



# BUSINESS WEEKLY

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Restoring the primacy of choshen mishpat

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UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



## STORY LINE

By Rabbi Meir Orlian

### FOUND FIFTY

Alex took \$50 to school to buy himself a basketball on the way home. In the afternoon, he checked his pocket for the money, but it was empty! "The \$50 must have fallen out!" he exclaimed. Alex immediately asked some friends to help him search and retraced his steps. He checked around the room where he just learned, the previous classrooms, the lunchroom, and his morning shiur room, to no avail.

After asking around, Alex heard that Boruch had found a \$50 bill in the lunchroom shortly before lunch.

Alex asked Boruch about the bill. "Yes, I found \$50 earlier," Boruch replied. "I used most of it to buy lunch and a sefer."

"Why did you use the money?" asked Alex. "You should have announced it and done hashavas aveidah!"

"I was told that a single bill lying around is considered something that has no siman (identifying feature) and can be taken," replied Boruch. "The owner has no way of proving that the bill is his, so he abandons hope (yei'ush) of recovering it."

"How can you say that I abandoned hope?" said Alex. "As soon as I realized that the money was missing, I began looking for it. I even asked my friends to help me search. No one else in the school is looking for missing money, and I was in the lunchroom just before — so it's almost certainly mine!"

"I was told that I could keep the money," said Boruch, "but I'm happy to ask Rabbi Dayan. If he says to return it, I'll certainly do so!"

"OK, we'll go together," said Alex.

After Maariv, the two approached Rabbi Dayan. Alex explained the situation and asked, "Does Boruch have to return the \$50 to me?"

"In general, a person who finds a loose bill can keep it," answered Rabbi Dayan. "However, in this case, there is strong basis that Boruch must return the money. He certainly should do so lifnim mishuras hadin (beyond the letter of the law)."

"Can you please explain?" asked Boruch.

"The Tzemach Tzedek (#89) addresses the case of someone who lost his wallet in a market primarily attended by gentiles," replied Rabbi Dayan. "Immediately upon realizing, the owner began searching and inquiring after the wallet, which had been found by another Jew. Tzemach Tzedek ruled that the finder does not have to return the wallet, since we presume yei'ush



## BHI HOTLINE

### AN ANTIQUE PENNY

One of my eleven-year-old students brought to class a pushke he had

filled for the school. Counting the coins, he found an old penny that was probably worth a few dollars.

Q: Does that penny belong to the yeshivah or to the student who collected the money? May he exchange it for a regular penny?

A: The student may exchange the penny, and the value exceeding one cent does not belong to the yeshivah.

This is similar to the case discussed by the Poskim of a merchant who purchased and resold what he thought was lead, only to discover later that it was gold or silver coated with lead. The halachah is that the merchant cannot cancel the sale, since at the time of the sale he had never acquired the additional value because he was ignorant of its presence (C.M. 232:18). Some authorities question whether this halachah applies only when the valuable item is coated by a less valuable item, and if the merchant and customer simply did not realize that the material was valuable, the merchant did acquire the item and therefore owns the full value and can cancel the subsequent sale. Halachah, however, does not accept this distinction and holds that the merchant did not acquire the additional value (Avodas HaGershuni 94, cited in Pischei Teshuvah 232:8).

The guiding principle is that a person only owns recognized value of an object (see also Nesivos 242:18, C. M. 232:18 and 291:10). However, this applies to customers, but one who inherits or receives something as a gift

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## STORY LINE

(abandonment). The owner's search after the item is considered futile, like someone who protests about his ship that already sank" (see B.M. 24b; C.M. 259:7).

"Terumas Hakeri (259:3), brother of the Ketzos, disagrees," continued Rabbi Dayan. "He maintains that only when the item is helplessly swept away, e.g., by a river, do we disregard the owner's claims that he did not abandon hope. However, other situations depend on whether, in fact, the owner abandoned hope or made efforts to search."

"Maybe a school is different from a market frequented by gentiles?" asked Alex.

"In a market primarily attended by gentiles the likelihood of recovering the money is very low," replied Rabbi Dayan. "However, where the money was lost in a Jewish school there is a realistic chance of recovering it. Thus, the Tzemach Tzedek might agree that if the owner searched immediately, we cannot disregard it.

"Similarly, Rema (259:7) writes that if a river swept away items that have no siman, but there are dams that will trap them," added Rabbi Dayan, "if the owner immediately chases after them, we need to return them. Rashba implies that the reason is that this shows that he did not abandon hope; Tosafos (B.M. 22a s.v. shataf) explain that the fact that only he chased after the items indicates that they are his."

"Why did you say that lifnim mishuras hadin the \$50 should certainly be returned?" asked Boruch.

"Even after yei'ush one should still return a found item lifnim mishuras hadin," concluded Rabbi Dayan. "Shulchan Aruch Harav (Hilchos Metziah #18) applies this also to an item that does not have a siman, if it becomes clear who the owner is (C.M. 259:5, 7; Pischei Teshuvah 259:2)."



## BHI HOTLINE

acquires the full value of the object even if he is unaware of it (Levush 233). It seems the latter is true only if the one giving the object is aware of its value and intends to convey its full value to the recipient. If even the benefactor is ignorant of its value, the recipient does not become the owner of its full value (see Shevet HaLevi 4:211).

In your case it is evident that the donor was unaware that he had a valuable penny and thus did not own the additional value. Consequently, even if the collector was an adult who could acquire property on behalf of the yeshivah, he would only acquire the value of a regular penny and the collector who realizes that it is more valuable may exchange it for a regular penny. Moreover, since in this case it was a child who was collecting the money, the penny certainly does not belong to the yeshivah since a minor cannot acquire possessions on behalf of others.

Furthermore, the value of this penny depends on the market in which it is found. Coin collectors will consider this penny worth a few dollars, but a regular store will not consider it worth any more than a penny. Yeshivos and storeowners generally are not interested in trading coins worth only a couple of dollars and therefore coins in their possession are worth only their face value. Accordingly, the finder may exchange that penny for a regular penny.

Technically, the penny belongs to your student's father just as with any lost objects found by a child who is financially supported by his father (samuch al shulchan aviv), even if that child is an adult (C.M. 270:2).

For questions on monetary matters, Please contact our confidential hotline at 877.845.8455 ask@businesshalacha.com



## MONEY MATTERS

### COPYRIGHTS AND PATENTS # 22

#### Question:

1. May I install a program that I purchased on multiple computers?
2. If I bought a three-user license, can a relative or friend use one of the additional copies?
3. I purchased a program, but no longer need it. Can I give or sell it to someone else?

**A:** In principle, the answer to all of these questions is that the terms of the license agreement are binding, because of copyright, dina d'malchusa, minhag hamedinah, etc. Therefore, you need to read and observe the specifics of the license. Most programs require you to accept the licensing terms before they will install.

1. The license will specify whether it covers single use or multiple use. Some programs offer the option of buying either type of license for an additional cost. Some single-use licenses will still allow the "primary user" to copy the program onto his own laptop.
2. Some multiple-user licenses are limited to a single household; others are not. You should check the licensing terms.
3. Some licenses will allow you to transfer the program in its entirety to a third party; others are marked "NFR" (not for resale).

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