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10. Partnership between Two Investors and a Freedman
Traveling to Antioch and Aleppo
Feb., 1092

This document has been pieced together by me from three fragments, which form, however, a complete whole. Its importance can be gauged from the carefulness of its script and formulation and, in particular, its validation, which was signed by three judges who were the sons of the highest dignitaries of the Jewish High Council of Jerusalem. It is a classical example of a Middle Eastern commenda.

Yahyā ha-Kohen b. Samuel, the main investor, is known to me ^{al-Baqbādī} only from one other document, TS 20.93, dated June 27, 1094, when he sold his slavegirl "Dexterity", Hidhq, to another Kohen, perhaps a relative, see Med. Soc. I, p. 137. The other investor, 'Ullah ha-Levi, was very active in public life and is mentioned in at least thirty documents from 1084 through 1117, see Med. Soc. I and II, Indexes. The freedman Bishāra was originally the slave and business agent of a Tunisian merchant. A passage in a letter addressed to this merchant by ^{a friend} ~~another one~~, writing from Egypt, is too colorful to be withheld from the reader:

"Your slave Bishāra traveled in the sultan's ship. He carries with him for me flax, pepper, lac, and other commodities. I have explained to you in my previous letters the circumstances that forced me to do so. He is of poor ability, weak in accountancy, and very forgetful. I rely on your bounty that you will stand at his side when he sells, makes accounts with the representative of the merchants, and receives the dinars from the money changers. Fore he is not good in any of these things. Do me this favor with your customary kindness. I know this is an excessive demand, . . . but I rely only on God and on you."¹

Bodl a3 (2873), f. 20 (1098)
ENA 4020, f. 2
c. 14
(1116)

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This judgment probably was exaggerated, for similar requests for assistance in selling accounting are found practically in any letter referring to a consignment entrusted to a third person. Anyhow, Bishāra must have done well, for he was set free, either because his master was grateful to him for his services or wanted to get rid of him for other reasons or because he had saved money enough to buy himself free.

The document is mainly a unilateral declaration of Bishāra in which he specifies his obligations and rights. Therefore, copies were given only to the investors. A shorter and less sumptuous version no doubt was handed over to the freedman.

The writer of this document (and others, e. g., TS 20.93, mentioned above and No. 19, below), Abraham, the son of Isaac, the scholar (see Med. Soc. I and II, Indexes), was a native of Qayrawān and belonged to a scribal tradition different from that represented by his contemporary, the clerk Hillel b. Eli of Baghdad, see p. , above. He uses less legal verbiage, which seems to indicate that it was the clerks and not the courts who insisted on these matters. For instance, all the nice definitions of a dinar are omitted here.

TS 8 J 4, f. 11 plus TS NS J 6 plus 8 J 4, f. 12

This deposition was made before us, we, the witnesses signing this document, on Sunday, the 5th day of the month Adar of the year 1403 according to the era in use in Fustat, Egypt, which is situated on the Nile river. Thus it was:

There appeared before us M. R. Yahyā ha-Kohen, son of R. Samuel, m. E., and M. R. 'Ulla ha-Levi, son of R. Joseph, m. b., and Mevasser,² called Bishāra, the freedman, and spoke to us as follows:

We have asked God, may his name be exalted, for guidance and concluded a partnership among us. I, Yahyā ha-Kohen b. Samuel, m. E., and I, 'Ulla ha-Levi, son of R. Joseph, m. b. have contributed out of our own property 155 1/3 dinars, three quarters of which, namely 116 1/2 dinars, provided by M. Yahyā ha-Kohen and one quarter by M. 'Ulla ha-Levi, son of R. Joseph, may his end be blessed, to the amount of 38 1/2 and 1/2 dinars. I, Bishāra the freedman, contributed, out of my own property, 20 dinars, which makes a total of 175 1/3 dinars. For the sums belonging to M. Yahyā ha-Kohen and M. 'Ulla ha-Levi, I bought indigo costing 145 dinars and tamarisk galls³ for the price of 10 1/2 dinars, while I, Bishāra, bought here in Egypt whatever I saw fit for the twenty dinars, my share in the partnership.

I shall take with me all these commodities, which were purchased for 175 1/3 dinars, to Aleppo and Antioch and their environments - to no other place, as stipulated by my partners. Likewise, they have imposed on me the condition - and I have accepted it - that I shall sell only against cash, and not at loss,⁴ nor shall I grant a respite. I shall buy in those places whatever God - may his name be exalted - gives the opportunity to purchase and transport it to (Egypt). All the expenses made with regard to these goods will be returned to me, while my personal expenses will be refunded in the proportion of these goods to the total of merchandise handled by me. Of the profit made through Heaven's mercy, two-thirds will go to M. Yahyā ha-Kohen, son of R. Samuel, may he rest in Eden, and M. 'Ulla ha-Levi, son of R. Joseph, m. b., who will divide their share in proportion to the capital invested by them, and the remaining third will belong to me, Bishāra, the freedman.

Finally, I, Bishāra, have taken upon myself from now on to act concerning all details of this partnership as trustworthy before God and in good faith,

I shall conceal nothing from my partners, nor deprive them of anything, whether openly or secretly, not even of the worth of a penny. M. Yahyā ha-Kohen, M. 'Ulla, and M. Bishāra took upon themselves responsibility for all that has been detailed above, from beginning to end, etc.⁵

We have written and signed the document and given copies to M. Yahyā ha-Kohen and M. 'Ulla ha-Levi to be in their hands as a title of right and a proof.

An Aleph written above the line is correct and this is its validation.
Our signature was deferred to the 27th Adar of this year of 1403 of the Documents,
A k written on an erasure is correct and this is its validation.

(Signatures) Yākhīn, the cantor, son of R. Abraham, may (his) end be blessed.⁶

Isaac, son of Elazar, m. p.

Sedāqā ha-Kohen, son of R. David, m. p.⁷

(Validation)⁸

This document, whose text and signatures are written above, was validated before us, sitting, the three of us, in court. Its validity is evidenced by its witnesses, namely M. Yākhīn, the cantor, son of Abraham, m. b., M. Isaac, the elder, son of Elazar, m. p., and M. Sedāqā ha-Kohen, son of David, m. p., who have signed with their identifying marks.⁹ Since M. Isaac b. Elazar, m. p., appeared before us and showed us that this was his signature, while the handwriting of M. Yākhīn, the cantor, son of Abraham, m. p., is known to us, we rightly confirmed and validated the document.¹⁰

(Signatures) Abraham, son of R. Nathan, Father of the Yeshiva, m. r. b.¹¹

Abraham, son of R. Shema'ya, the hāvēr, m(a'y his) s(oul dwell) i(n bliss)

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a(nd his posterity) i(nherit the earth), descendant of Shema'ya Gaon,
m. E.¹²

S

Solomon ha-Kohen, son of R. Yoṣeph, Father (of the Yeshiva), son of
Solomon Gaon, m., r. b.¹³

NOTES

- 1) Bodl MS d 76, f. 57v, ll. 11-17. Farah b. Joseph al-Qābisī addressing Abu 'l-Faraj Nissīm b. 'Atīyya of al-Mahdiyya. Both merchants and a third one mentioned in the letter are known to have lived at the time of our document. The name Bishāra was extremely rare.
- 2) At his manumission, the freedman became a Jew and received a Hebrew name. It means the same as his Arabic name: "Bringer of good tidings."
- 3) Ar. 'adhba, up till recently generally used in the Near East for the preparation of astringents, eye salves, and colors. The Arabs regarded it as the fruit of the tamarisk, athl (Heb. ēshel) but it is in fact a gall developing on this tree, which is very common in Egypt. See Maimonides-Meyerhof, pp. 9 and 100, M. A. H. Ducros, Le Drog^uier Populai^re Arabe, Cairo, 1930, p. 32.
- 4) Text bil-faqd, which is simple Arabic, but has not been found by me in the Geniza elsewhere in this sense. The judge writing this document belonged to a specific tradition, see the introduction.
- 5) Four and a half lines in Aramaic containing the usual statements that no secret depositions had been made nor anything else been done impairing the legal force of the document.
- 6) The tiny letters above the signature (also in Dropsie 365) simply mean: "May he live."
- 7) The hardly visible letters above and beneath the signature represent the word "Truth", or rather are an acrostic of Psalm 85:12 "Truth springs out from the earth," meaning that any falsification of the signature will be found out in due course, see Med. Soc. I, p. 241.

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- 8) The validation of the signatures by the court is reproduced here in full, as a good example of this legal procedure.
- 9) That is, in a way clearly differentiating them from persons with a similar name, see Bab. Talmud Baba Bathra, 172a. For this reason many wrote those tiny letters above, or above and beneath their signatures.
- 10) Only two witnesses are legally required.
- 11) That is, the president of the Jewish high court of Jerusalem. Abraham wrote also the validation.
- 12) Signed documents 1092 through 1132. See Med. Soc. II, App. D, sec. 12.
- 13) Med. Soc. II, App. D, sec. 11. In Fustat 1077-1098. He signs here as last, which means, according to the protocol of the Jerusalem yeshiva, that he was the most prominent member of the court.