

## The 11 Unresolved Questions (34a-b):

It is obvious, that if a guardian said, "I shall not pay," and then later retracts and says, "I shall pay," that he becomes entitled to the penalty payment.

However, what if:

Question	Explanation / Notes
<b>1.</b> The guardian originally said "I shall pay," and then he retracted and said, "I shall not pay"?	<ul style="list-style-type: none"> <li>➤ <b>Is he rescinding his offer to pay, and thus forfeiting the rights to the penalty payment, or is he merely stalling the owner to delay the payment?</b></li> <li>○ Does this imply that one has the right to retract on a statement made in court? (Tosafos, Ritva)</li> </ul>
<b>2.</b> <i>(If you assume that the guardian is not rescinding, but merely stalling...)</i> The guardian said "I shall pay" and then died, and his heirs said "We shall not pay"?	<ul style="list-style-type: none"> <li>➤ <b>Are they rescinding their father's offer, and thus forfeiting the rights to the penalty payment, or are they, too, merely stalling the owner to delay payment?</b></li> <li>○ Are children obligated to pay up the debts of their father?</li> <li>○ Can children inherit fines owed to their father? (Tosafos)</li> </ul>
<b>3.</b> <i>(If you assume that the heirs are not rescinding their father's pledge, and they do acquire the penalty payments...)</i> The guardian died before having a chance to declare whether he wishes to pay or not, and then the guardian's heirs paid the owner?	<ul style="list-style-type: none"> <li>➤ <b>Can the owner tell the heirs, "I only intended to transfer the rights of penalty payments to your father, because he pleased me several times," or perhaps the owner does not differentiate between the father and his heirs?</b></li> <li>○ Did the heirs actually pay, or only pledge to pay?</li> </ul>
<b>4.</b> <i>(If you assume that the owner nevertheless wishes to convey the penalty payment to the guardian's heirs...)</i> The owner died, and the guardian paid the owner's heirs?	<ul style="list-style-type: none"> <li>➤ <b>Can the owner's heirs say, "Our father intended to transfer to you penalty payments because you pleased him, but you have not pleased us," or perhaps the heirs do not distinguish between their father and themselves?</b></li> <li>○ When was the item stolen? (Rashi)</li> </ul>
<b>5.</b> <i>(If you assume that the owner's heirs are willing to transfer the penalty payment to the guardian...)</i> Both the owner and the guardian died, and the guardian's heirs paid the owner's heirs?	<ul style="list-style-type: none"> <li>➤ <b>Neither the guardian nor the guardian's heirs ever pleased the current owners (the original owner's heirs), nor did the guardian's heirs ever please the original owner. On the other hand, since the guardian did please the original owner, perhaps the owner's heirs desire to transfer the penalty payments to the guardian's heirs?</b></li> <li>○ When was the item stolen? When did the owner die? When did the guardian die?</li> </ul>