

S·E·P·H·A·R·D·I·C HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha

VOLUME 5779 · ISSUE XXXIII · PARSHAT HUKKAT · A PUBLICATION OF THE SEPHARDIC HALACHA CENTER



SPIRITED AWAY: THE CASE OF THE LOST LIQUOR

Adapted from a shiur by Rav Yosef Greenwald

THE LEAVEN THAT LEFT

A man we'll call David was traveling two months ago with whiskey in his luggage. The airline lost the bag.

Weeks went by. Pessah came and went. Last week the suitcase, invigorated from having traveled the world, was delivered to his home. May he drink the whiskey?

Hachamim (Pessahim 29) forbade deriving benefit from *Hametz She'Avar Alav HaPessah*: If one possessed Hametz on Pessah in violation of the Torah prohibitions of *bal yerd'eh uval yimatze*, he is penalized by *Hachamim* in that the Hametz becomes *asur behana'a* – forbidden to derive benefit from. Is the long-lost whiskey subject to this *issur*?

David, like everybody else, sold his Hametz to a non-Jew through his Rav. As a result of that sale, the whiskey spent Pessah safely ensconced in the hands of a non-Jew, so it would seem that no *issur* would obtain.

But wait. The Gemara says (Bava Kama 69) that a stolen object cannot be dedicated to *hekdes*, neither by the thief nor by the owner. The thief, because the item isn't his; the owner, because it isn't in his *reshut* - possession. Although it remains his property, the fact

that the stolen item is not under the owner's dominion weakens his *ba'alut* (ownership) to the point that he can't be consecrate the object to *hekdes*. According to all the Rishonim, save the Rashba, he cannot sell it either. So it would appear that David was in no position to sell the liquor while it did laps on a luggage carousel in Helsinki.

But perhaps our case is different. The airline is liable for baggage entrusted to its care, rendering the airline a *shomer* (custodian). The Ramban (Bava Metzia 21, 26; see Netivot Hamishpat 259) says that while in the custody of a *shomer*, an object remains in the *reshut* (possession) of its owner, because *yad shomer k'yad ba'alim*—the custodian is an extension of the owner. So perhaps David had the power to sell it after all. (If the bag was taken in error by another passenger, he did not.) However, some *Poskim* question whether lost Hametz—think cookies in the back of the glove compartment—is included in a sale, which would be a problem in our case.

We might invoke here, to supplement the case for leniency, the fact that there is extensive debate among the *Poskim* regarding the Hametz status of whiskey derived from grain, based on the Gemara in Hullin 120-121. (See Sha'are Teshuva O.C. 448, Teshuvot Pene Yehoshua, and Sha'agat Aryeh.) Most *Poskim* conclude that whiskey is *Hametz Gamur*.

Should the whiskey be discarded even if was included in the sale? It is recorded in Ma'aseh Rav that the Vilna Gaon after Pessah would avoid deriving benefit even from Hametz that had been sold to a non-Jew, out of concern that the sale might not have been sincere. However, some suggest that today, when selling Hametz before Pessah is widespread and standardized, perhaps the Gaon would not have maintained this practice. R' Moshe Fein-

stein insists that one should not avoid buying Hametz after Pessah from an observant shopkeeper that had sold it, because that would cast aspersions on the merchant inappropriately.

The Hazon Ish, who scrupulously followed the Gaon's views, is quoted as having similarly objected to acting stringently in this arena today, but for a different reason: Because we rule that *Hametz she'avar alav haPessah* is only forbidden *mideRabbanan* as a penalty for having trifled with the Torah prohibitions of Hametz, there would be no basis to penalize a store owner who diligently followed the Halacha and made the Rav a *shaliach* to sell his Hametz, even if in fact the sale wasn't effective. Maharam Schick and Sede Hemed are quoted expressing a similar view.

May we merit to avoid forbidden Hametz after Pessah as we avoided it during Pessah.

המרכז לרפואה ע"פ הלכה שעי"י בית הוועד
M·E·D·I·C·A·L
HALACHA CENTER

HAVE A QUESTION?

HALACHIC
GUIDANCE
in all
MEDICAL
MATTERS

Consultation Line
732.276.2183

Email
info@themedhc.org

EVENTS & HAPPENINGS

AT THE BAIS HAVAAD

The Bet HaVaad recently launched a new weekly series in Hilchot Ribbit. Presented by Hagaon Rav Pinchas Vind, shlit"za, a world renowned expert in Hilchot Ribbit, participants will become familiar with advanced concepts in the application of Ribbit nowadays. The Bet HaVaad is the premier forum for advanced halachic discussion, so it was only natural that this distinguished series should take place at the Bet HaVaad.

PARTICIPATE IN OUR MILLION DOLLAR MATCHING CAMPAIGN

RAISING THE BAR GOING LIVE

WWW.MATCH4HALACHA.COM



Business Halacha
Services



Bet Din
& Dispute
Resolution



Zichron
Gershon Kollel
for Dayanut



Medical Halacha
Center



Kehilla & Bet
Din Primacy
Initiative



Halachic
Awareness &
Education



S·E·P·H·A·R·D·I·C HALACHA CENTER

105 River Ave, #301, Lakewood, NJ 08701
732.9300.SHC (742)
www.theshc.org
info@theshc.org

MIDWEST DIVISION RABBI DOVID ARON GROSS

A 3718 SHANNON ROAD
CLEVELAND, OH 44118

P 216.302.8194

E MIDWEST@BAISHAVAAD.ORG

BROOKLYN DIVISION RABBI DOVID HOUSMAN

A 2238 85TH STREET
BROOKLYN, NY 11214

P 718.285.9535

E RDHOUSMAN@BAISHAVAAD.ORG

SOUTH FLORIDA DIVISION RABBI YOSEF GALIMIDI, MENAHEL RABBI MEIR BENGUIGUI, SAFRA D'DAYNA

A SAFRA SYNAGOGUE

19275 MYSTIC POINTE DR
AVENTURA, FL 33180

E BD@BAISHAVAAD.ORG