

The Lost Ledger

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Q My local grocery extends credit to their regular customers, and I take advantage of this from time to time. Whenever I have extra cash, I pay down my debt. They recently informed me that due to a computer virus, they lost all the records and don't know how much I owe. What is my obligation?



A The Gemara in Bava Kama and the Shulchan Aruch (C.M. 75:9-10) discuss the case of *bari v'shema*, where Reuven claims he is certain Shimon owes him money, but Shimon responds that he doesn't know, and neither party has witnesses or documents to support his side. The Shulchan Aruch differentiates between where the defendant claims he doesn't know if he ever incurred the liability—in which case he has only a moral obligation to pay—and where he admits he incurred the debt but says he's unsure whether he paid, in which case he has a halachic obligation to pay, fully enforceable in Bais Din.

In your case, neither of you is sure how much money is owed. When both litigants are unsure if there ever was a debt, there is no moral obligation to pay. If the litigants agree there was a loan but are unsure how much was borrowed, *poskim* differ about whether there is a moral obligation to come to a compromise (ibid. *se'if* 18). The Shach (ibid. *s.k.* 67) rules that there is no such moral obligation. If all are agreed that the loan was made, but both parties are unsure whether it was paid back, most *poskim* maintain that there would be a moral obligation to pay back the loan (Shach ibid. *s.k.* 65 and Chazon Ish).

It emerges from the above that whatever you know to be outstanding, you must pay. If you know you borrowed an additional sum as well, but you are

unsure whether you paid it, you would have a moral obligation to pay that amount. If you are unsure you borrowed at all beyond that figure, you can rely on the Shach and pay no more.