

The Geller Edition

שרשרת זהב

Fine, I Admit It

מודה בקנס



לרפואה שלימה
שמואל יעקב בן רחל



Vol II

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These booklets are called **Sharsheres Zahav** (*Golden Chain*), based on the verse describing the golden chains of the Choshen (Shemos 28:13–14). Just as those chains connected the Choshen to its proper place, so too these works are intended to be small links in the golden chain of Torah transmission, connecting the learner to the teachings of Chazal, the Rishonim, the Acharonim, and the great Torah scholars of every generation.

In particular, these booklets seek to connect the reader to the illuminating Torah of the **Ketzos HaChoshen**, whose teachings serve as a central foundation throughout. Everything written here is based on the sacred words of our sages and was prepared through sincere effort to clarify and understand the sugyos in the light of their teachings.

May Hashem grant that these words find favor among those who study Torah, and may these works become worthy additions to the eternal chain of Torah transmission from generation to generation.

Amen.

How to Read This Sheet?

Each source appears first in the original Hebrew or Aramaic, with a plain English version directly underneath. A Sugya Note helps explain the source in everyday words.

A Term Note defines an important word or idea. A Takeaway sums up the main point in a line or two.

You do not need any background to follow along. Read each source, then the English, then the note. The sheet is built to walk you through the discussion one step at a time.

Do not worry if you do not finish the sheet in one sitting. A good Torah session is not measured only by how much you finish, but by how deeply you learn to think through the discussion.

מודה בקנס Fine, I Admit It

Opening Frame

Reuven steals an item worth \$500 from Shimon. The Torah may require him to return the item and pay an additional \$500 as a fine. No witnesses testify about the theft. Reuven himself admits that he stole the item.

In an ordinary money case, a person's own admission is powerful. If he says, "I owe you," Beis Din, a Jewish court, can require him to pay even without witnesses. A Torah fine is different. If a person admits on his own that he owes a fine, he is exempt from paying it. We will call this "the admission exemption."

Only judges who carry the original chain of ordination going back to Moshe Rabbeinu can collect Torah fines. We no longer have such judges today. Still, if Shimon has already taken property to cover the fine, Beis Din may allow him to keep it. But what if Reuven's own admission is the only reason we know that he owed the fine? Can Shimon keep what he took, or does the admission exemption mean that he must return it?

I. Comes Out Clean

First we need the source for the admission exemption.

Shemos 22:8 | פסוק שמות כ"ב, ח
The Torah, Book of Shemos

For every matter of wrongdoing, about an ox, a donkey, a sheep, a garment, or any lost item, where someone says, "This is it," the claim of both sides shall come before the judges. The one whom the judges find guilty shall pay double to his friend.

על כל דבר פשע על שור על חמור על
שה על שלמה על כל אבדה אשר יאמר
כי הוא זה עד האלהים יבא דבר שניהם
אשר ירשיען אלהים ישלם שנים לרעהו.

Term Note

Kenas — A Fine

It is not regular payment for damage. It is a penalty that can only be collected through the right kind of Jewish court.

Modeh b'kenas patur — One Who Admits to a Fine Is Exempt
 If a person admits that he owes a Torah fine, he is exempt from paying the additional amount.

פרק מרובה, בבא קמא ס"ד: | Bava Kama 64b

The Babylonian Talmud, developed in the Torah academies of Babylonia from the 3rd to 6th centuries. It preserves generations of discussion, debate, and Torah reasoning.

From where do we know that one who makes himself guilty is not liable? From the words, "whom the judges find guilty." This teaches: the judges make him guilty, but he does not make himself guilty.

מרשיע את עצמו מנלן?
 מאשר ירשיעון אלהים, ולא
 המרשיע את עצמו.

רש"י, כתובות מ"א. | Rashi to Kesubos 41a

Rashi, Rabbi Shlomo Yitzchaki, Troyes, France, 1040 to 1105. His clear, line-by-line commentary became the starting point for learning both Chumash and Gemara.

In Bava Kama we learn that one who admits to a Torah fine is exempt from paying it, as derived from the words, "whom the judges find guilty." This excludes one who makes himself guilty.

בב"ק נפקא לן מודה בקנס
 פטור מאשר ירשיעון אלהים,
 פרט למרשיע את עצמו.

II. Two Rules That Collide

— On one hand, one who admits creates an exemption, but on the other hand, admission can create liability. —

פרק האומר, קידושין ס"ה: | Kiddushin 65b

The Babylonian Talmud, Iraq, 3rd to 5th century

A person's own admission is like one hundred witnesses.

הודאת בעל דין כמאה עדים דמי.

Hoda'as ba'al din — A Person's Own Admission
 A person's own admission about himself in regular money cases has very strong power.

Takeaway

In regular money cases, a person's words can obligate him. His own admission is treated like real testimony, as strong as one hundred witnesses: if he admits, he pays. But in the case of a Torah fine, the Torah says the opposite. Guilt must come from the court, not from his own mouth. Two rules, pulling in opposite directions. When they meet, which one wins?

III. No Fines Today, but What About Grabbing?

— Now we move to the practical case. Today, Jewish courts do not collect Torah fines, but the injured person may sometimes keep what he already took. —

שו"ע, חושן משפט סי' א', סע' ה' | Shulchan Aruch, Choshen Mishpat 1:5

Rabbi Yosef Karo, Spain, Turkey, and Tzfas, 1488 to 1575. After leaving Spain as a child, he eventually settled in Tzfas, where he completed the works that organized practical halachah for later generations.

Even though judges who do not have special ordination in Eretz Yisrael do not collect Torah fines, if the injured person grabbed the amount that he is supposed to receive, we do not take it away from him.

אע"פ שדיינים שאינם סמוכים בארץ ישראל אינן מגבין קנסות וכו', אם תפס הניזק שיעור מה שראוי לו ליטול, אין מוציאין מידו.

Term Note

Tefisah — Grabbing

Here it means that the injured person already took the amount he claims he is owed.

סמ"ע, שם ס"ק י"ח | Sema, Choshen Mishpat 1:18

Rabbi Yehoshua Falk, Poland and Lemberg, c. 1555 to 1614. He led a yeshivah in Lemberg, and his commentaries became standard companions to the Tur and Shulchan Aruch.

The Shulchan Aruch wrote the halachah without distinguishing between a case where the person admitted to the fine and a case where he did not. He did not write that if the person admitted, grabbing does not help. This is because we hold like the Ramban, that nowadays a person is not exempted from a Torah fine through his own admission.

סתם המחבר, ולא כתב דאם הודה בקנס דלא מהני ליה התפיסה, משום דקי"ל כהרמב"ן דבזה"ז לא מפטר בהודאתו.

Sugya Note

The Sema explains that even though our courts today cannot judge and collect Torah fines, if the injured person already grabbed the amount that he deserves according to the law, we do not take it away from him.

The Sema says that the Shulchan Aruch did not distinguish between a case where the damager admitted and a case where he did not. That is because we hold like the Ramban, that today an admission does not exempt a person from this kind of fine. Since we do not have a court that can collect or exempt these fines, the admission exemption does not apply in the regular way.

Therefore, according to the Sema and the Shach, even if the damager admitted, if the injured person grabbed the proper amount, we do not take it away from him.

מבואר דאף שבזמן הזה אין לדיינים שאינם סמוכים כח לדון ולגבות קנסות, מכל מקום אם תפס הניזק בעצמו שיעור הראוי לו על פי דין, אין מוציאין אותו מידו, ותפיסתו מועילה להחזיק במה שתפס. ועל זה כתב הסמ"ע, דהמחבר סתם דבריו ולא חילק בין היכא שהמזיק הודה בקנס להיכא שלא הודה, משום דקי"ל כדעת הרמב"ן דבזמן הזה אין הודאת בעל דין פוטרת מקנס. דכיון שאין בי"ד סמוכים היכולים לחייב או לפטור מדין קנס, שוב לא שייך הכלל דמודה בקנס פטור, וממילא אף לאחר הודאתו, אם תפס הניזק את הקנס הראוי לו אין מוציאין מידו. וכן העלה הש"ך להלכה. ונמצא דלדעת הסמ"ע והש"ך, דין מודה בקנס פטור אינו נוהג בזמן הזה לענין למנוע תפיסת הניזק, דכל עיקר הפטור נאמר במקום שיש בי"ד הראוי לדון קנסות, אבל בזמננו שאין דנים קנסות, נשאר כח התפיסה במקומו אף לאחר הודאת המזיק.

Takeaway

According to the Sema and the Shach, the admission no longer exempts the damager. If the injured person already took the proper amount, he may keep it.

IV. The Ketzos Pushes Back

— Even if the admission does not exempt him, why should it help at all? —

קצות החושן, סי' א', סק"ו | Ketzos HaChoshen, Choshen Mishpat 1:6

Rabbi Aryeh Leib HaKohen Heller, Rav of Stryi, Galicia, c. 1745 to 1812. Known as the Ketzos, his sharp conceptual style helped shape the learning of later yeshivos.

There is a difficulty with the words of the Sema and the Shach. They say that since today the admission exemption does not apply, his admission can help the injured person keep what he grabbed.

But regarding a Torah fine, a person's admission is not considered testimony at all. Even in a case where that exemption does not apply, how can the injured person grab today based on the other person's admission?

ויש לתמוה על דברי הסמ"ע והש"ך, דנקטו דבזמן הזה כיון שאין דין מודה בקנס פטור נוהג, ממילא מועילה הודאתו לענין שלא להוציא מיד הניזק אם תפס. אמנם בקנסות אין הודאת בעל דין חשובה כלל כעדות, ואף במקום שלא שייך הפטור של מודה בקנס פטור, ממילא הא"י יכול לתפוס בזה"ז משום הודאתו.

Sugya Note

There is a difficulty with the words of the Sema and the Shach, who hold that today, since the admission exemption does not apply, his admission works — so that if the injured person grabbed, we do not take it away from him.

The Ketzos HaChoshen elaborates that regarding Torah fines, a person's admission is not considered an obligating admission at all, and we do not say that a person's own admission is like one hundred witnesses. According to this, there is a great difficulty: even where the admission exemption does not apply, since his admission carries no weight at all as proof regarding a Torah fine, how can his admission work to uphold the injured person's grabbing, so that we do not take it away from him?

ויש לתמוה על דברי הסמ"ע והש"ך, דנקטו דבזמן הזה, כיון דלא שייך דין מודה בקנס פטור, ממילא מהניא הודאתו לענין דאם תפס הניזק אין מוציאין מידו. והנה הקצות החושן (סק"ו) האריך לבאר דבקנסות אין הודאת בעל דין חשובה כלל בתורת הודאה המחייבת, ולא אמרינן דהודאת בעל דין כמאה עדים דמי. ולפי זה צ"ע טובא, דאף היכא דלא שייך הפטור דמודה בקנס פטור, מכל מקום כיון דעצם הודאתו אינה חשובה כלל כראיה בקנסות, היאך מהניא הודאתו להחזיק תפיסת הניזק שלא להוציא מידו.

That which we hold that a person's own admission is like one hundred witnesses — that applies only to money matters, but not to a Torah fine and not to the punishment of lashes.

והא דקי"ל הודאת בעל דין כמאה עדים דמי, הני מילי לממונא, אבל לקנס ולעונש מלקות לא.

Sugya Note

Rashi says explicitly that a person's own admission was said only in money cases, and not regarding Torah fines.

This makes the Sema and the Shach hard to understand. They say that today, since the damager is not exempt through his admission, if the injured person grabbed based on that admission, we do not take it away from him. But from Rashi it is clear that his admission cannot obligate a Torah fine to begin with. Admission that creates liability is only applicable to ordinary monetary cases. A person's own admission doesn't apply to fines. According to this reasoning, how can an admission to a fine create a liability to begin with?

הרי להדיא הודאת בעל דין נאמרה בדיני ממונות בלבד, ולא בקנסות. ממילא צע"ג על דברי הסמ"ע והש"ך, דסבירא להו דבזמן הזה, אף שאין המזיק נפטר בהודאתו מדין מודה בקנס, מכל מקום אם תפס הניזק על ידי הודאתו אין מוציאין מידו. והרי מבואר בהודאת בעל דין אינה מחייבת קנס כלל, ואף במקום שלא שייך בו הפטור של מודה בקנס, וצ"ע.

Takeaway

The Ketzos says the issue is not only that admission creates an exemption. The deeper point is that admission cannot create the fine in the first place.

V. The Shaarei Yosher: Grabbing Is Different

The Shaarei Yosher answers that grabbing money today is not a normal court collection of a fine. It is a different kind of discussion.

Shaarei Yosher | שער יוסר, שער ז', פי"ט

Rav Shimon Yehuda Shkop, Lithuania and Grodno, 1860 to 1939. A student of Volozhin, he later led the yeshivos of Telz and Grodno and trained many of the next generation's leading roshei yeshivah.

The foundation of the law of grabbing regarding Torah fines today is not that the court judges and obligates the fine. Rather, the claimant is allowed to grab based on the

דהנה יסוד דין תפיסה בקנסות בזמן הזה אינו משום שבי"ד דנים ומחייבים את הקנס, אלא משום דהתובע רשאי לתפוס

rule that a person may take the law into his own hands, known as *avid inish dina l'nafshei*.

Even so, he must be able to prove that what he is taking is his, as the Tur and Shulchan Aruch rule (Choshen Mishpat 4) that a person is only permitted to take the law into his own hands where he can prove that the law is with him.

Accordingly, when a court considers such a case today, it is not judging the fine itself. As we discussed, courts today have no power to judge fines. The courts are simply clarifying whether the grabbing was done properly.

מכח עביד איניש דינא לנפשיה. אלא דאף בזה בעינן שיוכל לברר ששלו הוא נוטל, וכמו שפסק הטור והשו"ע (חו"מ סי' ד'), דלא הותר לאדם לעשות דין לעצמו אלא במקום שיכול לברר שהדין עמו. ומעתה, הבירור שבי"ד עושים בזה"ז אינו בירור של חיוב קנס כלל, שהרי אין בידם כח לדון קנסות, אלא בירור בעלמא אם התפיסה נעשתה כדין.

Sugya Note

According to Rav Shimon Shkop in Shaarei Yosher, a person's admission can still be fully effective for clarifying the facts. For this kind of clarification, his admission is treated like one hundred witnesses.

A person's admission does not work when the question is whether the Torah fine itself has taken effect. His words cannot create the fine or establish that obligation.

But here the question is different. The injured person has already taken property, and Beis Din must decide whether he may keep what is now in his possession. That is a regular money question. For that purpose, the defendant's admission can clarify the injured person's right to hold the property.

Therefore, even though the admission cannot create the Torah fine, it can still show that the taking was proper. Taking possession today does not work because Beis Din imposed the fine. It works through the rule that a person may protect his own rights. Beis Din is only clarifying whether the person who took the property may keep it. For that limited question, the defendant's admission is effective.

ולפי מש"כ מרן הגאון הרב שמעון יהודה שקאפ זצוקללה"ה, דלענין בירור שפיר מהני הודאת בעל דין כמאה עדים דמי. דכל מה שמצינו שאין הודאת בעל דין מועילה בקנסות, היינו לענין עצם חלות חיוב הקנס, דעל זה לא מהני הודאתו כלום, אבל לענין בירור זכותו הממונית של התופס להחזיק בחפץ שתחת ידו, הרי זה בכלל דיני ממונות, ובזה שפיר מהני הודאת בעל דין. לפיכך אע"פ דאין הודאת בעל דין מחייבת קנס כלל, כיון שתפיסה בזה"ז אינה פועלת מכח חיוב הקנס, אלא מכח זכות התפיסה של עביד איניש דינא לנפשיה, שוב אין אנו דנים על עצם חיוב הקנס אלא על בירור זכותו של התופס. ובבירור זה שפיר מועילה הודאת בעל דין.

Term Note

Avid inish dina l'nafshei — A Person Takes the Law Into His Own Hands

This means that in certain cases, a person may act to protect his own rights without waiting for court.

משנת רבי אהרן, גיטין ס' ל"ב | Mishnas Rabbi Aharon, Gittin 32

Rav Aharon Kotler, Rosh Yeshivah in Kletsk and Lakewood, 1891 to 1962. He founded Beis Medrash Govoha and helped rebuild the world of advanced Torah learning in America.

Rav Aharon Kotler zt"l explains the same basic idea. How can grabbing work regarding a Torah fine if there is no obligation without a proper court?

It must be that the act of taking the money itself creates the right to hold it, because of the rule that a person may sometimes take the law into his own hands. The witnesses are only needed so that the other person cannot take the money back. The witnesses do not create the fine itself.

If there are witnesses, everyone agrees that holding the money works, because it is clear that he grabbed properly. And if the defendant admits, that admission works like witnesses for this money question. He is admitting that the money was taken properly.

ונראה להסביר המח' אם מהניא תפיסה בהודאה, דלכאורה צריך להבין איך מהניא תפיסה בקנס, כיון שאינו מחויב בקנס בלא בי"ד. ובהכרח צריך לפרש דכיון דעביד איניש דינא לנפשיה הוי כאילו מתחייב בתפיסתו וכו', ואנו צריכין לעדים רק שלא יוכל הלה להוציא גזילתו, דודאי אינו נאמן לתפוס ולטעון דמחויב לו, אבל אין העדים פועלים בגוף החיוב וכו', ואם איכא עדים כו"ע מודו דמהניא תפיסתו, וכיון דהודאת בע"ד כמאה עדים דמי, הרי מודה דתפס כדין.

Sugya Note

Rav Aharon zt"l explains that the witnesses do not create the basic obligation. They only prove that the person who grabbed had the right to do so. Once that is clear, the defendant cannot remove the money from him.

So too, an admission can work for this kind of proof. It cannot create the fine itself. But it can prove that the person holding the money is holding it properly.

ומבואר בדבריו, דהעדים אינם פועלים את גוף החיוב, אלא רק מבררים שהתופס נהג כדין, כדי שלא יוכל הנתבע להוציא ממנו את מה שתפס. ולכן, במקום שיש עדים, כו"ע מודו דמהניא תפיסתו, שהרי נתברר שתפס כדין. ומעתה, כשם שעדים מועילים לברר שהתפיסה היתה כדין, כך מועילה גם הודאת בעל דין, שהרי הודאת בעל דין כמאה עדים דמי לענין בירורי ממון. ולכן, אע"פ שלענין עצם חיוב הקנס אין הודאת בעל דין מחייבת כלל, מכל מקום לענין בירור זכותו של התופס להחזיק במה שתפס, שפיר מהני הודאת הנתבע, דהרי הוא מודה שהתפיסה היתה כדין.

Takeaway

The Shaarei Yosher and Rav Aharon split the issue into two parts. Admission cannot create a Torah fine, but it can show that a person may keep what he already took.

Why does the Ketzos not accept this answer?

קצות החושן, ריש סי' ל"ז | Ketzos HaChoshen, Siman 37

Rabbi Aryeh Leib HaKohen Heller, Galicia, c. 1745 to 1812

A person is believed about himself even though he is close to himself. This is because the Torah gave every person credibility about himself, even if he has disqualifications for testimony, like a slave, a woman, a maidservant, or only one witness. The Torah only required "two witnesses" when a person testifies about others. But about himself, one person is believed.

ועמ"ש בסי' ל"ד סק"ד דטעמא דאדם נאמן על עצמו אע"ג דקרוב הוא לעצמו, משום דכן נתנה התורה נאמנות לכל אדם על עצמו אפי' יש בו כל הפסולים שהוא עבד או אשה ושפחה, וגם אינו אלא עד אחד, אלא דהתורה לא אמרה ע"פ שנים יקום דבר אלא כשמעיד על אחרים, אבל על עצמו נאמן הוא.

Sugya Note

According to the Ketzos, a person's admission works like real testimony about himself. The Torah requires the usual rules of testimony only when someone testifies about other people.

But when a person testifies about himself, the Torah believes him even without the normal conditions of testimony.

So according to the Ketzos, admission is not just a person accepting a charge. It has the status of testimony about himself.

מבואר מהקצות שהודאת בע"ד כמאה עדים היינו כעדות גמורה כלפי עצמו, דרך עדות על אחרים צריכה כל תנאי עדות, אבל אם מעיד על עצמו, אה"נ אין צריכים כל התנאים בדיני עדות, דגזה"כ ע"פ שנים יקום דבר היינו רק כשמעיד על אחרים. מדברי הקצות מבואר שגדר הודאת בע"ד אינו חיוב עצמי גרידא, אלא עדות גמורה כלפי עצמו. אלא שחידשה תורה חילוק יסודי בדיני עדות, דהדרשה של על פי שנים יקום דבר נאמרה דוקא בעדות על אחרים, אבל בעדות שאדם מעיד על עצמו, נאמן הוא אף בלא כל תנאי עדות, ואפילו הוא קרוב לעצמו או פסול לעדות. נמצא שהודאת בע"ד דינה כעדות.

Takeaway

It is clear that the Ketzos disagrees with Rav Shimon Shkop and Rav Aharon. Since the Ketzos holds that a person's admission is real testimony about himself, and regarding a Torah fine the Torah gave that testimony no power at all, the admission cannot even support the injured person's grabbing. Rav Shimon Shkop and Rav Aharon, on the other hand, hold that his admission is not being used to create the fine. It is being used only to clarify who may keep the property.

VI. The Pnei Yehoshua: A Third Definition

פני יהושע, כתובות ק"ב. | Pnei Yehoshua, Kesubos 102a

Rabbi Yaakov Yehoshua Falk, Poland and Germany, 1680 to 1756. After surviving a 1702 gunpowder explosion that killed 36 Jews, including his wife and young daughter, he vowed to devote his life to the deep study of Gemara

Rashi explains that the reason it is obvious to us that in money matters a person's own admission is like one hundred witnesses is because it is written, "where he says: This is it," regarding one who admits to part of a claim.

According to this, it follows that had we not learned it from the verse, it would not have been obvious to us from logic alone, etc. — and the verse speaks specifically about one who admits in court, for that is the case the verse is discussing. If so, from where do we know that one who admits outside of court, in front of witnesses, is obligated?

Rather, it must be that an admission in front of witnesses (outside the court) is effective because of the law of arev, a guarantor — that a person can obligate himself even in something he does not owe.

פרש"י ז"ל שם דהא דפשיטא לן בממון הודאת בע"ד כמאה עדים היינו משום דכתיב אשר יאמר כי הוא זה במודה במקצת, א"כ לפי"ז משמע דאי לאו דילפינן מקרא, מסברא לא הוי פשיטא לן וכו', אלא במודה בב"ד דוקא דבהכי איירי קרא, ואכתי במודה חוץ לב"ד בפני עדים מנא לן, אלא ע"כ דהא דפשיטא לן דבהודאה בפני עדים ואמר להו אתם עידי מהני משום דפשיטא לן מדין ערב, דאדם יכול לחייב עצמו במה שאינו חייב.

Term Note

Arev — A Guarantor

One who accepts responsibility to pay even though he was not the original borrower.

Sugya Note

From the Pnei Yehoshua it sounds like a person's admission outside the walls of a courtroom is not testimony at all. It is a personal acceptance of obligation, like a guarantor. A person can make himself obligated even in something he did not previously owe.

According to this, even in today's times, when we don't adjudicate fines, the admission may work as a new personal obligation, even though Beis Din cannot impose the Torah fine itself.

מדברי הפנ"י משמע דגדר הודאת בע"ד אינה מדין עדות כלל, אלא מדין התחייבות עצמית, כדין ערב, שאדם יכול לחייב את עצמו אף במה שאינו חייב. נמצא שלשיטתו הודאת בע"ד אינה עדות, אלא קבלת החיוב, וממילא אינה תלויה בדיני עדות כלל.

Takeaway

The Ketzos sees admission as testimony about oneself. Rav Shimon Shkop and Rav Aharon see it as a clarification that the grabbing was proper. The Pnei Yehoshua sees admission as self obligation. Three definitions — and each changes how admission can work when the court itself cannot create the fine.

Conclusion

We began with Reuven and Shimon. No witnesses testified about the theft, but Reuven admitted that he stole Shimon's item. Shimon had already taken property to cover the additional fine. Could he keep it, or did Reuven's admission exempt him from the fine?

The early sources gave us two opposite rules. In regular money cases, a person's admission is like one hundred witnesses. But when a person admits to a Torah fine, he is exempt. The Sema and the Shach hold that this exemption does not apply today because our courts cannot judge Torah fines. Therefore, if Shimon has already taken the proper amount, Reuven's admission does not force him to return it. The Ketzos asks a deeper question. If an admission cannot establish a Torah fine, how can that same admission prove that Shimon had the right to take the money?

Rav Shimon Shkop and Rav Aharon answer that Beis Din is not collecting the fine. It is

only deciding whether Shimon may keep what he already took. That is a regular money question. Reuven's admission can show that Shimon took the property properly, even though it cannot create the fine itself. The Pnei Yehoshua offers another path. An admission made outside Beis Din can work as a person accepting a new obligation, like a guarantor. It is not testimony. His words can therefore create a personal money obligation even when Beis Din cannot impose the Torah fine.

According to the Ketzos, however, admission is real testimony about oneself. The Torah accepts that testimony in ordinary money cases but gives it no power to establish a fine. It therefore cannot create the fine or support Shimon's taking. The entire case turns on what Reuven's words are doing: Are they testimony about himself, proof that Shimon may keep what he took, or the acceptance of a new obligation? That determines whether Shimon can keep the money.