

## Poaching Customers

HaRav Chaim Weg

Question: Reuven owns a credit card processing company. Is he allowed to schedule an appointment with a business owner who currently uses the services of his competitor, with the goal of convincing the guy to leave his current provider in favor of his own company??

Answer:

The Gemara in Bava Basra discusses a case where someone has set up nets to catch fish and a second fisherman wants to lay his nets in the same area. The Gemara rules that the second fisherman is not allowed to encroach on the first man's territory by putting down his own nets in the same area.

Rashi explains that the fisherman has his eyes on these particular fish and has exerted effort to obtain them. Once he has done so, if someone else tries to grab them away from him, the man is called a *rasha*.

Based on this Gemara, there is a concept known as *marufiah*, which means a steady customer. The Shulchan Aruch explains that there were two *minhagim*; some communities practiced this custom while others did not. In cities that followed this ruling, if one had a steady customer who always did business with him, even if there was no written commitment for a continued relationship, any competitor was forbidden from luring away this customer. Today, we do practice the rule of *marufiah*. Accordingly, it is forbidden to lure away someone's steady customer, even if there is no written contract binding that customer to his current service provider. This would be applicable in our case of the credit card processor, and Reuven would not be permitted to attempt to solicit business from someone else's customer base.

There are two exceptions that should be noted:

1. Firstly, if the customer reaches out to Reuven, without Reuven contacting him first, Reuven would be allowed to service him.
2. Secondly, if a service provider has non-Jewish competitors who are attempting to lure away his steady customers, a Jewish competitor would be permitted to do the same. In this case, *marufiah* would not apply. The reason is that since the seller cannot totally rely on this business - being that other non-Jewish providers are attempting to take away these customers - the customers are not considered to be already "in his net," so to speak.