

FILED	COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE	PROUDIT
	APR 23 2003 <i>JL</i> AVR 23 2003	
REGISTRAR - REGISTRAIRE		
OTTAWA, ONT.	# 0001a	

CT-2003-003

THE COMPETITION TRIBUNAL

IN THE MATTER OF THE *COMPETITION ACT*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an inquiry pursuant to subsection 10(1)(b)(ii) of the *Competition Act* relating to the marketing practices of The Gold Factory Ltd. and its principal officer Mr. Roger Pye.

AND IN THE MATTER OF the filing and registration of a consent agreement pursuant to section 74.12 of the *Competition Act*.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Registry of the Competition Tribunal Grefe du Tribunal de la concurrence REGISTERED / ENREGISTRÉ
APR 23 2003
FOR REGISTRAR / POUR REGISTRAIRE <i>JL</i>

Applicant

- and -

THE GOLD FACTORY LTD. (Nfld. Incorporation No. 29815-92) and ROGER PYE

Respondents

CONSENT AGREEMENT

WHEREAS since at least 1999 and continuing until at least November 2002, the Respondents, for the purpose of promoting the sale of gold jewellery by means of in-store written and verbal representations, made representations to the public as to price that was clearly specified to be the price at which such gold jewellery had been, is or will be ordinarily supplied by the Respondents ("the ordinary price") where:

- (a) having regard to the nature of the product and the relevant geographic market, the Respondents did not sell a substantial volume of gold jewellery at that price or a higher price within a reasonable period of time before or after the making of the representations, contrary to s. 74.01(3)(a) of the *Competition Act* (the “Act”); and
- (b) having regard to the nature of the product and the relevant geographic market, the Respondents did not offer for sale gold jewellery at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representations, contrary to s. 74.01(3)(b) of the Act.

AND WHEREAS in the course of promoting the sale of gold jewellery to the public, the Respondents did not establish the ordinary prices in good faith in that there was no reasonable expectation that they would sell a substantial volume of gold jewellery at the tagged ordinary prices since a reduction of at least 50% from the tagged ordinary price was continuously offered to potential customers through in-store signage and verbal representations at the point of sale.

AND WHEREAS the Respondents have represented that the business is experiencing financial difficulty;

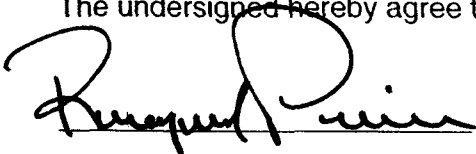
AND WHEREAS the Commissioner of Competition (the “Commissioner”) and the Respondents have filed a consent signed by each of the parties attached hereto as Schedule “A” consenting to the registration by the Competition Tribunal of this Consent Agreement (“the Agreement”).

NOW THEREFORE the Commissioner and the Respondents agree that:

- [1] The Respondents shall, and shall cause any entity which they (collectively or individually) have the ability to control to, immediately cease making, causing to be made, or permitting to be made, by any means whatsoever, any representation with respect to the ordinary price of any products unless 50% or more of volume of the product has been sold at that price or a higher price within twelve months prior to the making of the representation.
- [2] The Respondents shall, and shall cause any entity which they (collectively or individually) have the ability to control to, immediately withdraw any written representations relating to direct or implied savings from ordinary prices on all products at all retail locations unless the conditions set out in [1] above have been met.
- [3] The Respondents shall, and shall cause any entity which they (collectively or individually) have the ability to control to, immediately cease making or causing to be made any verbal representations as to the ordinary price of any products or representations of implied savings from the ordinary price at all retail locations unless the conditions set out in [1] above have been met.
- [4] The Respondents shall, and shall cause any entity which they (collectively or individually) have the ability to control to, maintain records at each place of business identifying the price at which each product is offered for sale, the price at which that product was sold and the length of time the product was offered for sale at a particular price.

- [5] The Respondents shall, and shall cause any entity which they (collectively or individually) have the ability to control to, provide a certified copy of the business records referred to in paragraph [4] above to the Commissioner of Competition within 14 days of receipt of a written request from an authorized representative of the Commissioner of Competition delivered to The Gold Factory, 430 Topsail Rd., St. John's, NF, A1E 4N1.
- [6] The Respondents shall, and shall cause any entity which they (collectively or individually) have the ability to control to, provide a copy of this Agreement in its entirety to all corporate officers and retail managers within thirty (30) days of the date of registration of this Agreement; and
- (i) confirm in writing to the Commissioner at the address for service set out in the attached consent within sixty (60) days of the date of registration of this Agreement that the Respondents have complied with the requirements of this paragraph; and
 - (ii) indicate in the letter of confirmation the name and job title of each person who received a copy of this Agreement pursuant to this paragraph.
- [7] The Respondents shall develop a Corporate Compliance Policy Manual, satisfactory to the Commissioner, to identify the procedures to be taken by Respondents and their employees to ensure that the business activities of the Respondents are in compliance with the provisions of the *Competition Act* and the *Precious Metals Marking Act*.
- [8] The Respondents shall submit the Corporate Compliance Policy Manual required to be prepared pursuant to paragraph 7 to the Commissioner, at the address for service set out in the attached consent, for review and approval within 90 days of the date of registration of this Agreement.
- [9] Assessment of an administrative monetary penalty in the amount of \$7000.00 would be appropriate in the circumstances, however based upon the representations concerning the financial situation of the Respondents, the Commissioner and the Respondents agree, on the condition that the Respondents are in full compliance with all of the terms and conditions of this consent agreement, there shall be no administrative monetary penalty assessed in this particular matter.
- [10] The Respondents shall ensure, and shall cause any entity which they have the ability to control to ensure, that the corrective measures outlined in this Agreement are implemented by no later than April 30, 2003.
- [11] This Agreement shall be binding upon each of the Respondents, their successors and assigns for a period of 10 years from its date of registration.


The undersigned hereby agree to the registration of this consent agreement.



Dated at Gatineau, Quebec, this 23rd day of

Raymond Pierce
Deputy Commissioner of Competition

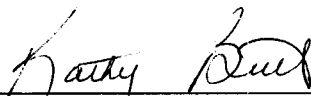
April, 2003.


Roger A. Pye

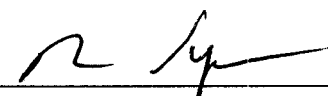
Dated at St. John's, Newfoundland, this 14
day of April, 2003.

Signature witnessed by:

Dated at St. John's, Newfoundland, this 14
day of April, 2003.


(print & sign name)
Kathy Butt

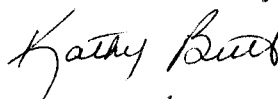
THE GOLD FACTORY LTD. (Nfld. Incorporation No. 29815-92)

By: 
Roger A. Pye
President and authorized signing officer

Dated at St. John's, Newfoundland, this 14
day of April, 2003.

Signature witnessed by:

Dated at St. John's, Newfoundland, this 14
day of April, 2003.


Kathy Butt
(print & sign name)