



Daf HaKashrus

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WHAT COULD BE WRONG WITH... ?

PART II

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Rabbi Luban's classic article "What Could Be Wrong?" was featured in the spring 1995 issue of the OU's Jewish Action Magazine. Please find an updated version of that original article (Part II) reprinted here with JA's permission.

WHAT COULD BE WRONG WITH FISH?

One of the most serious misimpressions that persists in the minds of kosher consumers is the belief that one can eat inherently kosher foods prepared in non-kosher restaurants. Professionals are often under great pressure to go out with clients or colleagues to lunch and dinner. When kosher restaurants are not available, people rationalize that they can purchase various items, such as fish, in non-kosher establishments. Unfortunately, there is very little that can be consumed in a non-kosher restaurant that is not potentially treif. What, for example, could be wrong with fish in a non-kosher restaurant? To list just a few concerns:

- a) The fish may be broiled or baked on a grill or pan previously used for lobster or bacon. If this occurs, the fish is rendered non-kosher because of the non-kosher fat and grease
- b) Even if the pan or grill were clean, the *ta'am* (taste) of the non-kosher food would pass from the pan or grill into the fish. For the same reason, one cannot eat a hard-boiled egg prepared in such establishments. The egg may have been cooked in a pot used

previously for non-kosher, and halachically, the non-kosher taste passes through the shell into the egg.

- c) The fish may have been sliced with a knife previously used to cut a ham and cheese sandwich. By the same token, sliced fruit and vegetable salads may have come in contact with non-kosher residue on knives or cutting boards.
- d) If the fish is seasoned or breaded there is a concern about the ingredients used in the seasoning and breading as well. In addition to non-kosher components, the seasonings could contain a dairy ingredient, which combined with the residual meat on the grill and pan would create a status of *bossor v'cholov* (meat and milk).
- e) Fish requires *simonim* (signs of *kashruth*) to be considered kosher. The halachah does not permit the purchase of filleted fish even if the owner of the fish store claims that it is a kosher species. Without seeing the fins and scales, one is not permitted to assume the fish is kosher. If a person asks for a scaleless piece of flounder in a non-kosher restaurant, the *halachah* says that you cannot assume that the fish you ordered is the fish you got. As a matter of fact, filleted European turbot (a non-kosher fish) is almost identical to filleted flounder.



What if you give instructions on how to prepare your fish? *Waiter, listen carefully, please. I want a piece of broiled halibut. Leave the skin on, and don't scrape off the scales. Don't slice the fish with your knives, and bake it in a new unused aluminum foil pan. Make sure there are no other foods in the oven which may splatter on my fish while it is baking. Don't put anything on the fish at all. Serve the fish on a disposable paper plate with plastic silverware. Don't take the fish off the baking pan with a spatula which is not kosher. Just toss it off by turning the pan upside down. Did you get all that waiter?*

Still no good. The *halacha* establishes that a non-Jew or a Jew who does not observe the laws of *kashruth* is not *ne'eman* (trusted) to testify on matters of *kashruth* (*Yoreh Daya*, 119).

There is one final problem with the fish. It is prohibited to eat the fish because of *bishul akum*. (*Bishul akum* is food

cooked by a non-Jew. See my article on this topic in the Winter '94-'95 issue of *Jewish Action*, entitled "Playing with Fire." A hard boiled egg cooked in a non-kosher restaurant would also fall into the category of *bishul akum*.) The only way to overcome all these problems is to go into the kitchen yourself, turn on the fire and supervise the entire production of the fish. Unfortunately, this solution is certainly not practical.

What about eating tuna fish? If you don't see the can, it may not be prepared under supervision. Some tuna fish companies produce non-kosher pet food on the same equipment, and for that reason and others, tuna requires a reliable *hashgachah*. It is possible to order a closed pop-top can of supervised tuna which you open yourself at the table. This can be consumed with an uncut salad of fruits and vegetables.

WHAT COULD BE WRONG WITH THE "K"?

A number of years ago, an OU-certified company requested authorization to use "Charlie's Bread Crumbs" in their product. Since a "K" was prominently displayed on the bread crumb label, I called the Charlie company to inquire which rabbi provided their kosher supervision. Mr. Johnson politely advised me that they were under the strict supervision of Rabbi Shlomo Greenberg (I have changed the name) from Brooklyn, New York. I then proceeded to check with a colleague in Brooklyn.

"Do you know Rabbi Shlomo Greenberg, and how reliable his supervision is?" I asked.

"Why, Rabbi Greenberg was very reliable, when he was alive. He died five years ago," came the reply. Somewhat perturbed that a deceased rabbi was still certifying a product, I called back Mr. Johnson.

"How can Rabbi Shlomo Greenberg supervise your bread crumbs if he died five years ago?" I queried. A long pregnant pause followed.

"No wonder I haven't seen him around for so long!" The moral of the story is that the first step in evaluating the integrity of supervision reflected by the "K" symbol is to determine that a bona fide, living rabbi provides the certification. In some states, there are laws which restrict the use of a "K" if the rabbi is deceased, but in many states it is legal to print a "K" on the label without any rabbinic supervision at all. You can generally establish who is behind the "K" by calling or writing to the manufacturer and asking for a copy of the letter of certification.

There is another inherent weakness of the "K" symbol. Why would a company use a generic "K" on their label rather than one of the 1269 kosher logos (printed in the 2015 issue of *Kashrus Magazine*) which clearly identifies the certifying rabbi or agency? One answer is that companies print labels in large quantities. If, for some reason, the certifying body terminates their supervision (this may be for financial considerations, or as a result of *kashruth* violations) the manufacturer cannot legally continue using a copyrighted kosher logo on their label. In fact, the OU and many *kashruth* agencies specifically include clauses in their contracts requiring the destruction of labels in the event that supervision is terminated. It is not uncommon for a company to have tens of thousands of dollars worth of labels in stock,

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and destroying the entire inventory of labels can be a costly ordeal.

In contrast, the “K” symbol provides great flexibility. If the supervision of one rabbi doesn’t work out, a new rabbi can be immediately contracted to continue the “K” coverage, or if the state agencies aren’t looking closely, the “K” labels can be used without any supervision at all. Thus, even if you know who the “K” represents today, there is no guarantee that the supervision will remain in place tomorrow. Some “K” products have had the same supervision for years, but in general, a “K” symbol is not a reliable guarantee of an enduring *hechsher*.

WHAT COULD BE WRONG WITH THE SUPERVISION OF RABBI SO-AND-SO?

Many people believe that all rabbis who provide supervision can be presumed to be equally reliable. This great leap of faith is not rooted in reality nor is it a reasonable assumption to make. We would not entrust our physical well-being to any surgeon who is licensed to perform operations. Why should we entrust our spiritual health to every practitioner of kosher supervision? Perhaps the naive assumption that all hashgachos are acceptable is based on the simplistic view that kosher supervision requires minimal talent and training, and anyone who sets his mind to it can become a crackerjack mashgiach. Truth be told, supervision is quite complicated and a mashgiach or certifying agency must combine a variety of specialized skills.

There was a time, years ago, that rabbis came to the shores of America from the other side of the Atlantic. Unable to speak the language and lacking any marketable skills, many became mashgichim. Those days are over. Obviously, the fundamental requirement to enter the field of kashruth is Torah scholarship, but being a talmid chachom alone does not qualify one to be a *rav hamachshir* (supervising rabbi).

Modern food technology is highly sophisticated. The supervising rabbi must understand how spray dryers, deodorizers, reactors, retorts, steam-jacketed kettles and other complicated pieces of machinery operate and function in order to understand the flow of the process in the plant. This is particularly important if the plant produces dairy and pareve or kosher and non-kosher products, and it is necessary to insure that there is no cross-contamination of production.



In fact, in some plants (such as those that manufacture emulsifiers) there are no visible ingredients to inspect. Ingredients are processed by flowing through an intricate network of pipes that are miles long, and moving from one piece of machinery to another. If the supervising rabbi is not mechanically inclined, he will not have the foggiest notion of what is happening during production. I recall visiting a plant with a supervising rabbi who didn’t realize that kosher and non-kosher products were produced on the same equipment because he didn’t know how to trace the labyrinth of pipes that led from one reactor to another.

In addition, the supervising agency must be capable of reviewing and determining the status of ingredients used in the product. This often requires an in-depth knowledge of food chemistry in order to evaluate the sub-units that comprise the ingredients. To appreciate the broad range of ingredients used in food production it should be noted that the current OU data base of ingredients contains approximately 1.9 million entries! Many esoteric ingredients have technical chemical names such as chromium acetate natural (which may be non-kosher), and proficiency in *Yoreh Daya* alone (the section of the *Shulchan Oruch* that deals with matters of kashruth) does not enable a rabbi to determine if ingredients are kosher, dairy or pareve.

Today, there are many people in the field of kashruth who have developed a highly sophisticated understanding of food

continued on page 4

technology and modern food production. Nonetheless, it cannot be assumed that everyone who provides kosher supervision shares this high level of competency.

A good mashgiach must also be a super detective, and many people in the field of hashgachah are not adept at investigative work. There are many stories that come to mind to illustrate this point, but my favorite anecdote is about a friend who was supervising a bakery. One day, his sharp eye noticed that the pies sold in the bakery were round, while the pie pans in the baking area were all square. The improbability of producing round pies in square molds led the rabbi to conclude that the bakery was purchasing ready-made frozen dough which they would then fill with fruit and bake off in the bakery ovens. Since the rabbi had not authorized the bakery to use any frozen dough, he confronted the management with this evidence of wrongdoing.

Unfazed by the accusation, the baker explained that just that day they had discarded all their old round pans after baking the last batch of pies. Undaunted, the rabbi came back to the bakery the next day and found shiny, new round pie pans on the shelf which perfectly matched the size and shape of the finished pies. However, suspecting that they were trying to pull the wool over his eyes, the rabbi inspected the underside of the pies. Encrusted in the shell was an impression of the name of the pie pan manufacturer which was imprinted on the molds used to make the pies. To the misfortune of the bakery, the name which appeared on the pie was not the same as the name engraved on the new pie pans. The rabbi immediately withdrew his supervision. No doubt, Sherlock Holmes would have been proud.

Indeed, by nature and training, many rabbis are unsuited for supervisory work. In their pastoral roles, rabbis are trusting individuals who see the best in people and give them the benefit of the doubt: As a mashgiach, one must don a different hat and become a suspecting and questioning sleuth. Many rabbis simply are not capable of assuming such contradictory roles.

There is one final reason why some supervisions are not up to snuff. There is a small group of rabbis whose halachic standards are inferior to those of

most mainstream kashruth agencies. For example, some rabbis allow companies to use non-kosher ingredients in certain instances based on very questionable halachic decisions.

Some supervisions rely on very weak systems of control, and too much trust is placed in the hands of plant personnel. My colleagues and I have been to plants which required regular inspections but were visited only once every year or two. In other instances, companies were allowed to operate with compatible kosher and non-kosher ingredients, such as vegetable and animal glycerine, without a mashgiach checking that the non-kosher ingredients do not end up in the certified kosher product. I have also seen situations where non-Jewish plant managers oversaw kosherization between non-kosher and kosher, without a mashgiach being present.

In spite of the problems described above, there are many competent rabbis who provide thoroughly reliable supervisions. Nonetheless, it is difficult for the layman to evaluate different hashgachos, and people form opinions about supervisions on the basis of hearsay and superficial impressions. Many believe that any product that bears the name of the supervising rabbi in Hebrew characters can be presumed to be reliable. Apparently they are unaware that every rabbi is capable of spelling his name in *lashon kodesh*. It is not my intent to malign supervisions that appear in Hebrew. Many are very fine indeed. My point, however, is that evaluation of competency cannot be based on external appearances.

How does one make a truly informed decision about reliability? Check with your local rabbi. He generally has access to professionals within the field of kashruth who know the real score about the quality of supervision.

Over thirty years ago, shortly after I joined the OU staff, I attended a meeting of the Rabbinic Kashruth Commission of the OU. I made a presentation to the rabbinic committee about a new company that I was in the process of preparing for certification. One of the rabbis asked me a question and I responded, "I assume the mashgiach will take care of that problem." The rabbi's response was sharp and precise, and his words are worth passing on: "When it comes to kosher, we don't assume!"

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