



CHICAGO RABBINICAL CURRENTS

July 2026

Volume III Issue 2

תמוז תשפ"ו



NEW INSIGHTS ON AN AGING TOPIC

by Rabbi Akiva Niehaus

Rabbi Niehaus is Director of Kashrus Operations and a Rabbinic Coordinator specializing in the Liquor Industry.

Introduction

The kashrus concerns raised by non-kosher sherry wine casks used for Scotch production are well-known, but the cRc's mission is clear: Research from the source to better understand the issues. In July 2016, I visited Scotland and learned first-hand about Scotch production and sherry casks used to produce it. Last May I visited Jerez de la Frontera, a city in southern Spain, to delve deeper into the subject, and learn more about how those casks are made. Another goal for this visit was to learn more about an exciting new venture: kosher sherry casks. My trip, guided by Rabbi David Dadash of Gibraltar Kosher, took me deep into the world of Spanish bodegas (wineries). I saw firsthand how sherry casks are made, seasoned, and shipped off to Scotland.

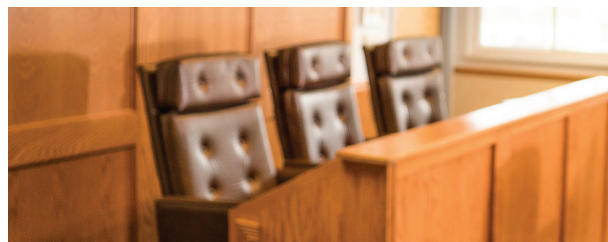
But first, what is sherry wine, and what makes it unique?

Sherry Wine Overview

Sherry is a type of fortified wine produced exclusively in the Jerez region of Spain. It's made primarily from the Palomino grape and is known for its dry, complex flavor. What sets sherry apart is its alcohol level and production process: Normal wine is around 5-12% ABV (alcohol by volume), but sherry wine is significantly higher, anywhere from 15% to 22% ABV.

What's the secret? Fortification. Meaning, they add grape alcohol to the wine to increase the alcohol level. Another difference: Some varieties, like Fino, develop a special layer of yeast called "flor" that protects the wine and gives it a distinctive nutty, yeasty character. Sherry is aged in oak barrels, often using the traditional "solera" system – a method of fractional blending, adding fresh wine to the top

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AN OVERVIEW OF *GET* PROCEEDINGS

by Rabbi Yisroel Langer

Rabbi Langer is a *Dayan Kavua* and Rabbinic Coordinator specializing in *tola'im*.

When a Get is Needed

When a couple decides¹ to get divorced the Torah says that this should be done by a process known as a *geirushin* in which a husband gives a "get" to his wife. If the couple gets divorced in accordance with the rules as prescribed by the Torah, they are performing a *mitzvah* in the Torah.² It's self-understood that this is not the type of *mitzvah* that one should strive to do. Rather if a couple exhausts all avenues of trying to achieve a harmonious relationship with each other and they conclude that it is not at all feasible for their marriage to continue, then they have a *mitzvah* to get divorced in the manner prescribed by the Torah. If a couple just gets a civil divorce and does not go through the *geirushin* process in which the wife receives a *get* from her husband, neither of them would be permitted to get remarried. If *Chas v'Shalom* the wife would get remarried

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1. See *Shulchan Aruch E.H.* 119:3-4 as to when it's permitted or sometimes even appropriate for a husband to divorce his wife.

2. This is derived from the *posuk* in *Devarim* (24:1) וכתב לה ספר (ובתב לה ספר (Rambam in *Sefer Hamitzvos* (222) and *Chinuch* (579)). See *Rashba* in *Teshuvos* (Vol. 1 *siman* 18) who discusses why no *bracha* is made on the *mitzvah* of giving of a *get*.



AN OVERVIEW OF *GET* PROCEEDINGS

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without receiving a *get* from her husband, halacha would view her new marriage as adultery and any children born would be considered *mamzeirim* and ineligible to get married.³ If the husband remarries prior to giving a *get* to his wife, he would be in violation of *Cherem D'Rabbeinu Gershom*⁴ which is not to be taken lightly.

Dayanim and Eidim

Get proceedings should be done in front of 3 Jewish men serving as *dayanim* of a Beth Din.⁵ At least one of the *dayanim* needs to be an expert in the laws of *Gittin* (divorce). In addition, there need to be two kosher witnesses serving as *eidim* for the signing and the handing over of the *get* to the wife.

The Need for a Sofer

Unlike a *kesuva*, which is often done on a preprinted document in which the *mesader kiddushin* just fills in the names and dates, a *get* needs to be written entirely “*lishma*” – for the sake of this couple and for the sake of divorce. Therefore, it is necessary to have a *sofer* (scribe)⁶ present to write the *get* in its entirety exclusively on behalf of the divorce of this couple. Ideally, if the couple getting divorced are both presently in the city in which the *get* proceedings are taking place, they should both personally appear in Beth Din together.⁷ If one of them is not presently in the city, or if circumstances don't allow them to both come together,⁸ then the husband may appoint a *shaliach* (agent) in his place to deliver the *get* to his wife.

Identifications

Prior to the writing of the *get*, Beth Din will need to ascertain the names and nicknames (if any) of the husband and wife who are getting divorced along with their fathers' names. The correct spelling of these names and which names should be used is critical to the kashrus of the *get* and should be carefully deliberated by one who is knowledgeable in this area. *Shulchan Aruch*,⁹ based on the *Mishna* in *Bava Basra* 167A, says that the witnesses who are overseeing the *get* must know or have evidence that the names being used in the *get* are indeed the names of the couple getting divorced. To accommodate this requirement, the one officiating the *get* should have either first-hand knowledge of the couple and their names or will ask for a picture ID from the couple as evidence of their identity.¹⁰

3. They could technically get married to a Jewish convert, but it may not be advisable as the next generations of children would all be *mamzeirim*. See *Beis Shmuel siman* 4 s.k.35 who rules that it is actually forbidden to bring *mamzeirim* into the world. 4. This is a *cherem* on any man who has more than one wife. 5. The *Noda B'Yehuda* (*madurah tenyana siman* 114) posits that having a Beis Din being present at a *get* proceeding is something which is deemed necessary. The *Tumim* (9 s.k. 2) supports this idea from *Targum Yonason* on the *posuk* in *Devarim* (*ibid*) who says ויכתוב לה ספר תירובין קדם בי דינא. Most *poskim* (see *Yabia Omer* Vol. 2 E.H. *siman* 13) disagree with this and only require a Beis Din to be present when the *get* is delivered through an agent outside of Eretz Yisroel (in which case the agent must say בפני נכתב ובפני נחתם in front of a Beis Din). The *Chassam Sofer* (O.C. *siman* 51) requires a Beis Din to be present so that a *pitur* (a document signed by the three *dayanim* that states that she is halachikally divorced) may be written for the wife. See also *Chazon Ish E.H.* 101:32. The *minhag* is to always have a Beis Din unless circumstances don't permit it (see *Yabia Omer ibid*). 6. Even if the husband is a *sofer*, the *minhag* is to appoint a different *sofer* to write the *get* (*E.H. seder haget*:10, and *Rema E.H.* 123:1). *Taz* (123 sk 2) explains because we are concerned that the husband may say at a later point in time that he wrote the *Get shelo lishma*. 7. *Shulchan Aruch* (*E.H. siman* 141:55 and *Pischei Teshuva* s.k. 53). 8. *Shulchan Aruch* (*ibid*) is concerned that if a *shaliach* is used to deliver the *get* even when the husband and wife are both present in the city, the husband may come later and deny that he appointed anyone to be a *shaliach* to give the *get* to his wife. The *Rema* says that if a *harshaha* (document signed by *eidim* in front of a Beis Din that they personally saw the husband instruct a *shaliach* to deliver a *get* to his wife) is given to the *shaliach*, he may hand over the *get* to his wife as the husband would not be believed if he comes later with the claim that he never appointed a *shaliach* to deliver a *get* to his wife. The *Pischei Teshuva* (*ibid*) quotes many *Achronim* who disagree with the *Rema*, and do not allow for the use of a *shaliach* if they are both in the city even if a *harshaha* is written. In practice, some *Batei Din* will send the husband out of town for the day after he appoints the *shaliach*, so they shouldn't be in the same city (*Kovetz Al Yad* Vol. 2 P. 202). The prevalent *minhag* among most *Batei Din* is to follow the *Rema* and rely on a *harshaha* when it isn't feasible for the husband and the wife to be present together (*Aruch Hashulchan* 141:35). 9. E.H. 120:3 10. See *Shu"t Tzitz Eliezer* (Vol. 11 *siman* 88) who says a picture ID such as a driver's license along with a copy of the marriage license or *kesuva* is sufficient evidence. In some *Batei Din* the one officiating the *get* will show the evidence of their identity to the witnesses, while in other *Batei Din* the one officiating will merely point out to the *eidim* that he has verified the names of the couple (*Kovetz Al Yad* [*Yadayim Mochichos* 120:10]). 11. *Gittin* 22B d"h *Vha* 12. The *Tosefta*

Declarations

The one officiating the *get* begins the proceedings by telling the witnesses to be introspective and repentant. The Rabbi then turns to the husband and verifies with him that he is giving the *get* of his own free-will and unconditionally. The husband must also declare that he has not made any oath or promise to either give or not give a *get*. As he may have made one but had perhaps forgotten about it, we have him do a *hataras nedarim* before the Beth Din to release him from any such vows.

One who is being forced to enter into a contract against his will can make a declaration in front of witnesses prior to the deal, that he is entering into the contract under duress and that the contract should not be binding. This is known as a *modaah*, and it effectively invalidates the contract. Prior to the writing of the *get* the husband must do a *bitul modaas* in which he states that he never made such a statement with regards to the *get* and has never said anything to render the *get* null and void. In the event that he may have made such a statement, he makes a declaration before the witnesses that he is hereby canceling any statement that he may have made that could potentially affect the validity of the *get*.

Appointing the Sofer

The Torah says “וכתב לה ספר כריתות” – ‘And he will write a *get* for her.’ The *Rishonim* argue as to who is the “he” that is supposed to write the *get*. According to the *Baalei Tosfas*,¹¹ there is no requirement for the husband to write the *get*; rather, any scribe can write it so long as he was commanded by the husband to do so. If the husband does not verbally¹² command the scribe to write the *get*, that is considered a lack of “*lishma*” in the writing of the *get*. However, the Tur¹³ posits that only

the husband or an agent that he appoints can write the *get*. In practice we are strict like both opinions, and we require the husband to command the *sofer* to write the *get lishma* (for his sake, for the sake of his wife and for the sake of divorce) and appoint him as well as his agent to write the *get*. According to many *Rishonim*¹⁴ the writing utensils, including the quill, ink and paper should all belong to the husband. Therefore, the scribe hands over all his utensils to the husband prior to the writing of the *get*, and the husband lifts them up three *tefachim* (about 10.5 inches) from off the table to acquire them. (After the *get* proceedings are over, the husband should give permission to the *sofer* to get them back.) The husband then appoints two *eidim* to sign and witness the delivery of the *get*.

Writing the Get

The *get* is then written by the *sofer* with a quill and special ink on paper. The *sofer* announces out loud in the presence of the witnesses that he is performing his task *Lishma* (for the sake of this couple and for the sake of divorce). He then sketches 12 lines on the paper on which he writes the *get*. The *get* is written primarily in Aramaic with a few words of *Loshon Kodesh* (Hebrew). It contains the date and year, the names of the couple that is getting divorced, the location in which the *get* is taking place and a statement that his wife is free from all her bonds of marriage and is free to marry anyone. The *eidim* must watch the *sofer* write at least the first line, after which they may walk out if they have a *siman muvhak* (distinctive sign) to be able to attest afterwards that this is the *get* they witnessed being written. The husband should not discuss the *get* from the time he appointed the *sofer* to write the *get* until it is delivered into his

wife’s hand.¹⁵ Ideally the husband should remain in the Beth Din until he delivers the *get* into the hands of his wife.¹⁶ This is done to ensure that the husband does not say anything that may potentially invalidate the *get*. After the *sofer* finishes writing the *get*, the *eidim* must sign the *get* using the quill and ink which now belongs to the husband. They must sign it in the presence of each other and in front of the *shaliach* (if the husband is not delivering it himself). Like the *sofer*, each *eid* must say prior to signing (in front of the other) that he is signing *lishma*.

The Beth Din together with the *eidim* will read through the *get* to make sure that there are no mistakes. The Beth Din will then ask a series of questions, somewhat like a checklist, to the *sofer* and *eidim* to be sure that no part of the procedure was missing.¹⁷ In many *Batei Din* the husband is asked once again to do a *bitul modaas* and to affirm all the statements that he made to the Beth Din prior to the writing of the *get*.

At this point the wife then enters the room. If she chooses, she could be present from the beginning of the *get* process. She is now addressed by the one officiating the *get* to confirm that she, too, is not being forced to take the *get*, or is under any oath to take it, or has made any statements that may challenge the validity of the *get*.

Delivering the Get

The husband is now ready to give the *get* to his wife. The Torah says “ונתן בידה” – ‘and he will place it in her hand.’ Although *Chazal*¹⁸ derive from *pesukim* that it is sufficient to simply place the *get* onto her property, in practice the *Rishonim* say that it should only be placed into her actual hands.¹⁹ The *get* is folded so that most of it will fit into her cupped

Gittin Ch. 2:10 says that the husband has to tell the *sofer* to write it as it would not be sufficient to command the *sofer* through writing, see *Shulchan Aruch* 120:5. 13. E.H. *siman* 120, as well as other *Rishonim*. 14. See B.Y. in the beginning of *siman* 120. 15. *Rema* (*sefer hagot* 23) 16. *Shu"t Rosh klal* 45 *siman* 29, see also *Mahabit* Vol. 2 *siman* 138 17. See *Chasam Sofer* (*siman* 51) who seems to think that this questioning is necessary as *eidus* to attest that a proper *get* was done. 18. *Gittin* 77A 19. *Rema* E.H. *siman* 139:14, See *Rabbeinu Peretz* in his *hogoas* to the *Sma"k mitzvah* 184:5. 20. A lefty will hold it with his left hand. 21. This can be done even if she is a *nidah* (*Levushai Mordechai* O.C. *mahadura kama siman* 22) 22. E.H. *sefer hagot* 85 23. See *Igros Moshe* E.H. vol 1 *siman* 137 24. This is in case she would have a child we would know with certainty the paternity of the child. 25. *Matzav Hayashar* on the *Zohar* Vol. 2 *Teshuvah* 18 p. 24 26. E.H. 119:7 27. E.H. 119:8 The *Medrash* in *Breishis Rabbah* ch. 33 reports that there was once a severe drought, and in the merit of a man who supported his ex-wife Hashem brought rain to the world.

hands. If she has any rings on her fingers, they should be removed so as not to be a *chatzitza* (a separation) between her hands and the *get*. Similarly, if the husband has any rings on his hands, they should be removed as well. The husband then says *הרי זה גיטך והתקבלי גיטך זה*, ובו תהיי מגורשת ממני מעכשיו, והרי את מותרת לכל אדם. In America the practice of many *Batei Din* is for the husband to also recite each phrase in English translation – “This is your Bill of Divorce, and accept this, your *get*, and thereby you shall be divorced from me from this very moment, and you are untied and free and permissible to anyone.” The wife should stretch her hands out and cup them together while the husband holds the *get* with his right hand²⁰ approximately 6 inches above her hands and drops it into her cupped hands.²¹ It is done in this way because the Torah says that he must place it into her hands rather than she take it from his hands. She then clasps the *get* with her hands, lifts it up three *tefachim*, places it into her pocket or under her arm and walks four *amos* (approximately 7 feet). All this is done to show ownership of the *get*.²²

Concluding

After the *get* is given, the Beth Din reads the *get* one more time to double-check that there are no errors and that the proper *get* was given. Once that is done a tear is made in the *get* to ensure that it will never be re-

used and the *get* then remains in the hands of the Beth Din. At this point there is a *cherem* from Rabbeinu Tam in place for anyone who spreads rumors that could affect the validity of the *get*.²³ The husband and wife receive a document (known as a *pitur* or *teudas geirushin*) signed by the *dayanim* that attests to their being halakhically divorced. The one officiating the *get* should inform the wife that she can't get married for a 92-day period²⁴ and that she can't get married to a *kohein*.

After the Divorce

After the divorce, the husband and wife should be careful not to be secluded with each other in a way that would violate the prohibition of *yichud*. If they are secluded, this could potentially necessitate another *get*. Although there is often friction and

sometimes animosity or even hatred between the divorced couple, it is appropriate for each of them to ask forgiveness and to forgive the other. Some²⁵ mention that if this is done with the right attitude it is a *segulah* for each one to have success in finding a *zivug sheini* (finding a new spouse). There are restrictions as to how close in proximity the divorced couple may live near each other, and one should seek Rabbinic guidance if they are unsure if they are living too close to each other.²⁶ They should try to limit their interactions with each other (although when they share children some degree of interaction is generally necessary); however, the ex-husband may financially support his ex-wife (even beyond *kesuvah* obligations and the like), which is in fact, considered a greater *mitzvah* than other forms of *tzedakah*.²⁷



FROM THE
Dayan's Desk
FEATURING
RAV YONA REISS

Av Beth Din of the
Chicago Rabbinical Council



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SHIURIM ON YUTORAH.ORG**

NEW INSIGHTS ON AN AGING TOPIC

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layer, and moving it to lower levels over time as old wine is taken from the lowest level. This ensures consistency and depth of flavor.

Why does this matter? These barrels, called sherry casks, once used for sherry, are highly prized by Scotch producers for the unique flavors they impart to whisky. Since sherry is almost never kosher-certified, these casks raise important kashrus questions for anyone who enjoys a good Scotch.

Specially Seasoned vs. Old Casks

One of the most striking trends I observed is the shift from using old, traditional sherry casks – barrels that held sherry for many years – to specially seasoned casks made just for Scotch production. In the past, Scotch makers relied on the authentic, long-used sherry barrels, which were saturated with wine and imparted deep, complex flavors. Today, however, most casks used for Scotch are brand new barrels that are “seasoned” with sherry for a short period (often just one or two years) before being shipped to Scotland. This practice is now widespread, as it’s more practical and cost-effective for both bodegas and whisky producers. While these seasoned casks do impart some sherry character, many experts believe they don’t match the depth and quality of the old casks – a point that’s especially relevant for those seeking the finest kosher options, see below.

Wine Inside

An interesting tidbit that we picked up is regarding wine which remains in the sherry casks during shipment from Spain to Scotland. It is commonly assumed that the bodegas intentionally leave about 5L of wine in the barrel to avoid the barrel drying out during shipment. However, the bodegas we visited told us that as a matter of practice they do not leave anything in the casks and the casks remain moist up to a month, long enough to survive the journey to Scotland. In fact, they said that any wine stored within could potentially go bad during the journey and ruin the barrel. Therefore, they generally empty it out entirely. We even saw a large number of sherry casks outside a bodega waiting to be loaded up for shipment to Scotland, and the barrels appeared to be empty with the bung hole wide open. However, they told us that upon specific request, they can put some wine back in the barrel. This can have an impact on the halachic status of the casks – more on that a different time.

Kashrus Questions

The concerns regarding the kashrus of Scotch aged in non-kosher sherry casks are well known and are discussed at length in this author’s work, *Sherry Casks: A Halachic Perspective* (2012). In short, the non-kosher wine absorbed in the cask walls mixes with the (kosher) Scotch whisky subsequently

stored within the cask, potentially affecting the kosher status of the whisky. For purposes of this article, let us discuss two potential arguments to permit such Scotch:

A) Perhaps the contribution of (non-kosher) wine to whisky is considered detrimental (נותן טעם לפגם) – see *Shulchan Aruch* (YD 137:4) that all beverages (other than wine) placed in an empty non-kosher wine barrel remain permitted because the wine is considered detrimental to the beverage stored in the barrel.

B) Perhaps the wine absorbed in the walls may be minimal enough – and insignificant enough – to say that it’s *batul*, nullified and inconsequential, when mixed into the Scotch stored within the casks. This depends on how one views the wine absorptions in the wall (see *Shulchan Aruch* YD 135:13 and *Shach* ad loc.):

a. Some *Poskim* consider the entire thickness of the walls to be filled with wine. Accordingly, the volume of wine absorptions is too great to be nullified.

b. However, other *Poskim* argue that just the *klipah* – the thinnest amount which can be peeled from the interior of the cask – is filled with wine, and this minimal amount of wine is surely *batul* and considered insignificant.

These arguments appear to be challenged based on our observations, as follows:

High Alcohol

As mentioned previously, sherry wine is fortified with added grape alcohol, and contains a significant amount of such alcohol, raising it from ~10% ABV to as high as 22% ABV. This raises the question that since this

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Seasoned Sherry Casks



Rabbi Niehaus and Rabbi Dadash visiting a local sherry winery

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alcohol level can be about 50% higher than regular wine, perhaps sherry is not considered standard wine but brandy (*yayin saraf*), which may have different halachic guidelines, as follows:

1) As explained, some argue that perhaps the contribution of wine absorptions to whisky is considered detrimental (לפגם). However, *Noda B'Yehuda* (Tinyana, YD siman 58) writes that brandy – unlike wine – is considered an enhancement when mixed with other beverages, especially in whisky. If we consider sherry wine to be *yayin saraf*, perhaps there's no room to argue that the wine absorptions in Scotch are considered detrimental.

2) Finally, some argue that perhaps the wine is only absorbed in the walls a minimal amount, just the *klipah*, and this minimal amount of wine is surely *batul* and considered insignificant. As mentioned, there is a dispute if the wine absorbs through the entire thickness of the walls, or if the wine is only absorbed *k'dei klipah*, a minimal amount. However, it's important to note that *Noda B'Yehuda* (Tinyana, YD siman 67) writes explicitly that all agree that *yayin saraf*, due to its high alcohol level, is absorbed in the full thickness of the walls. The fact is that the walls are so thick that the wine absorbed within is not even 1:6 against the whisky stored within. If so, it would seem that all would agree that the sherry wine absorbed in the walls of the cask is not minimal enough to be *batul* in the Scotch.

To summarize, if sherry wine is classified as brandy (*yayin saraf*) due to its higher alcohol content (fortified), this can significantly impact the halachic status of Scotch aged in sherry casks due to the *Noda B'Yehuda's* position that a) brandy – unlike wine – is considered an enhancement when mixed with other beverages, especially in whisky, and b) all agree that brandy, due to its high alcohol level, is absorbed in the full thickness of the walls. Both points will cause the absorbed wine to be considered significant and consequential, unable to be nullified and ignored.

This question, if (fortified) sherry wine should be classified as *yayin saraf* due to its higher alcohol content, was presented to Rav Yona Reiss, cRc Av Beis Din. His view was that while sherry is indeed stronger than standard table wine, it does not clearly reach the threshold of brandy (which typically ranges between 35% and 45% ABV) and falls into something of a middle ground. Although this is another point to take into account, any *Posek* who has already adopted a lenient stance will likely argue that the *Noda B'Yehuda* – in both

stringencies – was referring to true brandy – not sherry wine.

To note, the cRc position – shared by the vast majority of *hashgachos* – is that Scotch which is labeled or advertised as being aged in sherry or other wine casks should be avoided due to the significant kashrus concerns involved.

Kosher Sherry Casks

Another goal of the trip was seeing firsthand the groundbreaking project of Gibraltar Kosher: making kosher-certified sherry casks in conjunction with La Trinidad, a small bodega. The idea is simple – make kosher sherry wine, age it in barrels, and then use those barrels for kosher Scotch.

In reality, it's anything but simple! It takes careful supervision to make kosher sherry wine, special kosher grape alcohol for the fortification, and lots of patience – it takes two years of aging to make an official sherry cask. To ensure the wine (and casks) remains kosher during the aging process, the barrels are sealed and locked to keep everything kosher. Further, every time the bodega needs to access the wine barrels, such as for taste testing or to measure the evaporation levels, a *mashgiach* must come down to access the sealed barrels.

These barrels are currently aging and slowly seasoning, but when they're ready, they can be used to make kosher Scotch aged in kosher sherry casks! This is a fabulous way to avoid the kashrus concerns of standard (non-kosher) sherry casks. But here's the catch: due to the significant kosher oversight required, kosher sherry casks can cost twice as much as regular ones, and as mentioned some experts say that specially-seasoned sherry casks – industry wide – don't match the flavor of the old, well-seasoned barrels. So, while the project is exciting, it's still unclear if there's a big enough market for kosher-certified Scotch aged in these casks.

Conclusion

In conclusion, my trip to Spain gave us a new appreciation for the complexity behind every bottle of sherry-aged Scotch – and the dedication of those working to make kosher options available. cRc Kosher invests time and resources to research and investigate kashrus issues and questions across the globe, even as far away as Spain. Whether you're a whisky enthusiast or just curious about kashrus, there's a lot more to those barrels than meets the eye.



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Executive Director



2701 W. Howard Street
Chicago, IL 60645

Questions? Comments? Feedback?

773.250.5499

office@crcweb.org

www.crcweb.org

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