

# BUSINESS WEEKLY



RESTORING THE PRIMACY OF CHOSHEN MISHPAT UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA

Issue #685 | Mikeitz | Dec 15, 2023 | 3 Teves 5784

לע"נ הרב יחיאל מיכל בן ר' משה אהרן אורליאן



## CASE FILE

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לע"נ הרב אהרן בן הרב גדליהו ע"ה

## ORDERING NON-KOSHER

PrinterPros Enterprises, owned and run by Mr. Stein, employed 20 workers, half of them Jewish and half non-Jewish.

An all-staff meeting was scheduled for the end Chanukah.

"In honor of Chanukah, we'll do it over lunch," Mr. Stein said to his secretary. "Something nice, but not expensive. I would also like to give out a small dairy gift, like cheese or chocolate. Could you please check some possible options?"

"I'll do that," said the secretary, "and let you know later today what I was able to find."

The secretary researched appropriate food vendors and made several phone calls.

"Were you able to find any relevant options?" Mr. Stein asked in the afternoon.

"I found two kosher dairy restaurants that I can order from," the secretary said. "A nice portion runs about \$30 a person. Quality kosher cheese runs about \$10 a piece."

"What else did you see?" asked Mr. Stein.

"Bear in mind that half the workers are not Jewish," replied the secretary. "If you're willing to consider non-kosher vendors for them, the prices are somewhat lower. There is a non-kosher restaurant a block away and there is a large selection of cheese and chocolates."

"Do you think that differentiating between the workers might cause resentment?" asked Mr. Stein.

"I don't think it's a problem," said the secretary. "Each person is probably happy to eat what he or she is used too. If I order everything kosher, it will come out \$100 to \$200 more."

"I would consider it," said Mr. Stein, "but I'm not sure I'm allowed to order non-kosher food."

"Why not?" asked the secretary. "You're only giving it to the non-Jewish workers! What problem could there be?"

"I remember hearing something about it," replied Mr. Stein "but I'm not exactly sure what the issue is."

"Can you please find out, then?" asked the secretary. "I need to place the orders tomorrow."

Mr. Stein called Rabbi Dayan, and asked:

**"Can I order non-kosher food and gifts for my non-Jewish workers?"**

"The *Mishnah* (*Shevi'is* 7:3) prohibits doing business with non-kosher food that is prohibited *mid'Oraysa*, lest the person accidentally come to eat it," replied Rabbi Dayan. "However, if the food is prohibited only *mid'Rabbanan*, one may do business with it (*Y.D.* and *Gra* 117:1; *Shach* 117:2).

"*Rema* (*ibid.*) rules further that one may not

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## BHI HOTLINE

לע"נ ר' שלמה ב"ר ברוך וזוג' מרת רייכלה בת החבר יעקב הלוי ע"ה ווייל

## CHECK THE INTEREST

**Q:** My employer paid me with a \$2,000 check, postdated for ten days. I needed money immediately, so I went into a grocery store to which I owed \$1,000 and asked the

owner if he was willing to accept the check and give me cash. He agreed to apply \$1,000 of it to the outstanding bill, give me \$600 in cash, and put the remaining \$400 into my account as a credit for future purchases. There was a *talmid chacham* standing nearby when the owner made this offer, and he told me that I should check whether this arrangement would be considered *ribbis* (interest prohibited by the Torah). Is this arrangement permissible?

**A:** Halachically, this transaction is viewed as two distinct loans. The storeowner is lending you \$600, which he will only recoup when the check becomes valid. (Even if the date were current, it would still be a loan because he wouldn't have access to the funds until the check clears.)

The \$400 that he is applying as a credit to your account is a loan from you to him, because you are not getting goods worth that amount now.

Some *Poskim* rule that it is forbidden to lend money on condition that the borrower lend you money — even if the two loans are for the exact same amount and extended for the same amount of time — because the promise of a free loan in exchange for the first loan is itself *ribbis*. Other *Poskim* argue that it is only a problem if the second loan is extended for a longer period than the first, because then the first borrower is giving back more than he borrowed (*Rema, Yoreh Dei'ah* 160:9 cites both approaches). Some of the later *Poskim* rule stringently, forbidding this practice even if the second loan is identical to the first (*Gra* *ibid.* 16), and certainly if it was expressed clearly (*katzatz*) that this was a *quid-pro-quo*, which falls under the category of *ribbis d'Oraisa* (*Shulchan Aruch HaRav, Dinei Ribbis* 3).

In your case, it would seem that the storeowner agreed to extend you the \$600 loan until the check is valid, on condition that you give him the \$400 loan he applied as a credit to your account. This is certainly an issue according to the stringent opinion above, but even the



## CASE FILE

purchase non-kosher food to feed his non-Jewish employees. Presumably, he considers buying to give to a non-Jew a form of business.

"However, *Shach* (117:3) and many other *Achronim* dispute this. They write that the common practice is to buy non-kosher food to feed non-Jewish workers, and not to view it as business, since the person does not intend to sell for profit (*Darhei Teshuvah* 117:27; *Aruch Hashulchan* 117:19).

"Thus, one who wants can rely on the many *Achronim* who allow purchasing non-kosher food to feed non-Jewish workers (*Chelkas Binyamin* 117:10).

"On the pragmatic level, though, one must take extra care when the workers are eating together, especially if there are also non-observant Jews, who might be tempted to taste the non-kosher food.

"*Shach* (Y.D. 117:3) indicates, though, that buying to give as a gift to a non-Jew is considered problematic business. Nonetheless, buying non-kosher chocolate and cheese is allowed, since it most likely prohibited only *mid'Rabbanan*.

"Regardless, meat from kosher animals (beef) and milk that was cooked together is prohibited *mid'Rabbanan* to benefit from, concluded Rabbi Dayan. "According to many *Poskim* this applies even if the animal was not slaughtered properly, and according to some also if fried or baked. (Pork or fowl with milk, though, is not prohibited to benefit from.) Therefore, buying a cheeseburger or Pepperoni pizza including beef to feed a non-Jew is not allowed, except in situations of great loss (*Pischei Teshuvah* Y.D. 87:3,6)."

**Verdict: Rema prohibits buying Biblically prohibited food to feed non-Jewish workers as a form of business, but many Achronim allow it. Regardless, beef and milk cooked together is prohibited to benefit from.**



## MONEY MATTERS

Based on writings of Harav Chaim Kohn, shlita

## MONEY MATTERS

Yored L'sedei Chaveiro

Yored L'sedei Chaveiro #24

Additional Repairs

לע"נ ר' יחיאל מיכל ב"ר חיים זוגו' ח"י בת ר' שמואל חיים ע"ה

**Q : I bought my car to the mechanic to replace the shock absorbers. While working, he noticed that the brake discs were going, and he replaced them as well, without asking authorization. Must I pay for that repair, or can I say: "Return the old discs!"?**

A : Since the discs were going, this is considered a situation of "fit for such enhancement." Therefore, although the mechanic did not ask for your authorization, it is no worse than *yored l'sedei chavreiro*.

We mentioned that the *Rishonim* dispute whether the owner can say, "Take your wood and stones," for a property fit for such enhancement (*C.M. and Gra* 375:2; *Sma* 375:4).

Moreover, it seems that you would be merely seeking an excuse and would not be believed that you really want the old discs (*Chazon Ish* 375:2).

Furthermore, it is not realistic to remove the enhancement (*Nesivos* 375:2).

Thus, the mechanic is entitled to the going-rate for such repair — not necessarily his regular rate, even if it were more expensive.



## BHI HOTLINE

lenient *Poskim* agree that it is a *ribbis* issue because your loan is for a longer period (the amount of time it takes you to use the \$400 credit in your account) than the loan he gave you, which is only for a few days.

Nevertheless, in many instances, there would be no halachic issue with this arrangement, because the store owner didn't *actually* condition his loan on you extending a loan to him. He would be willing to take your check even if you purchase \$400 worth of groceries before the check clears, so that you don't extend any loan to him. Therefore, although you generally wouldn't spend that much in his store in such a short period of time, it is not considered *ribbis ketzutzah*, and because we know that the store owner isn't doing this because he wants a loan from you, but because he doesn't have more cash to give you now (or for a similar reason), there is no *ribbis* issue.

This does not contradict a ruling we issued earlier (*BHI* #394) that a storeowner may not lend money to someone on condition that he buy merchandise in his store. In that case, the lender is benefitting (receiving *tovas hana'ah*) from his loan by forcing the borrower to become his customer in exchange for that loan (see *Yoreh Dei'ah* 160:23 and *Bris Yehudah* ch. 11, fn. 56). In your case, because you are already a customer of this store, so the owner is not benefitting from issuing the loan, it is not *ribbis*.

We should note, in this context, that there could be a halachic issue with cashing a check in exchange for a percentage of the check or some other *tovas hana'ah*. The person cashing the check is, in effect, lending money to the person who gave it to him, who remains responsible for the validity of the check until it clears in the bank, unless the one cashing the check charges an insignificant amount that merely covers the time and effort he invests into dealing with it, but not a larger amount charged for giving the customer the cash in advance.

If the person cashing the check doesn't hand over the money until the check clears, then there is no *ribbis*, because no loan is extended. Similarly, if he does offer the cash immediately, but tells him not to use it until the check clears, it is not an issue, because that money is considered a *pikadon* (something given over for safekeeping) until the check clears. (For more on this subject, see *Mishnas Ribbis* 13:13.)

For questions on monetary matters, arbitrations, legal documents, wills, ribbis, & Shabbos, Please contact our confidential hotline at 877.845.8455 or ask@businesshalacha.com

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