

Oaths of Partners where there are Doubts

Ref: *Sefer Kinyan, Hilchos Shluchin Veshutafin, Chapter 9*

Reminder:

Pack on Oaths



In partnership relations, because the businessman or other such authorities may feel that he has licence to take from the owner's property (because he is working with it), the *Rabanim* introduced an oath for these relationships, which could be taken if any suspicions arise. Called the oath of partners.

This would ensure that they should do all their acts righteously and in good faith.

This oath has unique characteristics.

- Normally an oath is only taken when the plaintiff has a definite claim, but the *Rabanim* instituted the use of this oath because of the high probability that laxity could happen i.e. an oath over a doubt.
- Even although this oath is *Derabanan*, it is still said over a sacred object as with a Scriptural oath. The oath can be used in the following:
 - *Shutafin* (partners)
 - *Arisin* (sharecroppers)
 - *Apotropos* (guardian of orphans)
 - Member of a household (a *shaliach* [agent] can also be regarded in this category)
- The minimum value of suspected loss, for an oath to be requested is **2 silver maah**.

Reminder:

Pack on Weights and Measures



- Once the partnership is dissolved, the partners cannot require this oath to be taken, Dissolution of the partnership means that assets have been shared out by proper calculation. If only estimations have been made, the partnership has not been dissolved. However if partner has a definite claim, he can require partner to take oath after partnership dissolved, and he can include therein any other issues of doubt.