your wedding cake and reception. Today, more than ever, Nebraska Diamond gives Lincoln its best value in fine jewelry.

## Deceptive Merchandising And Display Techniques

Suppose your local Ford dealer put a Ford on his showroom floor, but somehow figured out a way to shine a light on it, or polish it up, or otherwise do something that would make you, the consumer, think it was a Rolls Royce. Suppose you purchased the car on that basis, only to discover the truth after you drove it away. Does this sound far fetched? Conceptually, it happens every day in the jewelry business. We are going to tell you how.

Deceptive merchandising and display techniques in the jewelry business fall into four distinct categories:

1. Deceptive lighting conditions
2. The heavy make
3. Color enhancement techniques
4. Clarity enhancement techniques

### DECEPTIVE LIGHTING CONDITIONS

At Nebraska Diamond we adhere to the philosophy that "When you sell quality jewelry you don't need deceptive lighting conditions." We sell quality jewelry. We don't need deceptive lighting conditions and we don't allow such conditions in our store. We define deceptive lighting conditions as "any lighting condition that tends to enhance the true appearance of any gemstone or article of jewelry." As a practical matter, the only lighting conditions which are non-deceptive, that is, which present the true appearance of gemstones and articles of jewelry, are natural daylight and fluorescent lighting which simulates natural daylight. Natural daylight and fluorescent lighting which simulates natural daylight are used for laboratory grading of diamonds, and this is the condition you will find at Nebraska Diamond. Nebraska Diamond is not typical in this respect. Most jewelry store sales floors are characterized by chandeliers, hot spot lights, flood lamps, tubular display case bulbs and other incandescent type light sources. Where fluorescent tubes are used they are usually mixed with the incandescent sources. We consider such lighting conditions to be deceptive.

The effect of deceptive lighting conditions is to artificially enhance the brilliance and dispersion (fire) in gemstones, and this is particularly effective with diamonds. We feel that this practice is patently unfair to the consumer because it makes it virtually impossible to accurately judge color and clarity, the two most important factors in diamond valuation. Under these lights diamond color cannot be accurately identified or differentiated in spite of the fact that the difference in value from one color to the next can be drastic, and imperfections which would otherwise be visible to the naked eye and which, as a result, reduce value substantially, are lost in the artificially created dazzle. The purpose of these lamps is obvious from the advertisements used to market them to jewelers. One lamp promises that it "enhances the brilliance of diamonds," another that it "adds fire and brilliance to every piece you show," and a third "eliminates yellow cast." While others may argue that the use of these lamps is merely a merchandising and display technique, we prefer to think that consumers are entitled to see exactly what they are getting. Accordingly, we do not use such deceptive lights for the sale of gemstones and jewelry at Nebraska Diamond.

### THE HEAVY MAKE

The term "heavy make" refers to a diamond that has a disproportionate share of its total carat weight concentrated in the depth of the stone. Visually, this means that a "heavy make" diamond actually weighing 1 carat may only face up with the appearance and diameter of a 3/4 carat diamond cut to proper proportions. Because they face up so much smaller than they should, "heavy makes" are worth substantially less than properly proportioned diamonds. Because the "heavy make" is worth less, it costs the jeweler less, so he can sell it for less. When the jeweler fails to tell his customer that he is showing a "heavy make" and fails to explain that the "heavy make" is priced lower because it is worth less, the effect is to trick the consumer into thinking that he has purchased a full size diamond at a bargain price. In fact, the problem of the "heavy make" is virtually never explained to the consumer, so the consumer simply assumes that any diamond shown of a certain carat weight faces up the size that it should, and he purchases the "heavy make" unknowingly. We feel that this failure to inform the consumer constitutes deception by omission. The "heavy make" is no bargain. The consumer in our example would be better off buying the properly cut 3/4 carat diamond because it would cost less, be more brilliant, be more dispersive, and appear just as big as the 1 carat "heavy make."

### COLOR ENHANCEMENT TECHNIQUES

The term "color enhancement" refers to merchandising and display techniques which create, through a variation of display environment, the illusion that the color of a particular diamond is better than it really is. Suppose, for example, that a jeweler has a diamond with a noticeable yellowish cast. The consumer perception of that yellowish cast can be minimized if the diamond is shown to the consumer under the typical jewelry store incandescent lighting system described above, because that lighting system tends to create its own yellowish cast in the viewing environment. The effect is to alter a white background, against which a yellowish diamond will clearly stand out, to a yellowish background, against which a yellowish diamond blends in, with the result that the yellowish diamond begins to take on a more colorless look. Another technique is to allow sunlight to flood the showroom. Direct sunlight will have the visual effect of washing the yellow out of the diamond and will create the illusion of a more colorless appearance. A third technique is to display the yellowish diamond against a gray color background. The color gray tends to neutralize the color yellow and creates the impression of a more colorless diamond. We feel that all of the above techniques, and any other techniques with similar results, are deceptive. At Nebraska Diamond we use white backgrounds

and laboratory lighting conditions that render diamond colorations with exceptional accuracy so that even the untrained consumer can observe them with ease.

### CLARITY ENHANCEMENT TECHNIQUES

The term "clarity enhancement" refers to merchandising and display techniques which create, through a variation of display environment, the illusion that the clarity of a particular diamond is better than it really is. Typical jewelry store incandescent lighting systems artificially enhance both the brilliance and dispersive effects of diamonds, creating a dazzling "fireball" effect that tends to blind the viewer to the presence of imperfections which otherwise would be easily noticed with the naked eye. Additionally, these lighting systems create a "dimming" effect which tends to darken the overall appearance of the diamond, making it more difficult to see into the stone. Sometimes microscopes are used to hide imperfections. The microscope technique capitalizes on the fact that imperfections in diamonds typically exist in only very narrow planes in the diamond structure. The microscope is a very sensitive piece of equipment that can be focused to one of many planes in a diamond. If the jeweler sets the diamond in the microscope and adjusts the focus for the consumer, the jeweler often has the option to focus the microscope in a "clean" plane, with the result that the imperfections can be so far out of focus that they completely disappear off the field of vision. Unless the consumer understands how the microscope works and makes the focus adjustments himself he cannot verify the true nature of the clarity. Additionally, psychological techniques are often brought to bear on the consumer. In particular, diamonds are sometimes described to consumers as "near flawless". The term "near flawless" does not exist in the Gemological Institute of America (GIA) diamond grading terminology, and the use of that term is meaningless and deceptive. At Nebraska Diamond we adhere strictly to GIA diamond grading terminology, all customers are given thorough instruction and assistance in diamond clarity examination, and we identify and specifically point out all imperfections, if any.

## A Final Word

At Nebraska Diamond we believe that earning your trust is the most important thing we do and that trust is earned with quality, value, service and honesty. Our reputation for having the lowest prices, best selection, best service and best guarantee is unprecedented. At Nebraska Diamond our uncompromising commitment to our customers has made us the dominant force in Lincoln's fine jewelry market. We look forward to serving you.

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