

BUSINESS WEEKLY

under the auspices of
HaRav Chaim Kohn, shlita



Restoring the Primacy of Choshen Mishpat

ISSUE #202 / PARSHAS TAZRIA
FRIDAY, MARCH 28, 2014
26 ADAR II 5774

BUSINESS WEEKLY FOR THE MONTHS
OF ADAR HAS BEEN DEDICATED
BY MR. ERIC ROTHNER
IN MEMORY OF HIS FATHER,
נפתלי מיכאל בן נתנאל
ז' אדר

STORY LINE

by Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

No Wage

Mr. Fine needed his organization's brochure translated into Hebrew. He received a bid from Mr. Menashe Meilitz for \$30 a page. Mr. Fine asked him about his training, explaining that he was willing to offer the job only to a professional translator with a qualified college degree.

"I have an advanced degree," replied Mr. Meilitz, "and much experience with this kind of brochure."

Mr. Meilitz's price was the best offer among the professional translators, so Mr. Fine offered him the contract for the twenty-page brochure.

A week later, Mr. Meilitz returned the translated brochure, with a bill for \$600. However, Mr. Fine was disappointed the translation.

"I appreciate your prompt work," Mr. Fine said to him, "but am disappointed with the

quality."

"What do you mean?" asked Mr. Meilitz.

Mr. Fine explained that the translation was acceptable, but lacked the power and command of language found in other translations he had seen. "Where did you get your degree?" he asked Mr. Meilitz.

"City University," replied Mr. Meilitz.

"What degree do you have?" asked Mr. Fine.

"I'm in the middle of earning my M.A.," said Mr. Meilitz. "I hope to be getting my certification next year."

"You told me that you already completed an advanced degree," replied Mr. Fine. "I made it clear that we wanted only a qualified translator degree."

"I know that I can do a reasonable job," Mr. Meilitz replied, "degree or no degree."

"But your work is not on the professional level we expected," Mr. Fine said. "We only agreed to pay you \$30 a page for a professional translation. If you're not professional, we're willing to pay only \$15 a page."

"That's quite low," said Mr. Meilitz. "Even without a professional degree, most people get around \$25 a page."

"You deceived us," insisted Mr. Fine. "We're not willing to pay more than \$15."

"You can't just drop from \$30 to \$15 a page," said Mr. Meilitz. "I would not have done the work for less than \$20 a page."

"But the whole price agreement was in error," said Mr. Fine. "You misled us! I'd like to ask Rabbi Dayan whether we owe you anything!"

"And I'd like to know if you can pay less

continued on reverse side

Stolen Credit Card

I recently discovered that one of my employees was using the company credit card for personal use. I discussed the matter with him and he agreed to repay the amount that he charged in addition to the finance charges that accrued. However, it occurred to me that there may be an issue of ribbis (interest) for me to accept money for the finance charges that accrued over the months he used the card.

Q: Am I permitted to demand that he pay

the full bill, including the finance charges?

A: Before addressing your question, it is necessary to emphasize a related matter that lays the foundation for your question. When someone "borrows" your credit card, two loans are being made. There is a loan from the credit-card company to you and a loan from you to your friend. The credit-card company has an agreement with you, the cardholder, and whenever the card is swiped, it obligates you to pay the amount

charged, plus any additional fees and penalties.

When you "lend" your credit card to a friend, you, the cardholder, agree to assume a debt because your friend assures you that he will repay. This obligates him to compensate you, since from a halachic perspective, he has borrowed the money from you. If the payment is late, the credit-card company will charge you a fee that constitutes interest, but you may not obligate your friend to reimburse you for that

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than \$20!" replied Mr. Meilitz. "Let's go!"

The two went to Rabbi Dayan. "Mr. Meilitz quoted me a price of \$30 a page for a translation job on the basis of false information," claimed Mr. Fine. "How much must I pay?"

"Mr. Fine must pay the going rate for such a job," answered Rabbi Dayan. "If there is a range of prices, he would pay the lower end of the range for similarly qualified workers."

"Why is that?" asked Mr. Fine.

"When there is a significant error in the price agreement, one that nullifies the arrangement, the job was effectively done without an agreement," explained Rabbi Dayan. "When a job is done without a price agreement, the employer has to pay the value of the work that he gained through the service" (Tumim 89:8; Rema, C.M. 332:4).

"Why did you say the lower end of the price range, though?" asked Mr. Meilitz. "Why not the average rate? That would seem fairer to both sides."

"It might seem so," replied Rabbi Dayan. "However, since there was no agreement, when the worker comes to claim his wages from the employer it is not clear how much he deserves. In such a case we apply the rule of "hamotzi meichaveiro alav hare'ayah — the burden of the proof is on the plaintiff." Furthermore, since an employer is always looking for the cheapest price, the worker needs to stipulate a price if he wants more" (see Mishpetei HaTorah, B.M. #59; Pischei Choshen, Sechirus 8:13; Shach 332:17).

"You mentioned, though, that the price is determined by similarly qualified professionals," pointed out Mr. Fine. "What did you mean by that?"

"In many fields there is a significant difference between one who is licensed, has advanced degrees, years of experience, etc., and an inexperienced worker," said Rabbi Dayan. "In this case, we need to look at workers in a similar category."

expense, since it would involve charging him interest (Y.D. 168:17; Taz 170:3).

Even agreeing that he will pay the credit-card company directly violates the prohibition, since in reality he is paying money to the credit-card company to satisfy your debt, and paying more than was borrowed violates the prohibition against interest (Y.D. 160:14). If you, the cardholder, agree to pay any fees and penalties that result from his charges, the agreement is permitted, but if you don't want to have to bear those fees and penalties, you should draw up a heter iska. To draft the appropriate document, one should consult a competent Rav.

However, in your case the issue of ribbis does not apply, and you may collect even the finance charges from your employee. The reason is that the prohibition of ribbis applies only when there was a loan and the borrower pays

back more than he borrowed. In your case there was no loan. Your employee caused you damage by charging money on your credit card and then allowing finance charges to accrue. Someone who damages another's property is obligated to reimburse his victim the cost of the damage. The fact that some of the damage results from accruing finance charges is irrelevant.

Additionally, if someone stole money or damaged a friend's property and the thief or damager wants to pay back more in order to appease his victim, he is permitted to pay that additional amount, and that additional payment would not constitute ribbis (Bris Yehudah 2:17). However, if the parties structure a payment plan and then the thief-damager wants to pay extra so that he has more time to pay his debt, there may be an issue of ribbis.

For questions on monetary matters, arbitrations, legal documents, wills, ribbis, & Shabbos, please contact our confidential hotline at 877.845.8455 :: ASK@BUSINESSHALACHA.COM

Lost and Found #36

Q: I found an aveidah with no simanim. May I claim the metziah on behalf of another person? If I initially picked it up for him, can I change my mind and keep it for myself?

A: A person can acquire a metziah for another person. Once you pick it up with full intention to acquire for your friend, you cannot recant and take it for yourself,

even while it's still in your hands. However, according to some authorities, if you did not verbalize your intention, you can change your mind before handing it over (See C.M., Sma, Shach, Ketzos and Nesivos 269:1).

If the other person explicitly asked you to "acquire" it for him, once you pick it up without stating otherwise, you cannot

say that you picked it up for yourself. If he only said, "Give it to me," though, before handing it over, you can still say that you took it for yourself (C.M. 269:6).

A worker who picks up a metziah acquires it for himself. However, if he was instructed to collect metzios as part of his job, the employer is entitled to them (C.M. 270:3; see Pischei Choshen, Aveidah 9:[76]).

MONEY MATTERS

DID YOU KNOW?

If you sign an agreement, you are bound by its terms even if you do not fully understand what it says, such as portions written in a different language or in fine print.

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