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**BEFORE THE ARIZONA CORPORATION**

COMMISSIONERS

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

Arizona Corporation Commission  
**DOCKETED**

JUN 27 2013

DOCKETED BY **NR**

IN THE MATTER OF ULF OLOF HOLGERSSON  
AND LAVERNE J. ABE, FORMERLY HUSBAND  
AND WIFE, DOING BUSINESS AS VIKING  
ASSET MANAGEMENT, AN ARIZONA  
REGISTERED TRADE NAME,

DOCKET NO. S-20762A-10-0416

DECISION NO. 73924

RESPONDENTS.

OPINION AND ORDER

DATE OF PRE-HEARING CONFERENCE:	December 2, 2010
DATE OF HEARING:	September 21, 2011
PLACE OF HEARING:	Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE:	Marc E. Stern
APPEARANCES:	Mr. Ulf Olof Holgersson, in propria persona;
	Mr. Gregory A. Larson, RUCHTMAN, WILENCHIK & LARSON, PLLC, on behalf of Laverne J. Abe; and
	Mr. William Black, Staff Attorney, on behalf of the Securities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On October 14, 2010, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Ulf Olof Holgersson dba Viking Asset Management ("Viking") and Laverne J. Abe, formerly husband and wife, (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of stock and notes.

The Division joined Respondent Abe in the Notice Pursuant to A.R.S. § 44-2031(C) solely to determine the liability of the marital community.

1 The Respondents were duly served with a copy of the Notice.

2 On November 1, 2010, Respondents Holgersson and Abe each filed a request for hearing in  
3 this matter.

4 On November 3, 2010, by Procedural Order, a pre-hearing conference was scheduled on  
5 December 2, 2010.

6 On December 2, 2010, a pre-hearing conference was held, at which the Division appeared  
7 with counsel and Respondents appeared pro se. The parties indicated they wished to discuss a  
8 possible settlement. In the interim, the Division requested that a hearing be scheduled in late April  
9 2011, in the event that the matter was not resolved by the parties.

10 On December 7, 2010, by Procedural Order, a hearing was scheduled on April 19, 2011, and  
11 the parties were ordered to exchange copies of their Witness Lists and Exhibits by March 9, 2011.

12 On March 9, 2011, the Division filed a Motion to Continue the hearing and to continue the  
13 date upon which copies of the Witness Lists and Exhibits were to be exchanged because the Division  
14 was reviewing additional documentation it had received and might be able to resolve the issues raised  
15 by the Notice. The Respondents did not file a response to the Division's Motion.

16 On April 5, 2011, by Procedural Order, the Division's Motion was granted, and the  
17 proceeding was continued from April 19, 2011, to June 20, 23, and 27, 2011.

18 On April 25, 2011, by Procedural Order, the second day of hearing was rescheduled from  
19 June 23, 2011, to June 24, 2011, due to a scheduling conflict.

20 On May 16, 2011, an attorney filed an appearance on behalf of Respondent Holgersson and  
21 requested a continuance for a period of no less than 60 days and a delay in the exchange of  
22 documentation. It was indicated that the Division had no objections to this request.

23 On May 18, 2011, an attorney filed an appearance on behalf of Respondent Abe.

24 On May 18, 2011, by Procedural Order, the proceeding was continued to August 30, 2011,  
25 and other procedural deadlines were established.

26 On May 23, 2011, another Procedural Order was issued to apprise counsel for Respondent  
27 Abe of the scheduling in this proceeding.

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1 On June 30, 2011, the Division filed a Stipulated Motion to Continue the Deadline to  
2 Exchange Witness Lists and Copies of Exhibits ("Stipulated Motion") which indicated that all parties  
3 were in agreement that the date for the exchange of documentation should be extended from July 10,  
4 2011, to August 12, 2011.

5 On August 10, 2011, the Division filed a Motion to Continue ("Motion"), requesting that the  
6 hearing scheduled for August 30, 2011, be continued and that the date for the exchange of  
7 documentation be extended until the date two weeks prior to the first date of hearing. In its Motion,  
8 the Division indicated that a tentative settlement had been reached with Respondent Holgersson,  
9 which would be submitted for Commission approval at the Open Meeting of September 8, 2011. The  
10 Division further indicated that there were no objections to its Motion.

11 On August 11, 2011, by Procedural Order, the Division's Motion was granted and the hearing  
12 was continued from August 30, 2011, to September 20, 2011.

13 On September 6, 2011, the Commission approved a Consent Order with respect to  
14 Respondent Holgersson alone in Decision No. 72588.<sup>1</sup>

15 On September 6, 2011, Respondent Abe's counsel filed a Motion to Continue the hearing  
16 from September 20, 2011, to September 21, 2011, due to a conflict with another proceeding which  
17 required him to be present in Maricopa County Superior Court. Respondent's Motion indicated that  
18 the Division had no objections to this request.

19 On September 7, 2011, by Procedural Order, the Motion by Respondent Abe was granted and  
20 the hearing continued.

21 On September 21, 2011, a full public hearing was convened before a duly authorized  
22 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Division and  
23 Respondent Laverne J. Abe were present with counsel. At the conclusion of the proceeding, the  
24 matter was taken under advisement pending submission of a Recommended Opinion and Order to the  
25 Commission.

26 On November 10, 2011, the Division and the Respondent filed closing briefs.  
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28 <sup>1</sup> Decision No. 72588 found that Respondent Holgersson is a native and citizen of Sweden.



1 his wife harmless from any debts in the husband's name.

2 8. Included in the Decree from the Court was a release of claims from each party  
3 releasing the other from all further claims, rights, liabilities or obligations arising out of their  
4 marriage, the dissolution, or the division of property and obligations thereunder.

5 9. The Court's Decree further provided that all property assigned to either party  
6 subsequent to the Decree and as provided therein subsequent to the Decree would be the sole and  
7 separate property of the party receiving it, free and clear of any claim or right of the other party. (Ex.  
8 R-1)

9 10. In support of the allegations by the Division that the marital community should be  
10 held liable for the violations of the Act by Respondent Holgersson, the Division called Sean  
11 Callahan, a Forensic Accountant with the Division who is also a Certified Fraud Examiner ("CFE").

12 11. Mr. Callahan testified that he had been involved in the investigation of the investment  
13 offering which had been made by Respondent Holgersson. (Tr. 11: 21-24)

14 12. Mr. Callahan stated that he had reviewed the financial records obtained by subpoena  
15 with respect to the time that Respondents Holgersson and Abe were married until they were divorced  
16 in 2007.

17 13. Mr. Callahan testified that he reviewed three bank accounts with respect to  
18 Respondents Holgersson and Abe when they were married as follows: one for Respondent  
19 Holgersson with Bank of America; one account for Respondent Holgersson for Viking with J.P.  
20 Morgan Chase Bank; and one for both Respondents with Wells Fargo Bank. (Tr. 12-13: 19-1)

21 14. Mr. Callahan stated that his analysis covered a timeframe from December 2004, to  
22 June 2009, when the accounts basically contained no funds or had been closed. (Tr. 24-25: 18-1)

23 15. Mr. Callahan further testified that he also reviewed credit card statements and account  
24 statements from brokerage houses. (Tr. 13: 11-15)

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1 16. Mr. Callahan testified primarily concerning two exhibits, Exhibits S-15 and S-16.<sup>2</sup>

2 17. According to Mr. Callahan, Ms. Abe provided funds to Respondent Holgersson from  
3 two different sources, one was a line of credit with Wells Fargo connected to the equity in her home  
4 and the other source was money transferred from an account she had with the Navy Federal Credit  
5 Union. (Tr. 18: 2-9)

6 18. Mr. Callahan testified that the funds received from Respondent Abe from her line of  
7 credit were related to her sole and separate property, her home, and were deposited into the  
8 Respondents' joint account with Wells Fargo. (Tr. 18: 10-16)

9 19. Based on Mr. Callahan's analysis, the funds from Ms. Abe's line of credit were co-  
10 mingled with other funds in the joint Wells Fargo account which was used by Respondents  
11 Holgersson and Abe. (Tr. 18: 15)

12 20. Subsequently, some of these funds from the Respondents' joint account were then  
13 transferred to Respondent Holgersson's separate account with Bank of America. (Tr. 18: 22-25)

14 21. In Mr. Callahan's opinion, the main purpose of the funds in the Well Fargo and Bank  
15 of America accounts was to provide cash advances to Respondent Holgersson or cash for payments to  
16 investors. (Tr. 19: 1-13)

17 22. Mr. Callahan further testified that in some instances that he found evidence of wire  
18 transfers to Respondent Abe's account, the largest transfer being a \$45,000 payment that Mr.  
19 Holgersson made from his Bank of America account to Ms. Abe's Wells Fargo line of credit account.  
20 (Tr. 21: 7-19)

21 23. Mr. Callahan testified that these payments occurred prior to and after the filing of the  
22 Respondents' Petition on June 19, 2007. (Tr. 22: 7-9)

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27 <sup>2</sup> Exhibit S-15 consisted primarily of a six page summary of receipts and disbursements concerning Respondents  
28 Holgersson, Abe, and Viking for the period December 15, 2004 to June 11, 2009. Exhibit S-16 was a summary of  
receipts and disbursements for Respondents' credit cards primarily covering the same timeframe. Both Exhibits

1           24. Mr. Callahan stated that he found that approximately \$53,000 was paid back to  
2 Respondent Abe's line of credit at Wells Fargo. (Tr. 22: 10-15)

3           25. Testifying further, Mr. Callahan stated that mortgage and homeowners' association  
4 payments for Ms. Abe's home were made from Mr. Holgersson's Bank of America account totaling  
5 approximately \$33,000. (Tr. 23: 8-23)

6           26. Mr. Callahan further stated that funds from the Viking account at J.P. Morgan Chase  
7 Bank were not directly transferred to Ms. Abe. (Tr. 26: 12-16)

8           27. Further testifying, Mr. Callahan stated that although \$161,000 was advanced from Ms.  
9 Abe's line of credit with Wells Fargo to Mr. Holgersson's Bank of America account, only \$53,000  
10 was repaid to her line of credit. (Tr. 27: 15-20)

11           28. Mr. Callahan further stated that the majority of the funds from investors  
12 (approximately \$2.2 million) were deposited into Respondent Holgersson's Bank of America  
13 account. The Viking account received a little funding and only \$100,000 to \$200,000 was deposited  
14 into the joint account at Wells Fargo. (Tr. 29: 5-21) However, according to Mr. Callahan, due to the  
15 co-mingling of funds, there was no way to identify the exact source of the funds which were  
16 deposited into the three trading accounts used by Respondent Holgersson. (Tr. 64: 22-25)

17           29. Of the three accounts described by Mr. Callahan, he stated that the most activity was  
18 in Respondent Holgersson's Bank of America account. (Tr. 33: 6-9)

19           30. Further testifying, Mr. Callahan stated that "other disbursements," consisting of  
20 expenditures for such things as groceries, retail purchases, and dining were made from Respondent  
21 Holgersson's two accounts and the Abe-Holgersson joint account after June 19, 2007, the date  
22 Respondents' Petition was filed. (Tr. 36: 11-25)

23           31. Mr. Callahan stated that Respondent Abe received funds or benefitted from items in  
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25 encompass timeframes before the date Respondents filed for divorce in June 2007 and after the date they were divorced in  
26 September 2007.  
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1 excess of approximately \$150,000. (Tr. 37: 1-23)

2 32. Additionally, Mr. Callahan stated that he noted payments to Respondent Abe from  
3 Respondent Holgersson that were designated household expenses on several checks after June 19,  
4 2007. (Tr. 37-38; 24-27)

5 33. Mr. Callahan stated that, in his opinion, both Respondent Holgersson and Respondent  
6 Abe benefitted from the use of the investor funds. (Tr. 38: 8-11)

7 34. Mr. Callahan stated that he had no idea the nature of the disbursements made from the  
8 Viking account because the amounts paid to Respondent Holgersson were taken out as cash. He  
9 believed that these funds ended up in the Bank of America account controlled by Respondent  
10 Holgersson and were then used for personal purposes, for payments to investors and for payments to  
11 trading companies. (Tr. 39: 9-20)

12 35. Mr. Callahan believed that Respondent Holgersson utilized investor funds for his own  
13 purposes. (Tr. 40: 6-13)

14 36. According to Mr. Callahan, over 50% of the invested funds in Respondent  
15 Holgersson's investment program were lost as a result of his trading activities. (Tr. 59: 20-22)

16 37. Respondent Abe testified that she never had an ownership interest in Viking and did  
17 not perform any work or make any trading decisions. (Tr. 68-69: 20-3)

18 38. Ms. Abe testified that she loaned \$75,000 to Respondent Holgersson to invest in  
19 Viking and learned that her funds were lost around the middle of 2007. (Tr. 69: 8-19)

20 39. Ms. Abe acknowledged that she was married to Respondent Holgersson in November  
21 2001 and that she filed the Petition on June 19, 2007. (Tr. 69-70: 14-12)

22 40. Ms. Abe further testified that of the \$75,000 of her funds which were utilized as an  
23 investment in Viking, she gave \$25,000 voluntarily from her Wells Fargo line of credit and that the  
24 next \$50,000 was taken without her knowledge by Respondent Holgersson. (Tr. 73: 17-23)

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1           41.     According to Ms. Abe, Respondent Holgersson had been able to access her Wells  
2 Fargo line of credit because he had known her password and could make online transfers. She  
3 testified, however, that she had not authorized him to make any transfers whatsoever. (Tr. 74: 3-9)

4           42.     Ms. Abe testified that due to Respondent Holgersson's transfers, the balance owed to  
5 her Wells Fargo line of credit was \$51,500. (Tr. 74: 10-16)

6           43.     Ms. Abe further testified that her residence was confirmed as her separate property as  
7 a result of the Court Decree, along with her 401(k) plan which was also determined to be separate  
8 property in the Decree. (Tr. 75: 1-19)

9           44.     Ms. Abe stated that the Decree specified that Respondent Holgersson was to be  
10 responsible for his debts and that she was to be responsible for her debts, including the Wells Fargo  
11 line of credit. (Tr. 76: 1-12)

12           45.     Ms. Abe further stated that she had not encouraged individuals to invest in Viking and  
13 she had not been a signatory with Respondent Holgersson on Viking's bank account. (Tr. 78: 17-22)

14           46.     Although Ms. Abe testified that Respondent Holgersson had told her in 2005 and 2006  
15 that he wasn't making any money, she was unable to explain how he was able to make mortgage  
16 payments and to pay other household expenses. (Tr. 87: 9-17)

17           47.     Ms. Abe testified that although the marriage had been dissolved, she allowed  
18 Respondent Holgersson to live at her residence when he travelled back and forth to Sweden, (Tr. 97:  
19 1-10) and to have the use of a trailer and Mercedes vehicle which were owned by her for business  
20 purposes. (Tr. 98: 1-13)

21           48.     Ms. Abe testified that Respondent Holgersson "is trying to find a job to help pay me  
22 back and try to make things right with me financially for what he did." (Tr. 99:20-22)

23           49.     Based on the record, there is sufficient evidence to establish that there was a co-  
24 mingling of funds during the marriage of Respondents Abe and Holgersson, and if they had remained  
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1 married, the evidence would establish liability upon the marital community due to Respondent  
2 Holgersson's violations of the Act. Further, the evidence shows the actions of Respondent  
3 Holgersson were beneficial to the marital community at the time, and also detrimental to the separate  
4 property of Respondent Abe.

5         50. On July 23, 2008, prior to this proceeding, the Division filed a Notice against Richard  
6 Bradford and Cindy Bradford (a.k.a. Cindy White), husband and wife, in which the Division alleged  
7 multiple violations of the Act and the Investment Management Act ("IM Act") in connection with  
8 Mr. Bradford's offer and sale of securities.<sup>3</sup> Ms. Bradford had been joined in the proceeding solely to  
9 determine the liability of the marital community pursuant to A.R.S. § 44-2031(C) and § 44-3291(C)  
10 similar to Ms. Abe in this proceeding. On October 8, 2008, the Commission issued Decision No.  
11 70545, a Default Order, with respect to Mr. Bradford and found that he had committed multiple  
12 violations of the Act and the IM Act and ordered Mr. Bradford to pay restitution of \$1,298,416. The  
13 Commission also issued Decision No. 70544, a Consent Order, with respect to Ms. Bradford holding  
14 the marital community liable for the restitution which had been ordered due to Mr. Bradford's actions  
15 in violation of the Act and the IM Act.  
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18         51. Ms. Bradford had originally consented to the Order against her in Decision No. 70544  
19 because she had mistakenly believed that by consenting to the Order she had been granted immunity  
20 from any liability due to Mr. Bradford's unlawful acts. Subsequently, when faced with liability for  
21 her ex-spouse's actions, Ms. Bradford filed on March 4, 2009, a letter with the Commission  
22 requesting that the Commission reconsider Decision No. 70544 so that she could request a hearing  
23 due to her mistaken belief concerning her Consent order.  
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27 <sup>3</sup> On March 3, 2008, the Maricopa County Superior Court in Case No. FN2007-092470 had issued a Decree of  
28 Dissolution of Marriage for Richard and Cindy Bradford. The Court Decree ordered Mr. Bradford to pay and assume sole responsibility for all debts which created liabilities related to his violations of the Act and the IM Act.

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2           52.     On April 8, 2009, by Procedural Order, a hearing was scheduled to commence on July  
3 7, 2009, on whether Ms. Bradford's marital community should be liable for Ms. Bradford's violations  
4 of the Act and the IM Act.

5           53.     On May 17, 2010, the Commission issued Decision No. 71695 with respect to Ms.  
6 Bradford and held the marital community liable for the restitution of \$1,298,416 ordered in Decision  
7 No. 70545 against her ex-spouse Richard Bradford, even though their marriage had been dissolved on  
8 March 3, 2008, in the Maricopa County Superior Court (Case No. FN 2007-092470), and the Court's  
9 Decree in that case ordered Mr. Bradford to pay all debts related to his violations of the Act and the  
10 IM Act.

11           54.     Ms. Bradford appealed Decision No. 71695 to the Maricopa County Superior Court.

12           55.     On April 5, 2012, the Court ruled on Ms. Bradford's appeal of Decision No. 71695  
13 with respect to the issue of the liability of the marital community. The Court found that the action by  
14 the Commission "was not supported by substantial evidence, and was contrary to law, arbitrary and  
15 capricious, and an abuse of discretion." The Court vacated Decision No. 71695, thereby relieving the  
16 ex-spouse, Ms. Bradford, of liability for her ex-husband's actions.<sup>4</sup>

17           56.     In this matter, the Division's action was not filed until October 14, 2010, slightly more  
18 than three years after Respondent Abe's and Respondent Holgersson's marriage was dissolved on  
19 September 7, 2007. The Superior Court's ruling in the Bradford matter was issued after the hearing  
20 in this matter. Clearly, as in the Bradford proceeding, the Holgersson-Abe marital community was  
21 non-existent at the date of the filing of the Notice in this proceeding, and the Court's Decree had  
22 resolved all future claims, rights, liabilities or obligations arising out of their marriage.

23           57.     A.R.S. § 44-2031(C) states as follows: "The Commission may join the spouse in any  
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28 <sup>4</sup> The order of the Court in favor of Ms. Bradford was not appealed.

1 action authorized by this chapter to determine the liability of the marital community.” It is clear that  
 2 the law specified is a discretionary action on the part of the Commission, with the operative word  
 3 being “may.” However, of equal import is the term “spouse.” Counsel for Respondent Abe cited  
 4 *Parada v. Parada*, 196 Ariz. 428, 999 P.2d 184 (Ariz. 2000) which involved statutory interpretation  
 5 of a state retirement plan death benefit. There, the Arizona Supreme Court said that if the legislature  
 6 had intended to apply the law against ex-spouses it could have easily said so. Application of A.R.S. §  
 7 44-2031(C) in this case mirrors the *Parada* proceeding, with the utilization of the term “spouse” in  
 8 the statute. The Holgersson-Abe marital community had been dissolved by the Court in 2007 and  
 9 Ms. Abe was not a “spouse” three years later when the Notice was filed. Therefore, the Notice  
 10 should be dismissed against Ms. Abe.

**CONCLUSIONS OF LAW**

- 13 1. The Commission has jurisdiction over this matter pursuant to Article XV of the  
 14 Arizona Constitution and A.R.S. §§ 44-1801 *et seq.*
- 15 2. Laverne J. Abe, the ex-spouse, is not liable for Respondent Ulf Olof Holgersson’s  
 16 violations of the Act.
- 17 3. The Notice against Respondent Laverne J. Abe should be dismissed.

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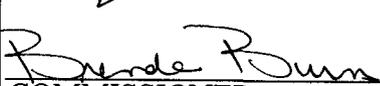
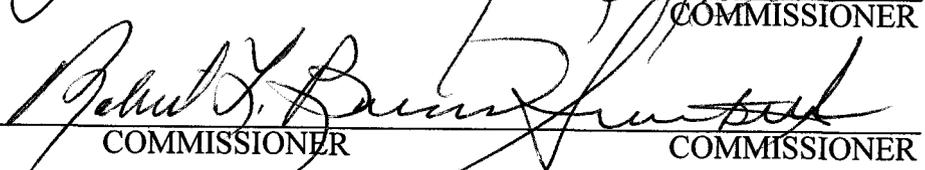
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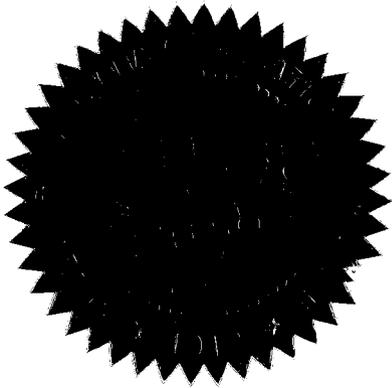
**ORDER**

IT IS THEREFORE ORDERED that the Notice of Opportunity against Respondent Laverne J. Abe is hereby dismissed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN	 COMMISSIONER
 COMMISSIONER	 COMMISSIONER



IN WITNESS WHEREOF, I, JODI A. JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 27<sup>th</sup> day of June 2013.

  
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JODI A. JERICH  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: ULF OLOF HOLGERSSON AND LAVERNE J. ABE,  
2 DBA VIKING ASSET MANAGEMENT

3 DOCKET NO.: S-20762A-10-0416

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