

If I Am Lending Money to a Friend, Do I Need a Shtar?

Rav Shmuel Binyomin Honigwachs

Question: My friend approached me for a loan, and I agreed. He said that he wants to write a proper *shtar*, halachic contract, for the loan. Is this necessary?

Answer: The Gemara in Bava Metziah says that one who lends money without a *shtar* or *eidim* transgresses the prohibition of *lifnei iver*, causing someone else to sin. The Gemara relates an interesting story of one Amora who wanted to test another Amora to see if he kept halacha properly. He approached him shortly before Shabbos and asked for a loan. His friend passed the test when he told him that he would lend him the money, but they first must write a *shtar* and find witnesses.

The reason why one who lends money without a *shtar* is considered to be possibly causing his friend to sin is because he is leaving the door open for his friend to deny that he borrowed any money or to falsely claim that he already paid his debt. For this reason, it is important to have some documentation on a loan, and the best kind of documentation is a halachic *shtar*.

The Shulchan Aruch discusses two types of *shtaros*. One of them is a simple IOU, on which the borrower signs that he borrowed money from the lender. There is a dispute amongst the Poskim whether a borrower would be believed to say that he paid up the loan if the lender is still holding the IOU. A second, better type of *shtar* is one that is signed by witnesses to the transaction. In the times of the Gemara and the Shulchan Aruch, when the lender was in possession of this type of *shtar*, the borrower was not believed if he claimed to have already paid back the loan.

In contemporary times, it is not 100% clear that a borrower would not be trusted if he says he paid back a loan that the lender has documented on a *shtar* with witnesses. The most effective way to avoid such a scenario is to put something called "*ne'emanus*" into the *shtar*, which basically means that the borrower is granting the lender the benefit of the doubt in a circumstance where the borrower claims he repaid the debt and the lender says he did not.

This is just one of a number of reasons why it's always worthwhile to have a *shtar* drafted properly for any loan or transaction.