

# SAPPIRIM

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## BRAEKEL CHICKEN OVERVIEW

### An introduction

In recent days, a tumult has been growing in Eretz Yisroel as to the status of a chicken breed known as "Braekel". The following is a bit of background on the issue.

The Torah does not provide *simanei kashrus* for birds. It simply lists those birds which are not kosher, and all others not on this list may be eaten. Chazal provide certain telltale signs of kosher and non-kosher birds, which are recorded in *Shulchan Aruch* YD 82:1-3, but *Rema* 82:3 rules that our custom is to (not rely on these signs, and instead to) only eat birds for which we have a *mesorah* that they are kosher. That ruling severely limits the number of birds which *Ashkenazim* can eat, and the *Poskim* have spoken considerably about which birds actually have a *mesorah*, which differences are significant enough that the "new" bird requires its own *mesorah*, and how to "transfer" a *mesorah* from one *shochet* or community to another.

Approximately 19 years ago, Rav Vosner (*Shevet HaLevi* 10:113) discussed the concern that modern breeding methods might involve breeding birds that have a *mesorah* of being kosher with other birds that do not have a *mesorah*. There is a *machlokes* in the *Acharonim* as to whether the fact that a bird breeds with kosher birds and produces viable offspring is proof that it (the unknown bird) is actually kosher (see *Avnei Nezer* YD 1:75 and *Chasam Sofer* YD 74). Even according to those who are *machmir* on this question, there are opinions that the actual offspring of such a mismatched couple would be kosher (see *ibid.* and *Darhei Teshuvah* 82:4 & 30). Thus, even if some of the original forebears of the chickens used nowadays (Plymouth Rock, Rock Cornish, White Leghorn, etc.) had no *mesorah*, there is reason to argue that the offspring may be eaten. That said, Rav Vosner recommended that these issues be investigated more carefully, so as

to only use birds which are known to have a *mesorah* as being kosher. He wrote:

ע"כ עלינו להתעורר ולעמוד בהשגחה חמורה שלא להביא לשחיטת עופות רק ממקור שהוא בדוק מחשש תערובת מינים, ושהאפרוחים גדלים רק ממין שהמסורה ברורה בלי פקפוק בין מצד הזכר ובין מצד הנקבה, והשי"ת יצילנו ממכשולים ופגיעה ח"ו בקדושת ישראל.

In spite of the above, most kosher consumers continued eating the standard chickens and chicken eggs, but others took his ruling to heart and stopped eating these products. Some members of that latter group decided that they would look for a chicken breed that was "pure" (i.e., not cross-bred) and had a longstanding *mesorah* as being kosher. A few years ago, they settled on the Braekel breed of chicken, which has been available in certain parts of Europe for centuries, and went through all the legal and business steps needed to bring these chickens to *Eretz Yisroel* and begin raising them on farms.

The Braekel chicken has a number of features which make it look different than the standard chickens we are used to seeing. Those who are behind this project, have testimony from older *shochetim* (and certain current, existing Jewish communities) that the Braekel chicken was the one which has a *mesorah* as being kosher. [Some even claim that Rav Vosner himself saw this chicken and vouched for its *kashrus*.] They therefore saw the importing of this chicken as a way to help *Klal Yisroel* once again eat a chicken which has a *mesorah* as being kosher, rather than the breeds which are currently popular and which they claim do not truly have a *mesorah*. This group of people is supported by a number of *Rabbonim* in *B'nei Brak* and elsewhere.

In contrast, other *Rabbonim* – including the *Edah HaChareidis* and others in *Yerushalayim* – have argued that this type of chicken is different from any other that was ever used in the past, and they have no *mesorah* that it is kosher. They do not find the testimony noted above to be convincing, and take the position that switching to Braekel chickens would be a mistake. [Most of those who adopt this position are comfortable assuming that

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the chickens used until now are kosher.] Some of these *Rabbonim* have left open the possibility that they would change their minds if presented with appropriate evidence that a community led by respected *Talmidei Chachamim* considered this breed to be kosher, but at this point that has not happened.

Another detail that has arisen is exactly which "Braekel" chicken is the one under discussion. Some of the older *shochetim* who originally wrote that the chicken was never used as kosher, now claim that they were shown a certain chicken which is quite unusual, but now that they've actually seen the recently-imported breed, they retract their opposition to it and agree that it is has a mesorah.

*Rabbonim*, *shochetim*, and others have printed letters, articles, and even lengthy booklets on this matter, and it will likely take some time before the issue is resolved.

## PANS USED FOR TEVEL

### *Is there a need for kashering?*

A Jewish-owned commercial bakery would like to become certified, and a careful review of their records shows that they have been using simple, kosher ingredients in the few years since they began operations. However, the company was never *mafrish challah*, so the question is whether that oversight is enough to demand that the pans be *kashered*. It appears that there are two potential reasons to be lenient on this question, as elaborated on below.

### Tevel from Challas Chutz La'aretz

There is a special leniency for *challah* from *chutz la'aretz*, that one may be *מפריש ואח"כ מפריש*.<sup>1</sup> This means that if someone realizes on *Shabbos* that they were not *mafrish challah*, they may eat the food on *Shabbos* without *hafrashah* (as *hafrashas challah* is forbidden on *Shabbos*),<sup>2</sup> and then perform the *hafrashah* after *Shabbos* (i.e. after they have already eaten from the food). *Rash*, *HaMaor HaKatan*, and even *Tur*<sup>3</sup> say that the fact

that one may eat before *hafrashah* in *chutz la'aretz* indicates that pre-*hafrashah* dough is not *tevel*, because if it was, how could one eat it. Rather, there is a *mitzvah* to be *mafrish* in *chutz la'aretz* שלא תשתנה תורת חלה, but the non-performance of that *mitzvah* doesn't impact on the food, just like not performing *כסוי הדם מעשר* or *כסוי הדם* doesn't render the meat *treif*.<sup>4</sup> [See *Chazon Ish*<sup>5</sup> who finds support to these *Rishonim* from a *Gemara*.]

One practical application of this position is that if one baked bread in an oven before *hafrashah*, there is no need to *kasher* the oven before further kosher use. Although the halacha is that if dough separated as *challah* was baked in an oven, the oven must be *kashered*,<sup>6</sup> these *Poskim* would say that that does not apply to bread baked before *hafrashah*, because that dough does not have the status of *tevel*.

In contrast to the *Rishonim* noted above, *Rosh* and *Rashba*<sup>7</sup> say that *challas chutz la'aretz* creates *tevel*. How will these *Rishonim* understand the halacha of *מפריש ואח"כ מפריש*? If the dough is *tevel* before the *hafrashah* why is it permitted to eat from it? *Darchoi Moshe* and *Taz*<sup>8</sup> say that the explanation is that since this *challah* is completely a *d'rabannan*, one is permitted to rely on *ברירה*. In other words, when the person eventually separates the *challah*, we are able to say that we now realize that retroactively that piece of dough/bread was always the *challah* and the part which the person ate was actually *chullin*.

Although *Beis Meir*<sup>9</sup> argues that *Rash*, et al are correct, *Rema*, *Shach*, *Magen Avraham*, *Taz* and other *Poskim*<sup>10</sup> seem to all favor this latter group of *Rishonim* that rule that there is *tevel* on dough in *chutz la'aretz*.

That said, it may well be that those who are of the opinion that dough in *chutz la'aretz* does create *tevel* will agree that *kashering* is not required, for it would seem incongruous to permit the person to eat the food, but require *kashering* for the equipment used to bake it.<sup>11</sup>

<sup>1</sup> *Shulchan Aruch* YD 323:1.

<sup>2</sup> See *Shulchan Aruch* OC 339:4 as per *Mishnah Berurah* 339:26.

<sup>3</sup> *Rash*, *Challah* 4:9, *HaMaor HaKatan*, *Beitzah* 4b, and *Tur* to YD 323.

<sup>4</sup> This explanation is from *Beis Meir* to YD 323:1, arguing on *Shach* 323:6 cited below.

<sup>5</sup> *Chazon Ish*, *Arlah* 13:14 referring to *Gemara*, *Beitzah* 9a.

<sup>6</sup> *Shulchan Aruch* 323:5.

<sup>7</sup> *Rosh*, *Beitzah* 1:13 (end) (see also in *Taz* OC 457:7) and *Rashba*, *Berachos* 45b (citing *Ra'avad*).

<sup>8</sup> *Darchoi Moshe* 323:4, and even more clearly in *Taz* 324:15. The cases they are discussing will be noted in the coming text.

<sup>9</sup> *Beis Meir* to YD 323:1. He further suggests that a number of the source noted below in support of the other group of *Rishonim*, actually agree with him. See also *Aruch HaShulchan* 323:3.

<sup>10</sup> See *Rema* 323:1 as per *Darchoi Moshe* 323:4 (end) and *Shach* 323:6, *Magen Avraham* 506:8, and *Taz* OC 457:7.

<sup>11</sup> Even were one to adopt the position that *kashering* is required for pans used with *tevel* of *challas chutz la'aretz*, there is strong reason to assume that *libun gamur* would not be required. This is because *challas chutz la'aretz* is an example of an *איסור דרבנן שאין לו עיקר מן התורה* (see *Shulchan Aruch* YD 323:1), there are special leniencies regarding the *kashering* of such items (see *Shulchan Aruch* YD 113:16), and there is reason to believe those leniencies would also mean that baking pans could be *kashered* with a triple *libun kal* instead of demanding *libun gamur* (see *Divrei Malkiel* 3:56). For more on this, see Chapter 48 of *Imrei Dovid / Pas Yisroel & Bishul Yisroel* by this author.

## Hafrashah

A possible way to avoid the need for *kashering*, would be to perform a *hafrashah* on the *tevel* which is absorbed into the pans. Assuming that is effective (see below), it is limited to the baking done with flour grown during that (Jewish) year.<sup>12</sup>

Thus, *hafrashah* performed in the spring of 5777, would be effective for all goods baked since the summer of 5776, since those all use grains which grew during 5776. But if the *hafrashah* was performed in the winter of 5778, it would only be effective for breads baked since the summer of 5777 because anything baked before that would have used flour from 5776.

According to this opinion, *hafrashah* would be made on a certain amount of the *tevel* absorbed into the pans. A halachic determination would have to be made as to whether one should be concerned about the "older" *tevel* absorptions (which were not covered by the *hafrashah*), or whether one can assume that the multiple uses of the pans since those "older" bakings have been an effective *kashering*.

However, Rav Shlomo Zalman Auerbach<sup>13</sup> rules that (a) one cannot perform a *hafrashah* on *b'lios* – especially those which are inedible,<sup>14</sup> and (b) if equipment used for *tevel* is *aino ben yomo*, one may use the equipment without any *kashering* at all! His logic for the latter point is that there is no *issur* גזירה אינו בן יומו אטו בן יומו in this case, because (a) there is no *issur* to cook with *tevel* (but rather cooking is permitted and merely demands a subsequent *hafrashah*) such that *ben yomo* itself is "heter", and it is impossible to forbid the *aino ben yomo*, and (b) it is impossible to perform the *hafrashah* now (as above).

Thus, both positions noted above would potentially allow the use of the pans without *kashering*, as long as someone made a *hafrashah* on the *b'lios* (first opinion), and the pans had not been used for 24 hours (Rav Auerbach).

<sup>12</sup> The cutoff date for the new "year" as relates to the five primary grains from which one must separate *challah*, is *Rosh Hashanah*. Grain which has reached the growth-stage of סמור (which is even before it grows one third) before *Rosh Hashanah* is considered to have grown in the "previous" year, and any that reaches that stage after *Rosh Hashanah* counts towards the "next" year (*Derech Emunah, Bikkurim 7:27*). In the United States, winter and spring wheat crops reach the סמור stage after *Rosh Hashanah* and are harvested over the summer.

## CARMINE PRODUCED ON KOSHER EQUIPMENT

*Are other colors produced on that same equipment affected by the carmine's presence?*

### Introduction

Mainstream *hashgachos* do not accept carmine as kosher but have traditionally been comfortable enough to accept other coloring agents produced in factories that also process carmine. This article considers the merit of that position. Our discussion is not about factories that put small amounts of carmine into beverages or similar products, for in those situations the carmine is used in such small quantities that it is always diluted in 60 times its volume such that the status of the equipment is not affected. [Nonetheless, the beverage itself is not kosher, because the principle of *chazusah miltah* dictates that *issurim d'oraisah* (such as carmine) which affect the color of a food cannot be *bateil*.]<sup>15</sup> Rather, our concern is the color (or flavor) companies which blend carmine into other materials to create specific color profiles.

### Heat

It is rare for anyone to sell "pure" carmine, and one of the properties of carmine is that it does not dilute well in water at ambient temperature. This means that **carmine must be heated in order for it to be blended**, and this potentially means that other colors or products produced on the same equipment will be non-kosher.

Many liquid color products that do not contain carmine are produced without any heat, and those products would not be affected by sharing equipment in which the carmine was heated. Therefore, our question is focused on the solid color products, such as gels, where the starches, gums, and other ingredients require heating as part of the production process.

### Bitul

Color companies commonly receive carmine in 25% or 50% dilutions, and then they further blend that "carmine" with other raw materials in order to produce the finished color. The actual amount of carmine in a finished product can vary considerably, from less than 1% to more than 30%

<sup>13</sup> *Minchas Shlomo 1:62:8-9* (and somewhat in 1:54:4) referencing his more detailed writings in *Maadanei Eretz, Terumos 2:1:5* (and somewhat in *Terumos 2:8:3*). *Minchas Shlomo* concludes that even those who might disagree with his logic would agree to be lenient when discussing a *kli cheres* which would otherwise have to be discarded. We might suggest that the same may apply to equipment which requires *libun gamur* (such as baking pans) and would be impossible to *kasher*.

<sup>14</sup> See more on this point in *Chazon Ish, D'mai 15:1*.

<sup>15</sup> This is based on the opinion of *Pri Chadash YD 102:5*.

(with the percentage tending to be higher in the products which were more solid). Thus, one cannot assume that the carmine is *batel b'shishim* in the product.<sup>16</sup>

That said, two reasons were suggested as to why carmine might qualify for *bitul b'rov* (instead of the typical *bitul b'shishim* requirement) either because (a) it has no *ta'am* or because (b) it is *nosein ta'am lifgam*, as will be described below. If, in fact, the carmine is *batel b'rov*, the carmine-containing products do not affect the status of the tanks, and colors subsequently produced there are kosher.

If the carmine had no *ta'am* at all (לא לפגם ולא לשבח) then, its status would depend on the different opinions in the *Poskim* as to whether such a food requires *bitul b'shishim*. In fact, most *Poskim* are *machmir* on that question.<sup>17</sup> However, *Iggeros Moshe*<sup>18</sup> cites sources and logic that suggest a different reading of many of the *Poskim* referenced above as being *machmir*. He proposes that they are only strict in a very particular case, one detail of which is that *shishim* is only required if the mixture is *מין במינו*. Accordingly, he would rule that in our case, where carmine is mixed into items where it would be *batel b'rov* assuming it had no *ta'am* at all. Of course, **the above discussion is predicated on the conjecture that carmine has no taste** at all, and that would have to be established.<sup>19</sup>

However, the second possibility – that carmine is *nosein ta'am lifgam* – seems to be more significant.

As noted at the end of *Shulchan Aruch* 104, it is assumed that insects are *nosein ta'am lifgam*, and it is therefore reasonable to assume that the cochineal insects that carmine is made from,

have a similar status. However, Rabbi Eli Gersten (OU) insightfully points out that this would then be an example of a *machlokes* cited in *Shulchan Aruch* 103:2 as to whether *issur* which is *נותן טעם לפגם* but provides a valuable (non-taste) benefit to the food (הגדיל מדתו), requires *bitul b'shishim* or is still permitted if it is only *batel b'rov*. This case would seem to be an example of that, for the carmine's benefit to the food (i.e., its color) clearly outweighs any possible loss due to its negative taste. *Shulchan Aruch* provides no clear ruling on this matter,<sup>20</sup> and therefore there would be basis for assuming that one should be *machmir* when dealing with a possible *issur d'oraisah*, such as in our case (carmine).

On the other hand, there are several reasons to disagree with this assumption. Firstly, there is a disagreement in the *Acharonim* as to whether the strict opinion cited above is limited to cases where the *issur* provides more bulk to the mixture or applies anytime the *issur* provides any sort of valuable benefit.<sup>21</sup> Those who are lenient on that question will see carmine as a simple example of *nosein ta'am lifgam* and not one of *הגדיל מדתו*. But more significant than that is that the question at hand is not whether one can use the carmine in kosher food, but rather whether the absorbed taste of the carmine affects other colors produced there. From that perspective, the carmine's "benefit" is completely meaningless since the color is not "absorbed" into the tank-walls. Thus, as relates to *b'lios* and *hag'alas keilim* the carmine is *nosein ta'am lifgam* and *batel b'rov*. [The argument against this is that once the carmine-containing product is deemed "assur" due to *הגדיל מדתו*, the equipment it is cooked in retains that identical status.] When I discussed this question with Rav Schachter, he assumed that one could be lenient on this issue. [A secondary issue he raised is recorded in the footnote].<sup>22</sup>

<sup>16</sup> In situations where the carmine is used at very low percentages, one must bear the following in mind, in making a determination whether it is *batel b'shishim*. Firstly, there are issues of *תנין* when a 25% or 50% mixture of carmine is diluted into other ingredient to the point that the final mixture is less than 1/60 carmine. Secondly, carmine powder has a low specific gravity, such that a pound of carmine has more volume than a pound of water. Since *bitul b'shishim* is calculated using volume (*Pischei Teshuvah* 98:2), one must "convert" a product formula from the weight-percentages typically used, to the actual/volume percentages, before making the determination.

<sup>17</sup> See *Shach* 103:2 citing *Beis Yosef* (103 pg. 162b towards the bottom), *Toras Chattas (Rema)* 85:22, and his own proofs. See other opinions (*l'hachmir*) cited in *Badei HaShulchan* 103:9 (and there in the *Tziunim*), and also in *Chavas Da'as* 103:4 & *Chochmas Adam* 54:4 (who agree with *Shach*), and *Aruch HaShulchan* 103:9 & 19 (who supports the strict opinion from *Rema* 134:13).

<sup>18</sup> *Iggeros Moshe* YD 2:24.

<sup>19</sup> In one, very unscientific test, I asked non-Jews to taste a mixture of carmine and water, and they reported that the dilution had no significant taste. [I smelled it, and could only detect a slight paper-like odor.] Not only was this just one test, but the truth is that they put in a minute amount of carmine (which was likely *batel b'shishim*) such that their inability to taste it may not reflect on carmine's inherent lack of taste.

See *Mordechai* (*Avodah Zara* 855) quoted in the final words of *Beis Yosef* 104 who says that *בשם הרקוק (סי' תתנה) בשם הרקוק (סי' תתנה) דאע"ג דק"ל*

but see *Rebbi Akiva Eiger* (104:3) who specifically notes that the halacha does not accept this position (although he says that it can be considered as a contributing factor).

<sup>20</sup> *Taz* 103:4 understands that *Shulchan Aruch's* citing of the strict opinion regarding *הגדיל מדתו* is in contrast to *Shulchan Aruch's* own citation at the beginning of that halacha. Accordingly, one might assume that since the lenient opinion is cited without qualification, and the latter one is cited as *... מ*, that is an indication that *Shulchan Aruch* considers the first/lenient opinion to be primary. However, see *Chochmas Adam* 53:3 & 6 which cites both elements and appears to understand that they are consistent with one another. That would indicate that one should be *machmir* on this question.

<sup>21</sup> See *Badei HaShulchan* 103:2 *Burim* s.v. *higdil*.

An additional point is that while it is true that the issue at hand is one of a *d'oraisah* nature (carmine), there is no question that any "residue/benefit" of the carmine that carries over to another color will be *batel b'shishim* in the final food it is used in, such that the question facing a *hashgachah* that wants to use that color is one of *bitul issur l'chatchilah* – a mere *issur d'rabannan* – rather than a pure question of a *d'oraisah*.

<sup>22</sup> Rav Schachter suggested that since insects are forbidden even though they are inedible, the question of whether the leniency of *nosein ta'am lifgam* applies to them depends on the *machlokes* between *Ran* and *Rashba* as to *why nosein ta'am lifgam* is permitted. However, a question on this is that *Beis Yosef* (end of YD 104) says that both of these *Rishonim* agree that insects are *batel b'rov* when mixed into food. He says:

## Summary

Carmine is heated during processing, and therefore there is potentially an issue with the equipment used to process carmine at color companies. In many situations, the carmine is not *batel b'shishim* in the ways that it is used at these companies, and there is not enough information to assume that the carmine is "tasteless" to the extent that it might qualify for *bitul b'rov*.

Nonetheless, *bitul b'rov* is appropriate for carmine, because it is assumed to be *nosein ta'am lifgam*, such that the equipment's status is not affected by the carmine's presence.

## CONDENSATE RETURN SEAL

### *Malicious tampering or an honest mistake?*

We certify two factories that are in the same building, and the building also houses a factory that cooks non-kosher meat. All three buildings share one boiler, and the boiler is located on the "kosher side" of the building and is controlled by one of the companies that we certify. We prevent the non-kosher condensate from getting into the boiler by making sure that all of the non-kosher condensate is sent to the drain and not recovered. The condensate return pipes were traced from the meat plant, and the company installed a drain pipe at a specific spot (where our *Mashgiach* can easily see it). The valve that controls that drain pipe was sealed in the "open" position by wrapping cRc tape all around it.

Each time the *Mashgiach* (Rabbi Yitzchok Kalman) visits, he makes sure that the tape is still



ומשמע מדברי הרשב"א שאם נמחה לגמרי לתוך ההיתר אף על פי שיש בו כזית בכדי אכילת פרס מותר שכתב (תוה"א ב"ד ש"א כ) וז"ל ואני תמה דבשלמא שאר האסורים המשבחים כשפגמו בין על ידי עצמן בין על ידי תערובתן הותרו שהרי נשתנו משבח לפגם ולא אסור הכותב בפגמן אבל האיסורין הפגומין והמאוסים מעיקרן כל שנתערבו כזית בכדי אכילת פרס אף על פי שההיתר נפגם מכל מקום הרי הוא טועם האיסור בעצמו כבענין שאסור הכותב ולמה הותר ע"י פגם שבתערובתו ו"ל שלא אסור הכותב בפגמתו אלא לאוכלו בפני עצמו אבל כשנתערב עם ההיתר שהולכים אחר נתינת טעמו כיון שהוא נתון טעם לפגם בתערובתו מותר לפי שאין נתון טעם אלא אדרבה פוגם...ע"ל

on. On a recent visit, he noticed that the tape had been cut and then put back on. The picture above shows how the company sliced through the tape, and then used clear tape to put it back on in a way that made it hard to tell that it had ever been broken, but the eagle-eyed *Mashgiach* noticed it. It sure seemed like someone had purposely been fooling around with the seal, and he immediately called the RC and informed the company of the violation.

The company investigated and found the following: They were in the middle of an SQF audit, and the auditor saw the taped-up pipe overhead and was concerned that pieces of tape would flake off and end up in the food. It sounds far-fetched, but he made the company remove the tape. The employees who cut off the tape saw that it said cRc on it, so they gave it to the kosher contact, and once the SQF auditor left the kosher contact put the seal back up. [That employee should have told the cRc, and should have realized that the *Mashgiach* would notice what had happened, but that is not the subject of this article.]

The company claims that they just removed the seal and put it back as explained above but never actually returned non-kosher condensate to the boiler. Thus, what they did didn't look so malicious, but still at this point, it was only their word supporting the claim that condensate wasn't returned, and it did not look good for them.

Then the company discovered something else, which in retrospect we should have remembered and considered.

Condensate coming from the meat side of the building would naturally flow back to the boiler, and that's why we had them put in a drain pipe (which was sealed open) to prevent that. But the truth is that just having a drain pipe would only do half the job, because if there was a large amount of condensate, most might go down the small drain pipe but the rest would flow back to the boiler. To keep that from happening, we also sealed the return line. That is to say, that the drain was installed right before a place where they had a cut-off valve for the return line; we had them chain that valve shut, and we put cRc tape over the padlock. This way, not only was the water "encouraged" to flow down the drain, but it

ואף על פי שהר"ן חולק על הרשב"א בשאר נותני טעם לפגם ואין דעתו נוחה להיתרם בהיתר מחבה על האיסור וכמ"ש בסימן שקודם זה (קסב): נראה דבדברים הפגומים מעצמם עכבר וכיוצא בו מודה להרשב"א ז"ל וטעם גדול יש לחלק ביניהם וק"ל.

This is reflected in *Shulchan Aruch* 104:3 where he rules that:

דברים המאוסים, שנפשו של אדם קצה בהם, כנמלים וזבובים ויתושים שכל אדם בודל מהם למיאוסן, ואפילו נתערבו בתבשיל ונמחה גופן ליתוס, אם ההיתר רבה עליו, מותרים.

physically could not return to the boiler since the return line was blocked up.

The tape on that padlock was hard to see from the ground, and therefore the SQF inspector never noticed it and it was not taken down. The company sent us a picture of that seal, and I went up in the lift to see it firsthand. In fact, the valve was clearly locked-shut, and the seal had not been tampered with. Thus, although the seal on the drain had been broken, there is no way that condensate could have been returned to the boiler, and all is good.

Going forward, we do not want to rely on the taped-up lock, because it is very hard for the *Mashgiach* to see it from down below, and furthermore, the company does not really want to have tape on the drain-valve (because they are afraid of SQF). So, the plan is that they're going to put "lock-out" tags on the two places where we have seals. Lock-out tags are large and noticeable, and people are very careful about removing them. Then, our *Mashgiach* is going to put a wire or plastic seal into the lockout tag, so that we will have our own guarantee that the lock-out tag was not removed. SQF will be comfortable with them having a wire or plastic seal (as they are not concerned that they will flake off into food), and the *Mashgiach* will be able to see from a distance that they have not been cut or broken.

So, in the end, we learned the value of (a) properly sealing the condensate return line twice, (b) a *Mashgiach* carefully looking at things which may be out of the way and which have been okay for the past 99 times he visited, and (c) having a bit of confidence in a company that is overall cooperative for kosher, and "trusting" that they may not have been trying to cheat.