

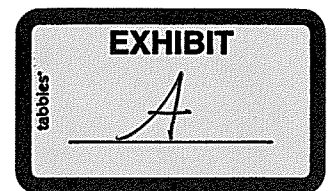
**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CONTINENTALAFA DISPENSING	)	
COMPANY, et al.,	)	Case No. 08-45921
	)	Chapter 11
	)	
Debtors.	)	

**PLAN OF LIQUIDATION**

**I. DEFINITIONS**

- A. "Administrative Expense Claim" means a Claim arising before the Effective Date under 11 U.S.C. §§ 503(b) and 507(a)(1), including any actual and necessary expenses of preserving the Estate, any actual and necessary expenses of operating Debtor's business, all compensation or reimbursement of expenses allowed by the Bankruptcy Court under the provisions of Code §§ 330, 331, or 503 and all Claims for fees and expenses of the committee and its professionals arising after Confirmation, except those Claims that are also Secured Claims.
- B. "Allowed" shall mean, when used in reference to a Claim, (1) a Claim allowed pursuant to this Plan or (2) a Claim against the Debtors (a) for which a Proof of Claim has been filed with the court within the time fixed by the Court or (b) which is listed by Debtors on their Schedules (as amended) as liquidated in amount and not disputed, contingent, unliquidated or unknown as to amount, and in either case ((a) or (b)) as to which no objection has been interposed or, if an objection has been interposed, as to which there has been entered a Final Order allowing such Claim in whole or in part.



- C. "Allowed Secured Claim" shall mean an Allowed Claim for which payment is secured by a lien or similar interest in property of the Debtors as of the Petition Date, which has not been avoided, to the extent of the value of the estate's interest in the property.
- D. "Allowed Unsecured Claim" shall mean an Allowed Claim not secured by a lien or similar interest in property of the Debtors as of the Petition Date.
- E. "Avoidance Actions" shall mean each cause of action or claim based on Sections 544, 547, 548, 549, 550 and 553 of the Bankruptcy Code, or any one or combination of those sections.
- F. "Bankruptcy Code" shall mean Sections 101 et seq. of Title 11 of the United States Code, as amended.
- G. "Bankruptcy Court" shall mean the United States Bankruptcy Court for the Eastern District of Missouri.
- H. "Bar Date" shall mean the date set by the Bankruptcy Court as the last day for the filing of timely proofs of claim, except for claims arising from the rejection of an executory contract or unexpired lease of the Debtors.
- I. "Case" shall mean the bankruptcy cases under Chapter 11 of the Code commenced by the Debtors, pending in the Bankruptcy Court.
- J. "Claim" shall have the meaning provided in Section 101(5) of the Bankruptcy Code.
- K. "Confirmation Date" shall mean the date on which the Bankruptcy Court enters an order confirming the Plan.

- L. "Confirmation Order" shall mean the order entered by the Bankruptcy Court confirming the Plan.
- M. "Creditor" or "Claimant" shall mean the holder of a Claim against the Debtor that arose on or before the Petition Date or a claim against the Debtor of any kind specified in §§ 502(g), 502(h) and 502(i).
- N. "Creditors Committee" or "Committee" shall mean that committee appointed by the Office of the United States Trustee pursuant to Section 1102 of the Bankruptcy Code.
- O. "Debtors" shall mean ContinentalAFA Dispensing Company, Continental Sprayers International, Inc. and AFA Products, Inc., collectively.
- P. "Disclosure Statement" shall mean the disclosure statement approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.
- Q. "Disputed Claim" shall mean any non-priority claim to which an objection is filed before the deadline for objecting to Claims, which objection has not been withdrawn, compromised or resolved by entry of a Final Order of the Bankruptcy Court.
- R. "Dividend Fund" shall mean such sums held by the Liquidation Estate for distribution to holders of Allowed Claims pursuant to the Plan on or after the Effective Date of the Plan. The costs and expenses of the Liquidation Estate shall be paid out of the Dividend Fund, including the cost of pursuing Avoidance Actions. All payments from the Dividend Fund to Creditors shall be net of the Liquidation Estate's costs and fees.
- S. "Effective Date" shall mean the first business day after the date on which the Confirmation Order becomes a Final Order.

- T. "Estate" or "Bankruptcy Estate" collectively means Debtors' bankruptcy estates, as created and existing pursuant to the provisions of 11 U.S.C. § 541, and as a post-confirmation Estate to be liquidated and distributed to Creditors.
- U. "Final Order" shall mean an order that is in effect and is not stayed, and as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired.
- V. "Governmental Unit" shall include the United States of America, the State of Missouri, any other state, commonwealth, district, territory or municipality of or within the United States, any foreign state, and any department, agency, instrumentality, board or subdivision of any of the foregoing.
- W. "Interest" shall mean any equity interest.
- X. "Liquidation Trustee" shall mean a trustee engaged to liquidate and distribute Estate assets.
- Y. "Person" includes any natural person, partnership, limited partnership, corporation, limited liability company, limited liability partnership, real estate investment trust, trust, banking association, chartered company or other association.
- Z. "Petition Date" shall mean August 7, 2008.
- AA. "Plan" shall mean this Plan of Reorganization proposed by the Creditors Committee, with any amendments made thereto.
- BB. "Priority Claim" shall mean a claim entitled to priority pursuant to Code § 507(a)(2)-(9).

CC. “Priority Tax Claim” shall mean a Priority Claim of a governmental unit entitled to priority treatment pursuant to the provisions of code §§ 502(i) or 507(a)(8), other than Secured Claims.

DD. “Priority Interest Rate” shall mean six and one-half percent (6.5%) per annum or such other rate of interest determined by the Bankruptcy Court to be paid on allowed priority tax claims pursuant to Section 507(a)(8) of the Bankruptcy Code.

EE. “Schedules” shall mean the schedules of assets and liabilities and the statement of financial affairs filed by the Debtors in the Case, as amended.

## **II. INTRODUCTION**

Each of the Debtors commenced this Chapter 11 bankruptcy Case on the Petition Date. This document is the Plan proposed by the Creditors Committee. Sent to you in the same envelope as this document is the Disclosure Statement which has been approved by the Court, and which is provided to help you understand the Plan.

This is a liquidating plan. Payments will be made to creditors under the Plan from the liquidation of the Debtors’ assets, including recoveries from causes of action.

## **III. SUBSTANTIVE CONSOLIDATION OF THE DEBTORS**

On the Effective Date, the Debtors’ Estates shall be substantively consolidated for all purposes, including allowance of Claims and distributions under this Plan, as follows: (i) the assets and liabilities of each of the Debtors shall be deemed to be the assets and liabilities of all of the Debtors; (ii) all guarantees by any of the Debtors of the obligations of any other Debtor existing prior to the Effective Date (regardless of whether such guaranty is secured, unsecured, liquidated, unliquidated, contingent, or disputed) shall be deemed eliminated so that any Claim

against any Debtor and any guaranty thereof executed by any other Debtor shall be deemed to be a single obligation of the consolidated Debtors; (iii) any joint liability (including joint and several liability) of any of the Debtors shall be deemed to be a single obligation of the consolidated Debtors; (iv) each Proof of Claim filed or to be filed in the Case shall be deemed filed against the consolidated Debtors and shall be deemed a single Claim against and obligation of the consolidated Debtors; and (v) any Claim of one Debtor against another Debtor shall be eliminated.

#### **IV. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

##### **A. General Overview**

The Plan classifies claims and interests in various classes according to their priority of payments as required by the Bankruptcy Code. The Plan states whether each class of claims or interests is impaired or unimpaired. The Plan provides the treatment each class will receive under the Plan.

##### **B. Unclassified Claims**

Certain types of claims are not placed into voting classes; instead they are unclassified. They are not considered impaired and they do not vote on the Plan because they are automatically entitled to specific treatment provided for them in the Bankruptcy Code. As such, Debtors have not placed the following claims in a class. The treatment of these claims is provided below.

##### **1. Administrative Expenses**

Except to the extent that the holder of a particular Claim has agreed to different treatment, Administrative Expense Claims shall be paid on, or as soon as practicable after, the

Effective Date of the Plan or at such later time as the Administrative Expense Claim is Allowed, unless a particular claimant agrees to different treatment. All pre-Confirmation Administrative Expense Claims not previously allowed or disallowed by the Court, or subject to a previous bar date for filing such claims, including those of Debtors, the Committee and professionals employed by the Debtor or the Committee, must be filed no later than 20 days after the Effective Date. All such Claims not timely filed shall be barred from any distribution under the Plan.

## **2. Fees specified in 28 U.S.C. § 1930(a)(6).**

All fees due to the United States Trustee shall be paid in cash on the Effective Date or as soon thereafter as is practicable. The Liquidation Trustee shall be responsible for the timely payment of disbursement fees incurred pursuant to 28 U.S.C. § 1930(a)(6). After confirmation, the Liquidation Trustee shall file with the court and serve on the United States Trustee a monthly financial report for each month (or portion thereof) the case remains open in a format prescribed by the United States Trustee.

## **3. Priority Tax Claims**

To the extent Priority Tax Claims exist on the Confirmation Date, those holders of priority tax claims will be paid out of the Dividend Fund exclusive of penalties and post-petition interest (a) on the Effective Date, (b) on the date such Claim becomes due according to contractual, statutory or other terms applicable thereto, (c) as soon as practicable after entry of a Final Order allowing such claim, if the Claim is disputed or if applicable provisions of the Code otherwise require Court approval, or (d) paid over a period not exceeding five (5) years after the Petition Date, in the sole and absolute discretion of the Liquidation Trustee. Except as expressly set forth in this Plan, neither the Debtors, the Liquidation Estate, the Liquidation Trustee, nor

their designee(s), officers, directors, members, employees, attorneys or agents shall be individually liable or responsible for the payment of priority tax claims such that the holders of allowed priority tax claims shall have recourse only against the Dividend Fund and their claims shall be paid solely out of the Dividend Fund.

### **C. Classified Claims and Interests**

#### **1. Classes of Secured Claims (Classes 1A – 1D)**

Secured claims are claims secured or allegedly secured by liens on property of the Estate. The Creditors Committee has classified the Claims alleged by some claimants as secured as a precautionary measure and does not necessarily agree that the following claimants hold secured claims. The following lists each class containing the alleged secured claims and their treatment under the Plan:

#### **Class 1A: Wachovia Capital Finance Corporation**

The holder of the Claim in this class shall retain its liens with the same priority and validity that the liens had on the Petition Date, to the extent of its Allowed Secured Claim. Upon the Effective Date, the Allowed Secured Claim in this class shall be satisfied in full from the cash collateral currently held by the class member, to the extent the class member remains unpaid as of the Effective Date. This class is impaired.

#### **Class 1B: Harbinger Capital Partners Master Fund I, Ltd.**

The holder of the Claim in this class shall retain its liens with the same priority and validity that the lien had on the Petition Date, to the extent of its Allowed Secured Claim. This Claim is alleged to total approximately \$15 million, but is subject to a pending adversary proceeding filed by the Committee. If the Court enters a Final Order allowing the Claim, then the



Allowed Secured Claim in this class shall be paid in full upon the Liquidation Trustee's receipt of net proceeds from the sale of Creditor's collateral or through surrender of all collateral to which the liens may attach. To the extent the collateral or proceeds thereof are not sufficient to pay the Class 1B Claim in full, the Claim shall be bifurcated and the unpaid portion shall be deemed a General Unsecured Non-Trade Claim, treated under Class 3B. To the extent the Committee prevails on its action to characterize the alleged debt as equity, the Claim shall be treated under Class 4. This class is impaired.

**Class 1C: Harbinger Capital Partners Special Situations Fund, L.P.**

The holder of the Claim in this class shall retain its liens with the same priority and validity that the lien had on the Petition Date, to the extent of its Allowed Secured Claim. This Claim is alleged to total approximately \$5 million, but is subject to a pending adversary proceeding filed by the Committee. If the Court enters a Final Order allowing the Claim, then the Allowed Secured Claim in this class shall be paid in full upon the Liquidation Trustee's receipt of net proceeds from the sale of Creditor's collateral or through surrender of all collateral to which the liens may attach. To the extent the collateral or proceeds thereof are not sufficient to pay the Class 1C Claim in full, the Claim shall be bifurcated and the unpaid portion shall be deemed a General Unsecured Non-Trade Claim, treated under Class 3B. To the extent the Committee prevails on its action to characterize the alleged debt as equity, the Claim shall be treated under Class 4. This class is impaired.

### **Class 1D: Armin Tool & Manufacturing Company**

The holder of the Claim in this class shall retain its liens with the same priority and validity that the lien had on the Petition Date, to the extent of its Allowed Secured Claim. The holder of this Claim has filed an adversary proceeding to assert its security interest. The Committee has taken no position regarding the validity of the Claim, which is alleged to total approximately \$254,000. If the Court enters a Final Order allowing the Claim, then the Allowed Secured Claim in this class shall be paid in full upon the Liquidation Trustee's receipt of proceeds from the sale of Creditor's collateral or through surrender of all collateral to which the liens may attach. To the extent the collateral or proceeds thereof are not sufficient to pay the Class 1D Claim in full, the Claim shall be bifurcated and the unpaid portion shall be deemed a General Unsecured Trade Claim, treated under Class 3A. This class is impaired.

#### **2. Class of Priority Unsecured Claims**

The holder of a Priority Claim shall receive on account of such Claim an amount equal to the Allowed Claim to the extent funds are available, unless the holder of the claim agrees to less favorable treatment in full satisfaction thereof. The holder of a Priority Claim shall not be entitled to payment of any post-Petition Date interest or penalties arising with respect to its Claim. The payment shall be made by the Liquidation Trustee on the latest of the following dates: (a) on, or as soon as practicable after, the last day for the filing of Administrative Expense Claims; (b) on the date such Claim becomes due according to contractual, statutory, or other terms applicable thereto, or (c) as soon as practicable after entry of a Final Order allowing such Claim, if the claim is disputed or if applicable provisions of the Code otherwise require Court approval. This class is impaired.

A class action adversary proceeding has been brought on behalf of certain Creditors, alleging Claims resulting from the Debtors' alleged violations of the WARN Act. The Committee and the Debtors dispute the validity of these Claims. If the Court enters a Final Order allowing the WARN Act Claims as Priority Unsecured Claims, these Claims shall be treated in Class 2 less any payment of WARN Act Claims by any third party.

### **3. Classes of General Unsecured Claims**

#### **3A. Class of General Unsecured Trade Claims (Class 3A)**

After payment of classes 1A through 2, Administrative Expenses Claims (including the fees and costs of Debtors, the Committee and their professionals), and Priority Tax Claims, the Class 3A Creditors shall receive a *pro rata* share of any remaining assets of the Estate. The Liquidation Trustee shall have no obligation to make any distribution until all Claims have been resolved; however, the Liquidation Trustee may make interim distributions. The treatment of Class 3A Creditors may be modified by Court order, including any order approving a settlement of the Committee's lien challenge. Class 3A is impaired.

#### **3B. Class of General Unsecured Non-Trade Claims (Class 3B)**

After payment of classes 1A through 2, Administrative Expenses Claims (including the fees and costs of Debtors, the Committee and their professionals), and Priority Tax Claims, the Class 3B Creditors shall receive a *pro rata* share of any remaining assets of the Estate. The Liquidation Trustee shall have no obligation to make any distribution until all Claims have been resolved; however, the Liquidation Trustee may make interim distributions. The treatment of Class 3B Creditors may be modified by Court order, including any order approving a settlement of the Committee's lien challenge. Class 3B is impaired.

#### **4. Class of Interest Holders (Class 4)**

All Interests in the Debtors shall be deemed cancelled and of no further force or effect as of the Effective Date. Class 4 is impaired.

#### **D. Means for Performing the Plan**

The Plan will be funded by the Liquidation Trustee's (1) liquidation of the Debtors' remaining unencumbered assets; and (2) recoveries from unencumbered causes of action including Avoidance Actions. The Liquidation Trustee's right to pursue Avoidance Actions under Chapter 5 of the Bankruptcy Code is explicitly reserved under this Plan. The Trustee shall be authorized to employ professionals, incur debt (including loans from Committee members), and take other such actions as may be authorized under a Trust Agreement to be submitted on or before the Confirmation Hearing on this Plan.

### **V. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

#### **A. Rejections**

On the Effective Date, all unexpired pre-petition leases and executory contracts of the Debtors shall be rejected as provided in Section 365 of the Bankruptcy Code. Any claim based on the rejection of an executory contract or unexpired lease will be barred if the proof of claim is not filed within twenty (20) days after the Effective Date.

#### **B. Labels Not Controlling**

The use of the term "lease" in a pre-petition agreement between the Debtors and a claimant shall not be controlling. Any agreement labeled a "lease" which provides for the retention of the subject property by the Debtors after the conclusion of the term of the agreement

for a nominal consideration, or no consideration, shall be deemed to be a financing transaction and not a lease.

## **VI. CLAIMS ADMINISTRATION**

### **A. Distributions On Allowed Claims**

All distributions of money, property or other value to be made to Claim holders in the Plan shall only be made to holders of Allowed Claims and Interests. No distribution shall be made on a Claim or Interest which is not allowed. A Claim is not allowed by being classified or described in the Plan. No distribution under this Plan shall be made on account of an “informal” proof of claim, or any written proof of claim which was not properly completed, executed and filed on or before the Bar Date, unless the claimant obtains an order from the Bankruptcy Court allowing that Claim which is entered not later than thirty (30) days after the Confirmation Date.

No reserve will be kept for disputed claims, except for alleged proceeds of Harbingers’ alleged secured claims until allowance or disallowance. If a claim is allowed after one or more distributions are made, its holder shall receive an equalizing distribution from the succeeding distribution or distributions to that class.

### **B. Disputed Claims**

The Trustee or any party in interest may file objections to Claims and the same shall be resolved by the Bankruptcy Court. An objection may include an objection to the claimed classification and, in such event, the Bankruptcy Court shall determine the appropriate classification of the Claim under the Plan. An objection may also determine the extent of competing secured interests in certain property of the Debtors as provided for under 11 U.S.C. §

506 and, in such an event, the Bankruptcy Court shall determine the extent of the creditor's interest in the Debtor's interest in such property.

No later than 180 days after the Confirmation Date, or such later date as the Bankruptcy Court may set within that day period, objections to Claims may be filed in the Bankruptcy Court and served as provided in Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 3007. The compromise or withdrawal of a Claim objection shall be subject to Bankruptcy Court approval pursuant to Bankruptcy Rule 9019 and, absent a Bankruptcy Court-approved compromise or withdrawal, a Claim objection shall be litigated to a Final Order.

Notwithstanding any other provision in the Plan, no property shall be distributed under the Plan on account of any Disputed Claim.

#### **C. Claimants Liable To The Estate**

No Person that owes a debt to the Debtors and/or bankruptcy estate, that does not pay that debt to the Reorganized Debtors within ten (10) days after written demand from the Reorganized Debtors after the Effective Date, shall receive a distribution under the Plan, unless it obtains an order from the Bankruptcy Court requiring the Reorganized Debtors to make that distribution.

No Person from which property is recoverable pursuant to Sections 542, 543, 550, or 553 of the Bankruptcy Code, or that is a transferee of a transfer avoidable under Sections 522(f), 522(h), 544, 545, 547, 548, or 549 of the Bankruptcy Code, shall have an Allowed Secured Claim or Allowed Unsecured Claim in the case unless the Person has paid the amount or turned over any such property for which the Person is liable under Sections 522(i), 542, 543, 550, or 553 of the Bankruptcy Code.

## **VII. MISCELLANEOUS ITEMS**

### **A. Election to Seek Confirmation Under Section 1129(b)**

The Committee elects to seek confirmation of the Plan pursuant to Section 1129(b) of the Bankruptcy Code if necessary.

### **B. Retention of Jurisdiction**

The Court shall retain jurisdiction to the extent allowed by law and including the following actions:

1. To hear and determine requests for allowance and payment of administrative expense claims, and any objections thereto;
2. To hear and determine all objections to Claims, including Section 502(c) estimations and Section 506(a) and (c) valuations;
3. To hear and determine all requests for compensation and reimbursement of expenses pursuant to Sections 330, 331, 503, and 507 of the Bankruptcy Code;
4. To interpret the Plan, and to enter all orders and judgments necessary to effectuate the terms of the Plan;
5. To approve sales of property free and clear of liens and encumbrances pursuant to Section 363 of the Bankruptcy Code and any other issues concerning a sale of assets;
6. To determine the Debtor's liabilities to Governmental Units and the proper allocation of payments to Governmental Units;
7. To hear and determine all Avoidance Actions; and

8. To enter any order or judgment necessary to implement the Plan.

**C. Notices**

All notices permitted or required to be given after the Effective Date by the terms of the Plan or the Bankruptcy Code shall be given by first-class, United States mail, postage pre-paid. Any such notice shall be deemed to have been given on the date of mailing if mailed from any point within the United States. No additional time shall be given for any action because the notice was sent by mail.

All notices to the Liquidating Trustee shall be given to:

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**D. Rules of Construction**

In interpreting the terms of the Plan the following provisions shall apply:

1. The masculine shall include the feminine and neuter, the feminine shall include the masculine and neuter, and the neuter shall include the masculine and feminine;
2. The singular shall include the plural, and the plural shall include the singular;
3. Defined terms shall have the meanings provided in the "Definitions" section of the Plan. All other words and terms shall have the definitions and meanings provided in the Bankruptcy Code, when applicable;
4. Words shall control over numerals;
5. Headings are for purposes of reference and convenience only and are not part of the terms of the Plan;
6. All monetary amounts are stated in the currency of the United States;



7. Should there be a conflict between the terms of the Disclosure Statement and Plan, the terms of the Plan shall control.

## **VIII. EFFECT OF CONFIRMATION OF PLAN**

### **A. Dissolution of the Debtors**

On the Effective Date, the Debtors shall cease to exist and shall be deemed dissolved.

### **B. Vesting of Property in the Liquidation Estate**

On the Effective Date, all property of the Estate, including Debtors' rights under Chapter 5 of the Code and all causes of action and rights to payment of any nature, shall vest exclusively in the Liquidation Estate, controlled by the Liquidation Trustee.

### **C. Appointment of the Liquidation Trustee**

The Liquidation Trustee shall be appointed by the Committee, in consultation with the Debtors and secured creditors, on or before the Confirmation Hearing for this Plan.

### **D. Dissolution of the Committee**

On the later of (1) the Effective Date or (2) the date upon which the Liquidation Trustee is appointed and the Trust Agreement executed, the Committee shall cease to exist and shall be deemed dissolved. At the time of the dissolution of the Committee, all actions brought or that could have been brought by the Committee will vest in the Liquidation Estate, which will be deemed to have the same standing to sue as the Committee.

### **E. Discharge of Debtors**

Debtors shall receive no discharge under this Plan pursuant to Code § 1141(d)(3).

#### **F. Closing of Estate**

The Plan shall be deemed substantially consummated upon distribution of substantially all available assets to Creditors. Upon substantial consummation, the Liquidation Trustee shall file a final report pursuant to Code § 350 and obtain entry of an Order closing the Case.

#### **G. Limitation on Liability**

Upon Confirmation, the Debtors, the Committee, the Committee members, and the attorneys and professionals employed by the Debtors and the Committee shall be released and shall neither have nor incur any liability to the Debtors or any Creditors or interested parties, for any act taken or omitted to be taken in connection with or related to the Case including, without limitation, the formulation, preparation, dissemination, implementation or confirmation of the Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document.

#### **H. Modification of Plan**

The Plan may be altered, amended or modified by the Committee before or after the Confirmation Date, as provided in Code § 1127 and the applicable Rules.

#### **I. Payment of Amounts Owed Estate**

All Persons owing a debt to the Debtors shall pay that amount without retention or setoff within ten (10) days following the Confirmation Date.

#### **J. Parties Bound By Confirmed Plan**

The Plan shall bind the Debtors, Creditors Committee, all holders of Claims and Interests in existence on the Confirmation Date, and every Entity having actual or constructive notice of

the Debtors' bankruptcy case, whether or not such holder has filed a proof of claim, voted on the Plan, or objected to confirmation of the Plan.

Date: \_\_\_\_\_, 2008.

SPENCER FANE BRITT & BROWNE

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