

If Someone Borrowed Money And Says He Paid It Back, Is He Believed?

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Case: There is a concept of ne'emanus which is usually placed in a halachic shtar. This usually means that the promissory note has a stipulation that the lender will be believed that he is owed money, and the borrower cannot claim he paid it back as long as the lender has the loan document, and he needs a signed receipt to be believed.

Question: If someone is borrowing money and knows the contract will have ne'emanus written into it, what can he do to protect himself and make sure he doesn't have to pay a second time?

Answer: Ne'emanus is a powerful thing, and borrowers need to know how to protect themselves in case any issues arise.

There are different kinds of ne'emanus. The lowest form stipulates that the lender is believed to say he is owed money even if the borrower claims he paid back the debt. A higher form stipulates that the lender is believed even if witnesses for the borrower claim the loan was repaid.

The type of ne'emanus generally used states that the lender is always believed to claim that he is still owed money, unless the borrower has a signed receipt that verifies his payment. If that type of ne'emanus is used, a borrower should be very careful to make sure he procures a signed receipt or to ensure that the original loan document is ripped up. A photocopy of the document is not sufficient to demand payment, so he need not be concerned that one might exist.