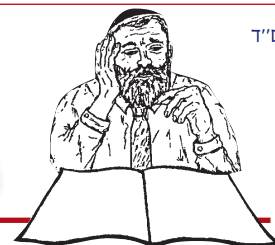


THE DAF HaKASHRUS



A MONTHLY NEWSLETTER FOR THE OU RABBINIC FIELD REPRESENTATIVE

CHAMETZ SHEAVAR ALAV HAPESACH: THE SUPERMARKET CONTROVERSY

BY RABBI YAAKOV LUBAN

Executive Rabbinic Coordinator

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An exciting aspect of Torah study is the application of the age-old principles of halachah to the modern world in which we live. Thus, as an example, there is obviously no Talmudic discussion about the propriety of walking past a motion detector on Shabbat, yet contemporary poskim have analyzed this issue and found relevant source material in the vast sea of halachic literature. By identifying fundamental principles and concepts, halachists have addressed she'eilot that run the full gamut of modern human experience.

A fascinating case in point is the issue of purchasing chametz after Pesach in a Jewish-owned supermarket. There were no ShopRites in sixth-century Babylonia when the Talmud was redacted, but, nonetheless, treatment of this matter touches on numerous areas of halachic thought. One could easily compose an entire volume on this topic alone. This article will but scratch the surface and present some of the broad issues of concern.

Q. WHAT IS "CHAMETZ SHEAVAR ALAV HAPESACH"?

A. The Torah prohibitions against chametz are unique, in that a Jew is not only prohibited from consuming and deriving benefit from chametz during Pesach, but he is even restricted in owning it because of the injunction of "ba'al yairo'eh uba'al yimotze" (literally, chametz "may not be seen or found," but the Sages interpreted this to mean that ownership of chametz is prohibited). In addition, the rabbis of the Talmud established an after-the-fact penalty for owning chametz products during Pesach, in violation of halachah. Such items, known as "chametz sheavar alav haPesach," may not be consumed, nor may one derive benefit from them. This means that if you neglected to sell your box of Raisin Bran before Pesach, you may not consume it or derive benefit from it even after Pesach. (In fact, if one accidentally purchased chametz sheavar alav haPesach, the item may not be returned for a refund, as this would constitute derivation of benefit.) While some posit that only the owner is penalized for chametz sheavar alav haPesach, in practice we follow the viewpoint that its restrictions are universal and apply to everyone. (Perhaps this serves as a deterrent against hoarding chametz in order to sell it after Pesach.) As a result, one may not purchase chametz from a Jewish-owned store or supermarket after Pesach if the owner continued to own and purchase chametz during the holiday.

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BIRCHAT HACHAMA 5769

BY RABBI ELI GERSTEN

RC Recorder of OU Psak and Policy

This erev Pesach, the 14th of Nissan 5769 (April 8, 2009) will mark the beginning of the 207th cycle of the sun from the time of creation. It takes the sun exactly 28

solar years to complete one cycle such that *tekufas Nissan* (the halachic start of Spring) will again begin at 6:00 PM Tuesday evening. This is the same day and time it began 5768 years ago when the sun was first fixed in the heavens. To mark this occasion, upon seeing the sun on Wednesday morning, we recite the blessing *oseh ma'aseh v'reishis*.

- One should daven shacharis before reciting the blessing.
- The earliest time to say the blessing is upon seeing the complete sunrise (6:30 AM in NYC).
- One should make sure to recite the blessing before the end of the third halachic hour of the day (9:44 am in NYC).
- According to some opinions, one may recite the blessing until midday (12:57 AM in NYC)



- It is preferable to recite the blessing in the presence of a minyan and ideally it should be recited in a large gathering (*b'rov am hadras melech*).
- If the sun is blocked by clouds, so long as the outline of the sun is visible, one may recite the blessing.
- There are various customs as to whether women recite this blessing.

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Q. WHAT IF THE STORE IS JOINTLY OWNED BY A JEW AND NON-JEW? WHAT IS THE STATUS OF THE CHAMETZ IN THIS INSTANCE?

A. There is an opinion that if the non-Jewish partner owns a majority of the business, there is no concern of chametz sheavar alav haPesach (Shu"t Zecher Yitzchak, responsa 8). Nonetheless, Rabbi Moshe Feinstein (1895-1986; Iggerot Moshe, EH 1:7) adds one important caveat: If the Jewish partner is the manager of the company, the enterprise is treated as a Jewish business, even though the partner owns less than 50 percent of the company.

Q. HOW DO I KNOW WHICH STORES ARE JEWISH OWNED AND DO NOT SELL THEIR CHAMETZ?

I may know who owns the small local grocery store around the corner, but how would I know if the owner or manager of a large chain is Jewish? True, I can search the Internet and perhaps discover the owner's name, but how would I know if he is really Jewish? Even if the owner has a Jewish-sounding name, there is no guarantee that he is Jewish. It is an unfortunate reality today that his mother may have been non-Jewish, which renders him halachically not Jewish.

A. There are private lists available that circulate around Pesach time with basic information, but it is best to check with your local rabbi. If he is in doubt, he can call the Orthodox Union (OU) or another major kashrut organization that has access to this information.

Q. WHAT ITEMS ARE INCLUDED IN THIS PROHIBITION?

A. Bread, cookies, cake, pretzels, blintzes, cereals and other foods that contain any of the five primary grains (oat, wheat, spelt, rye and barley) are included. Interestingly, even flour is problematic because wheat is tempered in water before milling, and flour has the status of chametz. Whiskey, beer and other alcoholic beverages distilled from grain also pose the same concern.

Q. DOES CHAMETZ SHEAVAR ALAV HAPESACH APPLY TO KITNIYOT?

A. Jews of Ashkenazic descent refrain from eating kitniyot (legumes, such as corn, rice, beans, et cetera) during Pesach. However, this is a tradition that evolved in the last millennium, and these foods are not actual chametz. As such, chametz sheavar alav haPesach does not apply to kitniyot, and these items may be purchased in any supermarket after Pesach.

Q. DO PRODUCTS THAT CONTAIN VINEGAR (SUCH AS SALAD DRESSING, PICKLES AND KETCHUP) FALL UNDER THE PROHIBITION OF CHAMETZ SHEAVAR ALAV HAPESACH?

A. Surprisingly, the answer is the classical rabbinic response: "It depends." Vinegar is manufactured from fermented alcohol, and there are various sources of alcohol. In the United States, most vinegar and alcohol is corn-derived (corn is kitniyot), and chametz sheavar alav haPesach does not apply. In contrast, in Europe, the majority of alcohol is derived from barley. As such, vinegar-based products in Europe are a problem.

Q. HOW LONG MUST ONE WAIT BEFORE BUYING CHAMETZ FROM A JEWISH-OWNED SUPERMARKET AFTER PESACH?

A. When I was a child, it was customary to wait until Shavuot, which is six weeks after the conclusion of Pesach. This date was a "guesstimate" of how long it would take for the stock of chametz

that had been in the store during Pesach to be depleted. Today, it is generally assumed that the inventory in a major supermarket is sold much more quickly; shelves are generally restocked on a daily basis. Still, supermarket chains maintain large inventories of products in warehouses for distribution in individual stores, and it is necessary to calculate the turn-around time from the warehouse delivery until the purchase by the customer in the actual store.

Rav Moshe writes (Iggerot Moshe, OC 4:96) that it is permissible to purchase chametz from a supermarket at the point in time when there is a 50 percent possibility that the supermarket purchased the chametz after Pesach. Since chametz sheavar alav haPesach is a rabbinic (and not a Biblical) injunction, one can rely on a principle known as "*safek derabbanan lekula*" (one can be lenient when it is uncertain if a rabbinic restriction applies), and therefore shop freely in the store.

The question is, When can one legitimately say there is a 50 percent chance that the chametz on the supermarket shelf was purchased by the store after the conclusion of Pesach? How long does it take to establish a reasonable doubt? It is difficult to give a precise cut-off date. Communal rabbis generally tell their congregants when they feel comfortable purchasing chametz, and my impression is that Lag B'Omer (which is twenty-five days after the conclusion of Pesach) is a safe time.

Q. WHY CAN'T RABBIS SELL THE CHAMETZ OF JEWISH-OWNED SUPERMARKETS BEFORE PESACH?

Most of us, via our rabbis, sell our chametz to a non-Jew (in a process known as "mechirat chametz") to avoid the prohibition of owning chametz during the holiday. Since we do not legally own the chametz during Pesach, it can be consumed afterwards, when the rabbi purchases the chametz back. Why not do the same on a grand scale for supermarkets as well? We could then safely purchase chametz from the store as soon as yom tov concludes.

A. Indeed, this is exactly what takes place. In fact, some rabbis arrange to sell not only individual stores but also entire supermarket chains. However, this process is not without controversy, as it appears on the surface to be nothing more than a subterfuge. After all, some supermarkets are open on Pesach, conducting business as usual, buying and selling chametz. Doesn't this demonstrate that the sale of chametz is performed without sincerity? This argument is not new. Rabbi Chaim Chizkiyahu Medini (1832-1904) writes in his encyclopedic work, the Sdei Chemed, that a storeowner in his city closed his shop for Pesach and arranged for the sale of his chametz to a non-Jew. During Chol Hamoed, it was discovered that the store was secretly engaged in selling the chametz to non-Jewish customers. Rabbi Medini viewed this as a clear indication that the storeowner was not serious about the original sale. He publicly forbade the community to purchase chametz from this store (as he considered it chametz sheavar alav haPesach), even though it resulted in enormous losses for the storeowner.

Q. WHY IS MECHIRAT CHAMETZ AN ACCEPTED PRACTICE WHEN IT APPEARS TO BE NO MORE THAN A LEGAL CHARADE?

A. The arguments cited above against selling supermarkets to non-Jews for Pesach lead us to fundamental questions about the propriety of the general sale of chametz as well. To highlight this point, consider the following: For the past twenty years, I have had the unique honor of arranging the sale of chametz for all Jewish-owned companies that are certified by the OU. It has often occurred to me that the total value of this chametz amounts to

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SUPERMARKET

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hundreds of millions of dollars. Every year I meet with an accommodating non-Jew who graciously purchases this chametz for a down payment of ten dollars. I explain to him that the balance of payment is not due until after Pesach. If one year I decide to not repurchase the chametz, this kind-hearted purchaser would have to come up with an astronomical sum that would be way beyond his means. Most rabbis don't engage in million-dollar sales, but the chametz they sell on behalf of their congregants may easily be worth tens of thousands of dollars. How can these sales be valid when the buyers lack the financial resources to pay for the goods?

This very same argument was made almost three hundred years ago by Rabbi Alexander Sender Schor (1650-1733) (Bichor Shor, Pesachim 21a). The sale of large quantities of chametz became prevalent a few hundred years ago as Jews began to invest heavily in the liquor industry, and the disposal of chametz before Pesach would have resulted in very substantial losses. Rabbi Schor asks, "How can the sale be valid when the purchaser is a man of very limited means who never purchased anything of significant value in his lifetime?" Though Rabbi Schor offers a halachic response to this question, many rabbanim objected to mechirat chametz on these grounds, and the matter remained controversial. In fact, many people do not sell *chametz be'ain* (visible chametz), and will only rely on mechirat chametz for mixtures of chametz. (For example, licorice and many corn-based cereals contain wheat flour as a minor ingredient. The halachah is less strict with regard to such chametz, since it is not "visible.") A full analysis of this topic is beyond the scope of this article, but the lenient position has generally prevailed. Mechirat chametz has become a fixture of Jewish life, and most people sell all kinds of chametz. For our purposes, suffice it to say that mechirat chametz is valid because the sellers, who are unable to own chametz, clearly want to unburden themselves of these forbidden wares, and the purchaser is told that the sale is legally binding. In theory, the buyer could acquire the necessary capital to pay the balance due after Pesach by selling the chametz that he has acquired.

Q. WHY IS MECHIRAT CHAMETZ FOR A SUPERMARKET THAT CONTINUES TO SELL CHAMETZ DURING PESACH A VALID SALE?

A. Good question. Many poskim fundamentally oppose the sale of Jewish-owned businesses that sell chametz on Pesach. In stark contrast to the mechirat chametz of a halachically observant Jew, the sale of a supermarket that is fully open for business on Pesach lacks the aura of respectability. The seller is clearly not sincere about the sale. For this reason, Rabbi Joseph B. Soloveitchik (1903-1993) and others considered sales involving supermarkets that sell chametz to customers on Pesach to have no validity. Nonetheless, Rav Moshe (Iggerot Moshe, OC 1:149, 2:91 and 4:95) was the champion of this transaction. He put forward various arguments of justification, one of which is that halachah does not take into consideration private thoughts (*devarim shebelev*) that are not verifiable. Furthermore, it is conceivable that the storeowner prefers to transfer ownership of his chametz to a non-Jew so his religious customers can shop freely in his establishment after Pesach, even though he intends to continue selling chametz merchandise during Pesach.

The OU follows the more stringent position of Rabbi Soloveitchik.

Q. HOW DOES THE OU CERTIFY JEWISH-OWNED BUSINESSES THAT MANUFACTURE CHAMETZ? HOW ARE MANUFACTURERS DIFFERENT THAN SUPERMARKETS?

A. OU companies that are Jewish owned are not permitted to manufacture or distribute chametz during Pesach. When the OU enters into a new contract with a Jewish company, we make this policy clear at the outset.

Very well then. You will rely on Rav Moshe. You will check with your rabbi and identify a supermarket that has sold its chametz. Immediately after Pesach, you will rush out and buy fresh Danishes to enjoy with your coffee after an entire week of cake-deprivation and eating cookies made from potato starch. Not so fast! Not all the problems have been resolved.

Q. ISN'T THERE A PROBLEM CONCERNING CHAMETZ PURCHASED BY THE SUPERMARKETS DURING PESACH ITSELF?

According to halachah, one cannot sell *davar shelo ba le'olam* (goods which are not currently in one's possession), even if the transaction will not take effect until such time that one acquires the materials. It follows then that a rabbi can only sell the chametz owned by a supermarket before Pesach to a non-Jew, but cannot do so for the chametz that is acquired during Pesach. Once Pesach is over and you are grocery shopping, it is likely that much of the chametz you see on the shelves had been purchased by the supermarket on Pesach. Seems like the dream of fresh Danish and coffee has just gone up in smoke.

A. Rabbi Pinchas M. Teitz (1908-1995), the rabbi of Elizabeth, New Jersey, for many years, took the initiative to arrange the sale of chametz for a number of large supermarket chains. About twenty-five years ago, I asked Rabbi Teitz why the sale was effective when the stores continued to acquire chametz on Pesach. Rabbi Teitz, who was a great talmid chacham, explained to me why he felt it was halachically possible to sell the

chametz acquired on Pesach as well. Rabbis who sell supermarket chains follow this position. Nonetheless, a careful reading of the Iggeret Moshe (OC 4:96) makes it clear that Rav Moshe had a conflicting opinion and did not consider it possible to sell the chametz acquired by supermarkets during Pesach. In fact, this is the opinion of many contemporary poskim. If we accept this latter view, one cannot purchase chametz in a supermarket—even if we know that the chametz in that supermarket was sold prior to Pesach—until such time that it is reasonable to assume that the majority of inventory was either purchased before or after the eight days of Pesach. (Sorry. No post-Pesach Danish.)

Some rabbanim have found creative ways to deal with the problem of chametz purchased by supermarkets during Pesach, but these solutions have not been universally accepted. This subject is complex and is beyond the scope of this article.

Q. NOW I AM REALLY CONFUSED. IF RAV MOSHE MAINTAINED THAT SUPERMARKETS CANNOT

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SUPERMARKET

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SELL CHAMETZ THAT IS ACQUIRED DURING PESACH, WHY DID HE ADVOCATE THE SALE OF SUPERMARKETS BEFORE PESACH?

A. For two reasons. First, the sale of a supermarket is halachically beneficial for the storeowners. By transferring ownership of large quantities of chametz that are on the supermarket shelves before Pesach, the owners are spared from violating multiple Torah restrictions. Second, the sale limits the status of chametz sheavar alav haPesach to the narrow window of chametz that is purchased by the store on Pesach, and thus, the turnaround time for the depletion of prohibited merchandise is shortened.

Q. SOME OF THE SUPERMARKET SUPERCHAINS ON THE EAST COAST WERE FOUNDED BY JEWS DURING THE LAST FEW DECADES OF THE TWENTIETH CENTURY. IS IT TRUE THAT IN THE PAST FEW YEARS, MANY OF THESE CHAINS HAVE BEEN SOLD TO NON-JEWISH INVESTORS?

A. Yes, it is true. In fact, when this happened, many rabbis gave a sigh of relief, as we thought that matters had been simplified—and one could buy chametz after Pesach in all those supermarkets. But not so! Shortly thereafter we learned that the largest distributor of food items on the East Coast, which distributes products to a number of major supermarket chains, is the Jewish-owned C&S (Cohen & Siegel). If the distributor owns chametz during Pesach, the very same problems of chametz sheavar alav haPesach apply equally to all non-Jewish-owned stores supplied by that company. Rabbi Elazar Mayer Teitz of Elizabeth, New Jersey, sells the chametz of C&S, but the concern discussed above with respect to supermarkets (the inability of the rabbi to sell chametz that is acquired on Pesach) has now shifted to the distributor, and the problems remain the same.

Some rabbis are of the opinion that one can purchase chametz after Pesach in non-Jewish supermarkets that are supplied by C&S. The logic goes as follows: Whatever chametz was in the possession of C&S before Pesach is not problematic, since it is sold to a non-Jew before Pesach begins. Chametz purchased by C&S after Pesach is obviously acceptable for use. Only chametz acquired during Pesach is therefore a matter of concern. No one is certain how long it takes for products to move from the C&S warehouse to the supermarket shelf. Let's say you visit your local supermarket (which uses C&S as a supplier) the week after Pesach and you see a box of Cheerios on the shelf. There is no way to determine if that box is chametz sheavar alav haPesach. The same uncertainty prevails if you shop two or three weeks later. Since we are dealing with chametz sheavar alav haPesach, which is a rabbinic injunction, the rule of "*safek derabbanan lekula*" applies and one can be lenient and purchase the Cheerios.

Other rabbanim are not comfortable with this approach. We know with certainty that at some point in time, most of the chametz in the store will be chametz sheavar alav haPesach. Because of our lack of information, we can't establish precisely when that is. It is unreasonable to allow the purchase of chametz at all times when we know that, at some instance, the chametz is prohibited. I have discussed this topic with Rabbi Yisroel Belsky, halachic consultant to the OU, on many occasions, and he firmly subscribes to the latter view.

Q. WHY IS EVERYTHING LEFT UNRESOLVED? EVERYTHING SEEMS TO BE A MATTER OF DISPUTE AND IS LEFT HANGING. WHY IS THERE NO BOTTOM LINE? TELL ME THE NAMES OF THE

STORES WHERE I CANNOT SHOP AFTER PESACH AND GIVE ME A FIRM CUT-OFF DATE, AND THAT WILL BE THAT. WHY IS THE OU NOT SHARING THIS INFORMATION?

A. Halachah is not monolithic and rabbinic disputes abound. Jews have always turned to their rabbis for guidance and assistance when there are conflicting halachic opinions. For the reasons outlined above, there is no one definitive position for where and when chametz can and cannot be purchased after Pesach. It is difficult to gather precise information and it is no simple matter to chart a course between conflicting halachic positions. The OU does not supervise supermarkets, and it is our belief that questions related to chametz sheavar alav haPesach fall into the domain of *she'eilot* one should ask of his local rabbi.

Hopefully, you now have a greater appreciation for the complexity of issues that are relevant in rendering a halachic decision on these matters.

Q. CAN YOU SUMMARIZE THE DISCUSSION?

A. Here it is in a nutshell:

- The sale of chametz in Jewish-owned stores that operate fully on Pesach (i.e., chametz is sold in the store) is a matter of dispute.
- Even for those who assume the sale is valid, it is questionable whether the sale is effective for chametz that is acquired during Pesach.
- Ask your rabbi to determine which supermarkets are Jewish owned or are supplied by Jewish distributors, and how long after Pesach you must wait to purchase chametz sold in these stores.

Q. HOW ABOUT A NICE SIMPLE CLOSING THOUGHT?

A. I once learned a great lesson. I accidentally drove into an exit lane and was forced to leave the highway prematurely. This put me on a new road, which did not have an exit for over forty miles. It took me more than an hour to turn around and get back on the original highway. The lesson here is that one wrong turn in life can have long-term consequences.

Perhaps chametz sheavar alav haPesach teaches the same idea. If one does not handle chametz properly before Pesach, the prohibition against eating chametz will linger long after Pesach is over.

Dealing with chametz sheavar alav haPesach in our modern world is not a simple matter. This rabbinic injunction underscores the importance of doing things correctly up front so that we are not haunted by complications in the future.

ASK OUTREACH AT LANDER



Rabbi Chaim Goldberg makes a point during his fascinating shiur on "The Kashrus of Fish in Theory and Practice" delivered on March 17 to the Lander College for Men's Kollel in Kew Gardens Hills, NY

THE SERVICE

Although the mitzvah of birchas hachama is fulfilled by reciting the blessing - *oseh ma'aseh v'reishis* (Who makes the work of creation), there are various customary prayers recited together with birchas hachama. The following is the service as outlined by the Mishna Berura.

- Tehilim 148 – *Haleluka Halelu es Hashem min hashamayim*
- The Blessing - *Baruch ata Hashem Elokeinu melech ha'olam oseh ma'aseh v'reishis*
- Piyut – *Kayl adon al kol hama'asim ... chayos hakodesh* (as found in *Shacharis l'Shabbos*)
- Tehilim 19 – *Laminatzeiach mizmor l'David, Hashomayim misaprim kivod Kayl*
- Aleinu
- Kaddish (if there is a minyan present)

Other customs include:

- Before the Blessing - *Lishaim Yichud... Hareini ba likayem mitzvas birchas hachama ...* (*Kaf Hachayim* 229:18)
- After the blessing - *Yihi Ratzon milfanecha ... kimmo shehechyanu v'kiyamtanu ...* (*Kaf Hachayim* 229:18)
- Reciting the portion of the Torah about the fourth day.

CITY	MA	GRA							
Atlanta	9:52	10:2	Hartford	9:02	9:38	Philadelphia	9:12	9:48	
Baltimore	9:19	9:55	Houston	9:39	10:15	Phoenix	8:43	9:19	
Boston	8:55	9:31	Los Angeles	9:08	9:44	Pittsburgh	9:32	10:08	
Chicago	9:02	9:38	Memphis	9:13	9:49	Providence	8:57	9:33	
Cincinnati	9:50	10:26	Miami Beach	9:38	10:14	San Francisco	9:23	9:59	
Cleveland	9:38	10:14	Milwaukee	9:03	9:39	Seattle	9:17	9:53	
Columbus	9:44	10:20	Minneapolis	9:23	9:59	Silver Spring	9:21	9:57	
Dallas	9:43	10:19	Montreal	9:04	9:40	St. Louis	9:21	9:57	
Denver	9:12	9:48	New York	9:08	9:44	Toronto	9:28	10:04	
Halifax	9:25	10:01	Oak Park	9:44	10:20	Vancouver	9:19	9:55	
			Orlando	9:42	10:18	Winnipeg	9:36	10:12	

CHECKING FIGS FOR INSECTS

BY RABBI DOVID BISTRICER

RC Bake, Fish, Vegetables, Salad Dressings, Sauces

On the heels of the recent kashrus issue that surfaced with raisins, it was suggested to review the OU policy vis-à-vis figs.

There are several species of figs, such as, Adriatic, Kadota, Mission, Sierra, and Smyrna. OU research and inspections have suggested that infestation is not a common occurrence in most varieties. This was further confirmed by two experienced USDA entomologists who have studied figs and maintained that infestation is not common when stored in clean, cool, and dry environments. However, infestation in figs could occur during distribution or while in storage, if kept in unsanitary or moist conditions. The USDA did not believe that infestation would occur while the fig is growing on the tree, and any infiltrating insects would usually occur in dry figs, once the figs are already detached from the ground. Thus, the same rationale that was applied to permitting raisins based on Taz Y.D. 84:12 and Pri Megadim Y.D. 84:11 would apply to most figs as well.

The one species of fig that required additional research is the Smyrna fig, since that variety is regularly exposed to fig wasps. In fact, fig wasps are necessary to pollinate each fig to make it edible. After pollination, the wasps may exit but often remain in the fig and die there. Therefore, since each Smyrna fig must come into contact with at least one wasp, infestation of wasps in Smyrna figs should be highly prevalent even if one wasp would pollinate multiple figs. Moreover, the Smyrna fig has an opening at the bottom that allows for easy entry. Nevertheless, OU inspections have indicated that even in this fig variety, the prevalence of infestation is at best borderline *miut hamatzui*, according to the Mishkenos Yackov's definition of a 10% probability. This phenomenon superficially appears to be a mystery and requires further explanation.

There is a common theory advanced that Smyrna figs contain a natural enzyme, ficin, which is a raw material used to produce latex that causes wasps to disintegrate after they die. The USDA also maintained that ficin is an irritating substance that will inhibit the presence of insects in figs, even if wasps and storage pests are periodically found in them.

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CORRECTION:

THE OU PASSOVER GUIDE MISTAKENLY INDICATED THE BIRCHAT HACHAMA CAN BE RECITED UNTIL SOF ZMAN ACHILAT CHAMETZ. THIS IS INCORRECT. BIRCHAT HACHAMA SHOULD BE RECITED BEFORE SOF ZMAN KRIAS SHMA AS INDICATED IN THE CHART BELOW.

ברוך אתה ה' אלקינו מלך העולם
עושה מעשה בראשית

Erev Pesach April 8, 2009 Sof Zman Krias Shma/Birchat Hachama:

The table below uses the times from the OU online halachic calendar at www.ou.org/holidays/calendar for April 8 '09

The Magen Avraham time for Sof Kriyas Shema uses the definition of *amud haShachar* as 72 fixed minutes, not as 16.1 degrees. Note that the times are about one minute later than the times on www.myzmanim.com.

INSECTS

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Interestingly, the USDA maintained that fig wasps are exceedingly difficult to identify without use of a dissecting microscope and even experienced professionals very often miss wasps without the use of magnification. The USDA thought it would not be possible for a consumer to discover fig wasps in figs due to their exceptionally small size. Without the use of a dissecting microscope, one USDA experienced entomologist remarked that the wasp will usually not appear to be anything more than a speck. This assertion was also confirmed by an OU mashgiach.

Based on the information above, Smyrna figs would not be viewed differently than any other fig species and should not require checking beforehand. Furthermore, Rabbi Belsky pointed out that since at worst the status of Smyrna figs does not appear to be greater than *miut hamtaui*, with an obligation to check only *me'derabanan*, one can argue that a *bedikah* is not required if its methodology is exceedingly difficult and would potentially destroy the fig. However, Rabbi Belsky advised that although strictly speaking checking any variety of fig is not required, in general it is still a praiseworthy practice. This is similar to the Pri Megadim above who writes that it is a laudatory chumra to check dried fruits even though one can rely on a *sfek sfeika*.

¹ Smyrna figs originated in Turkey and were later brought to California. The CA version is known as Calimyrna.

² USDA assumed fig wasps are approximately 1 millimeter, per Arnett, p. 560 (Arnett, Ross, Jr., 2000 American Insects, CRC Press, Boca Raton, Florida, USA.)

³ However, the OU mashgiach thought that a distinction could be made between larvae and fig wasps, whereas the larvae are more noticeable to the naked eye. However, the USDA claimed that edible (female) figs are inappropriate hosts for fig wasp larvae. Therefore, the USDA contended that in all likelihood larvae detected by OU developed postharvest. It is also important to bear in mind that OU has found significantly lesser incidents of insect infestation in fresh figs than dried. USDA also supported that is the case given the highly perishable nature of fresh figs, how they are harvested and stored.

⁴ Some prominent bedikas tola'im experts advise to check figs in a manner that would essentially obliterate it.

DAF NOTES:

This email was received from Rabbi Avrohom Keller regarding Rabbi Price's article in the past issue of The Daf Hakashrus entitled Mowed Lawn Aroma. Rabbi Price described a method of "natural" green notes which are recovered from the distillation of mint oil, from mint leaves.



Rabbi Price,

There is no mention as to regards Kashrus considerations pertaining to the second method where the flavors are recovered from fresh mint. It should be noted that one has to make sure that the mint is not a product from Eretz Yisrael.

Kol Tuv, Avrohom

Dear Reb Avrohom, Shlita

Y'yasher koach for bringing this to our attention.

Rabbi Price and Rabbi Grossman

KASHRUTH alert!

DOS ANCLAS TABLE SALT produced by Alex Int'l Trading Corp. – Siesta Key, FL mistakenly bears an **UP** symbol and is not certified Kosher for Passover. It is certified for year round use only.

A limited amount of **UP** certified **SMART BALANCE OMEGA BUTTERY SPREAD** made with Extra Virgin Olive Oil produced by GFA has been erroneously distributed with lids from the Light Omega Buttery Spread which bear an **UP** Pareve designation. While the Light variety is certified pareve, the regular Omega Buttery Spread contains dairy ingredients. Corrective action has been taken.

KASHRUTH advisory!

CARAVAN INGREDIENTS / Kansas City plant, a major producer of baking ingredients, from March 2, 2009 to March 22, 2009 produced most of their product without the correct **UP** symbol. The "O" surrounding the "U" was omitted due to printer error. Cartons bearing the "U" symbol are reliably kosher. Dairy product also bears a "D".

MAZAL TOV TO ...

our devoted RFR in WI **RABBI BENZION TWERSKI AND HIS WIFE** on the engagement of their daughter Rachel to Sholom Horowitz of Williamsburg, NY.

our devoted administrative assistant **MRS. SOROH WININGER AND HER HUSBAND** and family on the recent engagement of their son Daniel to Nechama Burstein of Brooklyn, NY.

TOWARDS 101 TIMES



MAZAL TOV! RABBI MICHAEL COLEMAN recently completed his 7th Siyum HaShas at OU headquarters in the presence of Senior Administration and his fellow Rabbinic Coordinators.

בואכם לשלום...

to Rabbi Benzion Twerski who will be a new full time RFR in Milwaukee, WI.



לא באתי אלא לעורר MECHIRAS CHAMETZ

BY RABBI ELI GERSTEN

RC - Recorder of OU Psak and Policy

Mechiras chametz accomplishes two functions. It prevents the owners of the chametz from violating the *issurim d'oraisah* of *ba'al yiraeah uba'al yimatzey* and it saves the chametz from

becoming *chametz she'avar alav hapesach* (*mid'raban*). Ideally we try to arrange all sales in the most *lichatchila* manner so as not only to protect the kashrus of the products but also to prevent the owners from violating *issurim*.

Mechiras Chametz today is typically arranged by authorizing a Rabbi to act as the legal agent on behalf of the one selling the chametz. This same procedure is utilized in regards to mechiras chametz for companies. However the question arises, who may authorize the sale of chametz on behalf of a Jewish owned company?

- The best procedure is to have the Jewish owners themselves sign the authorization *shtar*.
- Where this is not possible, it is questionable whether a non-Jewish manager may authorize such a sale on their behalf. However, since the issue as far as the OU is concerned is only in regards to the *issur dirabbanan* of *chametz she'avar alav haPesach* both Rav Belsky and Rav Schachter feel that there is room to be lenient¹. However, this manager must have decision making powers regarding buying and selling on behalf of the company².
- If the Jewish owner delegated the responsibility of selling the chametz to someone in the company then this is also acceptable³ even if this person does not have any decision making powers. However, this must be done with a formal written authorization. One who has no decision making powers and was not delegated may not authorize the sale of chametz.

Rav Moshe Feinstein Zt"l (*Igros Moshe* O.C. I:149) validated the sale of chametz performed on behalf of Jewish owned supermarkets, even though they did business with the chametz on Pesach. However, Rav Moshe's leniency only applies to items that were in stock from before Pesach and were not sold during Pesach. Therefore, this leniency has little relevance for Jewish owned companies that continue to receive, produce, and/or sell chametz on Pesach. Additionally, Rabbi Genack had been told by Rabbi Soloveitchik Zt"l not to allow sales which clearly

show there was no intent to conduct a sale, unless there are other mitigating factors. Therefore, OU policy has been:

- When a company is completely Jewish owned and is involved with real chametz then a *mechira* is only acceptable if the company ceases all chametz operations for the duration of Pesach. They may not accept deliveries of chametz, nor may they ship out chametz products. For these purposes we consider flour to be real chametz.
- If non-Jews are the majority stock holders in the company then we may allow the Jewish partners to sell their share of the company to the non-Jewish partners for the duration of Pesach⁴.
- Even if the Jewish partners are the majority owners, there are still instances where we permit the sale of the company to the non-Jewish partner. For instance, we can allow for a sale, if the chametz in question is only *ta'aruvus chametz*⁵ or is whiskey⁶ or there are other mitigating factors.

If one has any question as to whether a Jewish owned company may have their chametz sold then this should be discussed with the poskim and resolved before accepting to certify such a company.

¹ P-37

² Rabbi Belsky explains that *mechiras chametz* is considered a wise business decision and failure to arrange for a *mechiras chametz* will cause the company a huge financial loss. Those who are in managerial positions who can avert such a loss are obligated to do so. From a legal stand point, if a manager has the opportunity to take steps to avert a loss and fails to do so, he can be held liable.

³ Since the Jewish owner was *migaleh da'as* that he would like the OU to sell his chametz.

⁴ Zecher Yitzchak (R' Itzila Ponovitcher) Siman 8 brings two reasons to be lenient when a Jew is a minority stockholder. The portion of chametz *she'avar alav hapesach* in the bread is *batel b'rov*. Also a corporation is an independent entity and the minority stockholder does not have direct access to the chametz. In this sense the chametz is *aino b'rishuso*. In such a case we can be lenient and allow for a sale.

⁵ There are opinions that hold that one does not violate *bal yiraeah* for *ta'aruvus chametz* that is less than a *kezayis b'chdei achilas pras* (Magen Avrohom 442:1). Though we do not follow this opinion, nevertheless we can rely on a sale in such a case.

⁶ There are opinions that hold that whiskey is *zeiya b'alma*. We can therefore be lenient in regards to selling such chametz.

Ⓢ EATING ESTABLISHMENTS IN ERETZ YISROEL

NOTE: All the Ⓢ certified eating establishments listed are Mehadrin. This list identifies all year round kosher status and does not necessarily indicate Ⓢ Kosher for Pesach status.

HOTELS:

BAYIT VEGAN GUEST HOUSE
8 Hapigsa Street, Jerusalem 02-6416402
Yael@bvg.co.il

JERUSALEM GATE HOTEL
43 Yirmiyahu Street, Jerusalem 02-5008505/0
hotel@jeusalem-gate.co.il

MORIAH CLASSIC HOTEL
9 St. George St., Jerusalem 02-5320000
gmsec@moria-hotels.co.il

RENAISSANCE JERUSALEM HOTEL RUPPIN BRIDGE,
Herzl Blvd., Jerusalem 02-6599999
ramadajerusalem@netvision.net.il

SHERATON JERUSALEM PLAZA HOTEL
47 King George St., Jerusalem 02 6298666 michal.
hakimian@sheraton.com

RESTAURANTS:

AGASS VETAPUACH (PERA E MELA) KIKAR SAFRA -
Building 6, Jerusalem 02-6230280
peramela@zahzv.net.il

KAD VECHOMER KIKAR SAFRA-BUILDING
4 Jerusalem 02-6245329
huti@kadvechomer.com

NAOMI CATERERS
12 Hatasiyah St. Talpiyot, Jerusalem 02-6793112
info@naomicatering.com

PITUYIM CAFE
5 Rachel Imenu St. Jerusalem 02-5662899
meirdafy@netvision.net.il

RED HEIFER
38 King George St. Jerusalem 02-6240504
wishisrael@hotmail.com

VELKA CAFE
5 Ibn Shaprut Jerusalem 02-5665755
lisadean612@hotmail.com

MOSHIKO FALAFEL & SHWARMA
5 Ben yehuda St. Jerusalem 02-5356861
yair@shemtov.org.il

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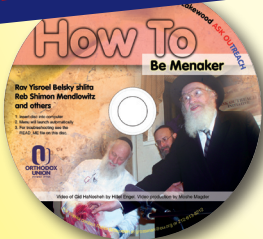


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