

# BUSINESS WEEKLY

under the auspices of  
HaRav Chaim Kohn, shlita



Restoring the Primacy of Choshen Mishpat

ISSUE #129 / PARSHAS LECH LECHA  
FRIDAY, OCTOBER 26, 2012  
10 CHESHVAN 5773

FOR INFORMATION ON  
DEDICATING BUSINESS WEEKLY  
IN YOUR COMMUNITY,  
PLEASE EMAIL  
[director@businesshalacha.com](mailto:director@businesshalacha.com)

## STORY LINE

by Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

## If There's a Will, Is There a Way?

The Bergers had a long and eventful life behind them. They had lost their families in Europe, but had managed to re-establish themselves in America, where they were privileged to have three sons and a daughter.

One by one, as their families grew, their children moved away; only their daughter Bracha remained nearby, in a rented apartment a few blocks away.

The close proximity allowed Bracha's children to spend many afternoons with their grandparents. On Shabbos, the Bergers would often join Bracha for a meal. When it became harder for the elderly couple to walk, they would often sleep over for Shabbos.

One Motzoei Shabbos, Bracha mentioned to her parents that she was beginning to look for a house elsewhere. Their rented

apartment would not suffice for the growing family indefinitely.

Mr. Berger was not surprised, but could not conceal his pain at the thought of their moving away. He confided to Bracha, "Don't worry about a house. We bequeathed our house to you in our will, since your siblings already have their own houses. The remaining money they will divide equally. We would love it if you could continue living in this neighborhood."

Bracha had not been expecting this at all. The thought of living in the comfortable house in which she grew up, the thought of the backyard where her children played so frequently... Yet she caught herself.

"That's so, so kind of you. We would love to stay here. But I don't know if we can take the house based on your will."

Mr. Berger was now surprised. "Why not?"

"As you know," Bracha began slowly, "when there are sons, the Torah awards inheritance only to them; I am not entitled to inherit. Furthermore, the oldest one is a firstborn and entitled to a double share."

"Of course that is the default inheritance of the Torah," Mr. Berger assured her, "but can't I draft a will disposing of my estate as I see fit?"

"I don't know," said Bracha. "It would be best to ask Rabbi Dayan about this."

"I'll call him right now and ask him," said Mr. Berger.

"Although a person can usually stipulate terms in monetary matters," answered Rabbi Dayan, "the Torah refers to the laws of inheritance as 'chukas mishpat,' a statute that cannot be easily altered. People who are not immediate heirs cannot be designated as inheritors."

*continued on reverse side*

## A Point of Interest

*Submitted by E. W.*

My friend occasionally borrows my credit card. He generally pays on time so there are no interest charges, and the few times that interest charges accrued, I paid them out of my own pocket. The concern that just occurred to me is that I earn points every time I use the credit card.

**Q: Does earning points from my friend's**

**purchases violate the prohibition of collecting interest (ribbis)?**

**A:** Before addressing your question regarding points, it is necessary to emphasize a related matter. 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 based on the concept of arev (guarantor). An arev of this type is comparable to a borrower, and from a halachic perspective, has borrowed the money from you. If

*continued on reverse side*

## FROM THE BHI HOTLINE

*Support our Community*  
**FREIGHT AND CUSTOMS**  
**USA CHINA AND ITALY**  
[avraham@valuetrans.com](mailto:avraham@valuetrans.com)  
212-819-0111 Tue-Thurs

(516) 303-ROOF  
  
**ISLAND EXTERIORS**  
NATIONWIDE COMMERCIAL ROOFING

  
**LEASELAND**  
Since 1991  
Auto Leasing & Sales Inc.  
(800)223-5327  
[info@leaseland.com](mailto:info@leaseland.com)

**PLACE  
YOUR LOGO  
HERE**  
~  
EMAIL  
[LOGO@BUSINESSHALACHA.COM](mailto:LOGO@BUSINESSHALACHA.COM)

GET YOUR FREE SUBSCRIPTION TO BUSINESS WEEKLY - SEND AN EMAIL TO [SUBSCRIBE@BUSINESSHALACHA.COM](mailto:SUBSCRIBE@BUSINESSHALACHA.COM)

Mr. Berger persisted, "But civil law has defined laws of inheritance and gives legal validity to wills. And halacha gives credence to 'the law of the land' (dina d'malchusa dina)."

"The issue of dina d'malchusa in regard to inheritance has been discussed by poskim for centuries," replied Rabbi Dayan. "The Rashba was asked this question almost 750 years ago, and he emphatically rejected the suggestion to follow the common law of inheritance against Torah law. The Beis Yosef (C.M. 26) and the Rema (369:11) both cite this ruling, and limit the concept of dina d'malchusa dina to issues relating to the state itself, such as taxes, or to proper functioning of society."

"But I asked a lawyer about this," protested Mr. Berger. "He said that many of his clients are religious Jews, and no one raised a problem in this regard." "Not many people are aware

of the halachic issues of wills," sighed Rabbi Dayan. "Two Torah giants of the recent century, Harav Chaim Ozer Grodzenski, zt"l (Responsa Achiezer 4:66), and Harav Moshe Feinstein, zt"l (Igros Moshe, E.H. 1:104), suggested innovative approaches to explain the common practice of honoring wills. However, both approaches are questionable. There is growing awareness of the need to draft wills in accordance with halacha."

A gleam appeared in Mr. Berger's eyes. "So there is a way of making a will conform to halacha?"

"Yes," said Rabbi Dayan. "However, it is best to do so through a Rav or beis din familiar with both the halachic and legal issues. We can set up an appointment for next week. Bring a copy of your current will with you."

(To be continued next week, iy"H.)

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 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.

Although there is a potential interest issue concerning the fees and penalties that accrue, there is no issue of interest for you to earn points when you "lend" your card to a friend or relative. The prohibition against interest is violated when the borrower repays the lender more than he originally borrowed. The points earned by the cardholder are not a benefit that the borrower is giving to the cardholder. The points are a gift from the credit card company to encourage people to use their credit card (see Y.D. 160:13).

Accordingly, in response to your question, there is no problem for you to earn points by lending your friend your credit card.

**PLEASE CONTACT OUR CONFIDENTIAL HOTLINE  
WITH YOUR QUESTIONS & COMMENTS  
877.845.8455 :: ASK@BUSINESSHALACHA.COM**

## Shomrim: Guardians #29

**Q: I borrowed my neighbor's car to go shopping. Although I locked the car, it was stolen from the store's parking lot. If his insurance will cover the loss, do I owe him anything?**

**A:** A sho'el (borrower) is certainly responsible for such theft. Many classical authorities hold you liable even if the insurance company will compensate the owner for the loss. They

view the insurance contract as a separate, actuarial business deal, which pays the car's value in return for premiums paid during the coverage (Pischei Choshen, Pikadon 8:18). However, insurance policies will usually not compensate if the loss is covered by a third party. Thus, if the owner collects payment from you, he will not be able to claim the loss from the company. Therefore, some contemporary authorities

maintain that, in the absence of negligence, the claim should be to the insurance company. This is especially true if there is a clear, common practice to collect from the insurance company and not from the borrower. Nonetheless, if claiming from the insurance will result in increased premiums or losing a "no-claims" discount for the owner, you are required to compensate him for this (see Minchas Yitzchak 2:88; 3:126).

## MONEY MATTERS

### NOW AVAILABLE

All *Business Weekly* stories have been indexed and organized according to the masechta/perek/daf that you are teaching.

**Make the gemara come alive for your talmidim and children with scenarios they can relate to.**

**JOIN OVER ONE HUNDRED REBBEIM AND PARENTS AROUND THE GLOBE WHO HAVE ALREADY SIGNED UP TO RECEIVE THE MATERIAL**

Perakim currently available: Bava Kama 1,2,3,6,8,9,10 · Bava Metzia 1,2,3,4,6,7,8

Many more coming soon, including the Money Matters Q&A series!

To receive the materials, please email [classroom@businesshalacha.com](mailto:classroom@businesshalacha.com)

### SPONSOR

**Do you have an upcoming yahrtzeit or family simcha?**

*Business Weekly* inspires and informs thousands across the world.

**Sponsor one week for \$72.**

Email [sponsor@businesshalacha.com](mailto:sponsor@businesshalacha.com) to reserve your week.

To support *Business Weekly* and the Business Halacha Institute, send your tax-deductible donation to  
BHI · 1114 EAST 2ND STREET · BROOKLYN, NY · 11230

**WWW.BUSINESSHALACHA.COM**