

When a Partner Launches His Own Line of Business

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Question: What is the halacha if one partner in a business deviates from the standard line of the partnership? For example, if a business sells electronics, and one partner goes out on his own and buys a lot of shoes to sell in the store. How would the profits or losses be divided?

Answer: As we mentioned, *shutfus* is an amalgamation of numerous halachos, one of which is *shlichus*, agency. This case is discussed in the Gemara in the context of *shlichus*.

The Gemara discusses a case where a *shliach* is sent to buy one item and buys another – for example, he is sent to buy wheat and buys barley. The halacha in such a case is that if there are profits, the profits are split according to the original arrangement, but if there are losses, the *shliach* has to take the loss because he deviated from the agreement.

In regards to partnerships, the same rules would apply. If one partner deviates from the partnership and a profit was realized, the partners would split them according to their original agreement. If they lost money, the partner who deviated would bear the loss on his own.

Question: What if they lost money due to an outside factor? For example, what if the shoes he ordered never arrived? The same could have occurred with electronics, but it happened to occur with the item he ordered on his own when he deviated from the partnership. Would he still have to bear the entire loss?

Answer: This case – where the loss is not a result of the partner's deviation – is a major dispute, which spans back to the 16th Century. Some Poskim rule that once one partner deviates, he is responsible for any losses, even if they would have occurred anyway. Others disagree and say that if the loss was not a result of his actions, he is not solely liable to bear the burden. The Techebiner Rov offers a compromise and says that it depends what his deviation was. If he purchased something he should not have bought – for example, he bought shoes instead of electronics – he is now fully responsible for that merchandise, and if there are any losses, even if they are not a result of his deviation, he bears sole responsibility. But if he bought the right product but deviated with their handling – for example, by shipping them the wrong way or storing them in a less secure warehouse – in such a case, losses that are not a result of his improper actions would not be solely his responsibility and they would be divided according to the regular rules of the partnership.

לע"נ ר' יעקב בן ר' זאב ז"ל

Dedicated by Mr. and Mrs. Tzvi Meltzer

נפטר כ"ח אדר