

Can One Sell Fruits of Superior and Inferior Quality Together?

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Question: Reuven owns a fruit store. He receives his fruit from a few suppliers, some of which provide better quality produce than others. Does mixing different quality produce together and selling in one package involve any problem of *geneivas da'as*?

Answer: For a particular action to constitute *geneivas da'as*, some form of misrepresentation must be present. For example, the Shulchan Aruch states that a farmer may not sell produce grown by someone else without informing the customer, since it is assumed that the produce sold belongs to him. On the other hand, merchants commonly buy and sell produce from many people. They are therefore permitted to sell the produce of others without informing the customer.

Nowadays, it is well known that a store owner receives produce from multiple suppliers. As a result, there is no problem of misrepresentation for him to mix together produce from different suppliers.

The only potential problem in the scenario presented in the question involves mixing superior and inferior quality produce together. According to the Shulchan Aruch (based on the Mishnah in Bava Metzia 60a), one may not mix such produce together and sell it on the premise that all of it is superior quality produce. One may, though, sell it on the premise that the quality is mixed.

Based on this rule, one may not sell a packaged bag of fruits where all of the higher quality fruits are on the top and the lesser quality ones are on the bottom (even if the price given is a fair one). In this case, a customer looking at the bag would mistakenly assume that the entire bag consists of superior quality produce, which is not the case.

If one uniformly mixes higher and lower quality produce together throughout the bag, there would be no problem of *geneivas da'as*, since it is obvious that the bag is mixed.