

May a Seller Falsely Claim That a Product is on Sale?

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Case: A customer enters a store in which not all products have marked prices. When he finds an item he is potentially interested in buying, he asks the owner how much it costs. The owner tells him the correct price but realizes that if he says the item is on sale, the customer will be more likely to buy it, while if he says that this is the regular price, he may or may not want to buy it.

Question: May the owner tell the customer that the product is on sale if it is not? Furthermore, may the owner inform the customer that he is giving him a special 20% discount if the price he offers is the regular price?

Answer: Telling a customer that they will receive a special discount given to them alone when the price is merely the standard price certainly qualifies as a classic case of *geneivas da'as*. The reason is that, as we have discussed in previous segments on this subject, *geneivas da'as* includes any scenario of someone misleading others that he has done them a favor for which they should be indebted to him.

On the other hand, telling a customer that an item is on sale when it is not actually on sale does not constitute *geneivas da'as*. The reason is that in this case, one does not mislead the customer about the quality or price of the product, nor does he deceive him into believing that he is receiving a special favor.

Although saying that the item is on sale when it is not is technically permitted, the Aruch HaShulchan (O.C. 156) says that such practices do not qualify as *nosei v'nosein be'emunah*, doing business faithfully and honestly. Thus, since the Gemara states that after a person dies, the Heavenly Court will ask him if he was *nosei v'nosein be'emunah* (Shabbos 31a), one should not engage in this type of activities. Similarly, the Chafetz Chaim writes in his work Sefas Tamim that this would constitute an element of falsehood and should not be done (see Bava Metzia 49a), even if it does not technically violate *geneivas da'as*.