



Business weekly

a project of the Business Halacha Institute

PARSHAS DEVARIM
FRIDAY, JULY 16 2010
VOLUME 1 ISSUE 17
under the auspices of
Harav Chaim Kohn, shlita

STORYLINE

sooner or later

By Rabbi Meir Orlan, Yerushalayim
Halacha Writer for the Business Halacha Institute

Shlomo was sitting on the bottom bunk and writing an obligatory letter from camp to his grandmother when Moshe's face appeared, upside down, from above.

"Would you like to go swimming with me?" Moshe asked him, hanging onto his yarmulke with one hand. "My cousin is the head lifeguard, and he told me I could use the pool during rest hour today with the staff kids."

"Sure!" said Shlomo. "I'm almost finished with my letter."

They were on their way out, towels around their necks, when Shlomo decided to turn back to get his goggles. Moshe said, "If you're going back anyway, can you take my watch? It isn't waterproof." Shlomo took the watch, ran into the bunkhouse, and tossed it onto his bed.

The fact that all of the other swimmers

stayed in the shallow end of the pool made their swim very enjoyable. When they returned to their cabin, Moshe asked Shlomo for his watch.

Shlomo clambered up to his bed and froze. "I thought I left it right here!" he exclaimed. He lifted the mattress. He shook out the quilt. He fished around inside his pillowcase. No watch.

"I can't find it," he told Moshe apologetically. Yisrael, Pinny, and Chaim joined the search. Soon the whole bunk was involved. A debate began among the bunkmates: was Shlomo responsible for the missing watch?

Yisrael claimed that Shlomo was just doing Moshe a favor by holding the watch and shouldn't be held responsible. Chaim, on the other hand, insisted, "This is a classic case of shomer chinam (a guard without

pay)! He isn't responsible for loss or theft, but he is accountable for negligence. He has to pay for it."

Yisrael shot back that this was a case of loss, for which a shomer chinam is exempt. Furthermore, the watch would probably turn up sooner or later.

"Maybe since the watch was not put away safely, it should be considered negligence on Shlomo's part, and he is accountable," Pinny put in. "Anyway, we're having a special shiur with Rabbi Dayan today. We can ask him."

"Great!" Shlomo and Moshe were pleased with the idea.

After the shiur, the boys related the story to the rav. Rabbi Dayan listened attentively, and said, "This case is addressed in Gemara Bava Metzia, which you have in front of you. Open up to page 35a, where Rav

continued on reverse side

FROM OUR HOTLINE

Submitted by
M. L. Hirsch

cash on delivery

I ordered cholent from a local caterer for a family simcha. When the caterer dropped off the cholent, he insisted on receiving full payment immediately. I had figured that he was going to send me a bill at the end of the month and I would pay at that time. He informed me that their policy was to take payment upon delivery and added smilingly that their policy will offer me an opportunity

to fulfill the mitzvah of paying a worker on time. I didn't have the time to argue with him, so I paid him.

Q: Was the caterer correct in his assertion?

A: The caterer is correct that there is an obligation to pay a contractor on the day that

he finishes his job, but he was incorrect in his application of that halacha to your case. The Torah obligates an employer to pay his worker upon completion of the term of employment. If one finishes during the day, the employer must pay him before sunset (Devarim 24:15) and if the worker finishes at night, the employer must pay him before dawn (Vayikra 19:13). Shulchan Aruch

continued on reverse side

INSURANCE PLANNING

Long-term care
Disability income replacement

Life insurance with free
long-term care rider

Call: Freyda Mermelstein
718-805-1885

LEASELAND
Since 1991
Auto Leasing & Sales Inc.
(800)223-5327
info@leaseand.com

To place your logo here, email info@businesshalacha.com

ELI S. FIXLER
ATTORNEY AT LAW
CHASE MANHATTAN BUILDING
1507 AVENUE M
BROOKLYN, NEW YORK 11230-5214
718-382-5454
TELEFAX 718-732-4542

MAVEN MOTORS
at the Four Corners
Fallsburg, NY

NY State Inspection only \$21
Open all year round

845-434-8600

Shomer Shabbos, Torah and Mitzvos

STORYLINE CONTINUED

Nachman rules that a shomer chinam who says, 'I don't know where I put the item,' is considered negligent. Therefore, Shlomo, you have to pay for the watch, and cannot say, 'I'll find it at some point'."

Ten months later, Shlomo was eagerly packing for camp again when he suddenly let out a shout. He pulled out his old camp list and called Moshe at his home in Cleveland.

"Shlomo!" Moshe was excited to hear his friend's voice. "Are you going back to camp this summer?"

"I sure am. I put your name on my bunkmate request form. But guess what – I just found your watch!" said Shlomo. "It must have slipped off my bed that day and fallen into my suitcase pocket."

"Wow," Moshe laughed. "But what do we do now? I already used the money you gave me towards the purchase of a new watch. I'll call Rabbi Dayan and ask him what the halacha is."

Rabbi Dayan told him that in the continuation of the Gemara, Rav Nachman revoked the collected

payment when the item was later found

He added, "If the missing item was there the whole time, the payment was made in error, and should be returned. However, Rav Moshe Feinstein zt"l differentiates between something found shortly afterwards, in which case the payment is considered in error, and something found long afterwards, in which case there is a need to collect payment meanwhile (Dibros Moshe Bava Metzia 41:12). Had you found the watch shortly afterwards, perhaps we could have considered the payment in error. [In truth, Rav Feinstein maintains that the payment is revoked only if it was forcibly collected by court, not if willingly paid, but others argue.] However, since you cannot be expected to wait until now without a watch, the payment is not considered in error, and you do not have to return the money."

FROM OUR HOTLINE CONTINUED

(Choshen Mishpat 339:6) writes that this obligation applies to contractors just as it applies to salaried employees. When the contractor delivers the final product, he must be paid either before sunset or before dawn, depending on when delivery was made. This obligation is limited to a contractor and does not apply to someone who sells a product. Thus, a salesman may not invoke the mitzvah of paying a worker on time in order to be paid for the product that he sold. Using our example, is the caterer selling you the cholent or did you contract him to make a cholent for you? The answer to this question will determine whether there is a

mitzvah for you to pay for the cholent on the day that it is delivered. Ketzos Hachoshen (339:3) in the name of Mahar" a Sason explains that when the contractor supplies the materials, it is considered as though he is selling a product. When the contractor uses materials supplied by his employer, he is considered a contractor. Therefore, since your caterer bought the ingredients for the cholent and delivered the final product to you, it is considered a sale of cholent. As a salesman, the Biblical obligation to pay a worker on time does not apply.

Please contact our confidential hotline with your questions & comments
877.845.8455 ■ ask@businesshalacha.com

MONEY MATTERS

truth in advertising week #3

Q: If my competitor has a superior product than mine or offers a better price, can I try to convince a potential customer to buy from me despite the superiority of my competitor's offer?

A: A seller is allowed to mention the positive aspects of his product in order to drive

the sale, provided he does not mislead or misinform the customer. For example, he can enumerate all the positive aspects of his product or say that the price is a good one, but he cannot falsely state that he is offering the top-rated brand or the best price in the area.

It is only considered misleading the buyer if there is some element of falsehood or false

impression in his sales pitch. If the customer decides to buy based on truthful statements of the seller without investigating the matter further, that sale is halachically permitted. Furthermore, we can assume that the consumer entered the store or read the advertisement with the clear understanding that the seller will try to convince him to buy his product.

Name _____
Address _____
Phone _____
Email _____



Project Mazon

Jewish Community Council of Marine Park
Annual Bar-B-Que
to benefit Project Mazon
(718) 407-1832 • info@projectmazon.org

**ENTER RAFFLE TO WIN
2 year lease for
a Honda Insight**

Taxes and registration are the responsibility of the winner

Ticket Amounts:

☐ 1 Ticket \$36 ☐ 4 Tickets \$100 ☐ 10 Tickets \$180

Sponsored by:



PLAZA AUTO LEASING
718-975-9000



MARINE PARK

Raffle will be held
at Plaza Auto Leasing
2750 Nostrand Avenue
on September 1, 2010
at 10:00 AM



Tickets can also be
purchased online at
www.projectmazon.org

To sponsor a newsletter for \$180,
send an email
to info@businesshalacha.com

TO RECEIVE THIS NEWSLETTER FREE OF CHARGE, EMAIL SUBSCRIBE@BUSINESSHALACHA.COM

All new subscribers will receive a free copy of our popular publication, Money - The Bottom Line, in pdf form

Business Halacha Institute ■ 718.846.2501 ■ www.BusinessHalacha.com