

## WHAT'S THE LAW? – ISSUE 184: THE RELIABLE RABBI & FLOWER FOUL

**V**olovelsky Center in old Tel Aviv housed apartments and many artisan workshops constructed from wood. Once every few months, R. YM Lau writes in Out of the Depths, (pg.220) whenever a fire broke out, neighborhood residents would come to their Rabbi, R. Frankel's simple home and deposit their values, confident that their treasures would be safe. A pile would grow in the center of the room: candlesticks, records, books, Menorahs, bags of money, a little baby etc. When the fire died down, the

residents would return to retrieve their belongings. Their full trust in their legendary Rabbi never soured. As a true Rabbi, R. Frankel tended to his constituents' physical, emotional, financial, and spiritual needs.

Suppose the story would have once ended differently. Suppose a criminal would have forced his way in to the impoverished Rabbi's apartment and threatened his life. Could he have saved his skin by directing the criminal to his constituent's valuables? If yes, would he be liable to compensate them?

### What's the Law?

*Please email us with your comments, questions, and answers at [weekly@projectfellow.org](mailto:weekly@projectfellow.org).*

### FLOWER FOUL

**A frequent festive** Jerusalemite Erev Shabbat site: makeshift tents on the street corners set up with a colorful array of flowers for sale.

Adam, an independent contractor, sets out early Friday morning to his favorite corner. After two years of hitting the pavement, he's even got some steady customers as well. Forest Florist in Ramat Eshkol pays Adam ten

shekels for every bouquet he sells for them. Like clockwork, one half hour before Forest Florist closes, Adam returns religiously with the leftover flowers and cash and receives his due remuneration.

Last week, as Adam was heading back to the store, a car jumped the curb, hit his cart, sent a few buckets of flowers flying and sped off.

***Under what circumstances need Adam reimburse Forest Florist for lost bouquets?***

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### The Answer:

**Adam is absolved from paying for the destroyed bouquets.**

### Detailed Explanation

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### *T.L. C. Trustee Liability Chart*

		Negligence	Theft/Loss not due to negligence	Unforeseen & incontrollable accidents	Damage in course of normal use
1. no benefit	<b>Unpaid trustee</b>	Liable	Absolved	Absolved	Liable (may not use it)
2a. partial benefit	<b>Paid trustee</b>	Liable	Liable	Absolved	Liable (may not use it)
2b. partial benefit	<b>Renter</b>	Liable	Liable	Absolved	Absolved
3. absolute benefit	<b>Borrower</b>	Liable	Liable	Liable	Absolved

**Forest Flowers** invokes the following Halachos:

#### *The Paid trustee, or shomer sachar, has limited benefit from the service provided.*

While he/she benefits from the payment for his/her supervision of the property, he/she nonetheless is not authorized to make personal use of it. With limited benefit, he/she correspondingly assumes limited liability. In exchange for the payment that his/her service demands, he/she accepts the responsibility of protecting the property from theft and loss and is liable to pay in the event of such an occurrence.

In contrast to a borrower who has complete benefit from the article and as such is liable even for uncontrollable accidents (i.e. armed robbers), the *shomer sachar* is absolved from paying for damages or losses due to unforeseen incontrollable accidents [Ibid. 22:9-11].

#### *The Renter or a socher, also has limited benefit from the article.*

While personal use of the property is authorized, he/she pays a fee. Again, limited benefit corresponds to limited liability. His/her limited liabilities mirror those of the paid trustee. He/she accepts the responsibility of protecting the property from theft and loss and is liable to pay in the event of such an occurrence. However he/she is absolved from paying

for damages or losses due to unforeseen incontrollable accidents [Choshen Mishpat 307:1].

#### *The borrower enjoys complete benefit from the article*

The borrower enjoys complete benefit as he/she may use the article free of charge. Complete benefit corresponds to a heightened degree of liability. The borrower accepts the responsibility to return the article or compensate for its loss, come what may, even if the damage or loss was incontrollable, spare one that results from normal usage of the article [Choshen Mishpat 340:1; Sha"ch - Choshen Mishpat 340:3].

#### **Application**

To hold Adam liable for compensating Forest Florist for the incontrollable accident that occurred, one would have to establish that Adam mirrored a borrower as he was receiving complete benefit from the ability to sell the flowers, without Forest Flowers receiving benefit from his work. An example would be, if Forest Flowers could have easily sold all of those bouquets from their store without Adam's work and were simply allowing Adam to profit from the ability to sell them on the street corner.

Otherwise, if Forest Florist needed or benefitted from Adam's service to improve or raise their sales and/or income, Adam alone was not benefiting from his handling of the flowers. As both Adam and Forest Florist benefitted from Adam's handling the flowers, Adam would be viewed as a paid trustee, who enjoys a limited benefit, and is thus absolved from compensating for incontrollable accidents [Choshen Mishpat 186: 2].