

**M e m o r a n d u m****480.0210**

**To :** Ms. Barbara Bolda  
Out-of-State District  
New York - OHB

**Date:** July 27, 1993

**From :** Donald L. Fillman  
Tax Counsel

**Subject:** **Bazaar Beauty Collection**

This will confirm our telephone conversation on July 13, 1993. You had faxed the missing page 5 from the H---'s B--- advertisement for beauty products, which contained some fine print not appearing on the first four pages. The relevant portions read as follows:

"Supplies are limited and H---'s B--- will refund your money or credit your charge for products ordered should supplies be exhausted. Some beauty products are shipped directly by manufacturer and may arrive under separate cover. ... Some products are sample or promotional sizes and are so labeled. Prices are specified by manufacturers. Payments to H---'s B-- are received on behalf of the beauty sampler participants featured in this advertisement."

The purchasing instructions were printed beside the tear-out card. The relevant portion was as follows:

"Simply check your Beauty Collection choices on the attached card (or a separate piece of paper) and mail along with your remittance to

H---'s B  
P.O. Box XXXX  
---, Ohio  
XXXXX-XXXX"

On the card itself, it also had an "800" number for telephone orders.

You also indicated by telephone that you had discovered that the entity handling telephone and mail orders was a wholly-owned subsidiary or division of H---'s.

It is my opinion that the addition of the fine print matter quoted above does not remove H---'s (or their subsidiary) from being a retailer, and change it into only an advertiser. Prospective customers have no reason to believe that they are purchasing from or dealing with any entity but H---'s; in reality, they are not. Their check is to be made out to H---'s, and mailed to H---'s. The telephone number is H---'s, and the printed telephone extension goes to an unidentified subsidiary or division of H---'s.

Further research would be needed to know what the fine print means when it says: "Payments to H---'s B--- are received on behalf of the beauty participants featured in this advertisement." Just what path do these payments take?

If you have other questions, please contact me.

DLF:wk

cc: Out-of-State District Administrator