

Can One Partner Make Unilateral Decisions Without Consulting the Others?

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Question: Before a partner makes a business decision, does he have to obtain the approval of the other partners? For example, could one partner allow a customer to buy on credit without getting the approval of the other partners?

Answer: The Rambam and Shulchan Aruch discuss a number of best practices for partners to follow. One of them pertains to selling on credit. The halacha is that a partner cannot unilaterally decide to sell on credit because that could be a dangerous business practice and a partner doesn't have the right to engage in such risky practices without the authorization of his partners.

The general rule the Rambam and Shulchan Aruch give for what partners may or may not do is that they may not diverge from whatever the common custom is regarding such circumstances.

The Maharsham was asked about two partners who were engaging in a specific business venture, and one of them decided to travel to a *tzadik* for a *beracha* for success. The trip cost money, and this partner expected to bill that expense to the partnership. The other partner disputed the charge and said that if he wants to go for a *beracha*, he should pay for it himself.

The Maharsham ruled that it would depend if the common custom in the area where these partners live is to go for a *beracha* before embarking on a business deal. If it is, then the partner has a right to do it and he may bill the partnership for the expense. If it is not, then the partner has no right to do it without consulting his partner.

Question: What if there is no prevailing custom in a specific situation?

Answer: The question of what partners do if they can't reach an agreement and there is no prevailing custom is surprisingly unclear. There's no discussion to my knowledge in Gemara, Rambam or Shulchan Aruch about how partners should resolve disagreements when there's no clear custom. Rav Eliezer Gordon of Telshe says in a *teshuva* that one follows the will of the majority of the partners. He adds that if *bais din* would consult an expert who says that a certain practice is the proper thing to do, even if most partners wish to do otherwise, *bais din* would override their preference in favor of the expert because the *bais din* has to do what is best for the partnership, even if the majority of partners disagree. He does say that there is no obligation to consult with an expert if the majority of partners feel one way, but if an expert has already been consulted, the partnership should follow his advice.

Rav Mendel Shafran says that *shutfim* should have a clear agreement about what they will do when situations arise, and it would be sensible for them to agree to follow the majority. If they don't specify what to do in a specific case, and there is no prevailing custom, he assumes that they really cannot do anything on their own, because none of them can force the others to do things against their will.