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לע"נ הרה"ח ר' נחמיה ב"ר שלמה אלימלך ז"ל
by his son, R' Shlomo Werdiger

STORYLINE

the shadchan

By Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

Shmuel Nissel was twenty-seven and still single. Shiduchim were slow in coming, despite the best attempts of his upstairs neighbor, Mrs. Fendel, who was a professional shadchan.

One night, Mrs. Fendel called with a potential shiduch. "I know a young lady, Sari, who is just perfect for Shmuel," she said to Mrs. Nissel.

"That would be nice," said Mrs. Nissel, "but all the other ones who were supposedly 'just perfect' haven't been."

"Really," said Mrs. Fendel. "I am convinced that Sari is just right." She explained for twenty minutes why the two were the perfect match.

"It certainly sounds like it's worth a try," said Mrs. Nissel.

The first meeting went well, as did the second and third.

"How's the shiduch working out?" Mrs. Fendel asked Shmuel's mother.

"They definitely have much in common," Mrs. Nissel replied, "but some issues still remain."

After going out seriously for weeks, though, Sari decided to stop. A year went by.

Friends of the family, Mr. and Mrs. Rafi Green, came over for Shabbos. As the two families sat around the table, the discussion turned to shiduchim.

"Do you remember Sari, who Shmuel went out with last year?" asked Rafi.

"Of course we remember," said the Nissels. "Shmuel was very interested. They almost got engaged."

"My wife works with Sari," said Rafi. "Her impression is that Sari might be willing to resume going out."

"We'd be happy to give it another try if Sari's

interested," said Shmuel's parents.

The next day, Rafi called Mr. Nissel. "My wife spoke with Sari's family, and they're interested in trying again."

"Thank you so much!" exclaimed Mr. Nissel. A month later, Rafi called to find out how the shiduch was progressing. "It looks like it's going to work out this time!" Mr. Nissel told him.

Sure enough, two weeks later, the Nissels called their close friends and neighbors. "Shmuel just got engaged to Sari and there's a l'chaim at our house tonight!"

Mrs. Fendel was one of the first to arrive. "Mazal Tov! Mazal Tov!" she called out. "So, it was the right shiduch after all." She approached Mrs. Nissel excitedly and said, "See, I told you I would be the shadchan!"

"I'm really glad it worked out in the end," responded Mrs. Nissel happily. "It was good

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FROM OUR HOTLINE

Submitted by
S. P.

possible plunder

My tefillin were lost a few years ago. I obtained a loaner pair from a local sofer, but they were not the halachic quality that I prefer. One day, a fellow walked into shul with a pair of tefillin to sell. They seemed to be of the quality that I preferred, but looking at the fellow, I was suspicious that they may have been stolen. I inquired about their origin and he told me that they were part

of his deceased grandparents' estate. As I couldn't convince him to just hold on to them, we negotiated a price and I bought them. Although he oddly avoided sharing any personal details, I really wanted the tefillin and ignored my concern that they were stolen. I did not research their origin any further. A while later, I became aware that it is quite common for thieves to trade stolen

tefillin. I now strongly suspect that the seller indeed sold me stolen goods.

Q: At this point, what is my obligation?

A: Shulchan Aruch (C. M. 356:1) states that one may not purchase stolen merchandise from a thief. If a thief cannot find someone to purchase his loot, he would not continue to

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STORYLINE CONTINUED

that the Greens pushed us to resume the shiduch.”

No sooner had they finished talking, when Rafi Green walked in. “Mazal Tov! Mazal Tov!” he called out. “So, the shiduch was the right one.” He gave Mr. Nissel a big smile and thumped him on the back, adding with a wink, “I guess I’ve finally made it as a shadchan.”

“Yes, yes...” responded Mr. Nissel happily, but confused. “I’m really glad it worked out. It was good that Mrs. Fendel suggested the shiduch a year ago.”

Mr. Nissel was perturbed. “Who is the real shadchan?” he thought. “Who is entitled to the shadchanus money?”

The following day, Mr. Nissel met with Rabbi Dayan.

“Who is considered the real shadchan?” Mr. Nissel asked. “Is it Mrs. Fendel, who suggested the shiduch in the first place and helped Shmuel and Sari in the early days of meeting each other, or Mr. Green, who encouraged them to resume going out and ultimately get engaged?”

“Generally speaking, the one who brings the transaction to

fruition deserves the agent’s fee,” Rabbi Dayan answered.

“However, the accepted practice is to split the shadchan gelt between the one who began the shiduch and the one who completed it, especially when the first meetings ultimately contributed to the engagement.”

“So they share it 50/50?” asked Mr. Nissel.

“Some divide it that way,” replied Rabbi Dayan (Aruch Hashulchan E.H. 50:42). “However, since the one who completes the transaction is usually primary, the more prevalent custom to give one-third to the one who began the shiduch and two-thirds to the one who completed it (Pischei Teshuva C.M. 185:3).”

“That makes a lot of sense,” said Mr. Nissel. “In truth, we do owe both of them a debt of gratitude.”

He pulled out his checkbook and wrote one check to Mrs. Fendel and another for twice the amount to Rafi Green. He thanked them both and explained that Rabbi Dayan recommended dividing the shadchan money in this manner.

FROM OUR HOTLINE CONTINUED

steal; consequently, buying stolen property is considered a form of assistance for the thief. Taz, in his comments on Choshen Mishpat (ibid.), cites Rivash who maintains that one may not purchase property from a suspected seller of stolen goods. For this reason, one should avoid purchasing items from street salesmen when it is likely that their merchandise was stolen.

In your case, you already have possession of the tefillin, so the relevant question is whether you are permitted to keep them. Shulchan Aruch (C. M. 353:3) rules that if stolen property is acquired by another person after the owner abandoned hope of retrieving his property (yei’ush v’shinui reshus), the merchandise is considered the property of the new

owner. One may sometimes assume that the owner abandoned hope to retrieve his stolen goods (Aruch Hashulchan 361:80, Rema 236:11), and even if the owner is identified, the stolen object does not have to be returned. However, it is the accepted minhag to return stolen goods that the owner identified by simanim and to publicize any stolen goods in your possession (Shulchan Aruch harav gezeila 11). If possible, publicize that stolen tefillin are in your possession and that you will return it by simanim. If the owner identifies them, he should reimburse the monies you paid for them (ibid). Whether you may recite a beracha on those tefillin or not is subject to debate (Mishnah Berurah 25:54). It is therefore correct not to recite the beracha.

Please contact our confidential hotline with your questions & comments

877.845.8455 ask@businesshalacha.com

MONEY MATTERS

defective merchandise week #12

Q: I bought a 220V fridge and smaller, universal voltage appliances for aliyah at the local electronics store. If they are found defective after unpacking in Israel, who bears the shipping costs of the items?

A: Although the seller or manufacturer must refund or replace the item(s), they are not halachically responsible for the incurred

shipping costs or for the fact that customs authority may not allow items in without taxation. If it’s not worthwhile for the customer to import a replacement, he can ask for a refund instead. [U.S. law, however, does seem to allow for some consequential damage.]

Only if the seller was aware of the defect and that the person was planning to take it overseas is he responsible for incidental

damage caused, based on the concept of garmi (directly caused damage).

On the other hand, the cost of shipping to return the defective fridge from Israel is the seller’s responsibility. However, if the buyer didn’t notify the seller that he intended to take it overseas (as with the smaller appliances), then he must return them to the seller (C.M. 232:21).

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