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## Avrech who Sold Invalid Tefillin Straps

**Question:** Someone from Bnei Brak sold Tefillin straps, and it was discovered that he deceived people, since instead of the required black color (which is an oral tradition Moshe Rabbenu heard at Mt. Sinai – Menachot 35a), the straps had a thin plastic black covering, which makes them invalid. An Avrech (married Yeshivah student), in his innocence, purchased the Tefillin straps from the manufacturer in Bnei Brak and sold them to others. Now that the deception has come to light, thirty individuals are demanding that the Avrech either exchange their Tefillin straps for Kosher ones or return their money. Is the Avrech obligated to return their money, or do we say "Ones Rachmana

Patrei” – a person is relieved of guilt if there are circumstances beyond his control. Based on this principle, can he claim that he is not at fault, and therefore tell the customers to make a claim in a Beit Din against the original seller, since everyone knows who it is?

**Answer:** The Badatz of Bnei Brak and the Badatz of the Edah Ha-Charedit in Yerushlayim publicized based on the Mishnah Berurah (32:185) that since one can completely peel the black strip off of the leather, leaving the leather with no black coloring, the straps are invalid. Gedolei Yisrael said that anyone who purchased Tefillin straps from 5774 until now should put them in boiling water or acetone and see if the strip separates from the strap.

The simple Halachah is that the Avrech is obligated to return the customers' money, or replace the straps, since it is "Hona'ah" (the act of wronging another by selling him an article for more than its real worth) and "Mekach Taut" (transactions entered into with a flawed understanding). The buyers were not negligent, since they purchased the Tefillin straps from a G-d-fearing person and were therefore not required to check for such a deficiency (Shulchan Aruch, Choshen Mishpat 232:18. Rama ibid. Gra ibid. #27. Aruch

Ha-Shulchan ibid. #27. Dibe'ei Mammonot of Ha-Rav Ezra Batzri Volume 2 p. 210.). The Avrech can then make a claim in a Beit Din against the original seller.

The principle of "Ones Rachmana Patrei" - one is relieved of guilt if there are circumstances beyond one's control - does not apply in this case to the seller of the Tefillin but rather to the fear that all of buyers did not fulfill the Mitzvah of putting on Tefillin, and recited blessings in vain over the Tefillin they assumed were Kosher. These are severe transgressions (See Pri Megadim Orach Chaim 32 Eshel Avraham #69. Kitzur Shulchan Aruch 10:1). The Avrech, in this instance, is not considered guilty for his role in this. And the same applies to the buyers themselves. Because they purchased the Tefillin from a seemingly "G-d-fearing Sofer", it is impossible to blame them. In such a case, we say "Ones Rachmana Patrei", meaning that they are not guilty of the transgression of not putting on Tefillin and reciting blessings in vain.

Did such a person fulfill the Mitzvah of putting on Tefillin? This is a dispute among Achronim. In Shut Rav Pealim (Orach Chaim 4:2), it is written in the name of the Chida that if a person performs a Mitzvah and he intends it for the

sake of Heaven, he will receive a reward, even if the object of the Mitzvah turns out to be invalid. His proof is from the Gemara in Makkot (11a) that Rav saw that Rav Chiya's Tefillin were sewn with flax, and the Halachah is that such Tefillin are invalid. Certainly the great Rav Chiya had the reward of putting on Tefillin like the other righteous Rabbis, even though his Tefillin were sewn with flax, since his intent was for the sake of Heaven. Rabbi Meri Simchah of Dvinsk, however, writes in his book "Mesech Chochmah" (Shemot 11:1) that one whose Tefillin were invalid does not fulfill the Mitzvah, even if he is not to blame, since he should have been careful to have his Tefillin checked. In Shut Har Tzvi (Orach Chaim 1:35), Ha-Rav Tzvi Pesach Frank distinguishes between the case of Rabbi Chiya, who ruled for himself and therefore followed his own ruling, and the objective reality of a situation. If a person follows the ruling of his Rabbi, that person receives a reward for performing the Mitzvah, even if his Rabbi's opinion is not accepted by the majority of Poskim. If, however, a given Mitzvah object is shown to be invalid, he does not fulfill the Mitzvah. Rav Frank is therefore in doubt as to whether a person whose Tefillin were invalid fulfills the Mitzvah since he could have

brought them to another expert to check them. In Shut Shevut Yaakov (2:10), however, he writes that if one made an effort to fulfill a Mitzvah, such as the case of one who purchased Tefillin from a trustworthy Sofer and brought them to be checked, he still fulfills the Mitzvah even if they turned out to be invalid, based on the Gemara in Kiddush (40a): Rav Asi said: If one intended to perform a Mitzvah, but was unable to do so, the Torah considers it as if he did.

Someone once had his Tefillin checked after many years and they were found to be invalid. He asked Ha-Rav Shlomo Zalman Auerbach what he should do to repent. Rav Shlomo Zalman said that he should wear his Tefillin longer than usual, i.e. he should remain in his Tefillin after Davening and learn Torah with them on. If he is not comfortable to do so in public, he should do this in his house (Halichot Shlomo Chapter 4, Orchot Halachah note #115).

**In sum:** The Avrech who purchased the invalid Tefillin straps from the manufacturer is obligated to return the buyers' money, or replace the straps. He is relieved of any guilt in the event that all the buyers did not fulfill the Mitzvah of putting on Tefillin, and recited blessings in vain over the Tefillin

they assumed was Kosher. And the same applies to the purchasers of the straps.



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