

THE Daf HaKASHRUS



A MONTHLY NEWSLETTER FOR THE OU RABBINIC FIELD REPRESENTATIVE

לא באתי אלא לעורר

SAFEK GEVINAS AKUM

RABBI ELI GERSTEN

RC Recorder of OU Psak and Policy



SCENARIO: A factory makes kosher cookies on baking trays. The company ran a trial of crackers with cheese (*gevinas akum*), and then continued baking the “kosher” cookies. When the mashgiach realized this and questioned the manager, the manager responded that they had used disposable trays for the cheese crackers. He showed the mashgiach a pile of used disposable trays, but there was no way for the mashgiach to verify that these were the only trays used. A batch of cookies had been baked afterwards on the same day. If the regular trays had been used with cheese, they would have still been *ben yomo*. What is the status of this batch of cookies? Since *gevinas akum* is an *issur d'rabbanan*, and we have no way to assess whether the regular trays were used, can we say *safek d'rabbanan l'kula* and permit the cookies?

The Mishnah (Avoda Zara 2:5) relates that Rabbi Yishmael asked Rabbi Yehoshua the reason for the *gezeira* of *gevinas akum*. Rav Yehoshua refused to answer. The Gemara explains that at that time, the *gezeira* of *gevinas akum* had only recently been instituted. It is inappropriate to reveal the reason behind a *gezeira*, until the *gezeira* becomes widely accepted. Otherwise, there is concern that individuals will disagree with the reasoning and feel it does not apply to them. The Gemara ultimately, lists five possible reasons for the *gezeira* of *gevinas akum*.

Venomous snakes might have left their venom in the cheese

- ▶ The cheese was made with non-kosher animal rennet
- ▶ Droplets of *chalav akum* might remain in the cheese
- ▶ The face of the cheese might have been smeared with animal fat.
- ▶ The cheese might have been set with *yayin nesech* vinegar or sap from *orla*.

Shulchan Aruch (YD 155:2 - based on the Rambam) *paskened* in accordance with the second reason. Chazal were *gozeir gevinas akum* due to the possible use of *neveila*. Although there are many methods for making cheese and *min'Hatorah* one need not suspect that *neveila* was used, Chazal required us to be *choshesh*. Tosfos (AZ 35a: s.v. *Mipnei*) points out that the concern is specifically the use of *neveila* and not *shechuta*, since if a *shechuta* was used the *issur* would only be *d'rabbanan*. Cheese is a cold process, so the *issur basar b'chalav* would be at most *d'rabbanan*. However, if *neveila* was used

at a proportion that was not *batel b'shishim* then the cheese would be *assur min'Hatorah*. It seems from Tosfos, that the *gezeira* of *gevinas akum* was instituted to prevent one from violating an *issur Torah*.

The Shach (YD 110: *sfek sfeika* 17) points out that since the *gezeira* of *gevinas akum* was instituted because there is a possibility that *gevinas akum* is an *issur Torah*, the *gezeira* requires us to view *gevinas akum* as though we know for certain that *neveila* was used. Therefore, although *gevinas akum* is an *issur d'rabbanan*, we may not apply the rule of *safek d'rabbanan l'kula*. Rather, the *gezeira* requires us to view the *safek* as though it were a *vadai*. Therefore, we must view *gevinas akum* as though it were an *issur Torah* and say *safek d'oreissa l'chumra!* The Pri Chadash (YD 110:14) disagrees with the Shach and asserts that the regular rules of *safek d'rabbanan l'kula* apply to *gevinas akum* as well. However, the Pri Migadim (Sifsei Daas – *sfek sfeika*:18), Chochmos Adam (63:22) and most *poskim* follow the Shach.

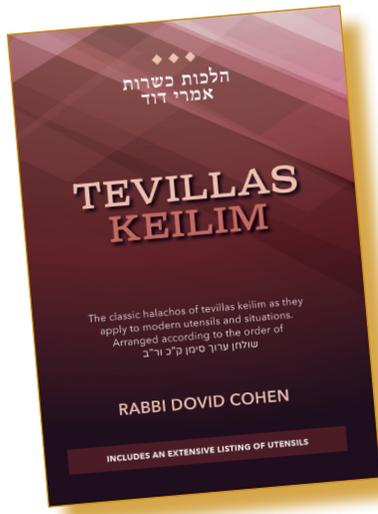
Does *safek gevinas akum l'chumra* only apply to the actual cheese, or does it also apply to the *ta'am* of the cheese (*ta'am k'ikar*)? Will it extend to the baking pans even though they have a *chezkas heter*? The Chida (Shiurei Bracha YD 115:2) writes that that a pot requires *kashering* even if there is only a *safek* whether it was used to cook *gevinas akum*. He explains that we may not apply *safek d'rabbanan l'kula*, since *safek gevinas akum* is like *vadai gevinas akum*. The Noda B'Yehuda (YD kama:34) as well compares a pot that might have been smeared with *gevinas akum* to a *safek issur Torah*.

It would seem that we are forced to view this as the equivalent of a *safek issur Torah*, and *pasken safek d'oreissah l'chumra*. Since the company cannot prove that the cheese crackers were only made on disposable pans, the regular cookies must be considered non-kosher and may not be certified. However, there is another consideration.

The Taz (YD 115:10) explains that in a place (such as Narvona) where they do not make animal rennet cheese, and there is no question that vegetable rennet was used, though the cheese is *assur*, the *issur* is only due to “*lo plug*”. Igeros Moshe (YD 3:17) allows certain leniencies to cheese which is only *assur* due to “*lo plug*”. Likewise, the Hagos Ze'er Zahav (Issur V'heter – 47:1) writes that it is *pashut* that the *chumra* of the Shach does not apply to cheese which is only *assur* due to *lo plug*, since it cannot possibly be a *safek issur Torah*. If there would be a *safek* on *gevinas asavim*, we would rule *safek d'rabbanan l'kula*. Kuntres Pa'amei Yaakov (5756 pg. 11-29) quotes many *gedolim* that ruled similarly. Since the type of cheese that we are dealing with would not be made with animal rennet, it too is like the cheese of Narvona.

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PUBLICATIONS



This English *sefer* by Rabbi Dovid Cohen, on the halachos of *Tevillas Keilim* follows the order of *Shulchan Aruch* 120 and 202. It probes the underlying concepts and shows how they apply to different practical scenarios. Rabbi Cohen served as the recorder of halachic policy at the OU for from 1999-2006, and the *sefer* includes many *psakim* from Rav Schachter, שליט"א, and Rav Belsky, זצ"ל. Rabbi Cohen currently works for the cRc (Chicago).

It is available as “print on demand” for \$22 plus shipping at www.kashrushalacha.com

LO BASI

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▶ In our case, we can permit the cookies due to a combination of various *tzadadim*:

The Hagos Ze'er Zahav ruled *safek d'rabbanan l'kula* if the *gevinas akum* is only *assur mi'shum lo plug*.

Since we know they used some disposable pans, there is *raglayim l'davar* (circumstantial evidence) that indicates that they did not use any of the regular pans.

Even if they used some regular pans, it is unlikely that they used a majority of the pans, in which case the non-kosher pans are *batel b'rov*.

The Pri Chadash ruled *safek d'rabbanan l'kula* even regarding real *gevinas akum*. ■



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to our devoted RFR in Milwaukee, WI **RABBI BENZION TWERSKI AND HIS WIFE** on the engagement of their son Mordechai Dov to Reva Wachsman.

CONDOLENCES

to our devoted RFR **RABBI SHRAGA KAUFMAN AND FAMILY** on the recent loss of his father Rabbi Shimon Kaufman.

to our dedicated RFR in Baltimore, MD **RABBI YITZCHAK FRIEDMAN AND FAMILY** on the recent petirah of his wife Debra.

המקום ינתם אתכם בתוך שאר אבלי ציון וירושלים