An exceptional family ritual by now, David Lewenstein from Los Angeles arrived in Jerusalem with his growing family a few days before Succoth. Moments after settling in their rented villa on Keren Kayemet St., David and his boys dived straight into the exciting hub of action, procuring the four species and erecting their decorative sukkah.

David found what seemed to be a prize etrog. In Jerusalem as well as in other cities, the consumer takes his etrog of interest to a Rabbi to ensure it is kosher. If the Rabbi disqualifies it, the dealer will allow the consumer to void the sale.

Etrog and a danish in hand, David and sons boarded the heavy populated light rail en-route to the Rabbi.

Challenged to curb his excitement, David fatefully opened the etrog box to take another look...but so did the elbow of the security guard passing through the train, inadvertently knocking the style (pitum) off the etrog, whereby rendering it non-kosher.

Must David pay for the etrog? If he already paid, may he void the sale?

What's the Law?

Please email us with your comments, questions, and answers at weekly@projectfellow.org

LAST WEEK’S CASE # 263: THE RIGHT MEAT, THE WRONG SUPERVISION!

Living out of town offered Mrs. Berman wonderful opportunities to introduce her neighbors to the beauty of Jewish living. When Mrs. Berman first moved to Anytown USA, most of her friends were unaccustomed to dining in the sukkah.

Mrs. Berman pleasantly changed that. She invited the entire community for Kiddush on the first day of Succoth to her red wooden Sukkah. The tables were typically laden with mouth-watering home-baked cookies, pastries, meat platters, kugel and chulent - and rolls for those who wished to wash.

Time has a way of passing on. More and more sukkahs soon bejeweled the neighborhood backyards. Yes; gone were Mrs. Berman’s heavy red sukkah boards. Many a local day-school grad by now would return as a yeshiva boy for the festival. The seven-year-old cookie gougers were now grown adults drinking whisky. Olive oil began substituting for margarine, but the piping hot chulent and Addie’s Jelly roll kept inviting the aging community back to the Berman Sukkah Bash.

Anytown USA did not boast a kosher butcher. Instead, twice a year, Mrs. Berman would order half a cow from a particular butcher shop in the nearest large Jewish city. She liked the shop’s packaging and cuts, and their variety allowed her to choose meat from the rabbinical supervision of her preference.

Two and a half weeks before Succoth, she received her order. Mrs. Berman eagerly opened the first box and was rather chagrined, as she received the right cuts of meat from unfamiliar kashrut supervision.
What’s the Law?

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The Answer:
It depends [See detailed explanation].

Detailed Explanation:

The Right Meat, The Wrong Supervision invokes the following laws.

1. If a buyer intended to purchase Product 1 and received Product 2, both the seller and the buyer have a right to void the sale [Choshen Mishpat 233:1].

2a. If a buyer intended to purchase Grade A and instead received Grade C, the buyer may void the sale, while the seller may not void the sale [ibid].

2b. Conversely if the seller intended to sell Grade C and instead, inadvertently delivered Grade A, the seller may void the sale, while the buyer may not do so [ibid].

3. If the difference in intended quality can be effectively rectified, no one may void the sale. (The cost of rectifying the issue lies upon the seller.)

4. If the difference in intended quality is generally overlooked, Rema opines that the sale remains Valid. (The cost of rectifying the issue lies upon the seller.) [Note: In practice, Nesivos rules like Rema once the consumer has paid for the article. While, if the consumer has yet to pay for the article, Nesivos rules like Ran who allows the consumer to void the sale.]

5. For a pampered consumer, even a deficiency in quality generally overlooked, may be deemed significant enough to permit him/her to void the sale completely [ibid]. [See Nesivos 233:5 if it is necessary for the seller to be aware that the consumer is “pampered” or is it sufficient that the consumer specified his/her preference.]

6. Even when sale may not be nullified, when appropriate, price adjustments are necessary even if the difference is less than a sixth of the market value [ibid, Pischei Teshuva 2].

Application

Meat under an alternative rabbinical supervision:
Is that considered as
1) A different product
2) A different grade of the same product
3) A nominal difference of quality?

- Considering the two as a different product would allow both the seller and consumer to void the sale.
- Considering the two as different grades of the same product will allow the consumer to void the sale.
- Considering the two as a difference of quality generally overlooked, would allow the consumer to void the sale if a) he/she has yet to pay for the meat b) if the consumer can prove that he/she is a ‘pampered’ customer. Otherwise, the sale remains valid while price adjustments are in place.

As both meats are edible, it is difficult to view them as two different products. Instead, we could view them either as two starkly different qualities of the same product, or else nominally different, depending on the circumstances.

If the two supervisions were of objectively different qualities, the consumer may void the sale.

If the difference between the two supervisions was nominal or subjective; unless the consumer can prove that he/she was a ‘pampered consumer’, the sale may not be voided. Price adjustments, when necessary, are in place. ◆