

# Business weekly

a project of the Chicago Choshen Mishpat Institute

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all content has been reviewed for accuracy by Harav Chaim Kohn, shlita

## STORYLINE

### chametz delivery

By Rabbi Meir Orlan, Yerushalayim  
Halacha Writer for the Business Halacha Institute

Mrs. Levine was cooking up a storm for Pesach. After a couple of hours in the kitchen, the meat was on the fire, the chicken in the oven, and some kugels already out on the table. Mrs. Levine took a break to tend to some household errands. In the mail was a colorful flyer from "Baker's Best." She had often seen their products in the supermarket, but they were not certified kosher.

"Baker's Best just became kosher," the flyer announced. "Try our new line of delicious cookies. For free samples of our products, please fill out the attached postcard."

"How nice," thought Mrs. Levine. She detached the postcard, filled it out, and dropped it in the mailbox. Then she returned to her Pesach cooking.

On Chol Hamoed, the Levine family went out for the day to the park. When they came home, there was a notice from the mailman that a parcel had arrived for Mrs. Levine, but no one was home to accept delivery.

Mr. Levine looked at the notice and saw that the parcel was from "Baker's Best." "What is Baker's Best sending us on Pesach? Did you order matzos from them?" he joked.

"I can't believe it!" his wife exclaimed. "They were just certified kosher, and offered free samples. I ordered them before Pesach, but never expected them to arrive so fast."

"What are we going to do with the samples on Pesach?" asked Mr. Levine.

"I guess we tell the mailman to dump them in the garbage," said his wife.

"I wonder if we can put them in the pantry," said Mr. Levine. "We sell all the chametz in the pantry anyway. If we put it there, it will be included in the sale."

"Can we include new chametz in the sale?" asked Mrs. Levine.

"Perhaps," said her husband. "We don't give the Rav an exact inventory of the chametz anyway. The chametz samples will never be ours; they will go straight from Baker's Best to the non-Jew who bought the chametz."

"It still seems funny to me," said Mrs. Levine. "You should consult Rabbi Dayan on this. We don't want to risk having chametz in our possession over Pesach."

"Of course," agreed her husband.

Mr. Levine called Rabbi Dayan. "Gut Mo'ed,

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## FROM OUR HOTLINE

Submitted by  
H. Rothstein

### to eat or not to eat

A family ordered eight platters of vegetable sushi for a kiddush. On Shabbos morning, they discovered that two of the platters were made with fish, which costs significantly more.

**Q: May they eat the sushi and only pay the cost of vegetable sushi, or should they return it after Shabbos,**

**at which time it will be worthless to the caterer?**

**A:** Obviously, if it were possible to correct the error by returning the wrong platters for the correct ones, that would be preferable. In this circumstance, that is not realistic. However, even if the caterer will have no use for the

returned trays, it should still not be permitted for the family to use those trays based on the principle of yi'ush shelo mi'daas – abandonment without the owner's knowledge. This refers to a case where an owner loses an object that he would abandon hope of recovering, but he has yet to realize that it is lost. The Gemara's conclusion is that it is not yet consid-

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This week's newsletter is sponsored in memory of Mr. Naftali Michael ben Nesanel Rothner and Mrs. Sarah Reva bas Yakov Tzvi HaCohen Rothner.

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## STORYLINE CONTINUED

Rabbi Dayan. Can I ask you a funny Pesach question?"

"Certainly," answered Rabbi Dayan.

Mr. Levine explained what had happened with the chametz samples. "The mailman will bring the parcel again tomorrow, so we need to know what to do. I thought that perhaps we could just put it away with the chametz that we sold, but my wife wasn't sure about it."

"Your wife is correct that a chametz delivery cannot be included in the sale of chametz," said Rabbi Dayan, "because usually a person is not able to sell something that does not yet exist. Similarly, he is not able to sell something that is not yet his. (C.M. 209:4-5) Since the chametz was not yet yours at the time of sale on Erev Pesach, it cannot be included in the sale."

"I guess that means telling the mailman to throw the parcel away," said Mr. Levine. "We clearly don't want to violate the prohibition of owning chametz!"

"Not necessarily," explained Rabbi Dayan. "Although the delivery was not included in the sale of chametz,

a person cannot be forced to acquire something against his will. Don't sign for the package. Leave it in the post office until after Pesach." (O.C. 448:1)

"What if the mailman does not want to take the package back?" asked Mr. Levine.

"If need be, you can ask him to deliver the parcel to a non-Jewish neighbor and collect it after Pesach," said Rabbi Dayan. (Sha'ar Hatziyun 448:7)

"And what if the mailman simply leaves it at the house without asking?" asked Mr. Levine.

"You can still declare that you intend not to take possession of it until after Pesach," answered Rabbi Dayan. "Although it is not included in the sale, it does not become yours either; it remains the sender's meanwhile. Nonetheless, it should be covered securely so that you will not accidentally eat it." (Mishna Berura 448:5-6)

Mr. Levine thanked Rabbi Dayan. "I'll let you know what happens. And, after Pesach, how would you like a sample?"

## FROM OUR HOTLINE CONTINUED

ered abandoned (Bava Metzia 21b-22b). Accordingly, since the caterer may not be aware that he sent fish sushi rather than vegetable sushi, it should be prohibited for the family to serve those platters based on the principle of *yi'ush shelo mi'daas*.

Despite these arguments, the halacha is that it is permitted for them to serve the fish. They will only be obligated to pay the value of a vegetable sushi platter. It can be assumed that the caterer would not want the family to just put aside the fish sushi trays, since this would result in the caterer suffering a complete loss from those

trays. Moreover, if the family does not serve the two additional trays, it will damage the caterer's reputation, since it will seem that he is not reliable in preparing an order. Therefore, one has the right to assume that the caterer is interested in maintaining the original agreement, providing eight platters of food at the cheaper rate, because by doing so he will at least recover most of the cost of the fish sushi. Thus, since both parties have a desire for the original agreement to go forward, it is permitted for the family to serve that sushi and they will only be responsible to pay the price of the cheaper trays.

**Please email us with your questions and comments at [ask@businesshalacha.com](mailto:ask@businesshalacha.com)**

## HALACHA CORNER

### proper pricing week #2

**Q: Can I offer net-30 terms with a 2% discount for prompt payment?**

**A:** This arrangement seems parallel to the two-tier pricing for cash/credit discussed in our last newsletter, since there is a lower price for prompt payment, and a

higher price for payment in 30 days. Thus, according to most authorities, this payment arrangement is considered a form of *ribbis*, interest, and allowed only by means of a *heter iska*. [According to the Chochmas Adam, however, this arrangement is permissible, since the net-30 price reflects the true market price.] It is also

permissible to provide the 2% discount in the following manner: The sale should be concluded and a single price set with net-30 terms alone. After the goods are already handed over, or the transaction is consummated with a *kinyan*, then the invoice may be sent allowing a 2% discount for prompt payment. (Y.D. 173:3)

## Chicago Choshen Mishpat Institute

**invites all men on Sunday mornings: first seder and breakfast at 9:00.**

**Marei Mekomos and chavrusa learning followed by a shiur b'iyun given by Rabbi Zev Cohen from 10 -11am.**

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