

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

YUSUF YUSUF, derivatively on behalf of)		
Plessen Enterprises, Inc.,)		Case No. SX-13-CV-120
)		
Plaintiff,)		Civil Action for Damages
)		and Injunctive Relief
v.)		
)		JURY TRIAL DEMANDED
WALEED HAMED, WAHEED HAMED,)		
MUFEED HAMED, HISHAM HAMED,)		
and FIVE-H HOLDINGS, INC.,)		
)		
Defendants,)		
)		
and)		
)		
PLESSEN ENTERPRISES, INC.,)		
)		
_____)		
Nominal Defendant.)		

DEFENDANT MUFEED HAMED'S THIRD SET OF REQUESTS FOR ADMISSIONS

Defendant Mufeed Hamed, by counsel, propounds the following Requests pursuant to Rule 36 of the Federal Rules of Civil Procedure on the Plaintiff, Yusuf Yusuf.

- **All terms and meanings from Defendant Mufeed Hamed's First Set of Requests for Admissions are repeated and incorporated as though fully set forth herein.**
- **Numbering continues from the first and second set of Requests to Admit.**

REQUESTS

138. Defendant Mufeed Hamed's Second Set of Requests to Admit Yusuf asked the following question numbered 107, and Yusuf provided the following response:

107. After reviewing 13 V.I.C. § 195 Equally divided vote; receivership, which states in relevant part:

Whenever, by reason of an equally divided vote of the stockholders, there shall be a failure to elect directors, and such failure for such reason shall exist at two successive annual elections

ADMIT or DENY there has never been "an equally divided vote of the stockholders" of Plessen.

RESPONSE:

The above statement is a partial recitation of 13 V.I.C. § 195, there is nothing to either admit or deny. Clearly, the stockholders are equally divided.

ADMIT or DENY that there never has been a vote, by meeting or written consent, of the shareholders of Plessen in which the number of shares voted was equally divided.

139. **ADMIT or DENY** that there never has been a vote, by meeting or written consent, of the shareholders of Plessen where the issue was the election of new directors.

140. **ADMIT or DENY** that there never has been a vote, by meeting or written consent, of the shareholders of Plessen for directors where the number of share voted was equally divided.

141. **ADMIT or DENY** that with regard to Request for Admission numbered 107, Yusuf or his counsel intentionally evaded a proper response, and therefore refused to answer the RFA.

142. Defendant Mufeed Hamed's Second Set of Requests to Admit Yusuf was asked the following question numbered 108, and Yusuf provided the following response:

108. **ADMIT or DENY** that "by reason of an equal divided vote of the stockholders" there has never been "a failure to elect directors" at a shareholder meeting.

RESPONSE:

The above statement is a partial recitation of 13 V.I.C. § 195, there is nothing to either admit or deny. Clearly, the stockholders are equally divided.

ADMIT or DENY that Plaintiff Yusuf knows of no vote, by meeting or written consent, of the shareholders of Plessen in which the number of shares voted was equally divided.

143. **ADMIT or DENY** that Plaintiff Yusuf knows of no vote, by meeting or written consent, of the shareholders of Plessen where the issue was the election of new directors.

144. **ADMIT or DENY** that Plaintiff Yusuf knows of no vote, by meeting or written consent, of the shareholders of Plessen for directors where the number of share voted was equally divided.

145. **ADMIT or DENY** that with regard to Request for Admission numbered 108, Yusuf or his counsel intentionally evaded a proper response, and therefore refused to answer the RFA.

146. Defendant Mufeed Hamed's Second Set of Requests to Admit Yusuf was asked the following question numbered 109, and Yusuf provided the following response:

109. **ADMIT or DENY** that "a failure to elect directors" at "two successive annual Election[s]" at Plessen shareholder meeting has never occurred.

RESPONSE:

The above statement is a partial recitation of 13 V.L.C. § 195, there is nothing to either admit or deny. Clearly, the stockholders are equally divided.

ADMIT or DENY that there have never been "two successive annual elections" of directors by the shareholders of Plessen – regardless of the outcome.

147. **ADMIT or DENY** that Plaintiff Yusuf knows of no two successive votes of any sort at meetings by the shareholders of Plessen

148. **ADMIT or DENY** that Plaintiff Yusuf knows of no vote, by meeting or written consent, of the shareholders of Plessen for directors where the number of share voted was equally divided.

149. **ADMIT or DENY** that with regard to Request for Admission numbered 109, Yusuf or his counsel intentionally evaded a proper response, and therefore refused to answer the RFA.

150. **ADMIT or DENY** that Yusuf is unable to specify all of the dates on which he or Mike Yusuf met with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

151. **ADMIT or DENY** that Yusuf is unable to specify all of the dates on which he or Mike Yusuf had telephone conversations with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

152. **ADMIT or DENY** that Yusuf is unable to specify all of the dates on which he or Mike Yusuf met with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

153. **ADMIT or DENY** that Yusuf is unable to specify all of the dates on which he or Mike Yusuf had telephone conversations met with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

154. **ADMIT or DENY** that Yusuf Yusuf did not keep written notes of meetings or conversations with, or what documents were provided VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

155. **ADMIT or DENY** that Mike Yusuf did not keep written notes of meetings or conversations with, or what documents were provided VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

156. **ADMIT or DENY** that Nizar DeWood did not keep written notes of meetings or conversations with, or what documents were provided VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

157. **ADMIT or DENY** that Nizar DeWood did bill the Yusufs for meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

158. **ADMIT or DENY** that Yusuf Yusuf or his present counsel have requested from Nizar DeWood all notes of meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

159. **ADMIT or DENY** that Yusuf Yusuf or his present counsel have provided to Defendants Nizar DeWood's notes of meetings, correspondence or notes/calendars of his conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

160. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had meetings with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

161. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had correspondence with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

162. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had telephone conversations with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

163. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel supplied documents to VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

164. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had meetings with employees of the Attorney General's Office with regard to the alleged

embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

165. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had correspondence with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

166. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had telephone conversations with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

167. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel supplied documents to employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

168. **ADMIT or DENY** that Nizar DeWood did bill the Yusufs for meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

169. **ADMIT or DENY** that any of the Yusufs' present counsel did bill the Yusufs for meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and November 19, 2015.

170. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had meetings with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

171. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had correspondence with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

172. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had telephone conversations with VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

173. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel supplied documents to VIPD police officers with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

174. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had meetings with employees of the Attorney General's Office with regard to the alleged

embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

175. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had correspondence with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

176. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel had telephone conversations with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

177. **ADMIT or DENY** that Yusuf Yusuf, Mike Yusuf or their prior or present counsel supplied documents to employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

178. **ADMIT or DENY** that Nizar DeWood did bill the Yusufs for meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

179. **ADMIT or DENY** that any of the Yusuf's present counsel did bill the Yusufs for meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2016 and December 31, 2016.

180. **ADMIT or DENY** that Nizar DeWood's billings with regard to to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here are in the possession of Yusuf or his present counsel.

181. **ADMIT or DENY** that in bills provided to the Yusufs by any of the Yusuf's present or past counsel there is information that relates to meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and December 31, 2016.

182. **ADMIT or DENY** that Yusuf has not provided Defendants with information in discovery -- from counsels' billings -- that relates to meetings, correspondence or conversations with, or what documents were provided VIPD police officers or the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here between January 1, 2015 and December 31, 2016.

183. **ADMIT or DENY** that on or about June 19th of 2014, the Hameds served a corrected interrogatory response on the Yusufs in the SX-12-CV-370 action (Hamed v Yusuf) which Mohammad Hamed verified:

Corrected response:

Object to as irrelevant and not likely to lead to relevant testimony, as Plessen should not be a party to this litigation. Subject to that objection, I am the President of Plessen and one of the three directors of Plessen. I have always been President and a director. The other two directors are Fathi Yusuf and Waleed (Wally) Hamed, who have always been the other two directors. The shareholders of the company, including Fathi Yusuf and his sons, are all aware of this fact, as is the Office of the Lieutenant Governor, Division of Corporations.

I make this correction after reviewing the Articles of Incorporation and By-Laws, as well as the annual filings made with the Lieutenant Governor, which make it clear that there were three original directors and support this corrected response. There have been no changes to these three directors since that time.

184. **ADMIT or DENY** that at page 2, in footnote 2, of his July 25, 2014 decision in the SX-12-CV-370 action (Hamed v Yusuf), Judge Douglas Brady wrote the following:

Defendant Yusuf claims that his son Maher ("Mike ") is a director of Plessen, and that failure to notify him of the special meeting renders all actions therein null and void. Motion, at 6, n.3. As proof that Mike is a director, Yusuf cites a February 14, 2013 "List of Corporate Officers for Plessen" from the electronic records of the Department of Licensing and Consumer Affairs. Motion, at 6, n.4, Exhibit D; and presents a Scotiabank account application information form wherein Mike is designated "Director /Authorized Signatory" on Plessen's account. Plaintiff denies that Mike is a director, relying upon Plessen's Articles of Incorporation which name Mohammad Hamed, Waleed Hamed, and Fathi Yusuf as the only three directors. Opposition, Exhibit A. Plessen's By -Laws state that the number of directors can be changed only by majority vote of current directors. Opposition, Exhibit B, Section 2.2. Plessen director Waleed Hamed declares: "There have been no resolutions of the Board or votes by the shareholders of Plessen Enterprises, Inc. that have ever changed these three Directors as provided for in the articles of incorporation over the last 26 years." Opposition, Exhibit 1, Declaration of Waleed Hamed. Defendant Yusuf concurs: "Until the Special Meeting of the Board of Directors of Plessen was held on April 30, 2014, there had no meeting of the directors or shareholders of Plessen since its formation in 1988." Motion, Exhibit K ¶15.

As such, and for the limited purpose of addressing this Motion, the Court finds that Plessen has three directors: Mohammad Hamed, Waleed Hamed, and Fathi Yusuf.

185. **ADMIT or DENY** that the following statement in Judge Brady's July 25, 2014 decision is a true statement of fact: "Plessen's By-Laws state that the number of directors can be changed only by majority vote of current directors."

186. **ADMIT or DENY** that the following statement in Judge Brady's July 25, 2014 decision is a true statement of fact: "There have been no resolutions of the Board or votes by the shareholders of Plessen Enterprises, Inc. that have ever changed these three Directors as provided for in the articles of incorporation over the last 26 years." Opposition, Exhibit 1, Declaration of Waleed Hamed. Defendant Yusuf concurs: "Until the Special Meeting of the Board of Directors of Plessen was held on April 30, 2014, there had no meeting of the directors or shareholders of Plessen since its formation in 1988."

187. **ADMIT or DENY** that on July 25, 2014, Yusuf Yusuf and Mike Yusuf were on notice that under the bylaws of the corporation, Mike Yusuf could not be a fourth director of Plessen.

188. **ADMIT or DENY** that after July 25, 2014, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel supplied documents to or had conversations with employees of the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here

189. **ADMIT or DENY** that after July 25, 2014, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel did not inform or supply the VIPD or Attorney General's Office with what Judge Brady had found with regard to Mike Yusuf's claims that he was a director of Plessen.

190. **ADMIT or DENY** that after July 25, 2014, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel did not inform or supply the VIPD or Attorney General's Office with what Judge Brady had found with regard to Mike Yusuf's claims that he was a director of Plessen.

191. **ADMIT or DENY** that after July 25, 2014, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel did not inform the VIPD or Attorney General's Office that the information gathering forms and other documents previously supplied by them had been before Judge Brady and that he had discussed them in his findings about the assertion there was a fourth Plessen director.

192. **ADMIT or DENY** that after July 25, 2014, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel continued to assert that Mike Yusuf was a Director of Plessen to the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

193. **ADMIT or DENY** that at page 5-6 of his April 21, 2015 decision in the instant action, Judge Harold Willocks wrote the following:

The Articles of Incorporation list Mohammad, Waleed, and Fathi as the only three directors. It is not in dispute that Mohammad, Waleed, and Fathi are directors of Plessen; but, rather, it is Plaintiff Yusuf's contention that Maher is a fourth director of Plessen. Section 2.2 of the By-Laws provides that the number of directors can be changed only by "resolution of a majority of the entire Board of Directors" and that "each Director shall serve until his or her successor is duly elected and qualifies." According to both Waleed and Fathi, no such resolution was ever adopted and no meetings were called to elect successors. Thus, for the limited

purpose of addressing this Motion, the Court finds that Plessen has only three directors-Mohammad, Waleed, and Fathi. Accordingly, the purpose of the notice provision of the By-Laws was indeed satisfied.

194. **ADMIT or DENY** that the following statement in Judge Willock's April 21, 2015 decision is a true statement of fact: "Section 2.2 of the By-Laws provides that the number of directors can be changed only by "resolution of a majority of the entire Board of Directors" and that "each Director shall serve until his or her successor is duly elected and qualifies." According to both Waleed and Fathi, no such resolution was ever adopted and no meetings were called to elect successors."

195. **ADMIT or DENY** that on April 21, 2015, Yusuf Yusuf and Mike Yusuf were on notice that under the bylaws of the corporation, Mike Yusuf could not be a fourth director of Plessen.

196. **ADMIT or DENY** that after April 21, 2015, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel supplied documents to or had conversations with employees of the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

197. **ADMIT or DENY** that after April 21, 2015, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel supplied documents to or had conversations with employees of the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here

198. **ADMIT or DENY** that after April 21, 2015, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel did not inform or supply the VIPD or Attorney General's Office with what Judge Brady had found with regard to Mike Yusuf's claims that he was a director of Plessen.

199. **ADMIT or DENY** that after April 21, 2015, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel did not inform or supply the VIPD or Attorney General's Office with what Judge Brady had found with regard to Mike Yusuf's claims that he was a director of Plessen.

200. **ADMIT or DENY** that after April 21, 2015, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel did not inform the VIPD or Attorney General's Office that the information gathering forms and other documents previously supplied by them had been before Judge Brady and that he had discussed them in his findings about the assertion there was a fourth Plessen director.

201. **ADMIT or DENY** that after April 21, 2015, but before November 19, 2015, Mike or Yusuf Yusuf or their counsel continued to assert that Mike Yusuf was a Director of Plessen to the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

202. **ADMIT or DENY** that after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf

or their counsel had further communications with members of the VIPD with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

203. **ADMIT or DENY** that after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf or their counsel had further communications with employees of the Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here.

204. **ADMIT or DENY** that after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf or their counsel in their further communications with employees of the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here continued to represent that Mike Yusuf was a Plessen Director.

205. **ADMIT or DENY** that after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf or their counsel in their further communications with employees of the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here did not inform the VIPD or AG's Office of the decisions by Judges Willocks and Brady regarding the assertion of a fourth Plessen director.

206. **ADMIT or DENY** that after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf or their counsel in their further communications with employees of the VIPD or Attorney General's Office with regard to the alleged embezzlement of \$460,000 by Waleed Hamed at issue here did not inform the VIPD OR AG's Office of the decisions by Judges Willocks and Brady regarding the assertion of a fourth Plessen director.

207. **ADMIT or DENY** that in their communications with the VIPD or AG after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf attempted to convince the AG that the criminal charges against Waleed Hamed should not be dismissed.

208. **ADMIT or DENY** that in their communications with the VIPD or AG after the Criminal Information against Waleed Hamed of November 19, 2015 but prior to the dismissal of the criminal charges on May 31, 2016, Mike and Yusuf Yusuf supplied additional documents to attempt to convince the AG that the criminal charges against Waleed Hamed should not be dismissed.

209. **ADMIT or DENY** that before the Criminal Information against Waleed Hamed of November 19, 2015, Mike and Yusuf Yusuf or their counsel had communications with an Assistant Attorney General (AAG) in which a "dated" BNS information gathering document was supplied.

210. **ADMIT or DENY** that after the Criminal Information against Waleed Hamed of November 19, 2015, Mike and Yusuf Yusuf or their counsel had communications with an Assistant Attorney General (AAG) in which they represented to the AAG that the "dated" BNS information gathering document had been supplied by BNS from Plessen bank records.

Respectfully submitted,

HAMMECKARD, LLP

Dated: February 20, 2017

By: _____

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Mufeed Hamed, Hisham Hamed and Five-H
Holdings, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2017, I served a copy of the foregoing by email, as agreed by the parties, on:

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