

Is Placing Cash in a Jacket Pocket Considered a Good Shemirah?

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Question: Reuven attended the wedding of the daughter of his good friend Shimon. At the *chasunah*, Shimon approached Reuven and told him that he had the money to pay the caterer in his pocket and he asked if he could hold it for him until the end of the wedding. Reuven agreed and put the envelope full of cash in his jacket pocket. When Shimon asked for the money back, Reuven put his hand in the pocket and discovered that it wasn't there. Shimon then told him that not only did the envelope contain money for this wedding, it also contained money he owed the caterer for his last wedding that he was planning on paying back that night. Is Reuven responsible to reimburse Shimon?

Answer: The Shulchan Aruch says that if an owner misrepresents the value of an item that he gives a *Shomer* to watch, and the *Shomer* later discovers that the object in his care was worth more than what he thought, he is only responsible for the amount that he thought the item was worth because that is all that accepted responsibility for. He says an example of a *Shomer* who was told that he was watching a silver coin but later discovered that it was actually a gold coin. Since he only accepted responsibility for a silver coin, he is only liable for the value of such a coin.

In the case in question, the father of the *kallah* indicated that the envelope only contained money for one wedding, so he only accepted responsibility for that amount; therefore, he definitely is not liable for anything more than that.

Furthermore, since Reuven is watching the envelope for free, he is a *Shomer Chinam*, which means that he is only *chayav* for *peshia*. It is debatable whether putting money in a jacket pocket would be considered negligent because it would have been better protected in a pants pocket with the button closed. However, the Pischei Teshuva says that if the owner clearly sees where a *Shomer* plans on keeping an object he entrusts with him and he does not protest, it is understood that he accepted this type of *shemirah* and agreed to it.

In this case, since Shimon saw Reuven placing the money in his jacket pocket and did not protest, we understand that he accepted this *shemirah*; therefore, Reuven cannot be held liable at all for the loss of the money.