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18. A Man of Standing (jāh) Questions

His Partners

This interesting document differs so completely from anything found in the Geniza that it is likely that not only the parties, but also the clerk writing, and the elders witnessing it were foreigners. The father of the two brothers appearing in it is called ar-Raqqī, from Raqqa, once a great city in the northwestern corner of Mesopotamia (today a field of ruins in Syria). Their partner, who took care of them, when they arrived from abroad, professedly did so merely "out of love," which means, that he was either a relative or, at least, a compatriot. It is likely that our Sadaqa b. Semah, is identical with a man of the same name who in Cairo, Dec., 1126, had dealings with a man from Raḥba, a town not far away from Raqqah, in product^s typical of northern Syria, such as olive oil, gall nuts, and jujube.¹ His father-in-law was Neṭīrā, which was the name of a famous Jewish family in Iraq.²

If this identification is correct, we would know the approximate time of our document, which lists the day of the Muslim month, but not the year. I assume that this omission was made purposely in order to characterize the document as a private declaration and not as an official deposition in court. That these declarations are constantly made under oath is entirely against Jewish law, custom, and legal procedure, as they are app^earant in the Cairo Geniza.

Much can be learned from this document about the nature of partnership and other socio-economic matters, such as the relationship between turnover, profit, and personal expenses. A discussion of these points is found in Med. Soc. I, especially, pp. 174 and 203.

The witnesses named in this document testify herewith that they know Ya'qūb b. Yūsuf, and Dā'ūd and Sadaqa the sons of Semah, which occurred because of a dispute about a partnership which was between them.

The typist
made a large
omission

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When these two brothers, Dā'ūd and Ṣadaqa, appeared in the presence of the witnesses, began this Ya'qūb b. Yūsuf (to speak) and said to them: "Take notice that I have not called you here today to sue you. I have rather called you so that statements and admissions made by both sides should be witnessed and noted." They answered: "We welcome and desire this." The first thing that Ya'qūb said to these two brothers, Dā'ūd and Ṣadaqa, (was): "I adjure you by God, the mighty and majestic, and by this Torah and the community of Israel that you say the truth that God, the mighty and majestic, knows without dissimulation,³ inflating,³ fear,³ or bias,³ which will be of no avail for you against me, since I may sue you anyhow one day." Then he imposed on them the oath a second, third, and fourth time. The brothers replied unanimously: "Yes, we take the oath upon ourselves, we shall say nothing but the truth and the facts that God, the mighty and majestic, knows."

Then he said: "Did I not love⁴ you before you let the hell loose among the merchants?"⁵ They answered: "Yes." } ?

Then he said: "Did you render me any service or favor by which^{ch} you may have deserved a requital on my side?" They answered: "No. We had no claim on any favor; you just loved us."⁴

Then he turned to Ṣadaqa, the younger brother, and said to him: "Before your brother came, when I brought you into my house, while you were on your way, and took your affairs into my hands, did I take anything from you or demand anything and were it even only a promise of a future favor?" Ṣadaqa replied: "No," and confirmed all he said with an oath by God.

Then he said to Bushr:⁶ "When you came, did there happen anything between you and me like that^{which} I mentioned?" He replied: "God is my witness that I did not hear anything of the kind as being done by you either before or after." // He said: "No." //⁷

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Then he said to the two brothers together: "Do you not admit that I sold my business in which I was engaged in order to . . .⁸ I spent the capital on myself while I was busy with you, since I was unable to manage your affairs only when I was free from any other business. I put all my endeavors into your business and kept nothing of the income for myself." They answered: "Yes, we admit all you have said."

Then he said to them: "When I opened the store for you with the help of God, the mighty and majestic, did I not say to you: 'You do not need me any more, leave me alone for my own livelihood; even so I shall not withhold from you the use of my influential position;⁹ whatever help you need you will get from me.' But you replied: 'We have no value and will have no success except when you sit with us in the store.' Then you pestered me until I agreed to sit with you and to be your partner on condition that I receive one half of what God will grant us and you the other half."

He continued: "After the lapse of a month I noticed an attitude on your side that did not please me. Did I not assemble then a number of elders, making a written settlement on certain conditions properly witnessed? And did you not break it in that very night when you, Ṣadaqa, said to me: 'If you do not return to me the income and the keys, I shall do something spectacular, namely, run away to wherever I like,' whereupon I returned to you the keys and the income?" The two replied: "Yes."

Then he said to them: "In all selling and buying done by you during this period, did I ever do any weighing, large or small?¹⁰ Or did I ever receive cash from you or from customers through a money changer except when it was weighed? Or was there ever an error in dealings between me and a money changer, a Fārsī, or an agent with regard to cash or anything

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else?" They said: "No."

He continued: "How^{he} beginning up till now, in all our purchases and sales, have we ever sold something with a loss?" He (they?) answered:

"No. There was always profit."

Then he asked them: "During a period of fifteen months, have I ever taken something from the profit of the store except 10 dinars and the payment agreed upon in our settlement, namely 1 dinar to be taken by us, of which one half belonged to me and the other to you?" And he (they?) said:

"No. From all the profit of the store you received only what you just mentioned, namely these 10 dinars and half a dinar every week."

Finally he said to them: "Tell me, a store that has a turnover of 4,000 dinars, how come that it should not bring profit more than this amount? I want to have the balance of the profit! And by what I deserved such a bad treatment from you?!"

In reply to this the two said: "Oh, ye elders assembled here, how can a store from whose income we have to pay 30 dinars debts every month produce more profit than this?"¹²

Turning to the elders present (Ya'qūb) said: "Please note for me this witness against them with all the admissions they made in your presence in response to my questions."

We have noted the depositions and when we were asked to give witness we did so and gave it to him as a title of right for the future.

(Signatures)

Mevasser b. Fuhayd, m. E., may he be found worthy of eternal (life).¹³

Masli'ah b. Zechariah, m. p.

Footnote #11 ?

NOTES

- 1) TS 18 J 1, f. 21. The document itself was written in Jan., 1127.
- 2) Bodl. MS Heb. b. 11 (Cat. 2874), f. 3, a settlement between him and his wife, dated 1130. (It did not work; they separated in 1132, TS 8.131 and Bodl. MS Heb. d 66 (Cat. 2878), f. 7. One member of that family, Joseph b. Neṭīrā was prominent in Egypt in the tenth century, TS 20.96, ll. 5, 12, 14, ed. S. D. Goitein, Eretz-Israel 7 (1964), pp. 84-85, and his daughter Rayyisa donated a Pentateuch to the synagogue of the Babylonians in Fustāt, Antonin 793, see Mann, Texts, I, p. 454. But I have no data about Neṭīrās in Egypt from the eleventh century. They reappear in the twelfth.
- 3) Text: mudājāh, muhāshāh, tahāmūl, words not commonly used in the Geniza. The form muhāshāh has not been found by me elsewhere.
- 4) Text here and at the end of the next paragraph: wājid 'alaykum, which in classical Ar. means: "to be angry with, to have a grudge against s. o." But as the context unequivocally shows, the meaning is: "I love you," which in proper Ar. is wājid bikum. Such confusions in the use of prepositions are found in many languages. I heard a famous orator confusing Heb. b and 'al (corresponding to Ar. bi and 'alā. He intended to say: "I take this back." What he actually said was: "I repeat this.")
- 5) Clearly the brothers had openly complained that the experienced merchant had taken advantage of them.
- 6) Dā'ūd, as the first born, in addition to his biblical name, derived from that of his grandfather, obviously was also called Bushr, "good tidings,"

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- 6) meaning, good augury for other sons to follow. About the tantalizing habit of the medieval clerks to use names of documents not introduced before see Med. Soc. II, p. .
- 7) Dā'ūd-Bushr testified that his benefactor had made no demands from him. The addition between the lines was made because in "admissions" of that type a clear "yes" or "no" was required.
- 8) The next eight words represent business terms with which I am not familiar: "to grant from its surplus (or:profit) a permanent sale, an incomplete sum," li-'ukhawwil min fadlihā bay' qā'im jumla bila matmūma.
- 9) Ar. jāh, see Med. Soc. I, p. 159, 174.
- 10) Here and in the following he wants to say that he had had no opportunity to cheat them.
- 11) Literally, a man from the province of Fārs in southwest Iran. Here a type of business man. Not found by me elsewhere in the Geniza and perhaps used only in the countries near Iran from where the people mentioned in our document came.
- 12) As often, the capital of the partnership had come (in part or entirely) from a loan. It is not excluded that the loan was provided by the senior partner, as in No.
- 13) A similar wish written in small letters above and below the signature in Bodl. MS Heb. a 3 (Cat. 2873), f. 38 (1067, Hillel b. Eli from Baghdad; he abandoned this habit in his many later signatures) and TS 16.138 (1077, Shēlā b. Mevassēr, judge in Alexandria).