

SEASONED WITH THE SPICE OF LIFE

the MIX

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REAL PEOPLE.

REAL MONEY.

REAL MISTAKES.

FOREWARNED IS FOREARMED



THE MONEY TRAP

The court case seemed open-and-shut. There was no way he could lose. But Moshe didn't count on the fact that he was dealing with a professional con artist.



Know the Danger Signs

[THE PLAYERS]

Moshe Bernstein*: 45, rebbi and father of seven
Tuvya Stern: Lawyer and to'en rabboni

MOSHE RELATES:

I'm the last person I would call naïve. What's more, I come from a family of skeptics. My father was a highly successful real estate professional who, during his 40 years as a top-level executive for a major development, leasing, and management company, developed a well-honed instinct for whom to trust and whom to stay away from. My mother, too, is both super-wise and super-cautious. She's always told me she trusts no one other than Hashem, my father, and her children. Growing up, this attitude was ingrained in me as well.

Which only goes to show that even the wariest of people can be taken in by a con man, if they don't know what to look out for.

My story begins just as my father's career was coming to an end. The ownership of the real estate firm he worked for had changed hands, and as a result, though only in his early sixties, he felt forced to retire early.

Retirement didn't suit my father, however. Used to being a vigorous leader and builder all his life, he suddenly found himself with nothing to do, and with the depressing feeling that all of the skills he had acquired over a lifetime were suddenly worthless.

It was during this time that David Abrams* contacted him. David was a New York-based real estate investor who had developed a reputation for his savvy and success. That success was clearly manifest in his high-roller lifestyle, which included luxury vehicles, Rolex watches, and exotic vacation homes. David began turning to my father for his professional advice about various real estate investments, and their relationship quickly deepened. When David presented my father with a joint investment opportunity in European real estate, my father agreed to invest over \$1 million in the deal.

What made my father trust him? I don't know, and, unfortunately, he's no longer around to ask. David certainly had a way with people that convinced you he was looking out for your best interests.

We also came to the realization, only after his death, that my father had actually been in the undetected beginning stages of dementia in his final year, and therefore his normally shrewd judgment was impaired. But all this is hindsight speculation — in fact, at the time, we had no reason to question my father's decision to invest such a large chunk of his assets with David. All we knew was that my father and David had clicked from the start, instantly developing a warm relationship that extended into the personal realm and was almost like father and son — socializing, davening, and learning together.

Unfortunately, before my father was able to use his acumen to make these buildings profitable, he passed away. His death was sudden, and a blow to us all. After the dust settled, I learned that he'd left me with an inheritance of \$500,000. Obviously, as a *chinuch* professional living in Eretz Yisrael with seven children to marry off, news of this money was quite welcome.

One day, shortly after my father's death, I got a phone call from David Abrams.

"You know how close I was to your father," he told me. "I was devastated by his death. On his deathbed, I promised him that I would help take care of his family, and I want to fulfill that promise. I know he left you five hundred grand. I know you've dedicated your life to teaching Torah, and you're not a business person. Let me take care of your money for you. Give it to me as a loan, I'll invest it in real estate, and, as a personal favor, I'll offer you great returns. Twelve percent annual — that's one percent, every month. Guaranteed. Plus 20 percent of the net profit when the building's sold. What do you say?"

I didn't know what to say. The offer sounded tempting. David was right — I don't know much about investments, and I strongly believe that one needs to be experienced and knowledgeable in order to invest. I certainly was not interested in pulling my head out of my *avodas hakodesh* to learn the financial ropes. And I knew my father had been close with him, and my father was not the trusting type. It was certainly heartwarming that David cared so much for him that he had made him a deathbed promise that he now wanted to fulfill. I consulted with my mother, who strongly encouraged me to take David up on his offer.

"If your father trusted him, then that's good enough for me," she said emphatically.

David sent me a simple and straightforward contract, stating the terms and conditions of the loan. I added certain stipulations,



Warning Signs of a Con Man

(The following are taken from a list that was compiled and encouraged to be publicized by Rav Menachem Mendel Shafran, *dayan* in the Bnei Brak beis din of Rav Landau.)

1. He tells you, "Let's keep this a secret between you and me."
2. He promises you zero risk, guaranteed profits.
3. He brushes away your concerns with, "You can't understand this."
4. You find spelling or grammar mistakes in the contract.
5. He tells you to ignore what it says in the contract, promising you that the "real returns" will be even better.
6. He pressures you to sign now, rather than giving you time to consult with a professional.
7. He tells you that he has "insider information" and the investment is a "sure thing." If this were true, he wouldn't need you and your money.
8. Even if they don't have nefarious intentions, stay away from young *avreichim* in their twenties trying to convince you to invest with them. They tend to be overly confident and have an inflated sense of their abilities.
9. Don't invest anything without first consulting with an unbiased professional.
10. (My personal favorite!) Listen to your wife. If she doesn't feel good about an investment, don't do it!

such as the fact that, in the event of dispute, the case would be adjudicated in a beis din in Israel. This was important to me, since I didn't want the risk of having to fly to New York to deal with any legal issues. We both signed, I gave him my money, and then I sat back, pleased with the fact that the investing burden was off my shoulders, and that all I had to do now was wait for the returns to roll in each month. I felt really grateful to David Abrams.

The first year, the money came in regularly: \$5,000, every month. But then, a

month went by without a payment. I excused it, chalking it up to some sort of unavoidable delay. Then another month came and went, and I had to call to remind him about my money. After a few months like this, my concerns about David's reliability finally became so great that I decided to end things then and there. I contacted his office and told him I'd like to pull out my money, using the real excuse that I needed to pay for our first child's *chasunah*.

David immediately returned \$100,000, and reminded me that, due to the illiquidity

of the investment, as per our contract, he had ten months to return the full loan amount to me. Well, ten months went by, and the money didn't appear. When I called him, he requested another three months, then six months, promising me "on his word" that he would return it then with the interest due. But somehow, that didn't happen either. This dragged on for almost two years, — each time he would promise me the money at the end of a few months, but the money never arrived.

While I felt bad for him, assuming he'd hit a rough patch in his business and was having serious trouble scraping together the money to repay my loan, I felt this had dragged on long enough.

It was during this time that I turned to Tuvya Stern, New York- and Israel-licensed lawyer practicing in both the Israeli court and beis din systems, and asked him for his advice. What he said turned the entire case on its head.

TUVYA STERN RELATES:

As soon as I heard all the details of the case, I instantly smelled a rat.

"This man is a professional con artist," I told him. "Good luck getting your money back."

How did I know? When you're in my profession long enough, you begin to develop a sixth sense. There are patterns at play, a way that people act when they have nefarious intentions — and this applies not just to financial cases, but to all aspects of human behavior, including divorce, which is actually my area of legal expertise.

What were some of those danger signs that clued me in here? One thing that disturbed me from the start was that this guy convinced Moshe's father to invest in real estate somewhere out in Europe, of all places. When a person invests in a business or a property, it should always be within driving distance of where he lives, in a place

where he speaks the language and can easily stay on top of things. If someone is trying to convince you to put your money someplace that you are unlikely to ever go visit personally, this is a red flag.

And then there's the all-important "Why me?" question. Unless you're a multimillionaire investor, if someone is reaching out specifically to you for your money, you should be asking yourself why. A legitimate high-powered investment company or real estate firm does not need your \$30,000; they should be able to take out bank loans, for much better terms than the 12 percent that David was offering Moshe here.

A third clue was the way he approached Moshe from the start. He came to him at an emotionally vulnerable time, when his father had just passed away, and he played on those emotions, making him believe that David was only out for his own good, was looking to do him this huge favor out of the goodness of his heart. This is the classic sign of a manipulator; believe me, no one is actually running his investment business out of the goodness of his heart.

Also disturbing to me was the fact that he asked Moshe for a guaranteed private loan, rather than offering to invest the money. A loan carries a sense of security that you are not risking anything, since you are not exposed to an investment's losses. But that sense of security might be hiding the real and more serious risk — that there might not be any intention to repay the money at all. Remember the classic lending wisdom: Only lend someone money that you can afford to lose. And even with investments, always do your due diligence first.

Which brings me to the final point I told Moshe. Get a professional involved before you hand over your money. Ask a financial advisor or an accountant to check into the institution and its history. While a layman might be impressed by seeing that the guy

has a website, an expert knows how to dig further to find out whether this person or institution is really legit.

In this case, everything screamed out "Stay away." But, unfortunately for Moshe — and for many others like him — it was too late.

MOSHE RELATES:

Tuvya immediately foresaw the end of this story, but, for me, it played out slowly and painfully. At first it was hard for me to believe that David's motives were so nefarious from the start. Then, one night soon after, my mother went out to dinner with David and his wife, and she gently asked them what was happening with my money. That was when things began to turn ugly. They blew up at her, and informed her that they would pay me when and how it suited them.

I knew it was time to close the matter, once and for all. I tried to negotiate a settlement, offering to forgive \$50,000 of the loan upon immediate payback. But they would only agree to paying back the total less \$100,000. That was a lot of money to simply say goodbye to, especially when I was in the right and had a clear contract to back me up. So I decided I had no choice but to bring the matter to litigation. I felt particularly confident. I had a trove of e-mail correspondence to back me up, and I also believed that David wouldn't want to risk damaging the reputation he'd so carefully built up.

So I turned to a major Jerusalem beis din, as stipulated in our contract. It was an open-and-shut case, I knew. The contract was straightforward; I'd given him a loan of \$500,000, which he had committed to return within ten months of my requesting it back. He had never disputed the fact that he owed me the money.

This is where David's true colors first appeared. While until then he'd been polite

and apologetic in his dealings with me, now, suddenly, he hired a couple of sharks for lawyers who were ready to fight me tooth and nail, and they resorted to all kinds of underhanded legal tricks in order to do so, such as not showing up to hearings, forgetting to bring necessary papers, or creating 200-page irrelevant documents and generally doing all they could to wear out the beis din. After a year of this, the beis din got tired of this behavior and handed down a strongly worded decision in my favor.

Case closed? Not so fast.

When a beis din issues a *psak*, it then needs to be taken through the secular court system in order to be authorized and enforced. When I turned to the Jerusalem court for what is generally a straightforward procedural certification, David engaged a team of top-dollar lawyers from Tel Aviv. What should have been a simple case was dragging on and on and the legal fees piling up.

His lawyer's tactics became increasingly brutal — turning a straightforward process into a complex decision on tiny technicalities, appealing the case each time they lost. It became crystal clear that this was a wealthy but ruthless man who would stop at nothing to win — even though, by the time this was done, he would end up spending about the same amount of money in legal fees as he owed me.

What argument could they possibly use against me, when I had a clear verdict from the beis din, and when everything seemed so cut and dry? Unfortunately for me, a recent Israeli Supreme Court decision had just been handed down, precedent-setting in its application to jurisdiction in the case of international lawsuits like mine, where the two parties were from different countries. The decision stated that a contract needs to state clearly under which country's jurisdiction the case will be litigated — *and* in which country the

verdict will be confirmed.

This meant that my contract needed to have stipulated not only that any dispute will be litigated in an Israeli beis din, but also that the beis din's verdict will then be confirmed through an Israeli court. Since my contract did not specify this second point, David's lawyers argued, the Israeli court system did not have the jurisdiction to authorize the beis din's verdict.

Because of this brand-new technical limitation, David's lawyers eventually carried the day. The judge ruled — reluctantly, he admitted — in David Abram's favor. The Israeli courts could not confirm the beis din's decision and force David to give me back my money.

I could have continued fighting. After this ruling, I could have brought the beis din's ruling to the US court system. But that would have meant a protracted battle abroad, with untold travel and hefty legal fees. And I knew, after seeing the way David had fought me in Israel, that he would fight just as hard in the US — and that his pockets were a lot deeper than mine. Upon the advice of a *chashuve* rav, I decided to drop the case and settle for whatever I could. I ended up collecting only 20 percent of what was originally owed me.

It hurt to give up such a huge sum of money — it hurt a lot. And what was more, I wasn't the only one in my family hurt by this man. My mother also watched all of my father's \$1.25 million investment go up in smoke, somewhere out in Europe.

Nevertheless, after enduring five years of drawn-out legal battles, today I can say I'm finally free. Free not to have to consider strategies, what-ifs, and next steps. Free to appreciate that my *nisyonos* were from Hashem, and that the money was only a gift in the first place.

Still, it's painful to see all those dreams of financial security for myself and my children laid to waste by one unprincipled man. ●