

Is One Allowed to Engage in a Ribbis Transaction With a Non-Frum Jew Who Won't Agree to Use a Heter Iska?

Harav Chaim Weg, Rosh Kollel of Kollel Zichron Gershon L'Dayanus

Case: Reuven does a lot of business with Yidden and is very scrupulous to use a *heter iska* when needed. He is in the midst of a deal with an irreligious Jewish associate who is very resistant to the idea and refuses to use a *heter iska*.

Question: Is he allowed to proceed with this deal that contains *ribbis*?

Answer: The Shulchan Aruch rules that it is permitted to lend money to a *mumar* (a Jew who publicly transgresses the Torah) with *ribbis*. Tosafos and other Rishonim give several reasons for this.

1. One reason is because the Torah only prohibits lending with interest to "*achicha*," your brother, and a *mumar* is not considered your brother.
2. Another reason is because, in olden times, the halacha regarding a *mumar* was "*moridim oso*," which basically meant that it was permitted to indirectly cause his death by convincing him to descend into a pit and then removing the ladder, thereby trapping him there. If it is technically permitted to be unconcerned about his life, it is certainly permitted to be unconcerned about his money.

It should be noted that there are two kinds of *mumars*. The Poskim say that one can charge a *mumar* interest if he is raising his children in a completely non-Jewish atmosphere, in which the children would have little possibility of ever rejoining the Jewish community. If, however, he is raising his children in an area where he has contact with Jews, and it is quite possible that the child will return to Judaism, one would not be permitted to charge interest to the father and thereby take away money that the child would have inherited.

While most Rishonim permit lending money with interest to a *mumar*, Rashi forbids it. The Rema therefore says that "some say" it is forbidden and he holds that it is laudable to be stringent if possible.

The Pischei Teshuva and Rav Moshe Feinstein say that, in order to avoid any problems, one should avoid lending money to someone who would qualify as a *mumar*. If one has to lend him money, however, it would be improper to forgive the *ribbis*, as one may not assist or help such people. Whether the secular Jews of today are in the category of *mumar* is a broader matter of debate.

The Chazon Ish famously says that all secular Jews today cannot be blamed for their transgressions and are in the category of *tinokim shenishbu*, rather than *mumarim*. According to his opinion, it is forbidden to lend them money with *ribbis*.

Rav Moshe Feinstein argues and applies the title of *mumar* to secular Jews in our times. He says that if one has to lend money to a non-religious Jew who doesn't agree to a *heter iska*, he is in fact required to do so with interest.

If such a *shailah* does come up, one should discuss it with a Rav.

[Clarification- Although some authorities permit **lending** with Ribbis **to** an irreligious Jew, all agree that one may not **borrow** with Ribbis **from** an irreligious Jew.]