

**INVESTIGATION INTO POSSIBLE USE OF NON-KOSHER CHICKEN AND OTHER PRODUCTS  
BY STAN & PETE CATERERS**

**1. INTRODUCTION**

- 1.1 We conducted the investigation on a pro-bono basis. We were appointed on 14 April 2018. Our core team comprised Jonathan Schlosberg (who led the team – he is the former chairman of our firm, was a senior partner in our Corporate practice until March 2018 and is now a consultant in the firm), Miles Carter (a senior partner in our Litigation practice) and Masozi Misi (an associate in our Litigation practice). In addition, two analysts in our Forensics practice and, as and when we needed their services, two partners in our Forensics practice also worked on the investigation. The members of our team spent hundreds of hours on the investigation, including interview time, internal meetings, preparing and reviewing transcripts of interviews, preparing statements, forensic analysis, conversations, communications, sundry attendances and preparing this report.
- 1.2 We were engaged by the Union of Orthodox Synagogues of South Africa (**the UOS**).
- 1.3 The Kashrut Department of the UOS (**the Kashrut Department**) oversees the certification of kosher foodstuffs and, generally, the entire Kashrut operation through mashgichim and inspectors. The UOS maintains a Beth Din whose functions include the supervision of the entire Kashrut system.
- 1.4 Stan & Pete was a well-known and well-established kosher caterer in Johannesburg. The company, Catering by Stan & Pete (SA) (Pty) Ltd (Registration No 2001/016400/07), was registered in 2001 and licensed by the UOS and the Beth Din, but the business known as Stan & Pete (to which we will refer as **S&P**) had been in existence for some years before that.
- 1.5 The latest Catering Agreement was concluded between the UOS and S&P in January 2015. In terms of that agreement S&P agreed to abide by all Kashrut requirements laid down by the Beth Din, which gave its approval and endorsement (Hechsher) to S&P.
- 1.6 The agreement also provided that S&P was responsible for ensuring that all products brought into the premises were approved by the Beth Din, and if it was found that any non-kosher products were brought into the premises the kosher Hechsher could be summarily revoked by the Beth Din.
- 1.7 On 28 February 2018 during the course of a normal inspection by one of the UOS' inspectors, some 20 treif chickens were found in the kitchens of S&P.
- 1.8 Immediately after the discovery of the treif chickens at S&P's premises, the inspector informed three Dayanim of the Beth Din who went to the premises. They asked the proprietor of the kosher chicken supplier to come to the premises and he verified that the chickens were treif.

- 1.9 We understand that it was not disputed by S&P that the chickens were treif.
- 1.10 Mr J Shull, the owner of S&P, told the Dayanim and the inspector repeatedly that he did not know how the treif chickens came to be on the premises.
- 1.11 Later that day, a meeting was held with Mr Shull at the Beth Din's premises. We are advised that the only explanation that he provided, repeatedly, was that he did not know how the treif chickens came to be on the premises. We have been informed that all those who interviewed him were not satisfied with his explanation or reaction. Further discussions were held between representatives of the Beth Din at the Beth Din. Later that day the Beth Din summarily revoked the Hechsher.

## 2. **OUR MANDATE**

- 2.1 Our mandate, as reflected in our letter of engagement dated 14 April 2018, is to conduct an investigation:

2.1.1 to establish whether the discovery of non-kosher chickens on Wednesday, 28 February 2018 in the kitchen of S&P was an isolated incident or was part of a pattern of wilfully bringing non-kosher food into its kitchen; and whether any such (non-kosher) food was served at functions or to kosher customers; and over what period this occurred;

2.1.2 to the extent that this may have been part of a pattern of bringing in non-kosher food, to establish how the Kashrut supervision system of the Beth Din, with its mashgichim, inspectors and other safety measures, could have been circumvented, and to recommend how the system can be improved to prevent this kind of possible breach from occurring again in the future,

and to provide a written report upon conclusion of the investigation setting out our findings, conclusions and recommendations supported by appropriate legal advice.

- 2.2 Various comments were made to us about S&P during interviews held in the course of our investigation and also as unsolicited comments by members of the community. However, our investigations revealed to us that much of what was said to us was based on rumour and hearsay, and that some of the comments that were made to us about irregularities proved to be unsupported by evidence. It is understandable that emotions in the community may run high in matters such as this. However, our investigation had to be (and was) carried out independently and objectively; and our conclusions, which are based on information gathered during the course of our investigation, cannot be, and are not, based on hearsay or conjecture.

## 3. **THE ATTITUDE OF S&P**

- 3.1 We have recorded in paragraph 1.10 above the immediate reaction of Mr Shull to the discovery of the treif chickens.
- 3.2 We are advised that soon after the 28 February 2018 incident, Mr Shull suggested to a Dayan of the Beth Din that the treif chickens may have been put there by an employee who was replacing chickens which the employee had stolen. In the Jewish Report of 8 March 2018, Mr Shull was quoted

as saying that S&P had never purchased chicken from non-approved suppliers and that a full investigation was being conducted "to try to get to the bottom of how this came about".

- 3.3 On 16 April 2018 we wrote to Mr Shull advising of our appointment and that we would like to meet with him and other relevant staff members to establish whether they had information relevant to the investigation. We noted that Mr Shull had stated in the media that S&P was itself conducting an investigation into the matter, and we said that to the extent that its investigation had progressed, it would be very helpful to us if S&P would share with us the information it had obtained. We offered to meet at S&P's premises, so as to enable us to see for ourselves their physical layout, and as it would also be convenient to S&P for purposes of providing us with books and records relevant to the investigation. We pointed out that we were aware that Mr Shull had told the Beth Din that he had no knowledge about the incident in question but that as the owner of the business his overall knowledge of the business, such as its processes and employees, would be very helpful to our investigation. After several messages to him, Mr Shull confirmed that he had received our letter.
- 3.4 On 8 June 2018 Mr Shull's father, Mr B Shull, telephoned us to advise that our invitation to S&P was not accepted, and he then wrote to us confirming that telephonic advice, stating that Mr Shull declined our invitation to meet with us and/or share his information with us, as requested.
- 3.5 On 15 August 2018 we wrote to Mr Shull's father advising that our investigation was coming to an end and repeating the invitation to S&P and Mr Shull. On 22 August 2018 Mr Shull's father replied, advising that the renewed invitation was declined.
- 3.6 We were therefore not given access by S&P to any of its executives, management or current employees, or to any of S&P's documents and records. Discussions with the owners, executives and managers of S&P, and having access to S&P's records, could have enabled us to establish whether or not non-kosher food had been brought onto the premises prior to the 28 February 2018 incident, but S&P refused to give us access to these people and records. This significantly hampered our investigation, and our report must be read in that context.
- 3.7 Although S&P was entirely within its rights to elect not to cooperate with us, in the light of paragraphs 3.1 and 3.2 above, we were surprised that S&P was not prepared to cooperate with us in our investigation through meeting with us, providing us with its source documentation for purchases and usage of kosher products, providing us with the outcome of its internal investigation, and giving us access to its staff and premises. We therefore, for example, received no evidence to support Mr Shull's suggestion (mentioned in paragraph 3.2 above) that the treif chickens may have been put there by an employee who was replacing chickens which the employee had stolen.
- 3.8 As we mention later in this report, we had identified at least 5 people, comprising former and current S&P employees, whom we believed had information, which, of course, could have been information which was supportive of S&P. All of them refused to speak to us. In light of paragraphs 3.1 and 3.2 above, we were similarly surprised that S&P had not encouraged them to speak to us.

#### 4. **PROCESS**

- 4.1 Ordinarily in an investigation of this kind, we would have been given access to S&P, its documents and personnel and we would have –
- 4.1.1 been able to conduct an analysis of S&P's documents to compare the quantities of products purchased with the quantities of products used by S&P. In the event that we felt that information was missing or unclear, we would have spoken to appropriate personnel of S&P for clarification, additional information, explanation, etc.;
- 4.1.2 interviewed the personnel of S&P who may have had information about the activities under investigation/consideration (or who worked in areas where they may have known about such activities), and we would have been able to assess the value and credibility of the information which we were given;
- 4.1.3 interacted with third parties and sought information and documents from external sources as we may have considered necessary to corroborate, verify, refute, explain or clarify the information which we had obtained from S&P's documents and the interviews with S&P's personnel.
- 4.2 As soon as we became aware that S&P would not be cooperating with us, we knew that the investigation would be challenging as we would have to seek out information from external third party sources – from people who we thought might have information for us, from suppliers for information on products purchased by S&P and from other sources to try to establish the products used by S&P in its supplies of kosher food. At the outset we did not know whether we would be able to identify appropriate external sources or whether we would be able to source the necessary information and, even if we could, whether such information would have been sufficient to put us in a position to provide a definitive answer to the questions in our mandate.
- 4.3 However, until we had been through the process and sourced, interviewed and considered (as the case may be) the people and documents we could find, we were not in a position to decide whether or not continuing with the investigation would be feasible given S&P's refusal to co-operate with us, furnish us with documents and give us access to its personnel. Had we not been doing this matter on a pro bono basis, we may have suggested that the UOS consider whether it was worthwhile for us to continue with the matter to avoid incurring costs for an investigation which did not have a clear likelihood of a definitive outcome. However, as it was being done on a pro bono basis and as it was very important to the UOS and the community that the matter be properly and thoroughly investigated, it was decided that we would continue despite the uncertainty about the likelihood of a definitive outcome.

#### 5. **METHODOLOGY ADOPTED**

We decided to carry out the investigation along two main lines:

- 5.1 by interviewing people who had been involved in the 28 February 2018 incident, appropriate people who were, or had previously been, employed by or otherwise involved with S&P, appropriate people who were involved in the UOS, Beth Din and Kashrut Department, people who understand the

Kosher catering business and, generally, any other people who we thought may be of help to us in our investigation; and

5.2 by conducting a forensic analysis to compare the quantities of kosher chicken and meat (as mentioned above, where we refer to meat in this report, it excludes chicken), purchased by S&P with the quantities of chicken and meat used in products supplied by S&P.

## 6. INTERVIEWS

6.1 As mentioned above, both at the beginning and during the course of our investigation we advised S&P that we would like to meet with Mr Shull and other relevant members of his staff but, in both cases, we received a letter from Mr Shull's father advising that our invitations were declined.

6.2 Our investigation was significantly hindered by the failure of S&P personnel, and its owner and management in particular, to meet with us to discuss the matters we had been asked to investigate and to provide any information which they had which, in the light of Mr Shull's comments referred to in paragraphs 1.10 and 3.2 above, would be expected to provide support for the 28 February 2018 incident being an isolated incident and not part of a pattern of wilfully bringing non-kosher food into S&P's kitchen.

6.3 As we were given no direction from S&P as to who would have been most likely to have relevant information, we had to cast our net far and wide to interview as many people as possible who we thought might be of help to the investigation in the hope that all or some of them would either themselves have information for us or would be able to refer us to other people who we should interview. Of course, our interviews with the people directly involved with the 28 February 2018 incident and the meetings and the Beth Din's decision flowing from it were very helpful as they provided us with the information as to what had actually been discovered – but they could not give any explanation for the presence of the treif chicken. Almost all of the many other people we interviewed did have views on S&P generally, but most of them did not have information directly relevant to the matters we were required to investigate in terms of our mandate. However, some of them did suggest other people we should interview – although, even in our interviews with most of those other people, our experiences were much the same.

6.4 We interviewed -

6.4.1 a number of Dayanim, Rabbis and other officials from the UOS and Beth Din;

6.4.2 the mashgiach at S&P and other mashgichim who we thought could provide input, including mashgichim who had previously worked at S&P;

6.4.3 the inspector who had found the treif chicken and other inspectors who had conducted inspections at S&P in recent years;

6.4.4 as many former employees of S&P as we could who we thought could provide input, most of whom agreed to be interviewed on the express condition that their identities should not be disclosed; and

- 6.4.5 other persons whom people we had interviewed said we should meet or who had directly or indirectly indicated to us that they had information relevant to our investigation. Some of these persons, too, agreed to be interviewed on the express condition that their identities should not be disclosed.
- 6.5 In total, we met with 30 people, some of them more than once, and we had follow-up telephone conversations and emails with most of them. We had telephone conversations with over 40 other people, many of them more than once, and e-mail communications with a number of others.
- 6.6 During the interviews we were given an enormous amount of information. Much of the information was more in the nature of general background information, such as historic interaction and experiences with S&P and repetition of suspicions that had been heard from others, but it was not directly relevant to our investigation.
- 6.7 In the course of our investigation we received evidence that S&P had purchased non-kosher chicken and meat prior to the incident on 28 February 2018:
- 6.7.1 One of the people we interviewed, who we consider is credible, told us that from his personal knowledge S&P had been purchasing non-kosher chicken and meat from retail businesses (which he named) for some years prior to 28 February 2018, and that this had been used at kosher functions.
- 6.7.2 Another person we interviewed, who we also consider is credible, provided indirect support for this evidence as he overheard a person working at one of the retail businesses saying that he recognised the first interviewee as being from S&P.
- 6.7.3 The evidence referred to in paragraph 6.7.1 above was supported by evidence provided to us that a former S&P employee had made substantially similar allegations to different people on two separate occasions. As the former S&P employee had died before our investigation commenced, we could not interview him ourselves.
- 6.7.4 We identified at least 5 former S&P employees (some of whom, we understand, are current Salt & Peppa employees) who we thought may have known the true position and who may have been able to either refute or corroborate the evidence referred to in paragraphs 6.7.1 and 6.7.3 above. However, all of them refused to meet with us.
- 6.7.5 Despite having attempted to do so, we were unable to obtain information from the retail businesses which had been named by the person referred to in paragraph 6.7.1 above.
- 6.8 We consider that, based on the information referred to in paragraphs 6.7.1 to 6.7.3 above, there is prima facie evidence that S&P purchased and used non-kosher chicken and meat over a period prior to 28 February 2018 when the 20 non-kosher chickens were discovered on the premises of S&P. This is not a conclusive finding as we consider that we are not in a position to come to any such finding without corroborative evidence.

6.9 The person referred to in paragraph 6.7.1 above also told us that non-kosher catering, under the name Salt & Peppa, had been carried on from S&P's premises prior to 28 February 2018, but to a much lesser extent than S&P's kosher catering business. This was not corroborated by anyone else whom we interviewed and so we are not in a position to conclude whether or not this happened.

## 7. FORENSIC ANALYSIS

7.1 We and some UOS personnel received a number of unsolicited comments from people in the community that our investigation need only comprise a forensic analysis and that it would be a simple exercise to determine if S&P had been using non-kosher chicken or meat by analysing its purchases and the functions for which it catered.

7.2 While this may have been true if we had been given access to S&P's documents and personnel, this was not correct in this case. In the circumstances, we think it is appropriate for us to set out in some detail, as we do below, the process we had to follow in conducting this forensic analysis.

7.3 As soon as we became aware that S&P would not be cooperating with us, we knew that conducting the forensic analysis could be challenging because instead of being able to collect and analyse S&P's information and then have regard to external documents for corroboration or rebuttal, we would have to rely exclusively on externally sourced documents and information. At the outset we had no idea if this was possible or feasible or whether the analysis would ultimately be sufficiently accurate to enable us to draw useful and meaningful conclusions. This would only become apparent when the analysis had been completed. We nevertheless decided that, notwithstanding the uncertainty about the usefulness of the exercise, it had to be done for the reasons mentioned in paragraph 4.3 above.

7.4 To achieve an outcome as soon as possible, we decided to confine our forensic analysis to chicken and meat.

### 7.5 Purchases by S&P (Inputs)

7.5.1 For the purposes of obtaining information about chicken and meat purchased by S&P (which, for convenience, we will refer to as **inputs**), we have been instructed that in the Johannesburg area there is one kosher chicken supplier (Tenderchick), four kosher butchers (Beit Yosef, Maxi's, Moishe's and Nussbaums) and four kosher butcheries in supermarkets (Pick n Pay in Fairmount, Gallo Manor and Norwood, and Checkers in Balfour Park).

7.5.2 Supermarkets generally do not maintain records of sales to particular customers and therefore, as one would expect, it would not have been possible to obtain information of sales to S&P from the supermarkets which sell kosher chicken and meat.

7.5.3 We spoke to mashgichim and other staff members at the supermarkets. None of them was aware of S&P having purchased kosher chicken from their supermarkets. The supermarkets would usually not have had stock of fresh kosher chicken on their shelves in the quantities that S&P would have required, and therefore S&P would have had to have made contact with the supermarket staff had it wanted to purchase such quantities of fresh chicken. During 2017 only

Pick n Pay in Norwood and Checkers in Balfour Park had enough stock of frozen kosher chicken on their shelves in quantities that S&P would have required, and therefore S&P would have been able to purchase such quantities of frozen kosher chicken without necessarily having to engage with the supermarket staff. We were told that during 2017 Pick n Pay in Norwood had many special offers on frozen kosher chicken when the prices would have been comparable to the prices of Tenderchick. Therefore it is possible that S&P could have purchased significant quantities of frozen kosher chicken from Pick n Pay in Norwood during 2017. We were told that Checkers in Balfour Park held one or two special offers on frozen kosher chicken a year when the prices would have been comparable to the prices of Tenderchick. Therefore we think it is unlikely that S&P would have purchased significant quantities of frozen kosher chicken from Checkers in Balfour Park during 2017.

7.5.4 We understand that S&P is only likely to have purchased kosher meat from the supermarkets when the kosher butchers did not have stock. Although we are told that the prices of kosher meat at the supermarkets would not necessarily have been more expensive, and for some products would be cheaper, than the prices of the kosher butchers, we understand that the supermarkets would usually not have had stock of kosher meat on their shelves in the quantities that S&P would have required, and therefore S&P would have had to have made contact with the supermarket staff had it wanted to purchase such quantities of meat. The mashgichim and other staff members to whom we spoke at the supermarkets had not been contacted and/or were not aware of S&P having purchased kosher meat from them. Therefore, our understanding is that S&P would have purchased most of its meat from Maxi's, Moishe's and Nussbaums, all of whom were able to provide us with information on their meat supplies to S&P.

7.5.5 We received full cooperation from Tenderchick, Maxi's, Moishe's and Nussbaums, who provided us with documentation reflecting their sales of chicken and meat to S&P. Beit Yosef told us that in recent years it had only supplied S&P on an ad hoc basis and in relatively small quantities, and therefore had no records of sales to S&P. The information provided excluded chicken and meat which had been donated by the suppliers for one reason or another (there were very few instances of this) and also where special arrangements had been made directly between the function host and the supplier in question for the supply of chicken or meat for a particular function (again, there were also very few examples of this).

7.5.6 We requested and obtained information from Tenderchick from January 2017. For various reasons, two of the butchers were only able to provide invoices to us from August 2017. Therefore, our analysis reflects:

7.5.6.1 chicken inputs from January 2017 to February 2018; and

7.5.6.2 meat inputs from August 2017 to February 2018.

7.5.7 We have no reason to doubt the accuracy of the information which was provided to us by these suppliers and we therefore believe that the information which we obtained in regard to inputs is accurate.

## 7.6 **Products used by S&P (Outputs)**

7.6.1 It was much more difficult to obtain information in relation to chicken and meat used by S&P in its business (which, for convenience, we will refer to as **outputs**). From interviews which we held with various people, we understand that S&P's outputs fell into two main groups:

7.6.1.1 catering of functions; and

7.6.1.2 supplying ready-made meals to KosherWorld, and also (but seemingly to a fairly small extent) to the Pick n Pay store in the Morningside Shopping Centre.

7.6.2 We were informed that there were other outputs such as catering for small numbers at private homes, catering for office lunches for small numbers of people and what are known as "drop-offs" of food in various circumstances. Although we cannot be sure about this because we were not given access to S&P's information, our impression is that these outputs formed a relatively small part of S&P's business and that the catering of functions and supplying ready-made meals to KosherWorld were the bulk of S&P's outputs.

## 7.7 **Catered Functions**

7.7.1 The Kashrut Department provided us with information about the functions which were catered by S&P between January 2017 and February 2018. This information came from function lists which S&P was required to provide to the Kashrut Department and from data in the records of the Kashrut Department accounts office of the fees paid to the Kashrut Department by the hosts of kosher functions.

7.7.2 The information given to us by the Kashrut Department did not contain any details of what S&P had served at the functions. As we did not have access to S&P's information and records, we ourselves had to establish as best as we could from external sources, what food S&P had served and the quantities of chicken and meat which S&P had used for this purpose.

7.7.3 This involved the following:

7.7.3.1 Where we did not have contact details for a host, if we had information that a function was held in a synagogue hall, we contacted the synagogue in an attempt to obtain contact details. Where we could not obtain contact details in this manner we approached the Beth Den wedding registry for contact details. However, for functions other than weddings and which were not held in synagogue halls, we had to use other methods such as word of mouth, Google searches, Facebook searches etc.

7.7.3.2 We contacted the function hosts to establish if the function was milk or meat (if we did not have this information) and, if it was a meat function, to obtain the menus. In some cases, this involved several telephone calls to get to the right person. In most cases the hosts still had menus.

7.7.3.3 We then had to establish the quantities of chicken and meat that would have been required for each chicken and meat dish on the menu. For this purpose, we provided all the menus to an expert in the field to provide us with best estimates of the quantities of chicken and meat which S&P would be likely to have used to produce the various dishes served at each function. Those quantities were then included in the output section of our forensic analysis. The estimating process was not a simple task. Most menus generally had a number of different kinds of chicken dishes, including portions of chicken served as a main course (which was the easiest quantity to estimate) and a selection of starter items which were not so easy to quantify, such as chicken burgers, prego rolls, chicken satays, chicken salad, etc. Similarly, meat dishes included main courses (which again were easier to quantify) with less easily quantifiable items forming part of a selection of starters such as mini burgers, mini prego rolls, beef wraps, etc.

7.7.3.4 During the course of our investigation we were able to obtain menus for meat functions catered by S&P from January 2017 to February 2018 which were attended by 16 010 (78.3%) of the 20 456 guests who attended all of the meat functions which according to our information were catered by S&P during that period. To complete the analysis, we estimated the quantity of chicken which would have been used for the remaining 4 446 guests by applying the average quantity of chicken used per guest for the functions which were attended by the 16 010 guests for whom we had received menus.

## 7.8 **Ready Made Products**

7.8.1 We were told that the supply by S&P of ready-made products to KosherWorld is likely to have been a significant part of its business. We received full cooperation from KosherWorld which provided us with details of all of its sales of ready-made products which it had purchased from S&P from January 2017 to February 2018. As KosherWorld purchased the products on a consignment basis, it only recorded the meals which it actually sold, and we therefore have no record of the number of ready-made meals that were prepared by S&P and delivered to KosherWorld but which may have been returned to S&P. However, we were informed by KosherWorld that the quantities of returns were very small and so KosherWorld's sales records would probably represent almost all of its purchases from S&P. Ready-made meals included grilled chicken, chicken schnitzel and chicken strips whose quantities are relatively easy to assess as the product is comprised entirely of chicken. However, supplies also included products like soup, curries, lasagna, spaghetti bolognaise, chicken korma, chicken tikka and the like, and we had to obtain estimates from suitably experienced people of the amounts of chicken or meat that were used in these meals. We then applied the estimated percentage of chicken or meat to the weight of the product sold to obtain the quantity of chicken or meat for that product.

7.8.2 We were told that S&P also supplied ready-made meals to the Pick n Pay franchised store in the Morningside Shopping Centre. We contacted the owners of the business who advised that their records and systems are such that it would be too time-consuming for them to extract all the detailed purchase information for us. Although they agreed to try to obtain some sample information for us, we did not receive any information from them. During our investigation, we

were given to understand that the quantities supplied to Pick n Pay may not have been significant in the context of S&P's business as a whole and, if so, should not materially affect our forensic analysis. However, we are not in a position to know whether this is correct.

## 7.9 **Other Products**

Our understanding from our investigation is that the quantity of products supplied in other business areas of S&P (such as private house catering, corporate lunches and 'drop-offs') is unlikely to be significant in the context of the whole business and is therefore unlikely to have a significant impact on our forensic analysis. However, we are also not in a position to know whether this is correct.

## 7.10 **Reliability of the Forensic Analysis**

7.10.1 As we have mentioned, we have no reason to doubt the accuracy of the information which was provided to us by the suppliers, and therefore we believe that the information which we obtained in regard to inputs is reliable. However, we do not know what S&P purchased from Beit Yosef (although, as we have mentioned, we understand that these purchases were not significant) and from the kosher butcheries at supermarkets.

7.10.2 The information on outputs must be seen in the context that, due to S&P not giving us access to its books and records, we had to obtain our information from external sources. We were focused on making our forensic analysis in regard to outputs as complete and accurate as possible. We consider that the assumptions and estimates which were made for this purpose were reasonable and appropriate and that the forensic analysis reasonably reflects the position in regard to outputs.

7.10.3 However, we cannot state with certainty that the analysis is complete and totally accurate because there are uncertainties, such as:

7.10.3.1 how much frozen kosher chicken, if any, S&P purchased from the supermarkets;

7.10.3.2 whether our understanding that the quantities of chicken and meat purchased from Beit Yosef and the quantities of meat purchased from the supermarkets were not significant is correct;

7.10.3.3 whether there were significant changes to the menus we were given;

7.10.3.4 the accuracy of the estimates of the quantities of chicken and meat required for each function and for the ready-made meals supplied to KosherWorld, despite the careful approach which was taken;

7.10.3.5 what stock S&P had accumulated as at the commencement date of the analysis (1 January 2017) and what stock had accumulated as at the end of the analysis (28 February 2018);

7.10.3.6 whether our understanding that the quantities of products used for S&P's other outputs besides functions and ready-made food for KosherWorld were not significant is correct; and

7.10.3.7 whether it was reasonable to assume that the average chicken consumption by the 4 446 guests for whom we did not receive menus would have been the same as the average chicken consumed by each of the 16 010 guests for whom we did receive menus.

## 7.11 **Results of the Forensic Analysis**

7.11.1 Generally, in an investigation of this kind, the result of a forensic analysis would play a significant part in the outcome of the investigation. However, in this case, we considered that our forensic analysis would only be useful if the extent of any disparity (one way or the other) between the inputs and the outputs was sufficiently large as to effectively outweigh concerns about the accuracy or completeness of the analysis due to the reasons we have mentioned.

### 7.11.2 Chicken

7.11.2.1 Our analysis reflects that, during the period of our analysis of chicken products, being 1 January 2017 to 28 February 2018, S&P used significantly more chicken than the kosher chicken it purchased, but that a significant majority of the chicken used by S&P during this period was kosher.

7.11.2.2 As mentioned in paragraph 7.5.3 above, it is possible that S&P could have purchased significant quantities of frozen kosher chicken from Pick n Pay in Norwood and, if so, these purchases could have made up the shortfall. However, we consider that, even though, like any customer of a supermarket, S&P could have removed the frozen kosher chickens it wished to purchase from the fridge/freezer, loaded them into a trolley and paid for them at a cashier, it is reasonable to expect that if S&P had bought large quantities of frozen kosher chicken from a supermarket on a regular basis over a lengthy period, the mashgiach or supermarket staff would have been aware of this. As we have mentioned, none of the mashgichim and other staff members who we spoke to were aware of S&P having purchased frozen kosher chicken from their supermarkets.

7.11.2.3 If S&P did purchase frozen kosher chicken from supermarkets, as we cannot establish the quantity of any such purchases we are unable to say whether our forensic analysis would have reflected any shortfall or any excess, or the extent thereof, during the period of our analysis of chicken products, being 1 January 2017 to 28 February 2018. Therefore this outcome does not support or detract from the evidence referred to in paragraphs 6.7.1 to 6.7.3 above that S&P purchased and used non-kosher chicken and meat over a period prior to 28 February 2018.

7.11.2.4 If S&P did not purchase frozen kosher chicken from supermarkets:

7.11.2.4.1 We consider that the excess of chicken outputs over kosher chicken inputs during the period from 1 January 2017 to 28 February 2018, as reflected in our analysis, is sufficiently large as to effectively outweigh concerns one may have about the accuracy of the analysis.

7.11.2.4.2 We have mentioned that one of the uncertainties in our analysis is the stock which S&P may have accumulated as at the commencement date of the analysis. It is likely that S&P had an opening stock of chicken at the commencement of the analysis, being 1 January 2017, but, from the information provided to us about the quantities of kosher chicken which Tenderchick supplied to S&P towards the end of 2016, it seems that S&P would not have had a large "opening stock" of kosher chicken at the start of 2017. In any event, in our view, the extent of the excess of chicken outputs over kosher chicken inputs reflected in the analysis over the period is such that it would probably have "absorbed" any opening stock of chicken at the commencement date of the analysis and would still have left a significant excess of chicken outputs over chicken inputs at the end of the period. There could also have been an unknown closing stock at the end of the period (28 February 2018), which would have counter-balanced some or all of the opening stock.

7.11.2.4.3 We consider that, if S&P did not purchase frozen kosher chicken from supermarkets, the excess of chicken outputs over kosher chicken inputs during the period from 1 January 2017 to 28 February 2018, as reflected in our analysis, is sufficiently large to indicate that S&P purchased and used non-kosher chicken over a period prior to 28 February 2018 and therefore to corroborate the evidence referred to in paragraphs 6.7.1 to 6.7.3 above.

7.11.2.5 Notwithstanding the view which we have expressed in paragraph 7.11.2.2 above, as we do not know whether S&P purchased frozen kosher chicken from supermarkets, we consider that the outcome of our forensic analysis –

7.11.2.5.1 cannot be used to indicate whether or not S&P purchased and used non-kosher chicken over a period prior to 28 February 2018; and

7.11.2.5.2 does not support or detract from the evidence referred to in paragraphs 6.7.1 to 6.7.3 above that S&P purchased and used non-kosher chicken and meat over a period prior to 28 February 2018.

### 7.11.3 Meat

Our forensic analysis reflects that during the period of our analysis of meat products, being 1 August 2017 to 28 February 2018, S&P purchased more kosher meat than the meat it used. However, for the reasons mentioned in paragraph 7.11.1 above, we consider that the excess of inputs over outputs is not sufficiently large to support or detract from the evidence referred to in paragraphs 6.7.1 to 6.7.3 above that S&P purchased and used non-kosher chicken and meat over a period prior to 28 February 2018. Although our analysis does not reflect that S&P purchased non-kosher meat during that period, we draw no conclusion (in regard to meat) as to whether or not this was an isolated incident, or was part of a pattern of S&P willfully bringing non-kosher meat into its kitchen.

8. **ANSWERS TO THE QUESTIONS IN OUR MANDATE**

8.1 **Whether the discovery of non-kosher chickens on Wednesday 28 February 2018 in the kitchen of S&P was an isolated incident or was part of a pattern of wilfully bringing non-kosher food into its kitchen.**

8.1.1 Based on the information referred to in paragraphs 6.7.1 to 6.7.3 above, we conclude that there is prima facie evidence that S&P purchased and used non-kosher chicken and meat over a period prior to 28 February 2018 when the 20 non-kosher chickens were discovered on the premises of S&P.

8.1.2 The outcome of our forensic analysis as referred to in paragraphs 7.11.2.17.11.2.4.3, 7.11.2.5 and 7.11.3 above indicates that S&P purchased non-kosher chicken over a period prior to 28 February 2018, but, as we do not know whether S&P purchased frozen kosher chicken from supermarkets during that period, we conclude that this is also prima facie evidence that S&P purchased and used non-kosher chicken over a period prior to 28 February 2018 when the 20 non-kosher chickens were discovered on the premises of S&P.

8.1.3 We therefore conclude that there is prima facie evidence that the discovery of non-kosher chickens on Wednesday 28 February 2018 in the kitchen of S&P was not an isolated incident and was part of a pattern of wilfully bringing non-kosher food into its kitchen. This is not a conclusive finding as we consider that we are not in a position to come to any such finding without establishing that S&P did not purchase frozen kosher chicken from supermarkets in quantities which would significantly reduce the significant shortfall reflected by our forensic analysis as referred to in paragraph 7.11.2.1 above.

8.2 **Whether any such (non-kosher) food was served at functions or to kosher customers; and over what period this occurred**

8.2.1 Based on the evidence we obtained and our forensic analysis we conclude that there is prima facie evidence that non-kosher chicken was served at some functions or to some kosher customers, but we do not draw any conclusion in regard to meat.

8.2.2 Our investigation did not enable us to identify any specific function or customers to whom non-kosher food may have been served. As we have mentioned, our analysis reflects that a significant majority of the chicken used by S&P during this period was kosher.

8.2.3 If, contrary to its agreement with the UOS, S&P was also running a non-kosher catering business as referred to in paragraph 6.8 above, it is possible that non-kosher food purchased was only used for the non-kosher catering business. However, as we have also mentioned, although the possibility that S&P was also running a non-kosher catering business was mentioned to us by a person who we think is credible, this was not corroborated by anyone else and so we are unable to conclude whether or not this happened.

8.2.4 Our forensic analysis covered the 14 months from 1 January 2017 to 28 February 2018, and therefore our conclusion in paragraph 8.2.1 above relates to that period. The sources referred to in paragraphs 6.7.1 and 6.7.3 above said that this had occurred over a number of years before January 2017, but this was not corroborated by anyone else, and so we are unable to conclude whether or not this is correct.

8.3 **To the extent that this may have been part of a pattern of bringing in non-kosher food, to establish how the Kashrut supervision system of the Beth Din, with its mashgichim, inspectors and other safety measures, could have been circumvented.**

8.3.1 The source referred to in paragraph 6.7.1 above told us that the S&P employees had purchased non-kosher chicken and meat from the retail outlets, removed the non-kosher packaging, placed the chicken and meat into plastic containers brought from S&P's premises for this purpose, wrapped the containers with plastic and Beth Din tape, taken the containers into S&P's premises after the mashgiach had left for the day, cut the seals on the meat fridges and freezers and placed the containers into them and then resealed the seals in a manner which was not noticed by the mashgiach when he broke the seals to open the fridges and freezers on the next working day.

8.3.2 The information set out in paragraph 8.3.1 above is prima facie evidence and is not a conclusive finding by us that those actions took place.

8.3.3 During our investigation, various other possible methods of circumvention occurred to us, were mentioned to us during interviews and were provided as unsolicited comments by members of the community, but as these are merely speculative, it is not appropriate for us to refer to them in this answer to the question in our mandate.

## 9. **RECOMMENDATIONS ARISING OUT OF OUR INVESTIGATION**

9.1 We are not systems or security experts and we have not done a business or management survey of the Kashrut Department, and so our comments below are essentially observations which we hope will be useful and helpful, rather than recommendations. We have not considered the cost implications of our comments, and these will be a factor that the UOS will have to consider.

9.2 The need for mashgichim and inspectors to be vigilant about looking out for criminality, including mashgichim being distracted or being required to work in a secluded area for lengthy periods, should be reinforced.

9.3 From experiments which we conducted, we consider that the seals placed on the fridges and freezers by the mashgiach when he/she leaves the premises can be cut and resealed with a flame (such as a match) in a manner which we think would be hard for a mashgiach to detect when he/she breaks the seal to open the fridge or freezer if he/she is not specifically looking each time for such an infraction. If possible, seals which cannot be cut and resealed should be used and mashgichim should be expressly instructed at all times to pay close attention when opening a seal to ensure that it had not been tampered with.

- 9.4 We note that the Association of Kashrus Organisations (**AKO**) recommends that CCTV and recording systems be installed in all catering establishments and that the Kashrut Department should have live access to such systems. We agree with this recommendation. The Kashrut Department would have continuous access to the recordings and not be reliant on having to obtain them from the establishment. CCTV systems could also act as a deterrent to attempts to circumvent the system. The agreements between the UOS and the establishments would need to be amended.
- 9.5 The executive of the Kashrut Department should have access to the necessary forensic and investigative capacity to have issues of a potentially criminal nature appropriately investigated.
- 9.6 The executive of the Kashrut Department should have an action plan for dealing with situations like the incident at S&P's premises on 28 February 2018, including gaining immediate access to the premises, placing a representative on the premises with full authority to monitor the situation and the activities taking place in the premises, removing or otherwise securing relevant documents, computers and other evidence, interviewing staff to obtain information and statements and doing anything else necessary to protect the interests of the UOS and the community. The agreements between the UOS and the establishments would also need to be amended.
- 9.7 Mashgichim and inspectors should be trained to identify indicators and clues in chicken which may point to the chicken as originating from a producer of non-kosher chickens.
- 9.8 Although this recommendation did not arise specifically out of our investigation into S&P, we note that many mashgichim are employed by the kosher establishments. We are aware that it may well be impractical for the UOS to employ all mashgichim for a variety of reasons, including the significant cost implications. In any event, we understand it is not the norm internationally for the kosher certification organisation to employ mashgichim directly. Therefore, there should be a process to provide support where this relationship places a mashgiach in a difficult position.

**Bowmans**

**28 November 2018**