Can Someone Make a Claim Against an Auditor For an Inaccurate Report?

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Question: Reuven is looking for a company to invest in, and Shimon has a company and is looking for investors. Shimon meets with Reuven and shows him an auditor's report that outlines why his company is an excellent investment. Based on the report, Reuven decides to invest in Shimon's company. Unfortunately, he soon discovered that the report was riddled with inaccuracies, and the investment was actually a terrible one. Can he make a claim against the auditor for malpractice?

Answer: There is a notion in halacha of "white collar malpractice," i.e., when someone gives a bad appraisal or says an incorrect statement that causes financial harm to a client. The individual guilty of such malpractice can sometimes be held liable for the harm he caused. There is also a concept of someone being deemed liable as an *areiv* for, in effect, guaranteeing that a deal is good and tacitly committing to accept responsibility for losses.

All the cases that are discussed, however, are instances where the individual who made the assessment or guarantee had a direct relationship with the party that suffered the loss. In the case in question, the auditor has no direct relationship with Reuven, who is an outside investor, and there is no clear precedent in halacha to hold him liable to reimburse Reuven for his loss in such a case.

If the auditor would be issuing a report for the company's shareholders, and this report causes them a loss, it could be argued that he does have some direct fiduciary responsibility to them. But there is no clear proof to argue that he would be liable if a report he made for the company caused a loss to a member of the general public whom he has no direct connection to.

Question: Would it make any difference in halacha if it was an internal or external auditor?

Answer: With regards to members of the general public who the auditor has no direct connection to, it doesn't seem likely that any auditor – either an internal or external one – would have any liability.

If we are talking about an auditor who created a report for the company's shareholders, they might have more of a claim against an internal auditor, who, it could be argued, is working for them and bears a responsibility to them. There would seem to be less of a case against an external auditor, who by definition must be independent and not directly answerable to the company. In such a case, the shareholders may argue that the auditor was hired by the company and is liable to them, but it could also be argued that he is independent of the company and has less of a direct connection than an internal auditor has.