

A Jewish Bankruptcy

By William Rabinowitz

When I first saw the sign, I was not sure what it meant. Were they selling \$10.00 bones to seniors because the economy was so bad? Many of us are on fixed incomes and some seniors use food stamps. They couldn't be that crass. Did it mean a large dog bone was for sale for \$10.00 for seniors only? I hope it meant for dogs and not people. A small sign in the window said Happy Grooming. Who wants to get groomed by somebody with a *ferbissene punim*?

Sheila would never let a hair dresser touch her if they had an unhappy look on their face. Imagine what she would look like when her friends saw the result. She was not worried how she looked when she got home. She knew I would keep quiet about things. Friday night is still Friday night and Ketubah rights are Ketubah rights.

It is obvious things in Boynton Beach are not always what they seem to be. My friend Mendel the Hassid, we just call him Mendel for short even though he is a real Hassid, and I were taking Norman for a much needed bath and grooming at the \$10.00 for seniors only special. The summer, heat and humidity is really bad, and for Norman, with his long Shih Tzu – Cocker Spaniel coat, it is torture. We have him “groomed” that is scalped, so he might be a bit cooler. Years ago we had a Cocker Spaniel – Rosie. Not paying as much attention to grooming as we should have, she would get matted. Matted meant she had to be “shaved” to get the tangled messes of fur cleared. We would pick her up later with a pretty little pink bow tied to her head. She would go and hide under the bed for days thoroughly embarrassed at her nakedness. We never thought dogs were self conscious when they were without fur.

Norman is different. He is a man's man. You could groom him down to his skin and send him back home with a nothing but a bandanna tied about his neck. He would parade in, sans his long fur, happy to be saved from the dreaded groomer, naked or not.

A few doors from the groomers is the *Crimson Petunia* Kosher Chinese restaurant. Mendel is OK eating there. It is run by a Chinese family and managed by Israelis. The tables are waited on by Hispanic illegals. English is a fourth language. If someone yells, “*Immigracion!*”, it is a tie who heads for the backdoor fastest, the Chinese family, the Israelis or the Hispanics. The restaurant has a Hechsir on the front window that is twice the size of the menu next to it. We know it must be kosher, because the more kosher a place is in Boynton Beach, the dirtier it seems to be.

Norman was going to be ready in about an hour and a half. Lunch was the first thing on our mind, egg drop soup, General Tsao's peanut chow mein, all nicely spiced with extra MSG substitute. Seniors in Boynton Beach have to be careful about their health. We avoid MSG. When the lunch special is \$5.99, you can blink at the MSG substitute.

Directed to a nice table for two against the wall where owner hung chair rail still clung to the wall, we opened our menus and perused. I felt a hand on my shoulder and looked up.

“Bill, how are you doing? Married life still has not done you in?”

“No man is truly married until he understands every word his wife is NOT saying,” I shot back.

Phil Persky smiled down at me. So, I stood up so he wouldn't have to smile down. We shook hands.

“Phil” I said, “how are you doing since the divorce? It's been almost two years right?”

“Actually, it has been three wonderful years.” He said seemly sad.

“Are you O.K.?” I asked, “You look good.”

Mendel looked up at Phil, “the Talmud says we do not see things as they are. We see them as we are.”

Mendel of course was right. I did not know what was troubling Phil. I was fine, even if Sheila had been to the hairdresser with the ferbissen punim last Friday morning.

“Phil, have a seat, join us. We have time to visit – Norman is getting groomed.”

“You still have that man eating 18 lbs of tongue lapping dog?” Phil asked.

“Yes,” I responded. “He is my therapy dog. Some days, life with Sheila really requires a therapy dog.” I smiled.

Phil took a seat with us. He poured himself a stiff cup of hot Sweet Touchney, watered down, tea and sat back with a sigh.

“The Chabad , you know the new synagogue, on Fordingham Road is going bankrupt.” He said. “After Mary divorced me, when I had that little affair with the starter at the Westchester Golf Club, I got very involved through the Rabbi there with the Shul. I tried so hard to become a good Jew again, Bill. The Rabbi asked me to raise money for the Mikveh he was building. It was a lot of money. A few guys contributed a bit but I ended up paying for it. The Rabbi asked me to. I hoped it would put me back in God's good graces. You know we don't have a lot of time left to get right with God again here in God's Waiting Room.”

I could see Mendel was uncomfortable with the way the conversation was going. He never did like the idea of selling a road to God.

“Phil, let me introduce you to Mendel. He is, next to Norman, my best friend.” I said.

Mendel grinned at both of us through his long salt and pepper beard.

"Friends are the bacon bits in the salad bowl of life, anonymous", he said reaching across the table to shake hands with Phil. There was a genuine Mendel look of friendship in his face.

I looked at Mendel and quickly responded - "Many people will walk in and out of your life, but only true friends will leave footprints in your heart."
- Anonymous.

Phil looked at the both of us and smiled – “If you have one true friend, you have more than your share. Thomas Fuller”

“Good for you Phil”, Mendel said twisting his right payah and grinned even wider. His grin was infectious so we all grinned. “So you are a connoisseur of sayings too” he stated.

“A little”, Phil said.

“Nu, Phil, vus ghets, what’s up? You seem to want to share something.” Mendel had a way of reading the unsaid.

Phil took a torn newspaper clipping from the mornings Palm Beach Post and pushed it across table. I read it first and then passed it to Mendel who read in silence. He pulled on his payah a little harder.

“East Boynton Beach temple files for Chapter 11 bankruptcy protection

Unable to resolve a loan dispute with its lender, an Orthodox Jewish congregation east of Boynton Beach has taken the unusual step of filing for Chapter 11 bankruptcy protection.

In its June 10 filing in U.S. Bankruptcy Court, Chabad-Lubavitch of Boynton Beach and Congregation Chabad-Lubavitch of Greater Boynton Beach listed total assets of \$8.97 million and total debts of \$3.8 million.

"It is said, 'The way of GM is the way of America,' " Rabbi Gair wrote in a recent e-mail to congregants explaining the move. Referencing General Motor's Chapter 11 filing, Gair wrote that the Chabad "has unfortunately followed 'The American Way' and has filed for protection under the laws of Chapter 11."

Gair assured congregants the Chabad is not shutting down.

"Chabad-Lubavitch does not go bankrupt because Judaism will never go bankrupt," Gair wrote. Rather, the Chapter 11 was done as a way to tackle "our ever mounting financial obligations. It is no secret that this entire campus is in foreclosure proceedings."

In fact, it is a dispute with lender Stonebridge Bank that "was the sole reason" for the Chapter 11, Gair wrote this reporter in a subsequent e-mail. The Chabad needed to protect its campus "from legal maneuvers attempting to take any of the community's property."

In 2007, Stonebridge Bank loaned the Chabad \$3.8 million to refinance loans on an existing campus and a vacant parcel purchased for expansion. The campus, at 2201 Fordingham Road, currently has a 600-seat sanctuary, administrative offices and social hall

The Chabad wanted to use the vacant land to build additional facilities, including a ballroom for events such as weddings and bar and bat mitzvahs.

But the expansion never took place. A Palm Beach County Circuit Court lawsuit filed by the Chabad last September alleged Stonebridge did a "bait-and-switch" on the 2007 loan, providing only \$3.8 million in financing instead of a larger promised amount of up to \$4.6 million, including a bond needed for the construction job. Stonebridge fired back with an October foreclosure lawsuit. The bank currently has liens on the worship center and vacant parcel next door.

With the Chapter 11 filing, the foreclosure now is on hold as the Chabad seeks to reorganize its finances.

The Chapter 11 filing surprised Stonebridge officials who say they had never encountered a house of worship seeking the protection of bankruptcy laws. "I don't know of any others," said David Mendez, an Aventura-based attorney for Stonebridge.

But the Chabad's bankruptcy lawyer, Samuel Findstein, said nonprofit groups such as houses of worship are entitled to seek financial protection under bankruptcy laws just like for-profit companies. Findstein said he knew of other houses of worship in South Florida that had filed Chapter 11 because they had been hard hit by the recession and declines in donations.

Mendez, Stonebridge's lawyer, said the bank wasn't happy about having to foreclose on the Chabad property.

On the other hand, "The bank would really like to have their loan repaid," he said. "It was nothing we did lightly, but we saw we had no choice. The bank has its obligations as well."

"William", Mendel whispered to me quietly so Phil did not hear, "isn't that the synagogue you had gone to for help to buy food for the terrorized Jews in Northern Israel just after the Hizbollah missiles stopped landing. Weren't you turned down because they were building a Mikveh?"

I did not answer Mendel's question, looking back into his eyes, he knew the answer.

"What do you think Phil?" I asked.

"What do I think? This is not right. This is not good for the Jews. A synagogue is not a business. Who knew that they were thinking of making a reception hall for weddings and bar-mitzvahs in Boynton Beach? The average age is 82. What bar mitzvahs? The weddings that do take place here; it's the children who push the parents down the aisle in wheelchairs."

Phil paused for a moment and brought up his other hand as if counting fingers.

“But then a simcha is a simcha. In Boynton Beach the children from up North come down South to make extra sure the pre-nuptials are signed with irrevocable trusts. They don’t want the new spouse to get any of their money.”

“What was the synagogue thinking? I don’t know if I should laugh or I should cry?” Phil said looking at us.

“Your religion is what you do when the sermon is over. ~Quoted in P.S. I Love You, compiled by H. Jackson Brown, Jr.” I said.

“Forbear to judge, for we are sinners all, William Shakespeare, Henry VI” Mendel said sharply. It was out of character to hear him speak that way. So I listened.

“Phil, I have used your Mikveh, and I thank you for it. It is a lovely place to go and spiritually cleanse myself. The walls are painted with frescoes from the Holy Land but it is the opportunity to renew myself that I appreciate. Thank you” Mendel said.

Mendel closed his eyes for a long moment. I knew what was happening. He was drawing out something from his memory. Mendel was incredible. He had a virtual photographic memory and could quote verbatim long after he read something.

“*Rabbi Yitzchok A. Breitowitz* wrote about the Halacha on debts. The central issue I would like to address is whether it is morally proper for a religious Jew to try to escape payment of debts by invoking bankruptcy relief,” Mendel began.

At the outset, it must be recognized that the Torah considers the obligation to pay debts as absolute. There is, of course, a mitzvah in the Torah of giving charity (tzedokeh) and the Rambam tells us that the highest form of charity is making a loan to somebody because a loan is enabling someone to achieve self sufficiency. Therefore, according to the Torah, loans were not business propositions, loans were not investments. Loans were acts of charity, benevolence and generosity. That is form of tzedokeh. At the same time, however, the debtor's obligation to pay is considered to be an absolute obligation and there is no mechanism in Halakhah that is tantamount to escaping your debts by filing a bankruptcy and obtaining a discharge.

There are two different theories that are given. One theory is based on the Talmudic rule called "Dina D'Malchuta Dina." Now, this is Aramaic for the law of the land is Halakhically the law that we must follow. That's a principle that needs a great deal of explanation. . . . So, the argument goes, since bankruptcy law is a law that pertains to property rights and the like, the principle of Dina D'Malchuta Dina allows you to invoke a bankruptcy discharge.

In a secular system, bankruptcy and financial difficulty are regarded as a two-way problem between a debtor and a creditor. In Judaism it is regarded ultimately as a societal problem. Under a Jewish society if a person finds himself in a very difficult situation, it is not just his own tough luck. Rather there is an obligation on the community to support people who have fallen on hard times.

The secular law gives the debtor more escape hatches than does Jewish law. Jewish law basically says you have no way of escaping the clutches of the creditor. But that has to be understood in tandem with the fact that the communal responsibilities toward the debtor are much greater. Essentially, what a secular bankruptcy tells the creditor is that you, Mr. Creditor suffer the risks of the debtor's bad fortune. You lent him the money and if he escapes that, you suffer the loss. Halakhah says the loss is not going to be suffered by the creditor but the loss will, in effect, be shared by society as a whole. It's really the theory of loss spreading like insurance. Insurance is often described as a loss spreading mechanism. Instead of one person suffering a catastrophic loss all of society through premiums bears a little bit of that loss. I would describe the Halakhic debt collection system that way as well. This means if you look at it only in terms of a creditor and a debtor, it looks like we have a fairly hard headed system. Debtor has no means of escape. But if you look at the total picture in terms of societal obligations, then you can actually see that it's really a very sophisticated loss sharing mechanism, a system that is profoundly more responsive and compassionate to the plight of poverty and difficult circumstances.

In truth, this illustrates an essential proposition concerning many of the so-called hard line teachings of Judaism. Whenever you assess any particular aspect of Judaism, you have to look at the parts as part of an integrated whole and not just isolate the single straits, taken out of context. In Judaism, as in life, let us beware of unfounded generalizations based on incomplete information. May our recognition of the vast riches of our Torah spur all of us to greater commitment to learning and to observance?

Mendel sat quiet.

I turned to him. "Mendel, they knew what they were doing when they signed the contract with the bank. This was a business transaction. They knew they needed to get donations. They had their lawyers read and then reread the contracts before signing them. They knew the synagogue building was put up as collateral. They are sophisticated people that went into this business arrangement with open eyes, and now, they claim to be the victims. What is wrong with the bank wanting to get its money back? It is not the bank's money; it is the depositor's money. It is the Mrs. Feldman's, Mr. O'Reilley's, Mr. Chin's deposit money they want back. It is not the government's job to simply bail out the synagogue. Whose tax money are they going to use to bail out the synagogue but Mrs. Feldman's, Mr. O'Reilley's and Mr. Chins'? Mendel they should do their best to give them back their money. They have more assets than debits – they just don't want to pay the piper. They borrowed the money foolishly and don't want to sell the building to pay it back. Let them daven under a Palm tree, God will be O.K. with that. This is not good. This is not good for the Jews."

Phil sat staring at both of us, in the middle of the Crimson Petunia, with silverware rattling on the table, as we each made a point and banged the table with an ah-Hah.

"William, you are right and they may be right," Mendel said. But consider, if this is the American way, that a synagogue is now a business, does that mean we can say to God we screwed up, we demand to go bankrupt and not be judged for our lives. Is that the American way?"

“Have the courage to say no. Have the courage to face the truth. Do the right thing because it is right. These are the magic keys to living your life with integrity, W. Clement Stone,” I said

“What seems like the right thing to do could also be the hardest thing you have ever done in your life. It’s always worth it- anonymous the famous philosopher”, Mendel returned.

“Both of you are arguing the same side and then opposite sides,” Phil exclaimed.

“Yes”, Mendel and I said simultaneously,” impish smiles of life in both of our eyes.

“This will have to be settled in court. We believe in justice but justice requires a judge. All of this is so we can live here for now. God will have to be the final Judge of things no matter what, today, tomorrow and forever,” Mendel said.

It was a simple statement of faith. Mendel always came through.

Phil dipped another stale Chinese noodle in the sweet peach sauce.

“Do the right thing, it will gratify some people and astonish the rest, Mark Twain,” he said.

We slurped our egg drop soups over-thickened by corn starch so a spoon could stand and extra yellow with organic food coloring. We have to be careful of what we eat.

I withheld the strong urge to yell, “immigracion” as we left to get Norman. Norman was eagerly awaiting liberation. He had a purple bandana around his neck. Naked of fur as a dog could be, seeing us, he headed straight to Phil jumping and barking and jumping and barking until Phil picked him up. Norman licked his nose.

Phil joined our growing little band of quoters. We all scour the net or books for good quotes to memorize and share with and against each other in loving rejoinders. In time, our little group grew to a minyan size. Sheila was beside herself when we would gather on the pool patio for minyan when her Mah Jhong group met. Ten shucklers led by a Hassid in a long black coat, salt and pepper beard and payahs dangling intoned over the ladies’ banter – one crack – one bam but no joker. You don’t pass jokers.

Norman, Norman was Norman. He always sat attentively right next to Mendel when Mendel the Hassid led services. Norman seemed to understand.