עמ"י עש"ו

PRACTICAL GUIDE TO

הלכות מכירת חמץ

מהדורה חדשה - מורחבת

נערך ונסדר ע"י
משה ב"ר יצחק פלאהר

הוצאה שלישית עם הוספות
לייקוואוד - תשע"ח

First edition © 2014

Second edition © 2017

Third edition © 2018

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מצש"ב פ' תזריע-חודש כ"ח אדר ב' תשע"ד

מכתב ברכה

שמחתי מאד לראות קונטרס חשוב מאד שחיבר יד"נ הדגול והנעלה יקר יקרים הרה"ג ר' משה פלאהר שליט"א, סידור על עניני מכירת חמץ כדי שהמכירה יהי' כדת וכדין ובהידור. ונכתב בשפת המדינה באנגלית כדי שכל אחד יכול לידע כל פרטי דינים על בוריין.

והרה"ג ר' משה שליט"א מת"ח החשובים בעירנו שלמד הרבה שנים בבית מדרש גבוה בהתמדה רבה ונמנה בין הלומדים החשובים וידיו רב לו לברר וללבן סוגיות הש"ס ולאסוקי שמעתתא אליבא דהלכתא, ועכשיו זכה בעז"ה לחבר חיבור חשוב מאד לזכות הרבים. ועמל הרבה על החיבור הזה ובעז"ה יצא דבר מתוקן מאד וכל דבריו המה מהרבה ספרים הק' ספרי הלכה למעשה והרבה שו"ת מגדולי עולם ומפי סופרים המה ת"ח ומורי הוראה מובהקים של דורינו. ובטחני שיצא תועלת גדול מחיבור זה.

הקב"ה יברך את מעכ"ת הרה"ג ר' משה שליט"א שיתקבל חיבורו בחבה ויזכה להמשיך בעבודתו הק' לזכות הרבים ללמוד וללמד ולהרביץ תורה, וזכות אבותיו הק' אדמו"רי רדזין זצוק"ל יהיו בעזרו, ובפרט זקנו הגדול שזכיתי להסתופף בבית מדרשו האדמו"ר הגאון הגדול הצדיק יסוד עולם רבי ירוחם ליינער זצוק"ל, מתוך מנוחת הנפש והרחבת הדעת ונחת ושמחה ממשפחתו החשובה.

הכו"ח לכבוד התורה ולומדיה, ירוחם אלשטין

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גבריאל ציננער
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בס"ד

כ"ה אדר השני, תשע"ד לפ"ק

הן הראה לי האי ת"ח העוסק בתורה ובירורי הלכות, נועם המידות הרב **משה פלאהר** שליט"א את ספרו על הלכות מכירת חמץ, מלוקט מגדולי הפוסקים, וראיתי שעשה מלאכה חשובה, מסודר היטב כל פרטי הדברים, ושאלות אשר מצוי אצל הציבור, לכן אני אומר לו יישר כחו וחילא לאורייתא, שהחיבור הוא טוב וזיכוי הרבים.

והשי"ת יעזור שיזכה להמשיך בעבודה"ק מתוך הרחבת הדעת, וכימי צאתנו מארץ מצרים אראנו נפלאות בב"א.

בברכת חג כשר ושמח

גבריאל ציננער
ר' דק"ק ומח"ס
נטע"י גבריאל
ברוקלין נ.י.

בס"ד

I have written this קונטרס on the topic of מכירת חמץ primarily to help clarify many of the issues surrounding it as well as to discuss many of the common questions associated with it.

While it is possible to go to your Rav to sell your חמץ not too long after שושן פורים the fact remains that most people go only in the last few days before Yom Tov. At that time the Rav is generally swamped with a great rush of people coming to arrange מכירת חמץ and it is at times difficult to get clear answers to important questions relating to the מכירה. Because of this many times misunderstandings occur. By clarifying and gathering the answers to these all-too-common questions in a clear and easy to use format I hope that I have helped people gain a better understanding of this nearly universal מנהג and resolve many of these common questions.

(Note: this קונטרס is generally limited to issues involving the **arranging** of the *Mechirah* between the owner of the חמץ and the Rav who is going to be מסדר the actual *Mechirah* with the גוי, as well as issues related to filling out the שטר מכירה. It does not, however, discuss how the actual מכירה between the Rav and the גוי is transacted.)

It should be noted that over the past few years I have researched and gathered the information presented here from numerous ספרי הלכה ושו"ת and many קונטרסי הלכה, but primarily from the following *Seforim* – מכירת חמץ כהלכתו, הלכות חג בחג, הלכה של פסח, נטעי גבריאל. In addition this year, תשע"ד, the ספר משפט המכירה was published and was a tremendous help to me on all that's involved on this topic. I have also shown the קונטרס and discussed the issues

mentioned here with various רבנים and מורי הוראה, as well as other תלמידי חכמים, for their answers, suggestions and advice.

It is my sincere hope that my efforts will assist people to properly accomplish the תקנה of מכירת חמץ. May we all be זוכה to welcome the *Yom Tov* מתוך שמחה ומנוחת הנפש.

משה פלאהר
ערב ר"ח ניסן תשע"ד

Preface to the Second Edition

It is with immense gratitude and thanks to הקב"ה that I have been זוכה to release a second edition of this קונטרס on הלכות מכירת חמץ. During the past three years I have constantly reviewed what I have written and again learned the סוגיא in depth. Because of that I have found numerous items related to these הלכות that it would be helpful to explain and clarify.

I have therefore gone over the entire קונטרס and made numerous additions in a great number of places. I have also added much to the footnotes. A new separate section related to בדיקת חמץ and ביעור חמץ was added, as well as a chapter on ערב פסח שחל בשבת.

Over these past few years I have also produced a small separate קונטרס where each line of the individual שטר is explained in detail. This too has been added to this new edition as it is very helpful to being able to fill out the שטר הרשאה ומכירה properly.

Also, I added some items related to the שטר הרשאה that I thought would be of interest. (See end of table of contents.)

It is once again my sincere hope that this new edition will accomplish its goal to help explain the various details of מכירת חמץ clearly, so that it can be arranged properly כהלכה.

משה פלאהר
כ"ד אדר תשע"ז

Preface to the Third Edition

In going over the סוגיא of מכירת חמץ this year, I have once again found what to add to what I have written previously in the קונטרס. ברוך ה' I have added **four** new topics. **(49)** Buying חמץ after פסח, (**50**) Finding חמץ during or after פסח, **(55)** How to be יוצא the מצוה of בדיקת חמץ when you are going away for all of Yom Tov, **(56)** Questions regarding בדיקת חמץ**.** In a few places I have re-written some of the wording from the previous edition. I have also expanded in some places (in both text and in footnotes) along with many additional **new** footnotes. All this was done to present the הלכות of מכירת חמץ in a very clear and organized way. I hope that I have succeeded.

משה פלאהר
ר"ח אדר תשע"ח

מזמור לתודה

הנה הרבה מחברי ומיודעי עזרו לי בכמה וכמה ענינים בהכנת הקונטרס לדפוס, ואף כי ירבה היריעה לא אגמור מלהביע תודתי להם. רק במעט השורות האלו ברצוני להודות למקצת מהם שבגללם הגעתי עד הנה.

ברכה לראש משביר, תודתי העמוקה נתונה לחברי שעזרו בהוצאות הספר ושבגללם יצא הקונטרס לאור. זכות הרבים תלוי בהם והקב"ה יהיה בעזרם שיצליחו בכל הענינים ברוח ובגשם ושיזכו לראות נחת דק' מכל יוצ"ח.

תודתי נתונה למו"ר הר"ר שלמה גיסינגר שליט"א רב דקהל זכרון יעקב דלייקווד, שעבר על כמעט כל הקונטרס ותיקן וליבן כל פרט ופרט הן בבירור ההלכה והן בבירור הלשון, ואף שאין לו שום פנאי לא ביום ולא בלילה נתן לי מזמנו היקר לברר כמה וכמה ענינים ורק מפני זה זכיתי לסדר הדברים כדבעי.

וכן ברצוני להגיד תודתי העמוקה לחבירי הדגול ר' הרשל הכהן ווייס שליט"א, מיסד ביהמ"ד קול שמשון אשר בקש ממני לפני כמה שנים לסדר המכירת חמץ בעד מתפללי ביהמ"ד ומפני זה עמדתי לקבץ תירוצים לכמה שאלות שנכפלו אצלי יום יום ולברר וללבן הדברים היטב כדי לענות להשואלים דבר נכון וברור. ובהאוצר הספרים הגדול של הביהמ"ד מצאתי כמעט כל הספרים שהיה נחוץ כדי לברר הסוגיות. וגם כשהתחלתי לכתוב הדברים הוא עבר על כל מלה וזירז אותי שיהיה הכל מפורש ומפורט כדבעי.

וכן אני מכיר טובה לחברי היקר ר' יוסף אליהו אינזל שליט"א על העידוד ועל העצות הטובות שנתן לי בכמה ענינים. וכן תודתי נתונה לחברי ושכני שכן טוב ר' דניאל פייזי שליט"א על עזרתו הטוב.

וכן לב"ב, לאשתי מרת אסתר רחל שתחי', שעידדוני הרבה שאגמור הקונטרס ושיהיה דבר נאה ומתוקן, וכן לחתני כבני ר' אלקנה וורטהר נ"י, וכן לבני ובנתי שכל אחד עזרו לי במדה מיוחד. ובפרט אני מאד מאד מכיר טובה לבני כמר דוד נ"י שעבר על כל הקונטרס וליבן ותיקן הרבה בלשון כדי שלא יהיה שום דבר מגומגם ועל ידו נעשה תיקון גדול מאד ויישר כחו וחילו לאורייתא.

ואני מאד מכיר טובה לאמי מורתי שתחי' על עזרתה החשובה ועל העידוד שנתנה לי ושהמרצני מאד להוציא הקונטרס לאור. וכן תודתי נתונה לחמותי שתחי' על עזרתה בהרבה דברים בכל עידן ועת.

ועל הכל מודה אני לאבינו שבשמים שעזרתו היה עמי בכל שלב ושלב וגם כשהיה קשה לא עזב אותי לרגע. ואני תפילה כשם שהיה בעזרתי עד היום כן תהיה בעזרתי לעתיד ושאצליח לחבר ולהוציא לאור עוד ספרים קדושים אחרים להגדיל תורה ולהאדירה. אכי"ר.

מ.פ.

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לעילוי נשמת

מורי חמי

רב יצחק מרדכי

בן האדמו"ר מוהר"ר דוד משה זצ"ל

שפירא

ערב סוכות ה'תשס"ו

ת.נ.צ.ב.ה.

לעילוי נשמת

אבי מורי

ר' יצחק ב"ר אהרן ז"ל
פלאהר

ו' מנחם- אב ה'תשמ"ו

ת.נ.צ.ב.ה.

I. Understanding

מכירת חמץ

1. The איסור מן התורה to Own חמץ on Pesach
2. The Various Ways to Dispose of חמץ Before Pesach
3. The תקנה of מכירת חמץ
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5. The Importance of Having Full Intent (גמירת דעת)
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7. Type of חמץ Being Sold in the שטר מכירה
8. Who is Required to Sell חמץ
9. מכירת חמץ for Those who Don't Have any חמץ to Sell

1. *The Torah Prohibition to Own חמץ on פסח*

There are three prohibitions in the Torah concerning חמץ on פסח. The first one is the prohibition of **eating** חמץ on פסח (the punishment for which is *kares*). Another prohibition is not to have any **benefit** from something which is חמץ (or derived from חמץ) during פסח. The third is the prohibition of **owning** חמץ during all the days of פסח. This is known as the prohibition of בל יראה ובל ימצא (lit. 'it should not be seen and it should not be found').

If you [legally] own any חמץ during פסח, even if you don't use it or even see it, you violate the Torah law of בל יראה ובל ימצא. You are guilty of transgressing בל יראה ובל ימצא even if it's not in your possession and *even if you were unaware* that this חמץ belonged to you. In addition, any חמץ that you owned over פסח [even בשוגג or באונס] is, by Rabbinic decree (גזירה מדרבנן), forbidden **after** פסח, for you or anyone else to **ever** have any benefit from (אסור בהנאה) (שו"ע סי' תמ"ח סעי' ג').[1] For this reason much time and effort is spent cleaning and removing, from our homes and places of business (as well as **any other place it may be found**), any and all חמץ that belongs to us.

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[1] The *Chachamim* instituted this fine (קנס) to insure that people were not lax in disposing of their חמץ. The fine applies primarily to **actual** חמץ as well as תערובות חמץ in which there is a כזית חמץ בכדי אכילת פרס (see more details in **Number 49** par. 2).

2. *The Various Ways to Dispose of חמץ before פסח*

Generally when preparing (cleaning) for פסח, the חמץ will be disposed of in one of two ways, either by consuming (eating) it or by discarding it. However eating all of the חמץ before פסח is not always practical and throwing away [large quantities of] חמץ can be costly.

In addition, sometimes a person may be far away from where his חמץ is located and it is difficult for him to go to that location before *Yom Tov* to dispose of the חמץ and make a *bedikah* there. Also, due to the very seriousness of the prohibition of חמץ (חומר האיסור של חמץ) people are concerned perhaps there may still be some חמץ in their possession that they do not know about and did not find (and are thereby inadvertently transgressing בל יראה ובל ימצא [2]).

In any of the above cases (large amount of חמץ, far away location, unknown חמץ), a person might find himself in a position of possibly violating the Torah prohibition of בל יראה ובל ימצא. Therefore, primarily for these reasons, over the years our Sages and *Poskim* developed the תקנה of מכירת חמץ as another method to be used to remove your חמץ.

3. *The תקנה of מכירת חמץ*

In order to transgress the איסור of בל יראה ובל ימצא it is necessary for you to be the owner of the חמץ at the time that חמץ

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[2] Even though they did ביטול and therefore according to Torah Law (מדאורייתא) they would not be transgressing בל יראה ובל ימצא, nevertheless there is a concern that perhaps the ביטול wasn't done properly (ר"ן, תחילת מס' פסחים).

becomes forbidden (which is after the 5th hour[3] of the day on ערב פסח – the 14th of *Nissan*). Therefore, if **before** that time it would be arranged for the חמץ to be given to a non-Jew either through a sale or as a gift, there would be no איסור, since after the transfer to the non-Jew the חמץ becomes his and you are no longer the owner of the חמץ. This then would be another valid method for someone to dispose of their חמץ before פסח.[4]

While according to the early פוסקים this was a legitimate method, nevertheless there were numerous concerns on how this sale was being done. Since these transactions were usually being conducted on a one-to-one basis (i.e. the Jewish "seller" dealt directly with the non-Jewish "buyer") many times the necessary קנין was not being done properly. Also, while a straightforward sale would not be a problem, the פוסקים understood that this was not always the case. Sometimes certain conditions were being added which would thereby cause it to no longer be a proper sale (according to הלכה) and consequently not a valid method for "removing" חמץ. It is because of this that even the Rabbanim who approved of the תקנה of מכירת חמץ strongly encouraged that מכירת חמץ should be arranged either by a Rav or a *Bais Din* who would know the *halachically* correct way for it to be done.

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[3] "Hour" here refers to "*halachic*" hour (שעה זמניות) which is calculated as one twelfth of the daylight hours.

[4] עי' שו"ת בנין עולם (מאת הגרי"א חבר זצ"ל) סי' כ' דע"י מכירת חמץ מקיים מצוה דתשביתו. וע"ע שו"ת חלק יעקב או"ח סי' ח' ושו"ת פרי יצחק ח"א י"ט. והחיי אדם סובר שאינו מקיים תשביתו ע"י מכירה וסובר שאין לעשות מכירה אלא בשעה"ד. אבל נראה דאם מוכר ונשאר חמץ לשריפה אפשר לעשות מכירה אף להחיי אדם (דאין איסור למכור קודם פסח).

4. *How to Make a Valid* מכירת חמץ

The **essential** requirement for a proper מכירת חמץ is for ownership of the חמץ to be transferred from the Jewish seller to the non-Jewish buyer. According to *Halacha*, this is accomplished through something known as a *kinyan*, which is a method of acquiring legal ownership as explained in the גמרא and in the שלחן ערוך and פוסקים. There are a number of different types of קנינים and to make sure that the sale is effective without question (בלי שום פקפוק) the Rav making the sale attempts to implement all of them. In addition we also try to have the sale be valid even according to secular law.[5]

5. *The Importance of Having "Full Intent"* (גמירת דעת)

Anyone wanting to make מכירת חמץ must also be aware and fully understand that in essence this is a sale. What we are attempting to do here is a business transaction, not some sort of religious ceremony. It is not a symbolic sale. It is a business transaction that is legal according to הלכה as well as secular law. Additionally, the פוסקים state, in order for the sale to be acceptable a person must have **complete and absolute intent** (be גומר דעת), without **<u>any</u>** conditions or reservations, that he truly wishes to sell his חמץ to the non-Jew.

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[5] While this arrangement may look like a "trick sale" (הערמה – a fictitious sale) since the final result is that the sale is only temporary, nevertheless the פוסקים did allow this type of sale primarily due to the hardship of a great loss (הפסד מרובה) or the difficulty in searching for and removing all חמץ that belongs to you in all locations wherever it may be. See also **number 8** and **number 9**.

(According to some opinions without this clear understanding the sale is not valid and you remain the actual owner of the חמץ. Others however hold that בדיעבד (post facto) it remains a good sale even if in fact you did not have any real intent (גמירת דעת) that you are actually selling it.) [6]

6. *When is מכירת חמץ Not to be Considered a הערמה (deception) and When it is Called a הערמה*

Besides making the proper קנין **it is also of great importance that as much as possible the sale should not look like a** הערמה, a "trick sale."[7] According to the פוסקים you are permitted to sell your חמץ to the non-Jew before פסח *even though at the time of the sale it is understood that you intend to buy it back from him after* פסח.[8] This is because there is no obligation **explicitly written in the contract** that the non-Jew must sell it back to you and in fact if he wishes he can keep the חמץ that was sold to him and use it any way that he desires. Therefore the חכמים said the sale is not הערמה and is absolutely valid. The fact that you intend to buy it back after פסח (and the fact that you do the same "sale" every year) does not make it a "false" sale.

However if, for example, you were to sell your חמץ to the non-Jew before *Pesach*, and *make an explicit condition in the sale* that

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[6] דאע"ג דבדעתו אינו רוצה למכור מ"מ הוה דברים שבלב ובא מעשה ומבטל מחשבה. ועי' במשפט המכירה שער א' פרק ג' סעי' א'.

[7] Many of the things written in the שטר e.g. specifying the items, the value, the specific location etc. are precisely for this reason.

[8] עי' שו"ע או"ח סי' תמ"ח סעי' ד' ובמ"ב שם ס"ק כ"ג וכ"ד.

obligates the non-Jew to sell it back to you after פסח, it is viewed as הערמה and would generally **not** be considered a proper sale, because this condition makes it abundantly clear that you did not seriously intend to sell your חמץ to him at all. Your sole intent was to avoid the prohibition of חמץ by having it look like you are not the owner for the duration of פסח but your condition shows you still have an "interest" in it and that prevents it from being considered a genuine sale.[9]

7. *Type of* חמץ *Being Sold in the* שטר מכירה

חמץ is generally categorized in one of two[10] ways. חמץ גמור, which is actual חמץ like bread, cookies, pasta, etc. and תערובות חמץ "mixed חמץ" which is food that has חמץ mixed into it. Since through the various methods of acquisition (קנינים) that are done it is a complete and *halachically* valid מכירה therefore the פוסקים hold that one is permitted to sell anything, **even actual** *Chametz* **(חמץ גמור)**.

However some פוסקים disagree and hold that the תקנה of מכירת חמץ was made primarily for those who own a large amount of חמץ and for whom it would be a big loss (הפסד מרובה) for them to throw out. Therefore, according to these פוסקים, those who do not have this problem of הפסד מרובה should get rid of any actual חמץ they

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[9] אע"פ שלפי דיני חו"מ יש מכירה לימים (וכן היה אפשר לעשות מתנה ע"מ להחזיר וכדו') מ"מ מפני חומר איסור חמץ גזרו חכמים שאינו מועיל מכירה כזה להעביר בעלות החמץ להגוי. (ע"ע קובץ נזר התורה (אדר-ניסן תשע"ז) עמ' שמ"ה דמבאר עוד טעם למה אינו מועיל בחמץ).

[10] There are in fact two more categories of חמץ, one called חמץ נוקשה – *chametz* that is spoiled and only eaten in extreme circumstances – and the other is חמץ שאינו ראויה לאכילת לכלב, *chametz* that is not fit to be eaten even by a dog. People generally do include חמץ נוקשה in their מכירה.

have before פסח and make use of the מכירה only for items which are not considered חמץ גמור i.e. תערובות חמץ.[11] (See **Number 22** for a list of some items that are not considered חמץ גמור.)

(It should be noted that even those who do not sell חמץ גמור certainly wish to **include** all unknown חמץ in their שטר מכירה, **<u>even</u>** חמץ גמור. This way should they have inadvertently forgotten to dispose of something which is חמץ גמור they will not transgress בל יראה ובל ימצא.) (See **Number 9**.)

8. *Who is Required to Sell* חמץ[12]

The תקנה to sell חמץ was instituted in order to assist people in making sure that no חמץ remains in their possession. According to most פוסקים, since anyone who owns חמץ is subject to the איסור of בל יראה ובל ימצא the תקנת חכמים to sell the חמץ would be available to them as well. This means that not only the head of the household sells the חמץ but in fact if any other members of the house (e.g. your children) own any חמץ and do not want to throw it out, they would be required to arrange a מכירה for their personal חמץ as well. (See **Number 34**.) (Note: a wife is automatically included in the husband's מכירה.) Also those who "board" by people should make a בדיקה and arrange a מכירה, and similarly those who jointly share an apartment and go away for Yom Tov need to see that a מכירה is taken care of as well.

Note: מכירת חמץ does not only apply to men. It also applies to adult single women as well as someone who is divorced or

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[11] עי' משפט המכירה שער ב' פ"ד דעת משפט אות נ' (וע"ע שם אות מ"ט). See **Num. 49** par. 2

[12] See below **Number 9**: "*Mechiras Chametz for those who have no Chametz to sell.*"

widowed, ר"ל. If it is difficult for them to arrange to go to the Rav they can ask someone else (neighbor or relative etc.) going to the Rav to arrange it for them or they can personally speak to the Rav themselves over the phone if necessary. Also adult children living at home, male or female, who earn their own money (or who receive an "allowance") would need to arrange the selling of their personal חמץ (any חמץ or תערובות חמץ or ספק חמץ items that they purchased with their own money), *even if they are generally supported by their parents* (סומכין על שלחן אביהן). (See **Number 34.**)

9. מכירת חמץ *for Those Who Don't Have Any* חמץ *to Sell*

As mentioned, the purpose of making מכירת חמץ is in order to assist those with difficulty in disposing of their חמץ (by arranging for ownership of the חמץ to be transferred to the non-Jew via a *halachically* valid method of doing so). Therefore those who have gotten rid of all their חמץ (both גמור חמץ and תערובות חמץ) and made a *Bitul* would seemingly have no need for a שטר מכירה to sell their חמץ since they have no חמץ to sell. Nevertheless some פוסקים hold that they should endeavor to write a שטר מכירה in any case because of חמץ שאינו ידוע להם[13] i.e. חמץ that was not found while cleaning the house and was therefore not removed.

(ועי' בהגדה של פסח עם פסקי הגרי"ש אלישיב זצ"ל (תשס"ו) עמוד 13, וכ"כ בשלמי מועד עמוד שכ"א בשם הגרש"ז אוירבאך זצ"ל [ועי' בספר הליכות שלמה פ"ו אות ג' ובהערה שם], וכ"כ בשו"ת מנחת יצחק.[14])

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[13] As explained in **number 2**, end of paragraph 2.

[14] וע"ע במשפט המכירה שער ב' פרק ד' דעת משפט אות ס"א שמבאר עוד בענין זה. וע"ע ספר בדיקת חמץ וביעורו (מהדורת תשס"ה) פ"ח סעי' י"ז.

II.

Authorizing the Rav to be Your שליח

10. The role of the Rav in מכירת חמץ
11. Method of Appointing the Rav as your שליח
12. Appointing the Rav as your שליח with a קנין סודר
13. The שטר הרשאה: "Power-of-Attorney" Document
14. חמץ Purchased After Signing the שטר הרשאה

10. *The Role of the Rav in* מכירת חמץ

As mentioned previously (above **Number 3**), originally each individual person who wanted to make מכירת חמץ would arrange the selling of their *Chametz* to the non-Jew on their own. However, due to the many complexities in properly arranging the מכירה to the non-Jew, it is important that a Rav (or his designee) be the one to arrange it along with all the details that it involves.

> It is important to note that the Rav who arranges the selling of your *Chametz* is only acting as your "agent" (שליח).[15] He is not buying, nor in any way becoming the legal owner of, the *Chametz* items that are written in the שטר הרשאה. His **only** function is to see to it that the transaction (sale) between you and the non-Jew is valid according to הלכה.

Many people also have the custom (מנהג) of making the מכירה with an ערב קבלן. The meaning of ערב קבלן is as follows. Since the non-Jew (the buyer) only gives a small "deposit" on the actual value of the *Chametz*, the rest of the money (the balance) is considered a loan. Therefore in order for it to be a *halachically* valid מכירה, some פוסקים require someone (another Jew) to be an ערב קבלן (a

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[15] This is the general מנהג nowadays, though in some communities the מנהג is indeed that the Rav buys the חמץ from everyone and then t**he Rav** (as the owner) sells everything to the non-Jew.

guarantor) on this debt. Other פוסקים disagree and hold that an ערב קבלן is not necessary (and some in fact hold it is better[16] if there is no ערב קבלן). (See ספר מכירת חמץ ע״י ערב קבלן).

11. *Method of Appointing the Rav as Your "Agent"* (שליח)

In order for the Rav to represent you in the transaction it is necessary to appoint him as your agent (שליח). The Rav is appointed as your שליח for two functions: **1)** to sell your חמץ to the non-Jew and **2)** to rent (or sell) to the non-Jew all the locations where the חמץ will be stored over *Yom Tov* (see **Number 25**). The two methods used for appointing the Rav are known as **a)** קנין סודר and **b)** שטר הרשאה. These will be explained below.

12. *Appointing the Rav as Your* שליח *with a* קנין סודר

The Rav is appointed as your agent,[17] through a procedure known as מינוי שליחות. The first method we use for doing this is with a קנין סודר – "acquisition with a handkerchief." The Rav gives an object **of his** (e.g. a handkerchief or a pen, etc.) to the person selling his חמץ and the seller picks it up 3 טפחים (approx. 12 inches) and

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[16] שו״ת שואל ומשיב תנינא ח״ד סי׳ י׳ ד״ה והנה. וע״ע משפט המכירה שער ב׳ פרק ז׳ סעי׳ י״ג.

[17] As mentioned below appointing someone as a שליח is usually done without any קנין. It is only for מכירת חמץ that we arrange מינוי שליחות thorough these other methods. However, if for some reason these methods cannot be done, then a verbal designation (either in person or via phone) is sufficient. The authorization can also be done via fax, or email etc.

thereby acquires the object. (Afterwards the seller gives the item back to the Rav as a present – מתנה.) Due to the seller receiving the handkerchief (סודר) from the Rav, he therefore transfers to him the right to represent him (the seller) for these two specific functions (מכירת חמץ and the renting of the storage areas of the חמץ to the buyer – שכירת המקומות).

> **NOTE:** Ordinarily a קנין סודר is used for a commercial transaction, מקח וממכר, made directly between a buyer and a seller, and which authorizes a transfer of ownership from one person to another. However our case of appointing the Rav to be your שליח is not a case of "buying and selling" (since the Rav is not buying anything from you). In fact appointing someone as a שליח is usually done verbally and nothing more.[18] The question therefore is why are we making a קנין סודר here, since it is not at all required.

The *Rambam* (הל' מכירה הל' י"ב וי"ג) explains that in the case of מכירת חמץ the קנין סודר is **meant to strengthen the authorization of the Rav becoming your** שליח and it shows that you truly want him to arrange it for you. It has therefore become a universal custom to make a קנין סודר by מכירת חמץ as a way of signifying your **full** intent to appoint the Rav as your שליח and should be done if possible.[19] (See **footnote 17**.)

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[18] שו"ע חו"מ סי' קפ"ב ס"א, וז"ל, ואין העושה שליח צריך קנין ולא עדים, אלא באמירה בעלמא בינו לבין חבירו וכו', ע"ש.

[19] Also, it is preferable that the קנין סודר be done **before** signing the שטר, though it is valid if done after as well. כן נ"ל דכיון דלמעשה אין מינוי שליחות ע"י סודר והמינוי בעצם

(When someone requests another person to go to the Rav to arrange מכירת חמץ on their behalf it is preferable that he also make a קנין סודר with that person and thereby appoint him to be his שליח. That שליח will then make his own קנין סודר with the Rav through which he will transfer his designation as a שליח on their behalf to the Rav. See **Number 33**.)

13. *The שטר הרשאה: "Power-of-Attorney" Document*

Additionally we appoint the Rav as our שליח through the use of what is known as a שטר הרשאה, a "power of attorney" document. The general practice is to use a "communal" שטר הרשאה whereby someone (i.e. the Rav) is designated to act as your שליח (agent) for these **two** purposes: מכירת חמץ and renting all the places that the חמץ is located (שכירות המקומות). This document is usually quite large and customarily many people sign their name on it.[20] It also states in this document, in a general sense, the various types of חמץ being sold. Some people also add (next to their signatures) specific information concerning the locations where the חמץ items will be stored over *Pesach*, as well as the approximate value of the חמץ. *Halachically* it is sufficient for the person to appoint the Rav as his שליח and then just put their signature[21] to this document. Then, after the Rav finalizes the transaction, all his חמץ is now considered as legally belonging to the non-Jew.

נעשית רק ע"י השטר הרשאה א"כ איזה טעם יש לעשות אח"כ מעשה הסודר אחרי שכבר גמרו המינוי כשחתמו על השטר.

[20] See back of this קונטרס for a copy of this שטר הרשאה along with an English translation.

[21] Note: If one forgets and the document is not signed it is בדיעבד still a good מכירה.

(In places where many people are signing the שטר הרשאה sometimes there is no room on the bottom to sign and therefore the back of the שטר, **as well as additional pages**, is used for signatures. Some say that it is necessary for the actual wording of the שטר הרשאה to be on the document that is being signed, עי' מועדים וזמנים ח"ג סי' רס"ט, ב'. However if the pages are attached (e.g. bound in a book or stapled together) then it is fine.)[22]

In recent years it has become the custom by many *Rabbanim* to also use an additional **separate** שטר **for each individual** where more information is given about the specific items being sold and the specific location of the *Chametz*, as well as the name and address of the person selling the *Chametz*.[23] In order to coordinate the two, each individual שטר is signed[21] and given a number and this number is then written on the "large" שטר הרשאה next to where their signature appears.[24] **<u>One of the reasons for the use of this second שטר is to strengthen the understanding that this is a real מכירה</u>.**

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[22] ועי' תשובות איבר"א סי' כ"ט להגרי"א הענקין זצ"ל שסובר שלהדביק הניירות שיש עליו רק חתימות יחד עם הדף שכתוב עליו השטר הרשאה אינו מספיק (אע"פ שמהודק יפה) וצריך להיות נוסח שטר הרשאה (והמכירה) למעלה בכל דף מהחתימות, ע"ש.

[23] See page 133 for a copy of the שטר of Rabbi Blech (with detailed explanations). Also see page 159 for the individual שטר as used by K'hal Adath Jeshurun (Breuer's) and page 160 for the one used by the Bais Din of Australia.

[24] As mentioned above in **foonote 19**, the שטר (both the large שטר as well as the individual one) should preferably be signed after the קנין סודר is made.

14. חמץ *Purchased After Signing the* שטר הרשאה

If after arranging the sale of your *Chametz* through the Rav (by signing the שטר הרשאה etc.) you purchased additional *Chametz* and you wish to include it in the sale, it is **not necessary** to go back and add it to the שטר. It is also **not necessary** to contact the Rav to re-designate him again as your שליח for the new *Chametz*. As long as the sale to the non-Jew has not yet taken place the new *Chametz* that you acquired is included. [25]

(There are some Rabbonim who write in the שטר specifically that the sale **includes** any חמץ acquired after the signing of the שטר and מינוי שליחות. וכתוב בדברי מלכיאל (ח"ד, י"ב: י"ז) דאז בודאי חל המכירה על החמץ החדש לכל הדיעות.)

[25] עי' שו"ת צמח צדק סי' מ"ו ושו"ת דברי מלכיאל ח"ד סי' כ"ב אות י"ז. ועי' בשד"ח מערכת חמץ ומצה סי' ז' בשם בגדי ישע. ועי' שו"ת פרי חיים או"ח סי' ט"ו ועי' משפט המכירה שער א' פ"ג סעי' ו' ושם עמ' צ"ז במסקנת דבריו. וע"ע בספר מכירת חמץ כהלכתו פ' י"ז סעי' כ"ג הערה ל"א. (וע"ע שם הערה ל' דיש חולקין וסוברין דבעינן מינוי חדש, וכ"כ בשערי זבולון (שוב) הל' פסח (רמות תש"ע) סי' ל"א.)

III.

Filling Out the שטר

15. The need to Specify the type of חמץ being sold
16. Writing the Value of the חמץ Being sold
17. Writing the Location where the חמץ is Being Stored
18. Including חמץ Utensils in the שטר מכירה
19. Including Items that you are Unsure if they are חמץ
20. The need to fill out the שטר Clearly
21. Shares (stocks) in a Company that Deals with חמץ
22. Items not Considered חמץ גמור
23. Including Items which are קטניות in the שטר מכירה

15. *The Need to Specify the Type of חמץ Being Sold*

When filling out the מכירת חמץ document some people write that they are selling "any חמץ that I own" without specifying exactly what type of חמץ they possess. However the משנה ברורה writes[26] that **לכתחילה** one should specify the different types of חמץ that he is selling[27] (though in fact it is a good מכירה even if he just writes "all the חמץ that I own"). [28]

Those *Rabbanim* who use an individual שטר for each person (see above **Number 13**, third paragraph) generally have a list of חמץ items in that שטר to be checked off. לכתחילה you should check off **only** the appropriate items.[29] For example, if you do not have pets do **not** check off "pet food." (Also, if it turns out that you left "unchecked" something that you actually do have, it is fine and is still included in the sale.)

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[26] סי' תמ"ח סעי' ג' בביה"ל ד"ה בדבר מועט

[27] However it is not necessary to write the amount of each type of חמץ that you have.

[28] וכ"כ בשו"ת רע"א (מה"ת סי' ז') וכ"כ באגרות משה (או"ח ח"א סי' ק"נ) . ובאג"מ שם (וכ"כ בשו"ת אבני נזר או"ח סי' של"ט ובשו"ת דברי מלכיאל ח"ד סי' כ"ב) מבאר דלכו"ע כל הקפידא הוא רק בשטר הקנין עם האינו יהודי אבל בשטר הרשאה אין קפידא בזה, ע"ש. וע"ע ספר בדיקת חמץ וביעורו (מהדורת תשס"ה) פ"ח סעי' י"א הערה כ"ה.

[29] כן הוא בשו"ת ר' משולם איגרא איגרא או"ח סי' ל"ט אות י"ג, ועי' ספר מכירת חמץ כהלכתו פ"ד סעי' כ הערה כו.

(There is a common mistake of those filling out the individual שטר to check off **everything** "just in case." This is **incorrect** since by this section of the שטר we want to know the חמץ that you wish to put away and sell. The חמץ that you may have "somewhere unknown" is mentioned later in another part of the שטר, not here.) (See pg. 135.)

16. *Writing the Value of the חמץ Being Sold*

The שטר should also state the **approximate value** of the חמץ. The *Mishna Brurah* (שם) writes that according to some פוסקים stating an overly exaggerated amount may invalidate the sale. Similarly **one cannot write that the value is "zero."** That would make the sale look like a joke and the מכירה would be invalid.[30]

When calculating the חמץ value of an item that is a חמץ "mixture" (תערובות חמץ) one calculates the value of just the חמץ part of it. For example, in the case of a box of instant pudding one would estimate the cost of the part that is חמץ. (**Note**: This applies to an item that is dry (יבש ביבש). However if the item is a liquid (לח בלח), for example: ketchup, and the חמץ ingredient gives a noticeable taste (נותן טעם) one would calculate the חמץ value according to the value of the entire item.)[31]

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[30] In a case where a person has gotten rid of all his חמץ and חמץ "mixtures" (תערובות חמץ), or if he feels that what he is selling has **no** value, the עצה would be to include any non חמץ item of value in the sale. **<u>For example</u>**, you should write in the שטר that you are selling a plastic washing cup worth $1 (or more). Then the sale of even your "valueless" חמץ has what to be חל on since there is for sure some item of value being sold. (כן נ"ל ע"פ מש"כ באות חיים ושלום אות תקע"ה).

[31] A utensil or an appliance is **not** part of the calculation of the value. Therefore, for example, חמץ attached to your stove does not include the value of the stove.

In general one should make a "reasonable" estimate of the value of **all** his חמץ. The estimate does not need to be exact, since the שטר states that if necessary the exact evaluation will be done by experts after *Yom Tov*. (Keep in mind, the point is to write the שטר in a way that it looks like a legitimate sale, which it is). [32]

17. *Writing the Location where the חמץ is being Stored*

It is also important that the locations of the חמץ be specified. If cabinets in the kitchen and/or dining room and/or basement are being used, they should be written in the שטר. If only part of a cabinet is being used for חמץ storage, it should be written as such. If חמץ items at different locations are being sold then each address should be specified. לכתחילה one should **not** just write "all my חמץ wherever it may be." However, in a case where someone is going away for **all** of פסח and including his entire house/apt. in the שטר, then he can write "all my חמץ located at this address (apt.)."

In a case where someone has חמץ in a location and does not know the exact address, it is enough if he writes a description of the place i.e. "my desk in Yeshiva ABC located in the town of XYZ." (Or "bungalow #13 in XYZ colony in Woodridge, NY.") [To save time, it would be a good idea to write down the location(s) **prior** to coming to the Rav to fill out the שטר.]

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[32] Also, those who include liquor in their sale should be aware that an open bottle of liquor, even if nothing at all was poured out from it, **loses more than 50% of its value** as compared to a closed bottle.

Sometimes when going to the Rav to arrange the מכירה we have not yet decided where the חמץ items will be stored (in which cabinet or closet etc.). Rav Elyashiv זצ"ל said that in such a case you should write "the location of the חמץ is in all the marked off places."[33] (See "Frequently Asked Questions" **number 5 and 6**.)

18. *Including חמץ Utensils in the שטר מכירה*

There is a disagreement amongst the פוסקים concerning the inclusion of utensils which are חמץ in the שטר מכירה. According to many פוסקים we don't sell the actual חמץ utensils [34] but we do sell what is known as the "*absorbed*" חמץ (בליעות). (The definition of בליעות is the "taste" of the (חמץ) food that is absorbed in the walls of the utensils and which would then be transferred to the food when the utensil is used next.) According to the opinion of HaRav Elyashiv זצ"ל it is not necessary to sell the בליעות in utensils. The Steipler זצ"ל in the נוסח of his שטר מכירה did write that he was selling the בליעות.[35] (Some

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[33] וכן סבר ר' שלמה זלמן אוירבאך זצ"ל וכן הוא בספר מעדני יו"ט ובשו"ת צמח צדק או"ח סי' מה אות ד'.

[34] The reason we do not sell the actual utensils is because then after *Pesach*, when re-acquiring the utensils from the non-Jew, we would be required to make *Tevilas Keilim* (טבילת כלים). Other פוסקים disagree and hold that even if you sell the actual כלים we can be lenient and you would not need to make *Tevilas Keilim* in this case. וכן דעת הערוך השלחן (יו"ד סי' קכ סעי' נב) וכ"כ הגרי"ש אלישיב זצ"ל בתשובה שכתב לבעל קהילת יעקב וע"ע בשו"ת האלף לך שלמה חיו"ד סי' קצג. וע"ע ספר בדיקת חמץ וביעורו (מהדורת תשס"ה) פ"ח סעי' י"ט ובהערה אות מ' ואות מ"ד.

[35] אמנם בספר ארחות רבנו הובא שבנו הגאון הר"ר חיים שליט"א אמר שאביו כתב כן רק לרווחא דמילתא.

say that the Chazon Ish also sold the בליעות, though in his *Sefer* he says it is not necessary.[36])

HaRav Elyashiv זצ"ל held that when it says in the שטר מכירה that we are selling the utensils which are חמץ we are talking about **actual חמץ (חמץ בעין) that might still be attached to the utensils**.

Because of this question, there are some *Rabbonim* who write in the שטר מכירה that they are "renting" all the חמץ utensils to the non-Jew.[37] Accordingly, no טבילה would be required after פסח.

19. *Including in the שטר Items That you are Unsure if They are חמץ*

When writing the items in the שטר we may also include items which are questionable if they are חמץ altogether.[38] For example, many (if not most) perfumes contain synthetic alcohol (not חמץ), nevertheless if we are unsure if it is חמץ or synthetic alcohol we **include** it in the מכירה anyway. The estimated value of the חמץ items in the שטר will include this item as well (and whether or not it is חמץ would be determined after פסח if necessary).

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[36] חזו"א או"ח סי' ק"ז אות ט"ו.

[37] כן היה בשטר של הגרצ"פ פרנק זצ"ל.

[38] כ"כ בנוסח שטר מכירה של ר' נתן אדלר זצ"ל (חת"ס או"ח סי' ק"ח) וכן נהג הגרש"ז אויערבאך זצ"ל וכ"כ בשטר הרשאה של הגר"מ פיינשטיין זצ"ל. וע"ע משפט המכירה פ"ד שער ב' בדעת משפט אות נ"א.

20. *The Need to Fill Out the שטר Clearly*

It is very important to note that, since we are making an actual sale, the document that we fill out with our information **needs to be written clearly**. (This is especially true when filling out the individual שטר.) For example, if the person will be away for פסח then, besides his full name and address, the location of the keys to his apartment (and/or person to contact in order to gain entrance to the location) must be written in a way that the non-Jew can know how to get to the חמץ. If someone lives in an apartment then he must also write the apartment **number**, and if he lives in a **basement apartment** he should write that clearly as well.

If a person will be out-of-town for **part** of *Yom Tov* and the keys will be with him, he must write exactly where he will be staying over *Yom Tov*[39] so that the non-Jew can theoretically go to him, get the keys, and gain entrance to the places where the חמץ is located.[40] (**If he will be in multiple locations, these should all be written. At the very least a contact phone number should be given.**) See **Number 24**.

21. *Shares (stocks) in a Company That Deals With חמץ*

If someone owns shares in a company or companies that own or deal in חמץ items, the custom (מנהג) is to include it in the שטר

[39] If someone else in his town can open up the apartment (e.g. a landlord or neighbor) he can write that information in the שטר instead.

[40] See **Number 24**.

מכירה.[41] This is true even though you do not own a controlling interest in the company. Since it is difficult to figure out the "value" of the חמץ included in these shares you do not need to put that in the שטר as the Rav makes up with the non-Jew that if necessary an evaluation will be made "by three experts" after *Yom Tov*. (If you wish you can write the approximate value of all your other חמץ items and then next to it write "plus the value of the חמץ included in my investments (stocks).")

22. *Items Not Considered* חמץ גמור

As mentioned before (**Number 7**, second paragraph) some פוסקים hold that one should not sell items which are חמץ גמור. The following is a list of some items which are sometimes thought to be חמץ גמור but are in fact **not** חמץ גמור.

[non-פסח] Flour is questionable if it is חמץ at all (no difference if it is bleached or unbleached) and may be sold even by those who don't sell חמץ גמור. [42]

Yeast – Yeast is **not** חמץ גמור as it is generally made from molasses (which is made from sugar cane or sugar beets).[43]

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[41] Concerning any profits generated from "חמץ stocks" over *Yom Tov*, one should consult a Rav.

[42] יש כמה פוסקים הסוברים דסתם קמח הנמכר בשוק בזה"ז **אינו** חמץ כלל, ואף שאין להשתמש בו לכתחילה בתוך ימי פסח מ"מ אינו צריך למוכרו אלא לייחד לו מקום שלא להשתמש בו, ודי בזה. (עי' מ"ב סי' תנ"ג ס"ק כ"ז.) ואף שיש מחמירים בזה מ"מ אינו נחשב אלא לתערובות חמץ ולכן **מותר למוכרו אף לפי המחמירים**. (עי' שערי ימי פסח פ"ז אות ו'). וכן הוא דעת הגר"נ קרליץ שליט"א דאין להחמיר בקמח אף באין הפסד מרובה.

Rice cakes, Corn Flakes – may be sold.[41]

Cosmetics, perfumes, and medicines – may be sold.[41]

Whiskey – Many פוסקים hold that it is permissible to sell **whiskey**, even according to those who don't sell חמץ גמור (because it has the halachic status of "sweat" (זיעה) and is not considered חמץ גמור.) Others disagree and hold it is חמץ גמור but sell it anyway (either because that is the custom in their family to sell liquor even though they don't sell חמץ גמור or because it would be a significant loss (הפסד) to throw it out).

Vinegar (specifically that which is sold in the US) is not considered חמץ גמור even if it says on the label "grain" vinegar. (Note: The great majority of U.S. vinegar is made from corn.)

Ketchup, Mayonnaise, Mustard, Pickles and **Salad Dressing** may be sold even though they contain vinegar. It is not considered חמץ גמור.

Barley (if pearled, raw and packaged), Cake mixes (dry), Food extracts, vanillin, or medicines/vitamins containing חמץ, are all not חמץ גמור and may be sold.

Vanilla extract, Soy sauce may be sold.

Baking Soda, Baking Powder though used to make flour rise are not חמץ at all, but if it's an open container that was used during the year it should be sold. (Baking Powder generally contains corn starch which is קטניות. The ones which are Kosher for Pesach substitute potato starch instead. There are no חמץ ingredients in pure Baking Soda.)

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[43] קונטרס שיעורי הלכה, שיעורים של הרב שמואל פעלדער שליט"א, דומ"ץ בלייקווד.

Play Dough is allowed to be sold even by those who don't sell חמץ גמור. **Note**: Some פוסקים hold that Play Dough does not need to be sold at all. It should not be used but instead be put away until after פסח.

23. *Including Items which are קטניות in the שטר מכירה*

Items which are קטניות do not need to be sold (for example: cans of corn or cans or bottles of soda containing corn fructose). They should just be put aside in a place where they will not mistakenly be used (eaten) during פסח.

IV.
Additional Requirements for a Valid מכירה

24. Access to the חמץ (keys, combination, etc.)

25. The Requirement to Rent to the non-Jew the Place Where the חמץ is Being Stored

26. מכירת חמץ and Burning the חמץ (and saying כל חמירא): Which Comes First ?

24. *Access to the חמץ (Keys, Combination, etc.)*

As mentioned before (**Number 20**) those who do not leave a key with the Rav and will be going away for *Yom Tov* (even if only for some days), need to leave **clear** written instructions in the שטר how the non-Jew can enter the location that the חמץ is in. If a landlord or neighbor has the key they can write that in the שטר. **The same applies** for those selling חמץ in their business, office, school or dormitory. There needs to be information written clearly in the שטר how they can get to the חמץ that is being stored at those locations.[44] (Leaving a cell phone number is sufficient.)

While not *halachically*[45] required, it is considered praiseworthy to leave the keys[46] with the Rav,[47] allowing the buyer access to the חמץ at any time. If one has a combination lock (Shabbos lock) he

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[44] עי' ערוך השלחן תמ"ח כ"ג ועי' מ"ב תמ"ח ס"ק י"ב.

[45] This is the opinion of most פוסקים nowadays. Part of the reason that they hold this way is because it is explicitly written in the שטר מכירה made with the non-Jew that if necessary he is allowed to "break down the door" in order to get to the חמץ. ועי' שערי ימי פסח (טשזנר) שער ג' סוף סעי' י"ג בשם הגר"נ) עי' משפט המכירה עמוד שנב קרליץ). (וע"ע ביאה"ל סי' תמ"ח בשם הפמ"ג).

[46] Some פוסקים (שו"ע הרב, שו"ת מהרש"ם) disagree and hold it is **essential** to the מכירה that the keys be given over, especially in the case of an "early" מכירה. (See אבל ע"ע ספר משפט המכירה עמ' שנד-שנו). (קובץ המועדים פסח חלק ב' עמוד רמא)

[47] The Rav would be the one the non-Jew would contact should he want to get to the חמץ.

should write the combination in the שטר. (If one is concerned about revealing this information openly in the שטר, it can be written in Hebrew and the Rav will assist and tell the non-Jew how to get in on פסח if necessary.)

25. *The Requirement to Rent to the Non-Jew the Place(s) Where the חמץ is Stored*

In addition to arranging the sale of the חמץ to the non-Jew it is also necessary to arrange to sell or rent to the non-Jew the location where the חמץ will be stored. [48] There are primarily **three** reasons given for this. **(1)** To effect the sale of the חמץ through a method known as קנין אגב, **(2)** to effect the sale of the חמץ through a method known as קנין חצר, **(3)** so that the חמץ (now belonging to the non-Jew) be considered as not remaining in our possession over *Yom Tov*.

(Since in this קונטרס we do not discuss or explain the various קנינים utilized by the Rav to legally transfer ownership to the non-Jew, we will only explain **reason number 3** for the need to rent the location of the חמץ to the non-Jew i.e. so that it should be considered as if it is not in our possession.)

Ordinarily, under certain circumstances, a Jew would be permitted to store חמץ items belonging to a non-Jew in his house over פסח. In our case as well since "legally" he is no longer the

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[48] There is a disagreement amongst the פוסקים if the place where the חמץ is located should be sold to the non-Jew or rented. The general מנהג is to rent, and we will therefore write "rent" when referring to this throughout the קונטרס.

owner of the חמץ it should perhaps be permitted. However since these items were once owned by the Jew, and since the Jew knows he will be getting them back after Yom Tov, the פוסקים were concerned that one might forget and accidentally eat from it on פסח. While ideally the חמץ items should be **completely removed** from one's possessions (house, warehouse, etc.) and moved and stored in a completely different location, however in most cases this is not feasible.

Therefore it is necessary to set aside an area for the storage of all the חמץ items and חמץ utensils[49] that one is selling. The designated area(s) need to be **clearly marked** so that one does not take anything from there accidentally. Ideally this would be a cabinet or closet or some such closed in area. However sometimes people use a corner in a garage or basement and in such a case (i.e. an open location) it is necessary to surround the area with a מחיצה, a solid sturdy partition, which needs to be at least 10 *tefachim* high (approx. 30 inches). [50] [51]

Those who are tenants by someone are still able to write in the שטר מכירה that they are renting the storage area to the non-Jew, even though in their lease it states that they do not have the right to sub-lease their apartment. This is because the rental is just for the storing of the חמץ items. It is not being rented to them (the

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[49] Concerning the selling of חמץ utensils, please see **Number 18.**

[50] Since the making of a מחיצה is a requirement מדרבנן we can be lenient and use the smallest שיעור for ten טפחים. (וע"ע משפט המכירה שער ב' פ"ג סעי' ב')

[51] The need for a מחיצה is only for actual חמץ items. Items which are not actual חמץ or are inedible do not require a מחיצה around them. (אשל אברהם סי' ת"מ)

non-Jew) to be able to live in the apartment and therefore it is **not** a violation of the lease. [52] (See **Number 29** regarding if you have a place that you live rent-free.)

(**Note:** The renting of the storage area is לכתחילה. However, it still remains a valid sale even if the place where the חמץ is stored is not rented to the non-Jew. [מ"ב סי' תמ"ח ס"ק י"ב])

26. מכירת חמץ *and Burning the* חמץ *(and saying* כל חמירא*): Which Comes First ?*

On the morning of ערב פסח it is a universal מנהג to burn any and all חמץ found when doing the בדיקה on the night of י"ד ניסן, followed by the saying of כל חמירא. There are some (*Chasam Sofer*,[53] among others) who say that the burning and ביטול etc. should be done after the completion of the מכירת חמץ transaction with the non-Jew. Nevertheless, the opinion of many פוסקים and **the prevailing custom** (מנהג) is to first burn the חמץ (and say כל חמירא) and then do the מכירת חמץ.[54]

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[52] עי' בקובץ מוריה ניסן תשס"ג דברי הג' ר' שמואל אליעזר שטרן שליט"א וע"ע בספרו מכירת חמץ כהלכתו פ"ז הל' י"ב בהערה י"ט.

[53] עי' הגהת חת"ס על שו"ע או"ח סי' ת"נ, דהוא סובר דאי הוה המכירה אחר הביטול הוה המכירה כאילו חזר מהביטול. אבל כשקודם מוכר ואח"כ מבטל שפיר דמי. ולגבי זה שע"י המכירה אין לו חמץ לשרוף (כיון שבשטר מכירה כתוב **שמוכר כל חמץ הידוע לו להגוי**) ע"ז הוא כותב דהעצה הוא לתן לחבירו החמץ שיש לו לשרוף (דהיינו מה שמצא בליל י"ד) במתנה ע"מ להחזיר ואח"כ לעשות המכירה ואח"כ לקבל החמץ בחזרה מחברו ולשורפו ולומר כל חמירא, ע"ש.

[54] דאי מכר ואח"כ שורף נמצא דשורף חמץ שאינו שלו. וע"ע בפסקי תשובות סי' תמ"ח אות ז'. וע"ע בספר בדיקת חמץ וביעורו (מהדורת תשס"ה) פ"ח סעי' כ"ב ובהערה מז.

V.

חמץ in Locations Other Than Your Home

27. חמץ Delivered to you on Pesach (or which was in Transit over Pesach)
28. חמץ at work or at School or in a Dormitory
29. חמץ of yours in a house/apt. that you do not own or rent
30. Including a car/vehicle in the שטר מכירה
31. Keeping חמץ items over *Pesach* in a Refrigerator or Freezer that will also be used for *Pesach* items
32. חמץ Items Belonging to Someone else and Stored in your Home, or חמץ items of yours Stored in Someone else's Home

27. חמץ *Delivered to You on* פסח *(or* חמץ *Which Was in Transit Over* פסח*)* [55]

If a חמץ item was shipped to someone before פסח and delivered on [or after] פסח, there is a question if this item would be forbidden after פסח (due to the Rabbinic Law of חמץ שעבר עליו הפסח) or not. If the person sending it was a **non**-Jew and the Jew was aware that this item was being sent to him (but was expecting to receive it before פסח) then it would be permitted to be used after פסח. This is because the Jew certainly does not wish to acquire it on פסח and it therefore remains the property of the **non**-Jew who sent it. (Upon arrival, the item should be put away in a חמץ cabinet (or closet etc.) until after פסח, **see below in third par.**) If the one sending it was a Jew, then if the **sender** made a שטר מכירה it would be permitted. If he did not make a שטר מכירה, but the one **receiving** made a שטר מכירה, it would also be permitted after פסח (since the שטר states that all חמץ is included wherever it may be found). However if both the sender and the recipient did not make a שטר מכירה then the חמץ item would **not** be allowed to be used after פסח. [56]

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[55] This refers to an unscheduled delivery. One should certainly not arrange for חמץ to be shipped to him to arrive during פסח or even to have it arrive after פסח.

[56] ועי' משפט המכירה עמ' רפ"ד-רפ"ו וע"ע שם שער ב' פרק ד' סעי' ז'.

All this concerns חמץ that he is expecting, he just does not know when it will arrive. However, חמץ that unexpectedly appears at his door (e.g. a gift which is חמץ) cannot be included in his שטר. [57]

b. What to do with the חמץ Item when it is Delivered on פסח

When the חמץ arrives then, if it is Yom Tov (either the first or last days) or Shabbos Chol Hamo'ed, it is מוקצה and cannot be moved. You would be required to cover it with a כלי (e.g. a box). If it is חול המועד then many פוסקים say you cannot save it or put it away but need to destroy it, (either by burning it or some other method). However there are other פוסקים who hold that you do not need to get rid of it (since they hold that it was considered to have been included in your שטר מכירה and therefore does not belong to you as you sold it to the non-Jew). (They also state that לכתחילה you should verbally declare that you do not wish to be זוכה (acquire ownership) of this item.)

Additionally, the item cannot be left out in the open. Some say that, if it is חול המועד, you need to make a מחיצה של עשרה טפחים around it. If this cannot be done then it should be placed where you stored the other חמץ items that you sold. (If the חמץ is not packed or wrapped up then some hold that you may **not** pick it up with your hand as we are concerned that you may accidentally come to eat it. In that case they say you should ask a non-Jew to put it away and if that is not possible then the only option is to move it into the storage area with a stick or your foot.) (See **Number 43.**)

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[57] עי' משפט המכירה שם. אמנם קבלתי ממורי הוראה שאכן יש פוסקים הסוברים דאף חמץ שבא בפתע פתאום לביתו בפסח נכלל בשטר המכירה.

28. חמץ *at Work or at School or in a Dormitory*

A Rebbe or teacher who has a locker in Yeshiva/school should clean it and inspect the area before leaving school for פסח. Afterwards, if they wish they may also include this place in their שטר. [58] The same applies to students in a dormitory or Yeshiva.

In the case of someone who has an office or a desk at work or a vehicle given to him by his employer, where at times during the year he has חמץ, he should make sure to remove all חמץ items and make a thorough inspection of the area before *Yom Tov*. Afterwards he can write in the שטר that any חמץ of his at this location that may have been overlooked should be included in the sale to the non-Jew along with their other חמץ items. (**Note**: Ordinarily we require that the location of the חמץ be rented to the buyer (**Number 25**). However, in this case, since he is not the owner and therefore cannot rent the place to the non-Jew, it is still a valid מכירה.)

29. חמץ *of Yours Located in a Home that you do not Own or Rent – can it be rented to the* גוי *?*

As mentioned, when selling the חמץ it is generally required for the place that the חמץ is stored to be rented to the non-Jew. If someone lives in an apartment that does not belong to him and he is

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[58] Even though they do not actually own or rent the locker from the school, nevertheless the מכירת חמץ is valid for any חמץ that they may have at this location. This is because the (Jewish) school gives them certain privileges in the use of these locations, which would also include the right to be rent it out it in order to make מכירת חמץ.

also not paying rent (i.e. the owner lets him live there for free),[59] it is his obligation to remove and dispose of all חמץ that he owns in that location and to make a בדיקה. He can also make a שטר מכירה and arrange for the **rental of the locations** of the חמץ in the apartment (even though he is not the owner or the renter) since the (Jewish) owner would certainly agree and allow for him to do so.

30. *Including a Car / Vehicle in the* שטר מכירה

If someone has a car and wants to use it during *Chol Hamo'ed*, if it is a car that he has eaten חמץ in during the year (מקום שמכניסין בו חמץ), which it usually is, he is required to clean it well from any חמץ and then make a thorough בדיקה in the car on the night of the 14th (using a flashlight).[60] If the trunk is a place where during the year חמץ is sometimes put, he must make sure to clean and check that as well. If he wishes to use the car but cleaning the trunk is difficult, he can clean just the car interior and keep the trunk locked the whole *Yom Tov* and not use it.[61] He should write in the שטר מכירה that he is selling any חמץ that may be in the trunk and is **also** renting the location (the trunk) to the non-Jew. (He should make

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[59] This is a common case where a child lives in a house or apartment owned by their parents.

[60] For those who find it difficult to make the בדיקה on their car/vehicle on the night of the 14th it is suggested that they make a בדיקה one of the nights earlier and then be careful not to bring any חמץ into it, then on the night of the 14th it would suffice to make a quick בדיקה to fulfill their obligation.

[61] This would only apply where the trunk is completely separate and closed off from the rest of the vehicle. In a minivan (or similar) where it is open from the vehicle to the "trunk" (back of the vehicle) it would not be allowed.

some type of **noticeable** indication (סימן) by the trunk (to remind him that it is rented) and not to accidentally open it during פסח. Since he "rented" the trunk (to the גוי) it is not his and he is therefore not allowed to use the trunk **at all** during פסח.)[62]

In addition, it's important that he include his phone number (cell phone) in the שטר so that the buyer (non-Jew) can contact him to know where the car (trunk) is located. He should also write the general location where the car will be parked on *Yom Tov* (and Shabbos *Chol Hamo'ed*) itself.

The requirement of a בדיקה is for **all vehicles** that a person owns,[63] **including those belonging to his business**. If someone is not planning on using his vehicle(s) **at all** over *Yom Tov*, he can park the car and arrange an "early" מכירה of the vehicle to the non-Jew **before** the night of 14 Nissan (see **Number 38**) and not have to make a בדיקה.

31. *Keeping חמץ items in a Refrigerator or Freezer that will also be used for פסח items*

If someone has חמץ items which they are including in the שטר מכירה and which require refrigeration and they have only one

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[62] However there are some *Rabbonim* who disagree and hold that this is not allowed. According to them if someone wishes to use his car on חול המועד פסח then he must clean the car and **also** clean the trunk of the car. If he is unable to do so then he must sell the חמץ in the trunk and rent out the trunk (the place that the חמץ is located) to the גוי and he **is not permitted** to use the car at all.

[63] The same applies to a car given to someone to use on a steady basis, even if they are not the owner.

refrigerator (which they intend to use for פסח), they may store it in their פסח refrigerator but need to keep the חמץ item in a separate section that is **clearly marked that it belongs to the non-Jew**. (לכתחילה a piece of cardboard should surround the item to block it off and separate it from the rest of the פסח refrigerator.) The item(s) should also be well sealed in a thick bag and marked so that it isn't accidentally used on *Yom Tov*. (עי' ספר הליכות שלמה, ניסן עמ' קלז) [64]

32. חמץ *Items Belonging to Someone Else and Stored in Your Home, or* חמץ *Items of Yours Stored in Someone Else's Home*

In case someone stored their חמץ items in your home (e.g. grocery items or frozen food) and you are unable to contact them before פסח (so that they should remember to sell it) you can **specify** and include it in **your** שטר מכירה.[65] [66] After פסח the items would be

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[64] Similarly if someone wants to use one shelf (or shelves) of a cabinet to store חמץ items and on the other shelves put items that are for פסח, he can do so by covering up and taping the shelf with the חמץ items with a partition or thick paper.

[65] Because doing so would save them from a loss and therefore you can do so even though they did not specifically designate you as their שליח (מטעם דאמרינן זכין לאדם שלא בפניו). עי' משפט המכירה

[66] This is only valid if you specify in your שטר that you are selling the חמץ for them. Similarly if you store your חמץ in your neighbor's storage area (i.e. the place where they will be storing their own חמץ) but you don't inform them about it, even though they are writing in the שטר מכירה that "all חמץ in this storage area" is being sold, your חמץ is **not** included in their שטר unless they are aware of it and it is written explicitly. Otherwise **that** חמץ (as well as where it's located) needs to be written in **your own** שטר for it to be considered sold.

permitted for use. Similarly if you have items that you stored by someone else, you can include it in your שטר (even without notifying the owners of the property that it is located at).[67]

It sometimes happens that guests arrive at your home before Pesach (before the זמן of ביעור חמץ) and have with them items that are חמץ and which they would prefer not to throw out. These can be put away into **your** חמץ storage areas and would automatically be included in the שטר מכירה that **they** arranged by **their** Rav. It would not be necessary for them to notify their Rav to add this location to their שטר and simply putting it into your חמץ closet would be enough.

Another way would be for them to give the item(s) to you as a "gift" which would then automatically be included in your שטר מכירה. **A transfer of ownership (קנין) would then be required.** This can be done by you picking up the item, or by virtue of the item being placed into your closet/storage area (חצר). You also need to have intent (כוונה) to acquire the item for the transfer to take effect.

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[67] Since it is not yours to rent, in this case the requirement to rent out the place that the חמץ is located (see **Number 25**) would be waived. The reasons given for renting would not apply here and therefore we hold that the sale is valid without it. עי' ביאור הלכה סי' תמ"ב. (The חמץ will be transferred to the גוי through other methods, עי' משפט המכירה.)

VI.

Selling

Other People's חמץ

33. Arranging מכירת חמץ on Behalf of Someone else

34. חמץ Belonging to a Son or Daughter Living at home

33. *Arranging מכירת חמץ on Behalf of Someone Else*

If someone is unable to go personally to the Rav he can still have the Rav sell the חמץ for him but, as mentioned earlier (**Numbers 10-12**), would לכתחילה need to appoint him to be his שליח. One option would be to find someone else going to the Rav and designate them as their שליח to arrange the מכירה.[68] This designation should preferably (לכתחילה) be done with a קנין סודר. Upon arriving at the Rav this person will then make a קנין סודר transferring the שליחות over to the Rav. This takes care of making the Rav your שליח using קנין סודר. However there still remains the problem of how to arrange the מינוי שליחות of the Rav through the use of a שטר הרשאה. Optimally the person who wishes to sell his חמץ should fill out and sign a שטר הרשאה (or both שטרות) at home and the one going should bring it to the Rav. If he is unable to fill out a שטר then the person going should fill out and sign the שטר(ות) on his behalf when he is by the Rav.

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[68] If someone is acting as a שליח for someone else he should see to it to have with him all the details necessary to fill out the שטר properly (type of חמץ, location of חמץ, storage areas, etc.). It is also important to know if the person will be going away for any part of Yom Tov (and if in a different time zone etc.) and those details should all be given over to the Rav when filling out the שטר.

When signing (either the שטר הרשאה or the individual שטר) the שליח should sign his own name "on behalf of" that person i.e. he should sign "so-and-so **on behalf of** so-and-so." For example, if Mr. Reuven Gold asks Mr. Shimon Silver to make the מכירת חמץ for him by the Rav, then Mr. Silver fills everything out with all the details and by the signature (on **both** the collective שטר הרשאה and on the individual שטר הרשאה) he signs "Shimon Silver on behalf of Reuven Gold."

(It should be understood that the person who is the שליח should fill out a separate שטר and not combine this with the שטר הרשאה that he himself is going to make by the Rav for his own חמץ.)

34. חמץ *belonging to a son or daughter living at home*

If someone has a son(s) or daughter(s) above *Bar Mitzvah* or *Bas Mitzvah* [69] living at home, their son/daughter is responsible for any חמץ purchased for themselves **with their own money**.[70]

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[69] It would seem that the same would apply even to children under Bar Mitzvah or Bas Mitzvah (**age six and above**). Even though at that age the general הלכה is that they cannot make a valid קנין nevertheless it would be possible to arrange for the sale of their חמץ to the גוי. (עי' משפט המכירה שער א' פ"ב סעי' ה' ובעט יוסף שם)

[70] We have a general rule in הלכה regarding children still living at home (סומכין על שלחן אביהן) that **all** their "possessions" belong to the father. Accordingly all their חמץ would seemingly belong to the father and would automatically be included in his מכירה. Nevertheless in certain circumstances it would seem that this rule would not apply.

If they earn their own money (e.g. from a job) or receive a present of money (e.g. a birthday gift) it would seem to be theirs without their father having any rights over

(Money which they either earned or they received as an allowance or as a gift.)[71] If they have any חמץ at school or at work, it is their responsibility to dispose of it before פסח. If they have their own car,[72] it is their obligation to clean it from חמץ. They should also arrange a מכירת חמץ for any חמץ that may belong to them. However, if they wish they may appoint their father[73] as their שליח to include them in the מכירת חמץ that he makes for himself.[74] In

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it (i.e. it is not his money to take) and therefore anything bought with this money by them would belong to them exclusively and not be considered to be owned by the father in any way. If the item purchased was חמץ then this חמץ belongs completely to the child and would not be included in the father's שטר מכירה arranged by the Rav. (וכן שמעתי הוראה מאת הרה"ג ר' הערשל שכטר שליט"א).

For children living at home the "best" option would be for them to be מקנה their חמץ to their father. Since ownership has been transferred to their father, his own שטר מכירה is sufficient. This transfer (הקנאה) can be done by them writing on a piece of paper that they are transferring ownership of any חמץ (and תערובות חמץ and ספק חמץ) that belongs to them to their father (and **it should also be signed**). This can occur even after he has arranged his שטר (see above, **Number 14**), (but before the sale to the גוי goes into effect).

[71] Please note, the same would apply to any gift of חמץ that they would receive, for example משלוח מנות from a friend etc.. It would be considered owned **by them** and would need to be sold **by them**.

[72] Even if the title of the vehicle is not in their name.

[73] It would seemingly be not respectful for a child to say to a father "I appoint you as my שליח," (עי' קידושין מ"ח:), rather one should say respectfully, "Father, can you please arrange מכירת חמץ for me by the Rav." עי' משפט המכירה שער א' פרק ב' סעי' ג'. The father can also state directly to his son or daughter: "I am going to the Rav to sell the חמץ, I will be your שליח to sell yours as well."

[74] If they did not appoint their father before he goes to the Rav he can still include them in his שטר (מטעם דזכין לאדם שלא בפניו ומטעם אומדנא). Afterwards he should inform them that he sold their חמץ on their behalf.

such a case, the father should **specify** in the שטר that he is selling "all חמץ belonging to my son(s)/daughter(s)" (he should write their first name, for example, my son Ya'akov or my daughter Leah etc.), and the exact addresses where their חמץ is located (home, school, work, dormitory, apartment, car, etc.).

When signing the שטר, if he is using one שטר for both himself and his children he does **not** need to specify that he is signing "on behalf of" his children. If he is making a separate שטר for them then he would sign his name "on behalf of."

He should also have his children say כל חמירא (see **Number 57).**

VII. חמץ Belonging to More Than One Person

35. מכירת חמץ in the case of a Partnership

36. מכירת חמץ and בדיקת חמץ in Shared Places (apt., Dormitory, etc.)

37. מכירת חמץ and בדיקת חמץ for "Common Areas" Belonging to a Group of Residents as well as for Shuls, Yeshivos, and Other Institutions (camps etc.)

35. מכירת חמץ *in the Case of a Partnership*

If two (or more) people (Jews) are partners in a business involving חמץ, or they own or rent a place where חמץ is located, they should arrange a מכירת חמץ. The proper way would be for one partner to designate the other to be his שליח to arrange it. In the שטר הרשאה, the one filling it out should write that he is doing it for himself and also on behalf of his partner (he should write in the partner's name). In case they were not in touch with each other then the partner that remembers should write the חמץ and the location in the שטר on behalf of both partners.

If a Jew is a partner with a non-Jew in a business dealing in חמץ, or they own or rent a place where חמץ is located, the Jew should write this in his שטר and write that he is selling his "part" (חלק) of the חמץ. This sale would be *halachically* valid even though he is arranging to sell his share to a non-Jew who is not his partner (and even though he does not inform his partner of the sale).

36. מכירת חמץ *and* בדיקת חמץ *in Shared Locations (Apartments, Dormitories, etc.)*

Similar to a partnership (see **Number 35**), if two (or more) people are renting a place (house, apt. etc.) where חמץ is located, they need to arrange between them a מכירת חמץ. Also, a business

that shares space with another Jewish business, if חמץ is sometimes brought there בדיקת חמץ as well as a מכירה needs to be arranged on behalf of both of them (as well as for the חמץ utensils that are there). In these cases there is no "partnership" in the חמץ itself, but **since they share the place** it is their obligation to **individually** make a בדיקה [75] and **jointly** arrange a מכירה. [76] It is also quite common for children in Yeshiva or Seminary in ארץ ישראל to share an apartment. Before going home for Yom Tov, a בדיקה needs to be done (the night before they leave). Also the מכירת חמץ for things that are left there over Pesach (including pots, utensils etc.) are not automatically included in their father's sale. (See **Number 34.**)

37. מכירת חמץ *and* בדיקת חמץ *for "Common Areas" Belonging to a Group of Residents, as Well as for Shuls, Yeshivos, and Other Institutions (Camps etc.)*

Apartment buildings and residential developments where the residents own their own apartment and share a "common area" such as a playground, parking lot, meeting room etc., the removal of חמץ from this common area is the responsibility of each of the residents. One person can arrange the sale of the חמץ (i.e. the חמץ that was not found after the place was searched properly) **even**

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[75] In their "personal" area, i.e. the area that is considered theirs.

[76] The מכירה is done for their חמץ and חמץ utensils that they share and any חמץ that they are "unaware of" that is in the "common area" (hallway, storage etc.) that they both make use of. They should make up among themselves that one person should arrange the מכירה, just like in a partnership (**Number 35**).

without being appointed but it would be better if they got together and designate someone specifically to take care of it. When signing on the שטר he should write his name "on behalf of all the residents of…"

In the case of a Shul, Yeshiva, etc. the person in charge (the director, administrator, manager, *Shamash*/*Gabbai* etc.) should make a בדיקה and arrange a שטר מכירה.[77] When signing the שטר he should sign his name along with his title. (עי' משפט המכירה שער ב' פרק ד' סעיף ו').

If the Shul, Yeshiva, organization, etc. is owned by an individual then he should take care of the מכירה or appoint someone to arrange it on his behalf.

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[77] The שטר מכירה is for any חמץ or תערובות חמץ or חמץ items (utensils, etc.) that belongs to the Shul and that the Shul wants to keep to use after פסח. The שטר מכירה is **not** for any חמץ leftover by any of the מתפללים.

VIII.

Early מכירה

38. **Making an "early" מכירה. When to make it and how it is done.**

39. **If You Made an "early מכירה," Are You Permitted to stay in the House as of שקיעה on י"ג ניסן ?**

38. *Making an "Early"* מכירה

Usually the מכירת חמץ is scheduled by the Rav to take effect right at the end of the time for ביעור חמץ (i.e. the end of the 5th hour on ערב פסח). It is done this way in order to allow people the maximum amount of time to have benefit from their חמץ. At the same time the Rav arranges the rental of the various location(s) that the חמץ will be stored over *Yom Tov* (שכירות מקומות, see above **Number 25**). It goes into effect also at the same time as the מכירת חמץ. There are however times where for various reasons the מכירת חמץ and the "חמץ location rental" are arranged to go into effect **before** the night of the 14th of Nissan, and this would thereby create a change in the way the בדיקת חמץ would be conducted.

For example, if someone is going away for the entire *Yom Tov* and finds it difficult to make a בדיקה of his whole house, he may ask the Rav to arrange an **"early"** מכירה for all חמץ that may be found anywhere in his entire house or apartment. At the same time the Rav also arranges the "חמץ location rental" to be made early. Now the הלכה is that the obligation to make a בדיקה (חיוב בדיקה) is only for those places that a person owns or rents **when the night of י"ד ניסן begins** (i.e. at sunset of י"ג ניסן). Therefore in this case, since when the night of י"ד ניסן begins the property is **now rented to the**

non-Jew, there longer is any obligation on him to do a בדיקה.[78] (See **Number 55**.)

The same arrangement can be done for any properties that are too difficult for someone to arrange for a בדיקה on the night of י"ד ניסן. [79] This would include an office or factory or vacation home or investment property, etc., since the rental period with the non-Jew in those locations begins **before** it becomes nightfall, he is no longer required to make a בדיקה. (This also applies if a person has locations in his home that he does not want to check. For example: attic, basement, garage, etc.. But it needs to be understood that those places are off limits all the days of פסח, see **Number 43**.)

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[78] There are many *Rabbanim* who do not make an early מכירה in such a case and nevertheless hold if you are including your entire apartment in the שטר מכירה then you would not have to make a בדיקה on ליל י"ד. It would be similar to what is mentioned in **number 52** (following the opinion of the חתם סופר and others).

Based on this opinion there is a question how someone who is going away for *Yom Tov* and selling his entire apartment at the regular time can make a ברכה on the בדיקה that he will be making on ליל י"ד. Since according to this opinion (חתם סופר and others) it is **not** necessary to make a בדיקה then even if you wish to make a בדיקה anyway it remains a מחלוקת הפוסקים if you really are fulfilling a מצוה and therefore a ברכה should not be made (מטעם ספק ברכות להקל).

Because of this some will write in their שטר that they are leaving out from the rental to the גוי one specific room. This way they can start the בדיקה **and make a ברכה** in that room according to all opinions, and from there continue to the other areas. (The same applies to someone making a בדיקה before ליל י"ד. In order to be מקיים the מצוה of בדיקה at least some part needs to be excluded from the rental.)

[79] Another option would be to make the בדיקה a few days earlier, on the last day that he is at that location prior to Yom Tov.

Similarly, in a case where the owner and the חמץ are in different time zones, it is sometimes necessary to arrange an early מכירה. For example, those who have an apartment in ארץ ישראל (for example a *bochur* in a דירה or a girl in a seminary dorm room) and go away for פסח must make sure to get rid of all their חמץ before they leave. They should throw out what they don't want and anything they wish to keep (whether חמץ or תערובות חמץ or ספק חמץ or חמץ utensils) should be sold through a שטר מכירה. (If the חמץ items or utensils are "shared" with others then one of them should be appointed to take care of it. However if no one was appointed then the last one there should arrange the מכירה on behalf of all of them.) If they will be going away overseas (to the "west" e.g. the U.S.), then it would be best if the מכירה was arranged through a Rav in א"י (see **Number 41**). If they are unable to do so, they should arrange an "early" מכירה by a Rav in the country that they will be in for Pesach.

In addition, if they are leaving within 30 days of Pesach they are required to make a בדיקה <u>the night before they leave</u>. If they forgot to do so, they should get a שליח to make the בדיקה.[80] If this too cannot be done then they should לכתחילה arrange that the שכירות goes into effect before it is שקיעה on י"ג ניסן in Eretz Yisrael. However if it is already *after* that זמן (i.e. it is now ליל י"ד in א"י) then as long as the <u>**מכירה**</u> will happen **before סוף זמן ביעור in Eretz Yisrael** they will nevertheless be considered פטור from the בדיקה according to many פוסקים (see **Number 52**). (If the apartment was not used <u>by anyone</u>

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[80] The שליח should preferably make the בדיקה on ליל י"ד, but if he cannot then he should do it on a different **night** prior to פסח (i.e. ליל י"ג וכו'). Also, if the night before leaving you forgot to do the בדיקה, then בדיעבד you can make it **by day** (with a candle/flashlight). ויש סוברים דשליח בליל י"ד עדיף מלבדוק קודם י"ד בעצמו (שו"ת שבית הלוי חלק ט' סי' קי"ח אות ב') ודעתו הוא דשליח בליל י"ד מברך. See **Number 54 (par. 7)**.

within 30 days of Pesach then no בדיקה is necessary, only a מכירה on the חמץ items, along with ביטול.)[81]

39. *If You Made an Early מכירה, Are You Permitted to Use the House (or Rooms) as of* שקיעה of י"ג ניסן (i.e. the night of י"ד ניסן).

Since in the case of an "early" מכירה the rental period with the non-Jew begins right before sunset of י"ג ניסן, therefore from sundown and on one should **no longer use** those parts of the house that were included in the שטר מכירה. If one wishes to stay after sundown (for example, until the morning of ערב פסח) then one should **exclude** from the early מכירה all the rooms that one would need to use that night (e.g. the hallway, bathroom, bedroom(s), etc.). One would then be **required** to make a בדיקה on the night of י"ד in those rooms that were excluded.[82]

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[81] **Note**: If they **did** make a בדיקה prior to leaving, then the time for the "early" מכירה to go into effect should be **after** שקיעה on י"ג ניסן **in Eretz Yisroel** but **before סוף זמן ביעור**. [דע"י זה יש להם קיום מצות בדיקה.]

[82] If one is unable to arrange to do so and wants to make an early מכירה for his entire house but still wants to use the rooms (that night, next morning) he should speak to a Rav. (Some Rabbonim hold that in a case where a person will be staying in the house or apartment on ליל י"ד ניסן (and not making a בדיקה in all the rooms they are using) then they **cannot** make an early מכירה. By continuing to use the place after the זמן that the rental takes effect it looks like a total farce and should not be done. However others say it is permitted, similar to those who don't check the cabinets/closets where they are storing their חמץ items in over פסח – see **Number 52**.) (Also see **footnote 78** concerning making a ברכה on the בדיקה.)

IX.

Selling the חמץ When You Will be Away From Home for פסח

40. a) How to Write the שטר מכירת חמץ when Someone else will be using your Apartment over Yom Tov, and b) who is Obligated to do the בדיקה ?

41. Where to Arrange the שטר מכירה when the חמץ is in a Different Location than the Seller (Owner)

42. When the חמץ is in a Different time zone than the Seller (Owner)

40. ***a) How to write the שטר מכירת חמץ when someone will be using your apartment over Yom Tov, and b) who is obligated in the בדיקה ?***

Someone who plans on being away for the entire Pesach will generally not spend as much time cleaning and removing חמץ than if they would be staying home. Instead they do a minimal cleanup etc. and in the שטר מכירה they write that **they are "renting" the entire apartment** [83] **to the** גוי (beginning ערב יו"ט) along with all the חמץ that is there. Because of this "rental" agreement with the גוי the apartment is now "off limits" over Yom Tov (except if he needs to enter for a short time to get an item, see **Number 43**, and **Number 44**) and accordingly no one would be permitted to enter and stay in this place during the entire Yom Tov. [84]

If someone asks to use the apartment over Yom Tov then the proper way would be to have the שטר מכירה state that the "rental" to

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[83] Except for one room (or area at least ד' על ד' אמות) that is **excluded** from the rental, so that he can make the בדיקה on an area that he has a חיוב to be בודק. (See **footnote 78** and also Frequently Asked Questions.)

[84] In case the שטר was written this way (renting the apartment entirely to the גוי) and one wishes to use the apartment during Yom Tov, one should ask a Rav.

the גוי is only for the places where the חמץ items are being stored (like you would do if you yourself were staying for Yom Tov). Therefore all חמץ items would need to be stored away and the apartment cleaned and a regular בדיקה made. While the obligation for the cleaning and בדיקה would logically be on the apartment owner (since it is his חמץ), usually the ones asking to use it will arrange to clean it **and to make the בדיקה in the proper time (on the night of י"ד ניסן)**.[85] [86]

41. *Where to Arrange the שטר מכירה When the חמץ is in a Different Location Than the Seller (Owner)*

When people travel out-of-town for פסח they seemingly have a choice of arranging the מכירת חמץ before they leave, through a local Rav, or selling it through a Rav from the area they are going to. However, some פוסקים[87] hold that it is important to specifically use a Rav from your own town (who will then sell the חמץ to a non-Jew who resides in or near the town or city that the חמץ is located). The

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[85] This also applies to a tenant who goes away and the landlord wants to use the apartment for his guests (e.g. his married children, etc.). The tenant should write in the שטר מכירה that he is renting to the גוי only the places the חמץ is being stored, **not the entire apartment**. The owner would then be responsible to take care of the necessary cleaning and בדיקה of the apartment. [This also applies to a dormitory apartment (דירה) in ארץ ישראל where the students generally go away for Yom Tov and the landlord wishes to use it.

[86] ויש למנותו לשליח **בפירוש** כיון שע"פ דין החיוב עליך ולא על האורח. ולגבי הברכה, אי נמצא הבעל הבית שם אז יש לשמוע לברכת בעל הבית, ואי לאו על האורח לברך.

[87] כן הוא דעת הגאון הר' יעקב פארכהיימער שליט"א, רב ק"ק שארית ישראל ודומ"ץ בלייקווד.

reason for this, they say, is that selling to a non-Jew in a far away city makes it look like less of a "real" sale since why would the non-Jew who lives so far away buy something (i.e. the חמץ in the town that you are from) that is very inconvenient and a bother for him to get to? Therefore, according to these פוסקים, the preferred way would be to have the חמץ sold through a Rav from your hometown.

42. *When the חמץ is in a Different Time Zone Than the Seller (Owner)**

There is a disagreement in *Halacha* if the prohibition (איסור) of חמץ goes according to the location of the owner (as it generally should according to *Halacha*) or does it **also** go according to the location of the חמץ. Because of the stringency of "חמץ that belonged to a Jew over פסח" (חמץ שעבר עליו הפסח) we are stringent in either circumstance. Therefore if someone is on the East Coast of the US and he has חמץ on the West Coast, i.e. California, he has to make sure to sell the חמץ before the זמן איסור חמץ starts in the location that he is at (the location of the seller).[88] However if he has חמץ in Israel and he is in the US, he needs to have the sale of the חמץ go into effect **before the זמן in Israel** (the location of **the חמץ**).

**** Also, see Frequently Asked Questions, number 16.***

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[88] In a case where he is on the East Coast and his family is on the West Coast (or he is in Israel and they are in America) and they want to continue to use the חמץ until the last minute that חמץ is allowed in **their** location, then he needs to transfer ownership of all the חמץ to them and they should write a שטר מכירה with a Rav over there at their location. (מנחת יצחק ח"ז סי' כ"ה, א')

In a case where his חמץ is in Israel and he is in America, due to the time zone difference with Israel, the Rav will have to meet on his behalf with the non-Jew at least seven hours before סוף זמן ביעור חמץ in Israel to sell any חמץ he may have over there. Also, if he has a place in Israel where he is required to make a בדיקה then the שכירות המקומות would need to be arranged seven hours before sunset of י"ג ניסן in Israel. The same holds true for any case where the חמץ is located in a place where the time פסח begins is **earlier** than in the location where **the** מכירה took place.[89] (This is **different** than the regular case of "early מכירה" mentioned in **Number 38**, where both the חמץ and the מכירה are **in the same time zone**. In that case everything occurs at sunset [90] of י"ג ניסן of the **current** time zone.)

> **Note**: Sometimes the Rav will make two "early" sales (מכירות), one for those with חמץ in Israel (or Europe etc.) and one for those who have חמץ in a place (in the same time zone) that they do not want to have to clean and check. Therefore, depending on the circumstance, the Rav will ask that you write or indicate on the שטר if it should be sold "early" or "earliest" (for Israel) in order to schedule everything with the non-Jew at the proper time.

When פסח ends the Rav usually buys back the חמץ from the non-Jew right after the time that *Yom Tov* is over (see **Number 48**). However if the חמץ was located in a place where פסח is over (e.g.

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[89] For example, his חמץ is in New York and he is in Los Angeles for פסח.

[90] מעיקר הדין the מכירה for this case can also be done "earliest" but generally people like to be able to have use of their חמץ until the last possible moment.

Israel) but he is in a place where it is still פסח (e.g. America),[91] then when filling out the שטר he should mention this to the Rav and tell him **specifically** that he should buy back the חמץ for him only after the the time that פסח is over in **<u>the location that he is in</u>**. If he did not do so, he should have in mind that he does not want to re-acquire the חמץ **until after** פסח **ends in the location that he is in**. (עי' אג"מ או"ח ח"ד סי' צ"ד). Similarly, if he is in a place that פסח has ended but his חמץ is in a place where it is still פסח, he should mention this to the Rav and have in mind not to re-acquire his חמץ until after it is no longer פסח in the place **that the** חמץ **is located**. (אג"מ שם סי' צ"ה).

There is another case of concern, where someone is in ארץ ישראל for פסח and arranges to sell his חמץ by a Rav over there. When יו"ט is over in א"י it is still considered פסח **for him** because of יו"ט שני. Therefore the Rav should be made aware of this when he arranges the שטר. Then when פסח is over for the Rav, when he buys back the חמץ he has in mind that the חמץ should not yet be re-acquired by the one still keeping יום טוב. (The חמץ is in the meantime considered to be "owned" by the Rav until פסח is over for the person from חוץ לארץ.) See **Number 48**.

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[91] And he did the מכירה by a Rav in ארץ ישראל.

X.

The Place Where the חמץ is Stored Over פסח

43. Entering the Storage area Where the חמץ is Being kept (on Pesach)

44. If your House was Rented to the non-Jew, are you Allowed to Enter it over Yom Tov ?

43. *Entering on פסח the Storage Area Where the חמץ is Being Kept*

During *Yom Tov* one should not enter or open the place(s) where the חמץ is being kept (e.g. to get something non-חמץ from there). However, if it is necessary one is permitted to do so. When doing so some פוסקים recommend that one take along another person to act as a "watchman" (שומר) so that he not use or touch any חמץ items.

44. *If your House was Rented to the Non-Jew, are you Allowed to Enter it over Yom Tov ?*

If someone goes away for *Yom Tov* and rents all or part [92] of his house or apartment to the non-Jew and then wants to enter those areas during *Yom Tov*, he should ask his Rav if he is allowed to do so.[93] In certain circumstances it may be allowed and **sometimes it is**

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[92] This refers to rooms in the house which were rented to the non-Jew (so as to not have to do בדיקה in those rooms), not cabinets or closets being used for storing of the חמץ. In a case where he locked up the חמץ in specific locations, then only those places are off limits and obviously he would be allowed to come in during *Yom Tov* to use the rooms (since they were not rented to the non-Jew).

[93] It makes no difference if the rental begins before the night of 14 Nissan begins i.e. "early" מכירה, or at the "regular" time on *erev* פסח (י"ד ביום).

not. If he is allowed he should make sure not to spend his time there as if he was the (current) owner (בעל הבית). Since the place is actually rented to the non-Jew for the entire פסח his entry in those areas should only be for a short period, (דרך עראי).

XI.

Other People's חמץ on Your Property

45. חמץ Brought to work on חול המועד by non-Jewish Employees

46. חמץ left by a Tenant who Moved out

47. חמץ in the room / apartment of a live-in maid

45. חמץ *Brought to work on Chol Hamo'ed by Non-Jewish Employees*

If someone's place of business (office, etc.) is open on חול המועד and he has non-Jewish employees (or Jewish employees who are non-religious) he should tell them that they should be careful with any food that they bring in and clean up any leftovers, etc. You do not need to be concerned with any crumbs (פירורין). (Concerning any חמץ leftovers that they throw into the garbage can, one should consult a Rav to see if he is obligated to remove it right away.)

46. חמץ *Left by a Tenant who Moved out*

If someone's tenant moved out **before** פסח and possibly left over חמץ, the owner is required to make a בדיקה in that apartment etc. on ליל י"ד and get rid of any חמץ that he finds there. If one is unable to take care of this he should arrange an "early" מכירה for this location (i.e. the rental of the place to the non-Jew (שכירת המקומות) begins at sunset of the 13th). (See above **Number 38**.) If the tenant moved out **during** פסח one should consult a Rav if he is required to check for any חמץ etc..

(Note: One should not enter the empty apartment during חול המועד nor have any workers go there either. Doing work in the apartment is forbidden on חול המועד and even to just go and look what needs to be done after Yom Tov is over is also prohibited.)

If the owner already has a new tenant for this apartment who is only planning to move in **after** *Yom Tov*, if the new tenant is a Jew there is a question who is obligated in making a בדיקה. If the key to the apartment was already given over by the owner to the tenant then **the tenant** is obligated even if he doesn't plan on moving in any of his belongings until after *Yom Tov*. However in any case where the key was **not** given over yet, one should ask a Rav.

47. חמץ *in the Room or Apartment of a Live-in Maid*[94]

If someone has a live-in (non-Jewish) maid, any חמץ they may have in their room or apartment belongs to them and you are not required to get rid of it. However, some פוסקים hold that, since you do not rent them the place they are in, therefore it is considered your place and there is an obligation for you to make a בדיקה in their room or apartment on the night of the 14th.

If you wish, you may make an "early מכירה" for that place so that a בדיקה would not be required. If the maid will not be there over פסח, then the entire room can be sold to the non-Jew (in the שטר מכירה) and you should therefore not enter it on פסח. If you wish to use the room over פסח for yourself, however, then a proper בדיקה on the night of the 14th would be required.

(It should be explained very clearly to the maid that during פסח any חמץ that they possess, whether food or toiletries etc., should be kept and used solely in their room.)

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[94] This refers to a case where the room or apartment belongs to the Jew and they allow the maid to live there while she is employed by them.

XII.
חמץ When Pesach is Over

48. How soon after Yom Tov ends is the חמץ Permitted to be Used ?
49. Buying חמץ after Pesach – חמץ שעבר עליו הפסח
50. Finding חמץ during or after פסח – what should be done with it?

48. *How soon after Yom Tov is over is the חמץ that was sold to the גוי Permitted to be used?*

Generally the Rav meets with the non-Jew immediately after the time of nightfall (צאת הכוכבים) on מוצאי פסח and buys back[95] the חמץ from him. Therefore you should estimate approximately how long this may take[96] and then you may use the חמץ. **It is not necessary to call the Rav to confirm that he bought it back.** (Even if you are generally מקפיד on a later זמן than the Rav, e.g. the Rav waits 60 minutes after שקיעה to make הבדלה and do מלאכה, and your custom (מנהג) is to wait until after 72 minutes, nevertheless it is not considered that you owned the חמץ on פסח (חמץ שעבר עליו הפסח) and the חמץ is permitted to be used.) [97]

(See also **Number 42** paragraph 4, concerning if you and the חמץ are in different time zones.)

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[95] כן הוא המנהג, דכמו שמוכרים החמץ כן צריכים לקנות בחזרה כדי שלא לראות כהערמה. (עי' ביאור הלכה סי' תמ"ח ד"ה מכירה גמורה.)

[96] This is generally within a half hour after the end of Yom Tov. ויש הסוברים דאין צריך להמתין כלל **ורשאי להשתמש עם החמץ מיד אחרי צאת החג** רק שיהי' בדעתו לשלם להגוי על מה שלוקח, אם בדעת הגוי לקנות החמץ (עי' משפט המכירה שער ה' פ"א סעי' ב').

[97] שו"ת מנחת יצחק ח"ו סי' מ"ה, וע"ע במנחת יצחק ח"י סי' מ"ג שמבאר באריכות, וע"ע במשפט המכירה שער ה' פ"א אות ב'.

ועי' בשו"ת אגרות משה או"ח ח"ד סי' צ"ד שכתב וז"ל, אבל יאמר בפירוש להרב השליח שאינו עושהו לשליח לקנות בחזרה את החמץ אחר הפסח עד אחר שיעברו ימי הפסח באמעריקא, וכו', ע"ש. ולפי פוסקי זמנינו אי שכח לומר הכי להרב בדיעבד שפיר הוי כיון דבזה"ז הוי מילתא דשכיחא והרבנים יודעים האיך לנהוג בזה.

49. *Buying חמץ after Pesach* – חמץ שעבר עליו הפסח

After Pesach is over people generally go to their stores to purchase and restock with חמץ items. However, if the חמץ being bought was owned by a Jew who did not arrange a שטר מכירה, then the דין is that it may not be bought or used by a Jew after Pesach is over. This is a decree from the Sages that was instituted so that people would not be lax in getting rid of their חמץ. The חמץ item(s) is forbidden to everyone from ever having any benefit from it.

It should be noted that this הלכה applies in general to items considered חמץ גמור, actual חמץ. For example, cakes, cookies, pasta, oatmeal, etc.[98] It also applies to תערובות חמץ if there is enough חמץ in it that you would eat a כזית בכדי אכילת פרס, and also in cases where the חמץ gives a noticeable taste to the item (even if less than a כזית בכא"פ). It does **<u>not</u>** apply to the kind of תעורובות חמץ which has some חמץ mixed into it but which is not a כזית בכדי אכילת פרס. For example, soup mixes, etc. (as well as items manufactured on equipment that was previously used with חמץ).[99] It also does not apply to any items which are קטניות, for example, ketchup, mustard, vinegar (produced in the US), etc..

Additionaly, many פוסקים hold that this does not apply in the case of a religious Jew who owns a store dealing with חמץ and who **certainly** made a proper שטר מכירה. Even though there are those that may personally refrain from selling חמץ גמור however the store owner is permitted ע"פ דין to do so and the מכירה that he made with a Rav is considered completely valid and all חמץ in his store may be

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[98] Whiskey and (most) other alcoholic beverages are considered חמץ גמור according to virtually all Poskim.

[99] It would also not apply to non-Pesach flour or to packaged barley.

bought by **anyone** without any concern. **Even חמץ גמור**. (ועי' קובץ בית אהרן וישראל חוברת נח עמ' קכו).

(**Note**: Many Rabbonim are of the opinion that it is improper after פסח to avoid shopping for חמץ in stores owned by religious Jews. Doing so hurts the livelihood of a fellow Jew (ויש מצוה דאורייתא של והחזקת בו), and one should not be overly stringent (מחמיר) in this regard.)[100]

Some people buy their חמץ after Pesach in a non-Jewish store assuming that this way the חמץ they are buying was not owned by a Jew over Pesach, but they may be mistaken. The stores buy their items from a distributor and very many of these are owned by Jews who do not sell their חמץ. By avoiding the Jewish stores *that did in fact sell their חמץ כהלכה* because "maybe" there is a problem with the מכירה you are more likely to be buying חמץ that is ודאי אסור because of חמץ שעבר עליו הפסח.

50. *Finding חמץ during or after Pesach – what should be done with it?*

The מחבר in סי' תמ"ו סעי' א' writes that if Chometz was found on Pesach, if it was חול המועד then it should be immediately burned, and if it was on יו"ט then it should be covered with a כלי and then burned on חוה"מ. However, in the case where the person had made a שטר מכירה there is a disagreement amongst the פוסקים. Some hold that the חמץ that was found belongs to the גוי and therefore should not be burned or destroyed since that would be stealing from the גוי. It

[100] עי' הלכה של פסח שער ו' פ"ב הערה נ'. וכן אמר הגרש"ז אוירבאך זצ"ל דכל החשש היה בשנים הקודמים כשכל אחד עשה המכירה עם הגוי בינו ובין עצמו דאז היה חשש אם עשהו כראוי. אבל היום שהכל נעשה ע"י הרב או הבי"ד המיוחד לכך אין לחוש כלל. וע"ע בשערי ימי פסח שער ג' פרק י"ב שכתב הרבה בענין זה לקנות לכתחילה מחנות של שתו"מ.

should be put[101] in the place where you put all the other חמץ that you sold. Others hold that you can and must burn it or destroy it and it would not be stealing from the גוי. A third opinion holds that it depends. If the person is someone who sells חמץ גמור then he does not burn it since he intended the שטר מכירה for all his חמץ including this. If he does not sell חמץ גמור then he should burn it.

There is also the case of finding חמץ after פסח. The question is, what should be done with it? Should you throw it out, should you burn it, or are you allowed to keep it and use (eat) it?

As before with חמץ found on פסח, the הלכה is that you need to get rid of it, preferably by burning it. However, if you arranged a שטר מכירה, then you do not need to throw it out and you are permitted to use it. This is because the שטר מכירה states that it includes all חמץ that you own whether you remember that you have it and whether it is put away in a special location or not. All of it was sold and belonged to the גוי and not you.[102] [103]

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[101] It should be put there without picking it up, i.e. by kicking it in or pushing it in with a stick. If it's not possible then he can pick it up to put it with the other חמץ items that were sold but he must first say out loud that he does not want to acquire (be קונה) the item when he picks it up.

[102] עי' בשערי ימי פסח שער ג' פרק י"ב אות ט' וי'. וע"ע שם שער ג' פרק ז' אות י"ח.

[103] According to some, it would also depend if you generally sell חמץ גמור in your שטר מכירה. If you do, then you can use any חמץ found even if you forgot or were unaware of it. But, if you are careful not to sell חמץ גמור, then if the item that you found is חמץ גמור you should get rid of it and destroy it. Others however disagree and hold that even if you are generally מקפיד not to sell חמץ גמור however the שטר used by most Rabbonim these days says that it includes even חמץ גמור. Therefore now, after פסח is over, the חמץ found is completely מותר to be used and eaten. (כך שמעתי בשם הרה"ג ר' אלימלך בלוט שליט"א וע"ע קובץ בית אהרן וישראל חוברת נח עמ' קכח).

XIII.

Selling חמץ when erev Pesach comes out on Shabbos

51. How to Arrange מכירת חמץ in a year that erev Pesach comes out on Shabbos

51. מכירת חמץ *when Erev Pesach comes out on Shabbos*

When ערב פסח comes out on שבת we arrange the מכירה with the Rav like a year that ערב פסח comes out on Friday. That means we sign the שטר before the 5th hour on Friday even though eating and possessing חמץ is allowed all day Friday until the 5th hour on Shabbos morning. The reason is so that we should not make a mistake the following year and delay coming to the Rav until after the 5th hour (on ערב יו"ט) when it would be too late to make the מכירה.

Therefore, all the cabinets designated for storing the חמץ and the חמץ utensils should be marked off before **Friday**. Also all חמץ that we are not selling and are not eating on Shabbos should be disposed of (burned etc.) before the end of the fifth hour **on Friday**. We make בדיקת חמץ (and say כל חמירא) on **Thursday night** (with a ברכה) and we arrange to burn the חמץ on **Friday** before the end of the fifth hour (לכתחילה). (However we do **not** say כל חמירא after the burning on Friday, rather **we say it on Shabbos morning,** before the end of the fifth hour).[104]

For those making an "early" מכירה, they would follow the same procedure as they would on a regular year.

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[104] שו"ע סי' תמ"ד סעי' ו' ובמ"ב ס"ק כ"ב.

As far as when the actual sale occurs, generally the Rav will tell the גוי that the sale will go into effect at שקיעה on Friday (עי' פסקי תשובות סי' תמ"ד אות י"ז).

In the sale with the גוי it is stipulated that חמץ being left over for the meals on Shabbos are not included in the sale. According to some this stipulation is written in the שטר, but according to others it should **not** be written in but should be mentioned על פה.

If on Friday you find any item that you forgot to put away, you can put it into the storage area or cabinet. If the חמץ item was found on Shabbos you should ask your Rav.

XIV. Bedikas Chometz, Bitul Chometz (כל חמירא), and Bi'ur Chometz

52. Are you Required to Make a בדיקה in the Storage Areas that the חמץ will be Located/Stored in Over Yom Tov ?

53. The Importance of Trying to Fulfill the Mitzvah of *Bedikas Chometz* (and not to avoid doing it)

54. The Importance of Trying to Fulfill the Mitzvah of *Bedikas Chometz* on ליל י"ד ניסן

55. How to be יוצא the מצוה of בדיקת חמץ when you will be going away for all of Yom Tov

56. Questions Regarding בדיקת חמץ

57. What is כל חמירא and who should say it

58. The Correct Meaning of כל חמירא

59. The Reason we say כל חמירא Twice (at night and by day)

60. Questions Regarding ביטול חמץ (כל חמירא)

61. Questions Regarding Burning the חמץ (ביעור חמץ)

52. *Are You Required to Make a בדיקה in the Storage Areas (closets, cabinets, etc.) That the חמץ Will be Located in Over Yom Tov ?*

Many פוסקים hold [105] that you are **not obligated** to make a בדיקה on the night of בדיקת חמץ (ליל י"ד) in those locations where the חמץ items are being stored (i.e. the cabinets and the closets etc.) since you in any case intend to rent it out the next day (י"ד בבוקר) to the non-Jew [106] and after which time the area would ע"פ דין belong to the non-Jew (since you will be renting the storage area to him as well). Other פוסקים [107] disagree and hold that all places **including** those locations where the חמץ items will be stored over פסח need to be checked on the night of בדיקת חמץ, since when the night of the 14th begins these places still belong to you (the rental to the non-Jew only begins later the next day). To also accommodate the opinion of those who are stringent (דעת המחמירין) there are those who ask the Rav to have the rental period **of those storage places** begin before the time for בדיקת חמץ starts (ליל י"ד i.e. "early" מכירה). (See **Number 38.**)

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[105] וכן הוא המנהג ברוב מקומות. (ועי' מ"ב סי' תל"ו ס"ק ל"ב).

[106] שו"ת חתם סופר או"ח סי' קל"א ושו"ת צמח צדק (לויבאוויטש) סי' מ"ז, וכן הנהיג מרן החזון איש ומרן הסטייפלר זצ"ל.

[107] כ"כ בספר מקור חיים וכן הוא דעת החיי אדם. ויש כותבים שעיקר דעתם להחמיר הוא שמא לא ימצא להם למחר גוי למכור החמץ ולכן ישאר למפרע חובה לבדוק. ומוסיפין דעכשיו שנוהגין למכור הכל ע"י הרב במכירה גדולה וכללית לית לן למיחש לזה אף לדעתם.

53. *The Importance of Fulfilling the Mitzvah of Bedikas Chometz (and not to avoid doing so).*

As mentioned (**Number 38**), a person can arrange an early מכירה (before sunset י"ג ניסן) and thereby not be obligated to make a בדיקה. There is however a special מצוה to make בדיקת חמץ specifically on this night (ליל י"ד)[108] and it is not proper to arrange things in a way that allows someone to completely avoid doing a מצוה (עי' שו"ע סי' תל"ו ס"ג). Therefore in order to at least in some way perform the מצוה of בדיקת חמץ he should arrange to **leave over a room (or rooms) that is not included in the rental** to the non-Jew and then make the בדיקה in that specific room (and with a ברכה if it is ליל י"ד).[109] (See **Number 55.**)

54. *The Importance of Fulfilling the Mitzvah of Bedikas Chometz Specifically on* ליל י"ד ניסן.

As mentioned earlier if someone were to go away for Pesach (within 30 days of יו"ט), he is required to make בדיקת חמץ on the **night** immediately prior to his leaving his home. However, he would

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[108] While a person who makes a בדיקה within 30 days of *Pesach* is also fulfilling this *Mitzvah*, nevertheless on the night of 14 *Nissan* it is especially important because that was the עיקר תקנה when *Chazal* instituted the requirement of בדיקה and it is only on this night that one would make a ברכה when doing it. Therefore it would be most preferable to try to arrange that you are מקיים the בדיקה on ליל י"ד.

[109] The room that he will be leaving over to make the בדיקה on should be a room that is one where חמץ is usually brought into (מקום שמכניסין בו חמץ). Also, while he can specify that he is only leaving over part of a room to search, it is preferable that it is a whole room. (ויש אומרים דצריך להיות לכל הפחות מקום של ד' על ד' **אמות**).

not make a ברכה when doing the בדיקה. A ברכה is made only when the בדיקה is done on the night of the 14th of Nisan.

While in this case the person has fulfilled his obligation to search and remove any Chometz belonging to him, nevertheless there are some Poskim[110] who hold that לכתחילה the בדיקה should be done specifically on the night of the 14th, and doing so earlier (according to them) would only be בדיעבד (since you would not make a ברכה). The question is how someone leaving his home for Yom Tov prior to ליל י"ד would be able to fulfill this requirement. (Assuming that he would be unable to travel to his home on ליל י"ד.)

There are a number of instances of a person going away for Pesach. One would be where he is going to spend Yom Tov by someone's home (a relative or friend etc.). A second case would be someone going to a hotel for all or part of Yom Tov (or something similar).

When going to someone for Pesach, generally the person you are going to will be making בדיקת חמץ. You can help them with part of that בדיקה and be their שליח (and **perhaps** may even be able to make a ברכה on this בדיקה) but technically you would not be making your "own" בדיקת חמץ since you are looking for **their** חמץ.

Some hold[111] that if you are given a private room (which has a חיוב בדיקה on it i.e. a מקום שמכניסין בו חמץ) to stay in over Yom Tov, then you can make the בדיקה in that room with a ברכה (even if the room is "given" to you without a קנין). Others say that if you would "rent" the room that you are staying in from your host (for a

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[110] עי' שער הציון סי' תל"ג ס"ק ה' שכן הוא דעת החק יוסף, ע"ש עוד.

[111] כן הוא דעת הגרש"ז אוירבאך זצ"ל (הליכות שלמה פ"ה סעי' י"ח). וכן סובר הג' ר' שמואל קמנצקי שליט"א (קובץ הלכות, פ"ז סעי' ד') ועי' שם בהערב ה' שמבאר באריכות.

nominal amount) you would be obligated to make a בדיקה, since the הלכה is that a renter has an obligation to make a בדיקה.[112] However, not everyone agrees with this "solution" and are unsure if you would be fulfilling **your** obligation.[113] [114]

Others say that if you have a car, then you can make the בדיקה **on the car** and you would fulfill your חיוב of בדיקה that way.[115] They also hold that you **could** make a ברכה when making the בדיקה on the car. However, others disagree and hold that while you are required to make a בדיקה on your car (see above, **Number 30**) you cannot make a ברכה on this בדיקה.[116] They hold that a car has the same דין as an appliance (כלי) i.e. like a refrigerator or oven. While you are required to remove the חמץ found on your appliances you would not make a ברכה on the בדיקה if this was the only item that you would be making the בדיקה on. The option of making a ברכה, they say, is only when the בדיקה is being made on a place that you can live in, i.e. a בית.[117] (The first opinion says that a car is a place that you sometimes eat in and also can sleep in and therefore is similar to a house, though you don't actually live in it.)

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[112] אבל זה רק כששכירת המקום יהי' לכל ימי פסח, דאי הוה רק למקצת ימי פסח חוזר חיוב הבדיקה על הבעלים. (שו"ת בית הלוי ח"ד סי' מ"ה).

[113] עי' שו"ת שבט הלוי ח"ד סי' מ"ה. וע"פ דבריו משמע דחולק על הסוברים דאם נתייחד לו חדר החיוב לבדוק חל עליו.

[114] Since there is a מחלוקת if you have a חיוב בדיקה, you should not make a ברכה. It would be best to hear the ברכה from the בעל הבית.

[115] כן הוא דעת הג"ר חיים פנחס שיינברג זצ"ל. וכן סובר הרה"ג ר' שמואל קמנצקי שליט"א. (ואף דבספר קובץ הלכות מביא בשמו שאין לברך אבל שמעתי מאת המחבר ר' דניאל קליינמאן שליט"א שדיבר עם הראש ישיבה (בחודש אדר תשע"ז) וחזר ממה שכתב שם.)

[116] כ"כ ר' שמעון איידער ז"ל בספרו על הל' פסח בשם הגר"מ פיינשטיין זצ"ל וכן דעת הגרש"ז אוירבאך זצ"ל (הליכות שלמה דיני פסח) וכן סובר הג' ר' שלמה מילר שליט"א (בדרשה לשבת הגדול).

[117] דסמכינן הדין של בדיקה על הקרא "תשביתו שאור **מבתיכם**" ועל בית נתקנה, ע"כ רק על בית מחייבינן לברך וכל מקום שאינו נחשב בית בודקין **בלי** ברכה.

We find in שו"ת שבט הלוי[118] from הרה"ג ר' שמואל הלוי וזנר זצ"ל that it is better to get someone to be your שליח to make the בדיקה on ליל י"ד (with a ברכה) than to make the בדיקה yourself on a night before the 14th of Nisan (even though מצוה בו יותר מבשלוחו). Based on this it would seem that לפי דבריו another (and perhaps the best) option to be מקיים מצות הבדיקה בליל י"ד would be to make the בדיקה the night before leaving (without a ברכה) but to leave over one room (or an area ד' על ד' אמות) that you do not make any בדיקה there. Then you would appoint a שליח to go to your home on ליל י"ד and have him make a בדיקה for you on that room.[119]

Concerning someone going to a hotel, they would be obligated to make a בדיקה on ליל י"ד in their hotel room **with** a ברכה. If they arrived at the hotel the morning of erev Yom Tov (i.e. not ליל י"ד), they would make a בדיקה (with a ברכה) right away when they move into the room. And the same would apply if they arrived on חול המועד.[120] If it is a פסח hotel, then if he arrives on ערב יו"ט (i.e. not on ליל י"ד) he should try to find out if a בדיקה was made the night before. If it was not then he should make the בדיקה at the time that he arrives (with a ברכה)[121]. Also, if he arrives at a פסח hotel on חול המועד and someone else had been using this room for the first days of יו"ט he should try to find out if a בדיקה was made by them. (If he

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[118] שו"ת שבט הלוי ח"ט סי' קי"ח אות ב'. וע"ע סידור פסח כהלכתו פרק י"ג הערה 31 בסוף דבריו. ועי' קובץ דרכי הוראה ח"ז (ב"ד של הר' אשר ווייס שליט"א) שחולק על דברי השבט הלוי.

[119] This option is viable **only** if the שליח is **reliable** to make a proper בדיקה on your behalf. (The place left over for בדיקה בליל י"ד needs to be a מקום שמכניסין בו חמץ.)

[120] If someone rents a car (either before יו"ט or during חוה"מ), he is מחויב to make a בדיקה. (Though the car was cleaned by the company, it is **not** considered בדוק from חמץ.)

[121] עי' סידור פסח כהלכתו ח"א פי"ב סעי' ח'.

cannot get this information, he should ask a שאלה by a Rav what to do or he should make a בדיקה מספק, without a ברכה.)

55. *How to be יוצא the מצוה of בדיקת חמץ when you will be going away for all of Yom Tov*

Someone going away for the entire Yom Tov, and is leaving within 30 days of פסח, is required to make בדיקת חמץ before he leaves home. He should do so on the night prior to his leaving[122] (see **footnote 80**). For many people making a full and proper בדיקה is difficult, so if they wish they may write in the שטר מכירה that they are renting to the גוי their entire home, and that the rental should begin on the 13th of Nissan, prior to sunset. This way, when it becomes ליל י"ד (the time when בדיקה needs to be done) the place is now rented to the גוי and they are no longer obligated to make בדיקת חמץ. However, in order for them to be properly fulfill the מצוה, the פוסקים say that you should leave over [at least] one room in which to do the בדיקה (according to some, an area of 4 amos by 4 amos is sufficient). You do this by writing in the שטר the specific room (or area) that you do **not** want to rent to the גוי and therefore your חיוב to make a בדיקה in this room remains. (See **Number 53.**)

This applies whether you are leaving a few days before Yom Tov or even if you are leaving on Erev Yom Tov. You need to leave over at least one room that you are not renting to the גוי in order to make a בדיקה. (The difference between leaving a few days before or leaving after ליל י"ד is that on ליל י"ד you would make the בדיקה with a ברכה.)

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[122] With a candle/flashlight, and some hold that you should put out 10 pieces of bread (but others disagree and say only when you do it on ליל י"ד you put out the bread).

56. *Questions regarding* בדיקת חמץ [123]

Q: If I make בדיקת חמץ "early" (on a different night before ליל י"ד) do the same הלכות concerning the בדיקה בליל י"ד apply? Do I have to start at the beginning of the night? Am I allowed to eat or learn before I will begin the בדיקה?

A: No these דינים do not apply. The (primary) reason for not eating or learning when the time for בדיקה begins (i.e. right after צאת הכוכבים) is because we are afraid that a person will get very involved in his activity (eating, learning) and forget to make the בדיקה. Since when making בדיקת חמץ **before** the night of י"ד (for example on ליל י"ג) there is still at least one other night to make the בדיקה, we are not concerned that he may forget.[124] (Also, the early בדיקה should be done לכתחילה at night, but if necessary it can be done during the day [with a candle or flashlight], כן הוא דעת הרה"ג ר' אשר וייס שליט"א וכ"נ במ"ב סי' תלג.)

Q: If I already made my kitchen "kosher-for-Pesach" a few days before Pesach and am already set up and cooking for Pesach etc., should the kitchen be checked for חמץ on ליל בדיקת חמץ (and can I put some of the 10 pieces of bread there)?

A: When the kitchen is finished being cleaned and you want to start Pesach cooking, לכתחילה **it should be checked for חמץ** (at night) **before** covering and lining the shelves and sink etc. and **before** starting to use it to prepare for פסח. But if a בדיקה was not

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[123] See also earlier **Number 26** (Which comes first מכירת חמץ or שריפת חמץ), **Number 36** (בדיקת חמץ in shared places), **Number 37** (בדיקת חמץ in common areas) and **Number 40b** (If someone uses your apt., who makes the בדיקה).

[124] שיעורי הלכה הלכות פסח להגר"ש פעלדער שליט"א (וע"ש בהערה מש"כ על דברי הפמ"ג בסי' תל"ו א"א ס"ק א' דסובר דכל הדינים נוהגין, דבזה"ז יש לחלק).

done but the cleaning was thorough, בדיעבד it is fine. Also, once the kitchen has been prepared for פסח, and all חמץ has been completely removed, you should **not** put any of the ten pieces of bread there.

Similarly if the refrigerator has already been cleaned and lined etc. and all חמץ removed, and you began using it to store פסח items it is not necessary to remove everything and check it for חמץ on ליל י"ד, (though לכתחילה it should have first had a בדיקה with a candle/flashlight).

Q: If I don't have a candle or flashlight, can I make בדיקת חמץ? Do I make a ברכה?

A: בדיעבד if you are unable to obtain a candle or a flashlight, **and the room is sufficiently lit**, you can make בדיקת חמץ and also make a ברכה (if it is ליל י"ד). (כ"נ מדברי הגר"ש פעלדער בקונט' שיעורי הלכה.)

Q: Do I make בדיקת חמץ on ליל י"ד on the table that I will be eating my חמץ meal the next morning (ערב יו"ט)?

A: If it is a large table and you will eat on one end, then you should make the בדיקה on the part that you will not be eating on. If you will use the whole table for your morning meal then you do not check it on בדיקת חמץ at night and you make a בדיקה in the morning after you finish with your חמץ.[125]

57. *What is כל חמירא and who should say it*

כל חמירא is a statement a person makes through which they renounce ownership of all חמץ that they own, and that our Sages instituted to be said immediately after completing בדיקת חמץ. (Say it

[125] According to הגרש"ז אוירבאך זצ"ל you have a חיוב to make a בדיקה on the table at night (לאור הנר) and then in the morning you just clean up from what you ate and check the area. (ע"פ שיעור מאת הר' ניסן קפלן שליט"א בעניני בדיקת חמץ, שנת תשע"א).

only when the בדיקה is **completed**.) Additionally, since we leave over some חמץ until the morning, the כל חמירא is said again at the end of the fifth hour on the morning of the 14th of Nisan (after the burning of the חמץ) (See below **Number 59**). By saying כל חמירא and "nullifying" the חמץ and declaring it "ownerless" a person is no longer its legal owner and will thereby not be guilty of transgressing the prohibition (איסור) of possessing חמץ during Pesach.

Generally the head of the household will make the בדיקת חמץ etc. and say afterward כל חמירא. However, in fact **anyone** who owns any חמץ or תערובות חמץ is required to get rid of it before פסח and say כל חמירא.

The ספר לקט יושר writes that when saying the כל חמירא all members of the household should be present to listen to the בעל הבית as he says it and they should **have in mind** as well any חמץ that they may personally own. Some contemporary ספרים write[126] that all members of the home should say it (**aloud**), including the wife and all the children (male and female). I also found that this was done by Hagaon HaRav Shlomo Zalman Auerbach זצ"ל at his home. Similarly, I have seen brought down that this was the custom by Hagaon HaRav Chaim Kanievski שליט"א that his wife and children would say the כל חמירא both at night and by day. [127]

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[126] שו"ת שאילת חיים (אבערלאנדער) סי' כ"ח אות ז-ט, וכן הוא בספר בדיקת חמץ וביעורו (מהדורת תשס"ה) פ"ו סעי' י"ח (וע"ע בהערה שם).

[127] אמנם בספר קובץ הלכות מביא דהגר"ש קמינצקי שליט"א סובר דרק בניו הגדולים יש להם לומר כל חמירא, אבל לא אשתו ואף לא בנות הגדולות.

(Note: when saying כל חמירא it is essential that you understand the words being said for it to be effective. See further, Number 58.)

58. *The correct meaning of* כל חמירא

The person saying כל חמירא needs to understand what it is that he is saying for there to be ביטול. Without understanding the meaning, the כל חמירא is worthless and he has not made ביטול. While many people seem to understand the words in their original Aramaic, there is a part that may cause a misunderstanding.

The נוסח begins as follows: כל חמירא וחמיעא **דאיכא ברשותי** וכו'. The general understanding and the common translation of דאיכא ברשותי is "that is in my possession." However, that is incorrect. The proper meaning is "**that I am the owner of**." If you understand it to mean as "in my possession" it makes it seem as if only Chometz that is in your house or a property that you own is being gotten rid of. However you are in fact attempting to remove your ownership (בעלות) over **ANY** Chometz of yours *even if it is to be found in a location that is not yours*.

Therefore there are some who say (at night):[128] כל חמירא וחמיעא דאיכא ברשותי **ובבעלותי בכל מקום שהוא** דלא חזיתיה ודלא ביערתיה ודלא ידענא ליה ליבטל ולהוי הפקר כעפרא דארעא.[129]

The English translation of the above (the כל חמירא that is said after the בדיקה at night)[128] would be as follows:

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[128] By day we **add**: דלא חזיתיה **דביערתיה** ודלא ביערתיה **דידענא** ודלא ידענא ליה, "**that I have seen** or have not seen, **that I have removed** or have not removed, that I have knowledge of and that I do not have knowledge of etc.."

[129] נוסח זה של ה"כל חמירא" הובא בספר בדיקת חמץ וביעורו (מהרדורת תשס"ה) פ"ו סעי' י'.

"All manner of leaven (Chametz) that is in my possession (which means: <u>that I am the legal owner of</u>) that I have not seen or have not removed, or have no knowledge of, should be null and disowned as the dust of the earth."

59. *The reason we say כל חמירא twice*

As is well known, we say כל חמירא twice, once at night after בדיקת חמץ and then again a second time after burning the חמץ found the night before. The reason for this is as follows. The original תקנת חכמים was to say כל חמירא at night, right after the בדיקה. This was because חז"ל were afraid that you might forget to make ביטול. Therefore they said that when you are making בדיקה (which you won't forget) at the same time make ביטול. However, since you intend to still be eating חמץ (in the morning) and since we also want to מקיים the מצוה of תשביתו with our own חמץ,[130] therefore says the רא"ש we say כל חמירא again in the morning after שריפת החמץ. When we say it at night we are making a ביטול on חמץ that we did not find or are unaware of, and then in the morning (of ערב יו"ט) after the burning of the חמץ, we are making a ביטול on **<u>all</u>** our חמץ, what we know and what we don't know etc.[131]

60. *Questions regarding כל חמירא*

Q: If I am a שליח to make בדיקת חמץ for someone else, do I also say the כל חמירא for him when I finish?

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[130] i.e. the ten pieces and any other חמץ that we may have found during the בדיקה.

[131] See further **Number 60** (page 121) if you said the כל חמירא at night and forgot to say it in the morning (on ערב יו"ט).

A: It is preferable for the person who owns the חמץ to say the כל חמירא, however a שליח is allowed to say it. Therefore, if you are unsure if the person wanted you to also be their שליח also for כל חמירא, you **should** say it just in case. The proper נוסח for the שליח would be: כל חמירא וחמיעא **דאיכא ברשות פלוני** וכו'. If you are doing it on behalf of your father you would say: **דאיכא ברשות אבי מורי**, (for your mother: **ברשות אמי מורתי**).

Q: If I make בדיקת חמץ **before** ליל י"ד, do I say כל חמירא then?

A: Yes.[132] When you finish בדיקת חמץ you say כל חמירא even though it is earlier then י"ד. Also, in such a case (when the בדיקה is before ליל י"ד), when saying the כל חמירא you should say it as follows: כל חמירא וחמיעא **דאיכא בביתא הדין** דלא חזיתיה וכו'.[133]

Q: If I am making בדיקת חמץ in a different home that I own (for example a summer home) before ליל י"ד, do I say the כל חמירא then?

A: Based on the משנה ברורה (סי' תל"ו סק"ג) it would seem that you should.[134]

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[132] מ"ב סי' תל"ו ס"ק ג'. ועי' שעה"צ ס"ק ד' שכן סובר המג"א והגר"א ומקור חיים ושו"ע הרב ועוד הרבה אחרונים ודלא כהט"ז והחק יעקב שסוברים שאין לומר ביטול אז. **וז"ל המג"א ס"ק א':** וכיון דחל עליו חובת בדיקה חייב ג"כ ביטול כתיקון חכמים וכו' דאין לסמוך שיבטל כשיגיע הפסח **דשמא ישכח באותו פעם מלבטל**, עכ"ל.

[133] כ"כ בשער הציון סי' תל"ו ס"ק ה'.

[134] כן משמע פשטות לשון המ"ב. ומ"מ יש לעיין בזה. דהמג"א בס"ק א' (הובא לעיל בהערה **130**) כתב הטעם משום "דשמא ישכח" לבטל בליל י"ד. אבל כאן בשאילתנו מיירי דעדיין יבדוק בביתו הרגיל בליל י"ד וממילא אזיל טעם זה ואולי אין צריך כיון דלא ישכח. (אלא שעדיין יש סברא לומר הואיל דתיקנו החכמים לומר כל חמירא אחרי הבדיקה דאין לחלק). ואי אמרינן דצ"ל, מה הדין בביתו ממש **כשמחלק הבדיקה לכמה לילות** (כגון שעושה בדיקה בכמה חדרים בליל י"ב ועוד כמה חדרים בליל י"ג), האם הוא צריך לומר כל חמירא בכל לילה על אותן מקומות שבדק.

Q: What is the דין if you said כל חמירא at night but forgot to say it a second time in the morning?

A: According to the (שו"ע הרב (סי' תל"ד סעי' י"ג as long as you said it at night you were מקיים the עיקר דין of ביטול with that alone (עי' שם).

Q: Does the שמש or גבאי who is making בדיקת חמץ in the Shul,[135] say the כל חמירא when he finishes the בדיקה?

A: If it is a "public" Shul (not owned by an individual), then he does not say כל חמירא afterwards[136] because the חמץ there is not owned by anyone. He is only making a בדיקה so that no חמץ is found during יו"ט and might accidentally be eaten. (In a privately owned Shul the owner should say it.)[137]

61. *Questions regarding burning the חמץ*

Ideally the חמץ found by בדיקת חמץ should be **a)** burned **b)** by yourself **c)** at the beginning of the fifth hour of the day on ערב יו"ט.[138] If you are unable have it burned, then any method that gets rid of it is allowed (for example, flushing it down a toilet). If it is not

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[135] If he is making his own בדיקה he should make the ברכה at home and **continue** in the Shul. Otherwise, (or if there is a הפסק between his בדיקה at home and his going to the Shul), he should make a **ברכה** when making the בדיקה at the Shul.

[136] מ"ב סי' תל"ג ס"ק מ"ג.

[137] עי' נטעי גבריאל פרק כ"ד אות י"א.

[138] ואם אפשר, יש לבערו אחר זמן אכילה דוקא דלפי כמה ראשונים אינו מקיים מצות תשביתו אם מבערו קודם. מ"מ לדינא אפשר לבערו לכתחילה מיד בבוקר אחר שגומר לאכול. (עי' מ"ב תמ"ה ס"ק ח'). ואם הוא הולך לעבודתו בבוקר אבל עדיין רוצים בני משפחתו לאכול חמץ, עי' שו"ת באר משה ח"ג סי' ע"ג האיך לנהוג בשריפת החמץ ואמירת כל חמירא.

possible for you yourself to do it, then you can have someone else (a שליח) burn the חמץ (or get rid of it) for you.[139] If you cannot do the burning on erev Yom Tov, then you can do it any day within 30 days of Pesach (see further, and see **footnote 137**).

Q: If I am making בדיקת חמץ a few days before Yom Tov can I burn the חמץ the next morning or do I need to wait until ערב יו"ט?

A: You can burn the Chometz the next morning and it would be considered that you were יוצא making (תשביתו) ביעור חמץ through שריפה. (עי' מ"ב סי' תמ"ה ס"ק ח' וע"ע בשער הציון ס"ק ט"ז). However the כל חמירא (the one that is said after burning the חמץ) should be said on ערב יו"ט. (If you forgot to say the כל חמירא on ערב יו"ט, see above **Number 60,** top of page 121.)

Q: If I make בדיקת חמץ on ליל י"ד and am then traveling and am unable to burn the חמץ in the morning, can I burn it **at night**?

A: Yes. If there is a need you can burn it at night right after making the בדיקה (or anytime after).[140] As usual when doing בדיקה בליל י"ד, in this case too the כל חמירא is said after you finish the בדיקה. However if at night you are finished with <u>all</u> your חמץ and do not intend to have anymore חמץ in the morning (ערב יו"ט), then **after you burn the חמץ at night** you can <u>and **should**</u> say the version of כל חמירא that is usually said after the burning (the "second" כל חמירא).[141]

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[139] And afterwards the שליח should immediately inform you so that you can say the כל חמירא (**before** סוף זמן ביעור חמץ).

[140] סי' תמ"ה סעי' א' ברמ"א. ועי' מ"ב שם ס"ק ח'.

[141] If you intend to still leave over some חמץ (to eat etc.) then you would burn the חמץ at night but **wait to say the כל חמירא** (that is usually said after the burning) **until after you finish eating and disposing of your remaining חמץ in the morning**.

XV.
Frequently Asked Questions

Note:

The numbers mentioned in the "Frequently Asked Questions" section refer to the numbers in the first part of the קונטרס (Sections I – XIV).

1. **Why do I need to specify the type of חמץ I am selling? Can't I just check off "everything"?**

The ביאור הלכה states (סי' תמ"ח סעי' ג' ד"ה בדבר מועט) that לכתחילה you should specify the type(s) of חמץ that you are selling. Writing "I am selling all my חמץ" would create a lack of סמיכת דעת (on the part of the non-Jew). Therefore when filling out the שטר מכירה we should לכתחילה try to write all the different types of חמץ that we are selling. (See **Number 15**.)

NOTE: The חמץ items that you are checking off are חמץ items that you **want** to put away and sell. It is **NOT** the חמץ items that you "maybe" have (that maybe are hiding somewhere) and that you are including in the שטר "just in case." The חמץ items that you "maybe" have are written in a different part of the שטר.

2. **What if I forgot to check off one of the types of חמץ that I do have and that I want to sell? Am I required to come back to "fix" the שטר?**

It's not necessary as the שטר states that you also include any other חמץ that you own.

3. **What if I check off something that I don't have?**

Though לכתחילה you should not do so, it is still a valid מכירה.

4. **Why do I need to specify the locations where the חמץ will be? Why can't I just write "everywhere" that it is located?**

The reason the שטר should give the location that the חמץ is being stored is in order for the buyer (the non-Jew) to know where it is.

Writing “wherever it may be” does not look like he is really buying something. (Note: In the שטר you should write all the location(s) of the חמץ that you remember and are aware of but other places that you left out **are also included**.)

5. **I put my חמץ and חמץ utensils in a closet and wrote the place in the שטר. May I change the location to a different closet?**

Once the קנין is made with the גוי you should not change the location of the חמץ. This is especially true if it is already after the סוף סמן ביעור חמץ. If necessary, you should consult with your Rav.

6. **What if I specified in the שטר the location/storage area where the חמץ will be and then I changed my mind and did not put the חמץ there but instead put it somewhere else. Do I need to go back to the Rav and change what I wrote in the שטר?**

<u>See previous question</u>. If this is before the Rav made the קנין with the גוי some say it is not necessary to change the שטר since it says in the שטר that the Rav will help the buyer (the גוי) get access to the חמץ and the גוי is relying primarily on that rather than what’s written in the שטר (though לכתחילה the actual location should be written clearly in the שטר). (See **Number 17**)

7. **I don't know how much my חמץ is worth. What should I do?**

Try to make a reasonable estimate. It would be best to go over all the חמץ you are selling before you come to the Rav to fill out the שטר.

8. Can I write the "value" as $0.00? Can I write "between $0.00 and $5.00"? How about "between $0.00 and $50.00"?

You cannot write that the value is "0" as then it does not look like a מכירה at all. Writing an indeterminate amount (not exact) is also a problem since it creates less סמיכת דעת in the קנין. It would be better to write a low amount (e.g. $2 or $5) rather than "between this and that" (or a high amount). (See **Number 16** and **footnote 30.**)

9. I am leaving before the night of י"ד ניסן but am making a full בדיקה (without a ברכה) the night before I leave, when should the מכירה occur?

Even though you are making an early בדיקה, if you are making a "regular" complete בדיקה then the מכירה should be scheduled at the "regular" time i.e. when the Rav meets with the buyer (גוי) on *Erev Pesach* (not an early מכירה).

10. I will not be in my home for *Yom Tov* and don't want to clean the whole place but want to make a בדיקה on only part. How do I do this?

This can be done through what is known as an "early מכירה" (see **Number 38**). You write in the שטר מכירה that you want to rent your **entire** house (or apt.) to the non-Jew before sundown of י"ג ניסן, **except** for one room. Then on the night of בדיקת חמץ you will fulfill the מצוה of בדיקה on this one room (with a ברכה). (See **footnote 78.**) (**Note**: the same would apply if you are making בדיקת חמץ **earlier** than ליל י"ד. There would be a קיום מצות בדיקה, however in order for it to be a קיום of the מצוה you need to specifically **exclude** in the שטר at least a room (or area of at least ד' אמות על ד' אמות) from the rental.)

11. I made an early מכירה on most of my house so as not to have to make a בדיקה on those rooms. Am I allowed to use those rooms on the night of י"ד ניסן or can I use <u>only</u> those rooms that I did <u>not</u> make an "early" מכירה on?

There is a dispute concerning this. Many פוסקים hold that any of the rooms that you will be using on ליל י"ד (as well as the next morning) you cannot make an "early" מכירה since you are still using them and therefore you need to make a regular בדיקה on them on ליל י"ד. Others don't make an early מכירה and rely on the opinion of the Chasam Sofer and hold that since all the חמץ in these rooms will in fact be sold to the non-Jew the next day (ערב פסח morning at the end of the 5th hour), therefore you are permitted to use the room tonight and do not have a חיוב בדיקה. (See **Number 39** and **52.**)

12. I want to make an "early" מכירה for any חמץ that "might" be in the <u>trunk</u> of my car and not use the trunk over Pesach but still use the car itself (and make a בדיקה just on the car itself). Can I do this (<u>and not have to do בדיקה in the trunk</u>)?

See **Number 30**.

13. How do I fill out the שטר מכירה when selling the חמץ <u>for someone else</u>?

Fill out all the information as you would your own. When you sign, you sign **your** name ***"in the name of"*** the person who you are arranging it for. When signing in Hebrew you would sign: Your Name "בְּעַד" the person whom you are signing for. For example: ראובן גאלד **בעד** שמעון זילבער. (See **Number 33.**)

14. My daughter works in New York and shares an apartment with a number of friends. They are all leaving for Pesach. Who makes the בדיקה and how is the מכירת חמץ arranged?

Each one should clean up and discard their own חמץ. If they wish to put some חמץ items away (for example: cosmetics, vitamins, medications etc.) and include it in the שטר מכירה they should designate a closet or cabinet etc. and mark it off. The same should be done for their חמץ utensils (they should be washed and put away). The night before each of them leaves they should make a בדיקה of **their** area. For the "shared" space (kitchen, dining room etc.) one person can do the בדיקה for all (the night before they leave for Yom Tov).

Concerning מכירת חמץ they should decide amongst themselves to designate one person as the שליח for all of them (this can be done over the phone) and then that person should have a שטר מכירה done and write in it that is on behalf of all the occupants of this apartment. Also **each of them** should remember to say כל חמירא before סוף זמן ביעור חמץ. (See **Number 57**) (It should also be mentioned to the Rav if any of them will be spending Pesach in a different time zone.)

15. When signing the שטר do I sign my English signature or do I sign it in Hebrew? Also, if I sign in English, do I need to use my "legal" name (i.e. my name as it appears on official documents)?

Halachically speaking it makes no difference. However, some sign the "large" **שטר הרשאה** with their Hebrew name (since that **שטר** is usually in Hebrew), and on the individual **שטר** they sign with their legal name since it is written to look more like a legal contract.

(**NOTE**: It is important to sign the **שטר** as you normally do when signing any legal document (like a mortgage application, credit card application, car loan etc.), and not just scribble on the line.)

16. "Chometz & you" in different time zones: 4 cases

a. [Case #1: Chometz at home and you are traveling EAST] "I am going to Europe/Eretz Yisroel for *Pesach*. How do I arrange the מכירה? Do I need to make a בדיקה?"

When filling out the שטר מכירה you should tell the Rav where you will be for *Yom Tov*. Since for you *Pesach* will begin **earlier** than the place where the חמץ you are selling is located he will arrange for the מכירה to take place earlier as well i.e. before סוף זמן ביעור חמץ on י"ד ניסן. (See **Number 42**.)

As far as the בדיקה, if it is within 30 days of *Pesach*, the דין is you are obligated to make a בדיקה on any property you own or rent, and you should לכתחילה make it the night before you leave (see **FAQ #17**). If for some reason you are unable to do so, you should ask the Rav making the מכירה to arrange that the place you own or rent is rented to the גוי for the duration of *Yom Tov* and that the rental goes into effect before it is sundown of י"ג ניסן in the place that **you** are located.

b. [Case #2: Chometz at home and you are traveling WEST] "I live in Brooklyn and am going to Los Angeles for *Pesach*. What time after *Yom Tov* ends will the חמץ be bought back?"

Generally the חמץ is bought back by the Rav as soon as *Yom Tov* is over. However, since at that time where you are (L.A.) it will still be

Yom Tov, you should tell the Rav that you do not want the חמץ to be bought back for you until it is מוצאי יו"ט in the place that you are. (See **Number 42**.)

c. **[Case #3: You are at home and your חמץ is in the WEST] "I am arranging the מכירה here in Far Rockaway for my חמץ that I have here but I also own חמץ that is in storage in San Diego and am including that in the שטר as well. I will be staying in Far Rockaway over יו"ט. Do I need to be concerned that the חמץ will be bought back (by my Rav in Far Rockaway) on מוצאי יו"ט while it is still *Pesach* in San Diego?"**

Yes. Even though where you are *Pesach* will have ended and you are permitted to own חמץ once again, nevertheless you should not own any חמץ that is located in a place where it is still *Pesach*. You should let the Rav know about this and you should not reclaim ownership of that חמץ until after *Pesach* ends over there. (See **Number 42**, last paragraph.)

d. **[Case #4: You are at home and your חמץ is in the EAST] "I am home for Yom Tov in Lakewood, but I have חמץ items (utensils etc.) and some ספק חמץ items in my דירה in ארץ ישראל. No one made a בדיקה before leaving. What can I do about this? How do I arrange the מכירת חמץ? What about ביטול (i.e. כל חמירא)?"**

If possible you should try to get someone to go make a בדיקה in the דירה, preferably on ליל י"ד. (If the שליח makes it on ליל י"ד he would make a ברכה.) If you cannot get someone then you should see to it that the apt. is rented to the גוי before שקיעה on יום י"ג (Israel time). Then, since on ליל י"ד you are no longer the renter of this apt., you

are פטור from בדיקה. (But בדיעבד you are פטור from having to make a בדיקה as long as the rental went into effect before סוף זמן ביעור Israel time).

When arranging the שטר מכירה you can arrange it on behalf of everyone in the דירה, even if they did not appoint you to do it on their behalf (מטעם זכין ומטעם אומדנא). Even if you arranged to not be מחויב in בדיקת חמץ in the דירה (with an early rental to the גוי) you still need to make ביטול. It would be best if **each person** would say כל חמירא. However if you cannot reach them and are unsure if they said it, you should first say כל חמירא for yourself and then say כל חמירא for the others in the דירה.

(Note: When you say the כל חמירא for yourself you say the regular נוסח (כל חמירא וחמיעא דאיכא ברשותי וכו'). When you say the ביטול for the בחורים in the דירה you say a slightly different נוסח - כל חמירא וחמיעא דאיכא ברשות אלו הדרים בדירה זו בירושלים דחזיתיה ודלא חזיתיה וכו').

17. a. If I need to make the בדיקה before ליל י"ד (for example, in an office) does it need to be made specifically on the last night that I am there or can the בדיקה be done even a few nights earlier? b. Can I be בודק part of my house before ליל י"ד?

If you are careful to no longer bring in any חמץ after the בדיקה then, if necessary, the בדיקה can be done before the last night. So if you want to make the בדיקה in your office or factory or vacation home etc. before the regular night of בדיקת חמץ (i.e. ליל י"ד) then it can be done any night prior (**and then no חמץ should be brought there**). The same is true if you are going away for Yom Tov and it will be hectic the night of ליל י"ד, and it therefore may not be done properly, you should do it earlier on all or part of the apartment (and avoid bringing or using חמץ there). Also in your home, if it is difficult to do everything on ליל י"ד you can make the בדיקה on part of the house earlier. (See **Number 53 and 60**.)

שטר הרשאה

ע"פ השטר שנכתב ע"י

הרב שמואל בלעך שליט"א

מרא דאתרא,

ק"ק אנשי ספרד, לייקווד

A line-by-line explanation

of the detailed (individual) Shtar Harsha'ah.

Based on the שטר used in Lakewood,

as arranged by HaRav Shmuel Blech שליט"א.

NOTE:

This section contains a brief explanation of how to correctly fill out the individual שטר הרשאה (also referred to as the שטר מכירת חמץ). The shtar being used is the same wording as the one that is being used by הרב שמואל בלעך שליט"א, מרא דאתרא קהל אנשי ספרד ד'לייקוד. It is the one that he, along with others, developed over the years, and is the שטר being used by the תלמידי Bais Medrash Govoha along with the Lakewood Kehilla.

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Shtar Harsha'ah (and Shtar Mechira) as arranged by Rabbi Shmuel Blech

שטר הרשאה Authorization

TO BE SOLD

___Earliest
(Morning of 13 Nisan)

____Early
(Afternoon of 13 Nisan)

____Final
(14 Nissan)

DELEGATION OF POWER OF ATTORNEY FOR SALE OF CHOMETZ AND SUBSEQUENT BILL OF SALE

I hereby fully empower and authorize _____, or anyone else he may designate as a substitute in his stead, to sell and transfer before the coming *Pesach* all legal title to my "*Chometz*." *Chometz* is understood, but not limited, to mean any leavened product made of wheat, barley, spelt, oats or rye, or any mixture or derivative thereof, as well as any item having become questionable as to its content as defined in accordance with Jewish Law and Tradition. *Chometz* in my possession may consist of, among other things (check all that apply):

Chometz List

__Baked products __Baking ingredients __Barley __Beer __Cereals __Condiments (e.g. ketchup, mayonnaise, mustard) __Cosmetics __Crackers __Frozen items __Groceries __Liquor __Medicines __Mixes __Noodle products __Oatmeal __Perfumes __Pet food __Pickles __Playdough __Toiletries __Vitamins __Wheat Germ

Chometz affixed to: __utensils __appliances __baking tools __toys __books __seforim __etc.

In addition to the above, I wish to specify the following other item(s): __Chometz belonging to my children_____
_____
_____

The above items may be found primarily in (check all that apply. Refers to home address unless marked by * indicationg location written on back of (or attached to) this document):

Locations

__Attic __Basement __Bathroom cabinet __Breakfront __Briefcases __Car in storage* __Closet __Crawlspace __Desk drawers __Freezer __Garage __Grill __Investment property* __Kitchen cabinets __Liquor cabinet __Locker at business/school* __Medicine chest __Neighbor's home* __Office/business __Pantry __Refrigerator __Refrigerator/freezer at work* __Shed __Storage area __Vacation home* __Other_____

Special Rental

(Special Rental if needed. Areas to be excluded from שכירות)_____
_____

In addition, he may also sell all *Chometz* and/or mixtures containing *Chometz* that are knowingly or unknowingly in my possession, or to which I have legal ownership or responsibility in whole or in part; or shares, stock or business interests in corporations which own or deal in *Chometz* (including all transit

goods which might be delivered to me during the period of _____ **to** _____ (inclusive) to a non-Jew of his choice.

Keys

I also authorize _____, or his designate, to rent or sell as he deems fit, and for the appropriate duration, the places where the abovementioned items are located. Keys to these locations can be found at (include car key if applicable) _____

_____

_____

_____

The buyer shall have, through the aid and cooperation of the Rabbi or his designate, free access to the *Chometz* and/or mixtures containing *Chometz* acquired by him.

Value

The abovementioned goods have an approximate value of $_____ (Amounts and value of individual products may be outlined, if desired, on reverse side of this sheet)

Exact assessment of quantity and value of goods mentioned above will take place after *Pesach*. The buyer's deposit is to be paid to _____, or his designate. This authorization is made binding by my signature below which, when given with the bill of sale, shall be considered as if I had actually signed the bill of sale.

Kinyan

The authorization is further legalized by what is known as *Kinyan Suddar* (Taking Hold of the Garment) and is also intended to conform to the criteria of secular law by the use of any appropriate legal instrument available to achieve this objective.

Signed by me on this ____ day of _____ **(month)** _____ **(year)**

(Signature) _____

Name: _____

Phone: (_____) _____

Address:_____

_____

– –

(FOR RABBI'S USE ONLY) I, _____, grant rights to Rabbi _____ to deal on my behalf to effect the above-mentioned goods and the rental or sale of the location. Signed: _____

❶ **Time when sale goes into effect (local time): _____❷Earliest (morning of 13 Nissan) ____❸ Early (afternoon of 13 Nissan) ____❹ Final (morning of 14 Nissan)**

שטר הרשאה Authorization

DELEGATION OF POWER OF ATTORNEY
FOR SALE OF CHOMETZ
AND SUBSEQUENT BILL OF SALE

I hereby fully empower and authorize _____❺_, or anyone else he may designate as a substitute in his stead, to sell and transfer before the coming *Pesach* all legal title to my "*Chometz*." *Chometz* is understood, but not limited, to mean any leavened product made of wheat, barley, spelt, oats or rye, or any mixture or derivative thereof, as well as any item having become questionable as to its content as defined in accordance with Jewish Law and Tradition. *Chometz* in my possession may consist of, among other things (check all that apply): ❻

CHOMETZ LIST ❼

____Baked Products[1] ___Baking Ingredients ___Barley ___Beer ___Cereals ___Condiments (e.g. Ketchup, Mayonnaise, Mustard, Salad Dressing) ___Cosmetics ___Crackers ___Frozen Items[2] ___Groceries ___Liquor ___Medicines ___Mixes (e.g. Pudding or Cake Mix) ___Noodle Products ___Oatmeal ___Perfumes ___Pet Food ___Pickles ___Playdough ___Toiletries (e.g. Deodorant, Shampoo, Soaps) ___Vitamins ___Wheat Germ[3]

See explanations on Pages 141 – 147

1) Baked Products = Cakes, cookies, crackers, pretzels, etc. **2) Frozen items** = Frozen fish, meat, blintzes, pizza, etc. **3) Wheat Germ** = The most vitamin and mineral-rich part of the wheat kernel.

CHOMETZ ❽ AFFIXED TO: __UTENSILS __APPLIANCES __BAKING TOOLS __TOYS __BOOKS __SEFORIM __ETC.

In addition to the above, I wish to specify the following other item(s): ___❾_*Chometz belonging to my children*_____

_____

_____

The above items may be found ❶❶ primarily in (check all that apply). (Refers to home address unless marked by * indicating location written on back of this document): ❶❷

LOCATIONS

❶❿ **___Attic __Basement __Bathroom cabinet __Breakfront __Briefcases __Car in storage* __Closet __Crawlspace __Desk drawers __Freezer __Garage __Grill __Investment property* ____Kitchen cabinets ____Liquor cabinet ____Locker at business/school* ____Medicine chest ____Neighbor's home* ___Office/business ____Pantry ____Refrigerator ___Refrigerator/freezer at work* ___Shed ___Storage area ___Vacation home* ___Other_____**

_____

_____

❶❸ **SPECIAL RENTAL IF NEEDED.** (Areas to be **excluded** from שכירות)_____

_____

_____

See explanations on Pages 141 – 147

In addition, he may also sell all *Chometz* and/or mixtures containing *Chometz* that are knowingly or unknowingly in my possession, or to which I have legal ownership or responsibility in whole or in part; or shares, stock ⓮ or business interests in corporations which own or deal in *Chometz* (including all goods in transit ⓯ during the period of ⓰_____ **to** _____ inclusive, which might be delivered to me, either during *Pesach* or afterwards) to a non-Jew of his choice.

KEYS ⓱ I also authorize ❺_____, or his designate, to rent or ⓲ sell as he deems fit, and for the appropriate duration, the places where the abovementioned items are located. Keys to these locations can be found at (**include car key** ⓳ **if applicable**): _____

_____

_____

_____

⓴ The buyer shall have, through the aid and cooperation of the Rabbi or his designate, free access to the *Chometz,* and/or mixtures containing *Chometz,* acquired by him.

VALUE ㉑ The abovementioned goods have an approximate ㉑value of $_____

(Amounts and value of individual products may be outlined, if desired, on reverse side of this sheet ㉒)

See explanations on Pages 141 – 147

Exact assessment of quantity and value of goods mentioned above will take place after *Pesach*. The buyer's deposit is to be paid to ❺ _____, or his designate. This authorization is made binding by my signature below which, when given with the bill of sale, shall be considered as if I had actually signed the bill of sale.

KINYAN ㉓ The authorization is further legalized by what is known as *Kinyan Suddar* ("Taking Hold of the Garment") and is also intended to conform to the criteria of secular law by the use of any appropriate legal instrument available to achieve this objective.

Signed by me on this ㉔_____ day of _____ 20____

(SIGNATURE) ㉕_____

NAME (PRINT): ㉖_____

PHONE: ㉖ (_____)_____

ADDRESS: ㉗ _____

_____

_____

- -

(FOR RABBI'S USE ONLY) ㉘ I, Rabbi ㉙_____, grant rights to Rabbi _____ to deal on my behalf to effect the sale/transfer of ownership of the above-mentioned goods and the rental or sale of the location. Signed: ㉚_____

See explanations on Pages 141 – 147

EXPLANATIONS FOR FILLING OUT THE SHTAR HARSHA'AH

❶ **TIME WHEN SALE GOES INTO EFFECT** – There are **three** options listed for the time that the sale should go into effect (explained in detail below). You need to select and check off the proper time. ➔ **NOTE: If left blank (i.e. not checked) the *chometz* will be sold at the final (latest) time.**

❷ **EARLIEST** – If this time is checked off it means that the *chometz* etc. will be sold on the morning of 13 Nissan. If you have *chometz* items and/or utensils in Israel (and will be unable to make a בדיקה there on the night of the 14th of Nissan) this is what should be checked off. (See **Practical Guide to Mechiras Chometz: Number 38** and **Number 42**).

❸ **EARLY** – If this time is checked off it means that the *chometz* etc. will be sold in the afternoon of 13 Nissan. This is what should be checked off if you have *chometz* in Europe **OR** if you have *chometz* in a location that you will be unable to (or do not wish to) make a בדיקה on the night of the 14th of Nissan. (See **Practical Guide to Mechiras Chometz: Number 38** third paragraph, also see **Number 42 "NOTE"** and **Number 44**).

❹ **FINAL** – If you check off this time it means that the *chometz* etc. will be sold at the "regular time" at the end of the fifth hour on the morning of 14 Nissan. This is the latest possible time for the *chometz* to be sold and is the time that most people should check off. (Check off this time **even** in a case where you are

leaving your house before ערב פסח and will be making the בדיקה **before** the night of 14 Nissan.)

❺ Here you write in **the name of the Rabbi** arranging the sale (i.e. the Rabbi that you are giving this document to). If you don't know his name leave it blank and fill it in when you are by him. (There are **three** places in the document that his name needs to be filled in.)

❻ When checking off the items that you want to include in the sale try to **check off only those that apply**. (See **Practical Guide to Mechiras Chometz: Number 15** second paragraph). Checking off everything on the list is not the preferred way. However, in a case where you plan to throw out all items which are *chometz* etc., and you are only making a שטר "just in case," then you **can** write "Any *chometz* that I may own." (Write it on the lines which say "In addition I wish to specify the following…"). Similarly, if you will be going away and not be at home at all over פסח, you can just write "all chometz found at my home/apt. etc." (However, even in the case of going away for all יו"ט it is לכתחילה preferable to **specify** as much as possible.)

❼ **CHOMETZ LIST** – This is a list of many common items that people own and want to keep (by selling it to the non-Jew). (See **Practical Guide to Mechiras Chometz: Number 15 par. 3**). **Note**: If you forgot and left something off, don't worry – it **will** be included in the sale.

❽ **CHOMETZ AFFIXED TO ETC.** – This is a list of some household items where it is common to find *chometz* attached to it.

❾ **CHOMETZ BELONGING TO YOUR CHILDREN** (skip if children no longer live at home) ➡ ***NOTE: This item is not written in the shtar of Rabbi Blech.***

Chometz belonging to your children living at home (or away during the year at yeshiva/school) are **not** automatically included in the sale that you are making. If you wish to include them you need to inform them (preferably beforehand) that you will be selling their *chometz* for them and check off this item on the document. (See **Practical Guide to Mechiras Chometz: Number 34**).

❿ **LOCATIONS** – It is important to list the areas where the *chometz* you are selling will be located (stored) over Pesach. (See **Practical Guide to Mechiras Chometz: Number 17**, see also **Numbers 27 – 32**). Please note: in case you forget to list a place, it is nevertheless included.

⓫ **PRIMARY PLACES OF THE CHOMETZ** – This should be a list of the main places where you intend to store the *chometz* as well as utensils etc. (See **Practical Guide to Mechiras Chometz: Frequently Asked Questions, number 4**.)

⓬ **LOCATIONS WRITTEN ON BACK OF DOCUMENT** – The שטר is being made for all *chometz* that belongs to you. This includes any **specific** *chometz* at work or at a summer home or a car(s) (that you

will not be using over Pesach). (See **Practical Guide to Mechiras Chometz: Number 17**.) The location for these places needs to be specified clearly in the שטר. (**Note:** if you will not be going to those locations over Pesach you can just write the address of the location and write that you are selling "all *chometz* found there" (though לכתחילה it would be best to list the specific chometz being sold). Otherwise write the specific location of the *chometz* items to be found there.) Also the location of **the חמץ of your children** should be written in the שטר, see **Number 34**.

⓭ **SPECIAL RENTAL** – This is for those wishing to sell/rent their entire house (or apt.) before the 14th of Nissan and thereby not be required to make a בדיקה on the night of 14 Nissan. In order to still fulfill the מצוה of בדיקה some part of the house would need to be excluded from the rental to the non-Jew. Write the **specific areas** that you wish to **exclude** from the sale/rental. (See **Practical Guide to Mechiras Chometz: Number 38** and **Number 53**).

⓮ **SHARES, STOCKS** – If you own any shares in a company that owns or deals in *chometz* items, please indicate in the *shtar* that it should be included. (See **Practical Guide to Mechiras Chometz: Number 21**.)

⓯ **GOODS IN TRANSIT** – This refers to *chometz* or possible *chometz* items that have been shipped to you via messenger, mail or UPS etc. and will arrive either on Pesach or were in transit during the days of Pesach. (See **Practical Guide to Mechiras Chometz: Number 27**.)

⓰ **PERIOD OF TIME** – Write in the **secular** dates from **Erev** Pesach through the last (8th) day of Pesach. **For example:** In **2018** the dates would be – **March 30, 2018 to April 7, 2018**.

⓱ **KEYS** – The location of the keys for the storage area(s) or house or business (or car) need to be written in clearly. (See **Practical Guide to Mechiras Chometz: Number 20** and **Number 24**). If you will be at home you can write "at address listed below." If you will be in multiple locations, write that in as well. If a neighbor or a landlord has a key/access you can write their address. (If your neighbor or landlord lives at the same address write their apartment number. For example: "apt. 2" or "upstairs neighbor.") If you use a combination lock you can write the combination in the שטר (in Hebrew if you wish) or write it on a piece of paper and give it to the Rav to hold separately.

⓲ **RENT OR SELL** the storage places – For the sale to be valid the storage locations (i.e. cabinet or closet) need to be sold or rented to the non-Jew. (See **Practical Guide to Mechiras Chometz: Number 25**).

⓳ **KEY TO THE CAR** – If you are including the *chometz* in your car in the sale, you must write in the *shtar* where the key to the car will be over all 8 days of Pesach (**and** also on Erev Pesach, after the fifth hour). (See **Practical Guide to Mechiras Chometz: Number 30**).

Note: if you have separate keys for the locks (doors, trunk) and the ignition, you need only give the key to the doors/trunk.

⓴ **ACCESS TO THE CHOMETZ** – This sentence means that you agree to give the **buyer** permission to enter any part of your home necessary for him to have access to the *chometz* that he is acquiring through this *shtar*. This is known as דריסת רגל. You must agree to this stipulation for the מכירה to be valid.

㉑ **VALUE** – It is necessary to write an approximate value of the *chometz* being sold. (Do not include the value of the appliance etc. only the value of the actual *chometz*.) The value **cannot** be a very high (exaggerated) amount and it **cannot** be "zero." A **reasonable** estimate should be written. (See **Practical Guide to Mechiras Chometz: Number 16** and also **Number 21**).

㉒ **AMOUNTS AND VALUE OF INDIVIDUAL PRODUCTS** – Those who wish can write this information on the back of the document (or on a separate paper attached to the שטר). (**Note**: Many hold that it is not necessary to have these details written in the document, but others hold that it should be done if at all possible.)

㉓ **KINYAN (קנין סודר)** – This is done in order to solidify the Rabbi's status as your representative in the sale of the *chometz* to the non-Jew. See **Practical Guide to Mechiras Chometz: Number 12** for a full explanation of this (and also see there **footnote 17 and 19**).

㉔ **DAY/MONTH/YEAR** – Fill out the secular date (clearly). (See **Practical Guide to Mechiras Chometz: Number 20**).

㉕ **SIGNATURE** – This should be your regular "legal" signature (in English). (See **Practical Guide to Mechiras Chometz: footnote**

17). (Also see **Number 33** regarding how to sign the *shtar* when filling out the document of behalf of someone else.)

㉖ **NAME/PHONE** – Make sure to write these clearly. (See **Practical Guide to Mechiras Chometz: Number 20**). The phone number must be one that you generally pick up and/or check messages.

㉗ **ADDRESS** – Usually you write the address of the place that the *chometz* will be at (i.e. your home). If it is an apartment, write in the apt. number and if it's a basement apartment write that **clearly**. If this document is for חמץ located not at your home e.g. *chometz* at your business or summer home etc., the **address for those locations should be written above** where it says **"LOCATIONS."** (If the שטר is only for those other locations then here you should write the address of where you will be staying over פסח.) ➔ **NOTE: A P.O. box is not acceptable.**

㉘ **FOR RABBI'S USE** – This applies **only** if the Rabbi is **transferring his authorization** to sell the *chometz* to someone else (i.e. another Rabbi). The Rabbi (or designee) that you are giving this document to needs to fill out this part.

㉙ **NAME** – The Rabbi (or designee) who is arranging the filling out of this document writes his name on this line.

㉚ **SIGNATURE** – The Rabbi (or designee) signs here in order to **transfer** his authorization **("**power-of-attorney**")** to the Rabbi that will be conducting the actual sale of the Chometz to the non-Jew.

שטר הרשאה

(הכללי)

1. נוסח שטר הרשאה – as commonly used by many Rabbonim (in Lakewood and elsewhere)
2. English translation of the שטר הרשאה
3. נוסח שטר הרשאה של הגאון ר' יוסף אליהו הענקין זצ"ל
4. נוסח שטר הרשאה – as used by K'hal Adath Jeshurun
5. נוסח שטר הרשאה – as used by the Bais Din of Australia

שטר הרשאה (הכללי) and it's translation

As mentioned (see Practical Guide to Mechiras Chometz, **Number 13** par. 3), in many places it has become the מנהג to use **two** types of שטר הרשאה. One is the "big" שטר הרשאה, in which there is basically a long Hebrew text (נוסח) on top and underneath people sign their name. In this שטר generally not too many details are given for each person's particular חמץ that is being sold. Primarily it has their name and address. (In some places people add the locations of the חמץ and the value.) While it is certainly a valid שטר, some felt that to make the מכירה look more concrete a more detailed שטר should be used. This lead to the development by Rabbi Blech (and others) for the separate detailed individual שטר in use in Lakewood (and also in many other communities).

However, since it was a long established מנהג to use the "big" שטר (especially in Europe), the עולם is נוהג to use it also. Now before a person signs a document he should read it first, yet the fact remains that when coming to the Rov to sell the chometz the שטר is hardly given a glance. **First**, it is written in Hebrew. **Second**, the letters are very small. And **third**, it is very long. The Poskim write that **לכתחילה** before signing one should at least read **the main parts** to understand what it is that he is signing.

To alleviate this issue, I have decided to print the שטר here in clear and readable אותיות. I have also tried to provide an accurate English translation. In addition, I have highlighted the main parts so that those in a rush can quickly glance and have a general understanding of the שטר.

I have also seen the שטר הרשאה as used by HaGaon HaRav Y.E. Henkin זצ"ל as well as the individual שטרות used by the Bais Din of K.A.J. and the Bais Din of Australia. I have found them interesting and enlightening and have printed them here as well.

נוסח שטר הרשאה (כללי)

(שטר שמשתמשין פה עיר לייקוואוד)

בע"ה.

אנחנו החתומים מטה, הן בחתימת ידינו, הן במסירת קולמוס, נותנים כח ורשות להרב_____ שיהיה שליח ומורשה על כל מין חמץ הנמצא אצל כל אחד מאתנו, הן בחדרים והן בעליות או במרתף, הן בחדר אחד והן במקום אחר, הן ביבשה או על המים, הן שלנו ממש, הן באחריות שלנו הן שהאחריות היא ע"פ ד"ת, או נימוסי המדינה, והן מצד אלמות והן חמץ גמור או תערובות חמץ, או נוקשה וחשש חמץ הן מיני משקין, ואפי' מהנעשים לרפואה, הן הראוים לאדם הן הראויין לבהמה, הן מיני אומנות וכל מיני אפיה, וכל מיני תבואה שיש בהם חשש חמץ, וכל מיני גרויפין וקמח ויי"ש ושכר ושאר משקין, ואפי' שאינו ניכר החמץ בהם, גם כל בעלי חי שלנו, הן סוסים, הן בהמות גסות או דקות, או צפרים ועופות, כל בעלי חי הניזונים מן החמץ,

גם כל איש מאתנו שיש לו איזה עסק והכנסה מחמץ פעקטרי או פאכט מבהמות וכדומה, בין שעסק הכנסה מהחמץ שייך לנו לחלוטין, בין שהוא מושכר לנו באיזה אופן, כללו של דבר על כל ענין חמץ וחשש חמץ שהפה יכול לדבר, והלב לחשוב, בין שהוא נמצא כעת אצלנו, בין שנקנה עוד עד יום ארבעה עשר לחודש ניסן דהאי שתא **חמשת אלפים ושבע מאות ו**_____ בשעת שמותר לקנות ולמכור, ובין שיהיה באחריותינו בכל מיני אחריות כנ"ל בין הדברים שאפשר שיבאו לידי חימוץ עד אחר הפסח, על הכל, בין על החמץ, בין על המקומות שהחמץ וכלי החמץ וכל ענינים הנ"ל מונחים ועומדים בהם, בין שהמקומות שייכים לנו לחלוטין, או שכורים, או שאולים, וכפי כל יפוי כח וזכות שיש לנו בהם,

על כולם אנחנו ממנים את הרב הנ״ל שיהא שליח במקומנו לעשות בכל עניני חמץ, וכלי החמץ והמקומות הנ״ל כמו שירצה, **ופיו כפינו, וידיו כידינו, ועשייתו כעשייתינו,**

והרשות ביד הרב הנ״ל לבטל ולמכור בשעה שמותר למכור לכל מי שירצה לקנות, ובכל מיני קנינים שירצה, והן שימכור במזומן או באשראי והקפה, לבטוח או לשאינו בטוח, ויכול לקבל מעות האופגאב לעצמו, והן שימכור, כפי השער או פחות מהשער, ואפילו בכדי אונאה, וגם ביטול מקח, וגם שלא יתן הקונה מעות כלל כלום, רק הרב הנ״ל יתן החמץ וכל הענינים הנ״ל במתנה גמורה לאיזה מאן דהיא או דהוא, כל מה שיעשה יהיה עשוי שריר וקיים, ולא נוכל לאמר לתקוני שדרנוך ולא לעוות, ובין שיעשה כפי הנהוג פה עד הנה, או באופן אחר בהוספה או בגרעון בכוונה או שלא בכוונה יקום הכל בתקפו בלי שום שינוי ועיכוב ושיור כלל. בין על כל עניני חמץ חשש חמץ בין על המקומות והחמץ, והרשות נתונה ביד הרב הנ״ל להשכיר או להשאיל את המקומות, וגם למכור אותם שהם שלנו לחלוטין,

וגם אם הגוי הקונה מהרב הנ״ל יצטרך דריסת הרגל דרך רשותינו ללכת להחדרים, בעליות ומרתפים אשר כל עניני חמץ הנ״ל מונח בהם הרשות נתונה מאתנו להרב הנ״ל שיתן להקונה דריסת הרגל, לו ולבאי כחו, וגם לנו רשות דריסת הרגל בכל המקומות שיהיה שייכים להגוי הקונה ובאי כחו,

וגם הרשות נתונה להרב הנ״ל שיכתוב להקונה ממנו שטר ע״פ חוקי המדינה להאריך הענין ולהרחיב הדבר בכל תוקף ועוז ולשון של זכות ויפוי כח, באופן היותר מועיל בין עפ״י ד״ת, בין ע״פ נימוסי המדינה ואנחנו הח״מ להלן הן בחתימת ידינו, או במסירת הקולמוס, מחייבים את עצמנו בשעבוד הגוף גמור, בפועל ממש לכתוב ולחתום ע״פ ערכאותיהם בכל תוקף ועוז בכדי שיקוים כל מעשה הרב הנ״ל, ולא יחסר אף קוצו של יו״ד.

והרשאה הזאת נעשית גלוי׳ ומפורסמת דלא כאסמכתא וטו״ד ובביטול ופיסול עידי מודעה כמו בגיטי נשים, וכל ספק לשון וגמגום או טעות וגרר ומחק יהיה נידן ונדרש לטובת השליח הרב הנ״ל ובאי כחו, והותנה בפירוש שאם חס ושלום תבוטל השליחות במקצתו מאיזה טעם שיהיה, בכל זה היא קיימת בתקפה בהמותר בלי שום גרעון כח חס ושלום ולא יבוטל כח השליחות לגמרי,

כל הנ״ל נעשה אצל כל אחד מאתנו ברצון גמור, וליתר תוקף ועוז לרווחא דמילתא הקנינו להרב הנ״ל שלוחנו בקנא״ס וכאלו נעשה בבי״ד חשוב ומעכשיו.

ולראי׳ בעה״ח כל אחד מאתנו, או בחתימת ידינו, או במס״ק, או בכח הרשאה, פה _____

חתימה _____

Translation of the Shtar Harsha'ah

(the shtar commonly used in Lakewood)

בע״ה, We whose names appear at the end of this document, either through our [actual] signature or through מסירת קולמוס (i.e. having someone else sign for us) give "power-of-attorney" and permission to Rabbi _____ to be our representative concerning all types of chometz that may be found by any one of us. Whether the חמץ is in a room or in the attic or in the basement or other area [e.g. garage or warehouse/storage area or business], whether on land or sea (or in the air). Whether it is חמץ which actually belongs to us or חמץ which does not belong to us but it is our responsibility to maintain; whether the responsibility is one placed on us by the Torah or one placed on us by the secular authorities, והן מצד אלמות. Whether it is chometz gamur or ta'aruvos chometz or chometz noksheh or something which we suspect might possibly contain chometz (sofek chometz). This also includes any liquid which contains chometz, even those which are for medicinal purposes. Whether the chometz is something consumed by humans or only by animals. הן מיני אומנות and baked items, and all grain that might have a suspicion of chometz; וכל מיני גרויפין and flour and whiskey/liquor or beer or other drinks, and even if the chometz is not recognizable in it. This also is includes all animals (or pets) belonging to us, whether horses or whether large or small cattle or birds (or fish). In other words, any living animal that is fed chometz.

Also if any one of us owns a business, or has a financial interest in a business or factory, that involves chometz, or a business involving animals etc.; whether the chometz is something that we actually own or it is leased to us in some manner. In other words, regarding

any item of chometz or possible chometz that one can state or imagine. Whether it is currently in our possession or whether it will be bought by us in the near future before the 14th of Nissan of this year _____ while it is permitted for us to purchase or sell it. Whether it will be our responsibility in any manner and whether it is something that might possibly become chometz between now and Pesach. In all of the above, regarding the chometz and regarding the storage areas that the chometz or chometz utensils, as well as anything else mentioned above, is being stored; whether the places belong to us or are rented or lent to us, with all legal rights that we have in them.

On everything we appoint the aforementioned Rav to be our agent in our stead, to arrange with the above chometz and chometz utensils and the storage places as he wishes and as he sees fit. **His mouth is like our mouth, and his hand is like our hand and his actions are like our actions.**

Permission is given to the aforementioned Rav to nullify and sell, during the time period that selling is permitted, to whoever wishes to buy and with any method of acquisition (קנין) that he desires; whether he sells for cash or on credit whether to someone trustworthy or even to someone who is not trustworthy. He may also keep the deposit money for himself. And he may sell all this whether for the market value or even below the market value even if the difference is more than 1/6 of the actual market value. וגם ביטול מקח. And even if the buyer gives no money and the Rav wishes to give it and all the associated items to him as a gift. To whomever he wishes. Whatever he does shall be approved and adjudicated and we cannot protest his actions and say "I sent you only for my benefit but not for my detriment." Whether he acts in a manner similar to that which has been done here in the past or in a different

manner by adding or subtracting any action; whether intentionally or unintentionally; it should all stand forcefully without any change or עיכוב ושיור כלל. Both regarding all the chometz and sofek chometz items and also regarding the locations of the chometz; **permission is also granted to the aforementioned Rav to rent or lend the locations or even sell the locations (those that belong to us).**

Also, it will be necessary for the non-Jewish purchaser to have the "right of passage" to get through our homes, attics or basements, etc to the places where these items will be located and we therefore give permission to the aforementioned Rav to give to the purchaser the required "right of passage" to him or to anyone sent on his behalf. And also [the seller] will give us "right of passage," to enter any of the locations that are being sold or rented or given to him [the non-Jew], during this time period, if necessary.

And permission is also given to the aforementioned Rav to write for the buyer a document valid according to the laws of the land; to write it at length and in detail and in strong and clear language stating the buyers unequivocal ownership in the best possible manner; whether according to Jewish law or whether according to the laws of the state and country and we the ones listed below, whether signing or having someone else sign for us, obligate ourselves completely and totally to allow this agreement to be written and signed in accordance with the laws and instructions of the secular courts in the strongest way possible in order that the actions of the aforementioned Rav be completely effective and validated 100% without any dimunition.

And this authorization is made openly and is well-known not like a "gentleman's agreement" and not like טופסי דשטרא, and we hereby

nullify and invalidate any עידי מודעה like by a divorce document (גט). And any ambiguity or error or crossed out or erased words, shall be judged in favor of the afformentioned Rav and/or any representative of his. And we explicitly condition that if his designation as our representative should in any way be partially nullified for whatever reason, nevertheless it remains in force in that which remains without any dimunition in his power, G-d forbid, and his designation should not under any circumstances become totally nullified.

All of the above has been made by each one of us with our complete agreement. And for additional force and strengthening, and to expand on the above, we grant to the aforementioned Rav to be our representative with קנין אגב סודר and as if it were done in front of a בית דין חשוב and from now.

And as a proof [of our designation] we each write our names below, [and designate him] either through our actual signature or through מסירת קולמוס ("giving the pen over" to someone else to sign for us) or through כח הרשאה.

Here in the city of _____

Signed _____

נוסח שטר הרשאה של הרה"ג ר' יוסף אליהו הענקין זצ"ל *[1]

אנחנו החתומים מטה נותנים כח והרשאה הן בחתימת ידנו, הן במסירת קולמוס, הן על ידי שליחנו ובאי כחנו, להרב _____, שיהי' ממונה ומורשה מאתנו למכור כל מיני חמץ, חשש חמץ ותערובת חמץ שלנו וגם החמץ וחשש חמץ ותערובת חמץ שיש לנו בשותפות עם נכרי, הן אלה שנמצאים בביתנו והן בעליות או במרתף או במקומות חוץ מביתנו ביבשה או על הים, או דברים החמוצים שהם שלנו ממש, או שהם של אחרים ורק הם באחריותנו, בין כשמוטל האחריות עלינו על פי התורה ובין על פי נמוסי המדינה ובין מצד אלמות.

הרב הנ"ל מורשה מאתנו למסור כל הנזכר, וגם כל בעלי חיים שלנו שניזונים מחמץ בכל מקום שהם נמצאים, למכרם לכל מי שירצה, ובכל מיני קנינים שירצה, בין במזומן בין בהקפה, בין לבטוח ובין לשאינו בטוח, ואפי' אם לא ישלם הקונה את הדמים שזקף הרב עליו במלוה גם כן יהי' המקח קיים, ובכלל כל מה שיעשה הרב בדברים החמוצים שלנו יהי' שריר וקיים ולא נוכל לטעון עליו לתקוני שדרתיך ולא לעוותי.

הרב הנ"ל מורשה מאתנו החתומים מטה להשכיר את כל המקומות שדברים החמוצים שלנו או בעלי חיים הניזונים מחמץ שלנו מונחים ועומדים שם. ואותן המקומות שאינם אלא שכורים לנו, יהי' להם רשות להשכיר להקונה להחזיק שם כליו ומטלטליו, ואם הקונה יהי' צריך דריסת הרגל דרך רשותנו אל המקומות שדברים הנזכרים מונחים שם, הרשות ביד הרב הנ"ל ליתן להם דריסת רגל דרך רשותנו, ואנו משאירים לנו הזכות שיהי' גם לנו דריסת הרגל אל המקומות שיהיו שייכים אל הקונה בכח הרשאה הזו אל הרב הנ"ל.

הרב הנ"ל מורשה מאתנו למכור גם את החמץ שעתיד לבוא ברשותנו עד יום ארבעה עשר לחודש ניסן דההיא שתא בשעה שמותר עוד לקנות ולמכור חמץ, וגם למכור את הדברים שיכולים לבוא לידי חימוץ בתוך ימי הפסח. ואנו מגלים דעת בזה שמן החמץ שעתיד לבוא לרשותנו לאחר זמן איסור, אנו מסלקים ידינו ואין אנו רוצים לזכות בו גם לאחר

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[1]* הועתק מספר **גבורת אליהו**, חלק או"ח סי' קל"ד, ליקוט של כתבי הגרי"א הענקין זצ"ל, נדפס ע"י ר' דניאל קליינמאן שליט"א.

שיבוא לרשותנו, והקונה הנכרי שהרב ימכור לו החמץ יוכל לזכות בו מן ההפקר.

והרשות ביד הרב הנ"ל לכתוב להקונה שטר מכירה באופן היותר מועיל על פי התורה וגם על פי חוקי המדינה.

כל הנזכר נעשה בקנין גמור אגב סודר במנא דכשר למקניא בי' כאלו נעשה בבי"ד חשוב ומעכשיו, וחומר שטר הרשאה הזה כחומר כל שטרי הרשאה דנהגין בישראל העשויים כתיקון חז"ל, דלא כאסמכתא ודלא כטופסי דשטרא. ושטר זה ישמש גם כשטר מכירה ישר מהחתומים למטה להאינו יהודי הקונה שיורשם להלן.

ולראי' בעה"ח כל אחד מאתנו או בחתימת ידנו או במסירת קולמוס או על ידי שליחנו ובאי כחנו, פה _____ (שם העיר) _____ (התאריך), [ואם תאריך ההרשאה הוא בערב פסח, יש להוסיף: **קודם זמן איסור חמץ**].

נאום: _____

(מקום כל החותמים על ההרשאה, עם שם משפחתם וכתובת מגוריהם).

אני הח"מ בא כח הנ"ל מוכר להא"י המוכ"ז _____ (שם הנכרי קונה החמץ ועיר מגוריו), כל מיני חמץ ותערובת חמץ וכלים חמוצים, ומשכיר מקומות החמץ, בכל מיני קנינים האפשרים על פי דין תורה ומנהג ישראל ובדינא דמלכותא דינא. וככל הפרטים המבוארים בשטר מכירה הארוך הרצוף לזה והנהוג במדינה זו.

וחת"י קודם זמן איסור חמץ, ניסן תשכ"א

נאם **יוסף אלי' ב"ר אליעזר ז"ל הענקין**

[ע"כ הנוסח שהשתמש רבינו בו רוב השנים. ובשנה אחת מצינו שכתב נוסח מוכר החמץ בלשון אחר קצת כדלהלן:]

אני החתום המורשה למכור כל מיני חמץ של הרשומים למעלה, כל מיני חמץ ותערובות חמץ, חמץ נוקשה וחשש חמץ, ומשכיר הכלים שהחמץ מונח בהם והמקומות של החמץ, בכל קנינים המעולים בכל מיני תוקף, כמפורש בשטרי מכירת חמץ הנדפסים הנהוגים פה, מוכר להאינו יהודי _____ (שם הנכרי קונה החמץ ועיר מגוריו) וחתמתי ידי, י"ד ניסן תשל"א. גם החמץ של אנשים שעדיין לא חתמו מחמת שכחה [ו]אונס ויבואו אחר זמן איסור חמץ היום, אנכי מזכה להם ומוכר חמצם מעכשיו קודם זמן איסור חמץ.

יוסף אליהו ב"ר אליעזר ז"ל הענקין

Shtar Harsha'ah of KHAL ADATH JESHURUN (Breuer's)

AUTHORIZATION FOR PESACH
מכירת חמץ

I hereby authorize the Rabbinate of K'hal Adat Jeshurun, Rav Zachariah Gelley, Rav Yisroel Mantel, Rav Jakob Posen, Rav Meir Levi or Rav Chaim Kohn or their designee to:

1) sell my Chometz to a non-Jew of their choosing, which consists of * (write items here or circle below only items to be sold)

_____

_____

as well as all other Chometz that is presently in my possession or I shall acquire until the time of the sale including any goods in transit;

2) rent to him the areas where my Chometz is stored, which are

_____

(address, apartment #) (See note below)

_____

(exact location where Chometz is stored, e.g. upper kitchen closet)

_____

3) grant the buyer free access to the Chometz he has acquired and to the areas he has rented.

The Chometz has an approximate value of $_____

The exact appraisal of quantity and value of the Chometz will take place after Pesach. In case of loss, the buyer will accept the buyer's description. The buyer's down payment is to be paid to either Rav Zachariah Gelley, Rav Yisroel Mantel, Rav Jakob Posen, Rav Meir Levi or Rav Chaim Kohn or their designee.

New York, Nisan 57___

Signature: _____ Date: _____

Name: _____

Address: _____

*Type of Chometz, i.e. baked goods, non-Pesach matzo, flour, yeast, cereals, bread crumbs, groceries, gefilte fish, canned goods, tablets, medications, cosmetics, animal feed containing Chometz, alcohol in beverages, shares in companies owning Chometz, etc. as well as bits of Chometz which adhere to untensils. (Rice, sweet corn, peas and beans do not have to be sold, although they are not allowed to be used.)

<u>NOTES:</u> If you are away from home during Pesach, please write down place where your keys are kept.

My keys can be obtained at: _____

Those going to a place (or possessing Chometz in a place) where there is a time variation from New York should ask a Shaaloh concerning when Chometz should be sold and כל חמירא said.

Shtar Harsha'ah of BAIS DIN of AUSTRALIA

Delegation of Power for Sale of Chametz

I, the undersigned, fully empower and permit Rabbi _____ to act in my place and stead, and on my behalf to sell all Chametz possessed by me, knowingly and unknowingly, as defined by the Torah and Rabbinic law (e.g. Chametz, possible Chametz and all kinds of Chametz mixtures). Also Chametz utensils and Chametz that tends to harden and adhere to inside surfaces of pans, pots or cooking and useable utensils, and all kinds of live animals and pets that have been eating Chametz or mixtures thereof. He is empowered to lease all places wherein the Chametz owned by me might be found, particularly in the premises located at:

_____

_____

_____ and elsewhere.

Rabbi _____ has full right to appoint any agent or substitute in his stead and said substitute shall have full right to sell and lease as provided herein. He also has the full power and right to act as he deems fit and proper in accordance with all the details of the Bill of Sale used in the transaction to sell all my Chametz, Chametz mixtures etc., as provided herein. This power of attorney to sell the Chametz shall be deemed to be in conformity will all Torah, Rabbinic and civil laws.

Name (in BLOCK LETTERS): _____

Signed _____

לעילוי נשמת

הרה"ג

הרב שאול

בן יהושע אהרן זצ"ל

וגשל

מיסד ומנהל מוסדות החינוך

לבנות ישראל

בעיר גייטסהעד אנגליה

פוסק ומחבר ספרים הרבה

בהלכה ובהשקפת היהדות

נלב"ע כ"ד סיון תשע"ב

ת.נ.צ.ב.ה.

לעילוי נשמת

הרב רבי ישראל יצחק
בן הרב מרדכי זצ"ל

נלב"ע ט"ו אייר תשע"ג

ת.נ.צ.ב.ה.