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STORYLINE

what constitutes 'destitute'?

By Rabbi Meir Orlian

Halacha Writer for the Business Halacha Institute

It was Purim time, and the bimah (table) in shul was covered with charity boxes for matanos la'evyonim (gifts for the poor). The boxes represented a full array of charity organizations, Torah institutions, and medical foundations. Prominent among the collection boxes stood one that read "Local Community Charity Fund".

Towards Purim, the local charity committee had received many requests for assistance and they were trying to make some order of the requests.

The gabbai (administrator) picked up some letters and read them:

"We took out a large mortgage five years ago, but recently lost both our jobs due to company downsizing. We are constantly trying to borrow money for the mortgage."

"I used to be a great philanthropist. I invested heavily in the stock market and lost

almost all my fortune in a risky buy and am now in tremendous debt."

"I retired several years ago, and social security does not suffice to cover our needs. We don't have large pensions, and are afraid to liquidate the savings that we have."

"I work at occasional odd jobs, but am not able to make ends meet."

"Our jobs provide enough salary for general expenses. However, we are about to marry off a child and also have a sickly child who requires expensive medical treatments."

"We were recently married, and used our credit card freely to set up house. We now are in a spiraling cycle of debt and interest."

"These are some the requests that we received," the gabbai concluded. "We need to draft guidelines for distributing the money."

"Let's ask Rabbi Tzedek," one of the committee members proposed.

"Excellent idea!" the gabbai concurred. "I'll arrange a meeting with him."

The committee met with Rabbi Tzedek. "We received many requests for charity and know of other people in need who are embarrassed to ask for assistance," they said to him. "Who is considered 'poor' and entitled to receive matanos la'aniyim and charity?"

Rabbi Tzedek answered, "Nowadays, whoever doesn't have a stable income or supplemental savings to provide for his family for the coming year is entitled to receive charity and matanos l'evyonim, although priority is given to those in greater need."

Rabbi Tzedek then explained: "The Torah awards a number of agricultural gifts to the poor as charity: leket, shikcha, pe'ah, and ma'aser ani. The Mishna (Pe'ah 8:8) teaches that whoever has 200 zuz (silver coins) is not entitled to collect these gifts. This sum of

continued on reverse side

FROM THE BHI HOTLINE

Submitted by
G. M.

special order sefer

I asked the local bookstore owner about a hard-to-find sefer I was looking for. He told me that although he did not have it in stock, he would order it for me and let me know when it arrived.

I asked him to simply put it on the shelf where he usually puts sefarim for me. The sefer arrived and he placed it on the shelf, but by the time I came to pick it up the next

day, it was gone.

I figure that since I never received the specially ordered sefer, I don't have to pay for it. He insists that he did his job of ordering and delivering the sefer as instructed, and I should be liable to pay him the full retail price.

Q: Am I obligated to pay him?

A: The question of compensating the storeowner for ordering and delivering the sefer, though you did not benefit from the service, relates to the mechanics of becoming an arev (guarantor) in a case where the guarantor instructed the lender to spend money for a purpose from which nobody ultimately benefited.

Rema (C.M. 380) cites two opinions as to

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STORYLINE CONTINUED

200 zuz was the amount of money necessary then to sustain a person for a year.

"Based on the Mishna, contemporary authorities write that if a person doesn't have the means to sustain himself and his family for the coming year, he is entitled to receive charity, even if he is able to cover his immediate needs. However, if a person has a stable salary that suffices for his family or has sufficient savings to provide for the year, he is not entitled to receive charity.

"People who are in financial need because of medical needs or overburdening loans are also entitled to charity. However, people who plunged themselves into poverty through extravagant lifestyle or risky investing should not take charity, unless they have no resort through loans or private gifts. Even so, they are of low priority (HaGaon Rav Y. S. Elyashiv shlita). Furthermore, if the person will have exceptional expenditures that year, such as for marrying off children, he is entitled to receive charity even if his salary suffices for daily living (Igros Moshe Y.D. 1:148)."

"What about a person who owns a house or a car that he could sell?" asked the gabbai.

"A person is not required to sell his house, even if he could buy a smaller house or live in a cheaper neighborhood," answered Rabbi Tzedek. "However, if he has other spare or luxury items that he could sell at fair value, which would provide enough money to sustain the family for the year, he should sell them before taking from a communal charity fund (Y.D. 253:1; Shevet Halevi 2:125)."

"Is there any difference between regular charity and matanos la'evyonim on Purim?" asked the gabbai.

"Although the Megillah states, 'matanos la'evyonim' – gifts to the 'destitute' – the guidelines remain the same as for other charity to the poor, although the destitute take priority to others who are less needy," answered Rabbi Tzedek (see Aruch Hashulchan O.C. 694:3). "On Purim, though, we do not investigate the needs of those who ask, but rather give to anyone who extends his hand for assistance (O.C. 694:3)."

FROM THE BHI HOTLINE CONTINUED

whether Reuven is obligated to reimburse Shimon if he says to him, "Throw money into the sea and I will repay you". Many authorities explain that a guarantor accepts liability to repay a loan in exchange for the fact that the lender listened to his instructions to loan money, without regard to whether someone would benefit. Accordingly, Reuven is obligated to repay Shimon for throwing the money into the sea since Shimon listened to his instructions to do so.

A second approach explains that the liability of a guarantor is in consideration of the fact that he received the benefit of the loan. Rather than take the money personally, he chose to direct the money to the "borrower". However, that is inconsequential to his liability.

It is still considered as though he received the benefit of the loan and thus becomes liable to reimburse the creditor (Rashba Kiddushin 8a, see Avnei Miluim 29:8 for a different explanation).

Since the guarantor's liability is linked to the actual benefit that was received, in a case when there is no benefit, e.g. the case where the money is thrown into the sea, Reuven does not become liable for the money (see Nesivos 340:14 and 344:1, and Erech Shay 77:1).

These two approaches are cited in Shulchan Aruch (Choshen Mishpat 380:1 Even HaEzer 30:11) without a definitive ruling (Avnei Miluim 30:13).

As such, it is appropriate for the two of you to reach some sort of compromise.

Please contact our confidential hotline with your questions & comments

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MONEY MATTERS

payment of wages week #6

Q: When is considered "payment day" in halacha?

A: The proper time for payment depends on the terms of employment and the nature of the job. If a stipulated time was agreed upon, payment is due then. For regular employees, this typically means a weekly, bi-weekly, or monthly "pay day." For contracted work, if

the invoice allows 7, 14 or 30 days for payment of services, wages are due by then (C.M. 339:9-10). If the employment terms do not stipulate a time, but there is a clear local practice for that type of work, e.g., the first or last day of the month, payment is due then (C.M. 331:1-2). If the employment terms do not stipulate a time and there is no local custom, payment is due on the day or night that

the services were completed (C.M. 339:3-4). Therefore, for a per-diem worker or plumber who did repairs during the day, payment is due that day; for a musician who performed at an evening bar mitzvah, payment is due that night.

If an employer doesn't expect to pay immediately, he should clarify this beforehand with the worker.

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