

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

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In re : Case No. 10-60702
: (Jointly Administered)
:
SCHWAB INDUSTRIES, INC. , et al.¹ : Chapter 11
:
Debtors. : Judge Russ Kendig
:
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Name of Applicant: The Parkland Group, Inc.

Authorized to Provide Professional Services as: Restructuring Advisors and Chief Restructuring Officer for Debtors

Date of Application: January 14, 2011

Date of Order Approving Appointment: March 25, 2010

Period for which Fees and Reimbursement is sought: July 1, 2010 through December 15, 2010

Amount of Fees sought as Actual, Reasonable and Necessary: \$132,036.50

Amount of Expense Reimbursement sought as Actual, Reasonable and Necessary: \$486.65

This application is: interim final.

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's tax identification number and the case number of each Debtor's bankruptcy case are: Schwab Industries, Inc. (2467) Case No. 10-60702; Medina Cartage Co. (9373) Case No. 10-60702; Medina Supply Co. (3995) Case No. 10-60704; Quality Block & Supply, Inc. (2186) Case No. 10-60705; O.I.S. Tire, Inc. (7525) Case No. 10-60706; Twin Cities Concrete Co. (9196) Case 10-60707; Schwab Ready-Mix, Inc. (8801) Case No. 10-60708; Schwab Materials, Inc. (8957) Case No. 10-60709; and Eastern Cement Corp. (7232) Case 10-60710.

One prior application was filed on July 22, 2010. On August 10, 2010, the Court entered an order approving fees in the amount of \$ 598,003.50 and expenses in the amount of \$9,967.58 for The Parkland Group.

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SCHWAB INDUSTRIES, INC. , *et al.* : Chapter 11
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 : Debtors. : Judge Russ Kendig
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**SECOND APPLICATION OF THE PARKLAND GROUP, INC. FOR
ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED
AND FOR REIMBURSEMENT OF EXPENSES INCURRED FOR THE PERIOD
JULY 1, 2010 THROUGH DECEMBER 15, 2010 AND FINAL ALLOWANCE OF ALL
FEES AND EXPENSES INCURRED DURING THE PERIOD FEBRUARY 26, 2010
THROUGH DECEMBER 15, 2010**

The Parkland Group, Inc. ("Parkland"), who is authorized to provide Restructuring Services to the Debtors and Laurence V. Goddard as Chief Restructuring Officer of the above-captioned debtors (the "Debtors"), hereby applies to the Court for approval of its second application (the "Application") for allowance of compensation for professional services rendered and for reimbursement of expenses incurred by Parkland for the period from July 1, 2010 through December 15, 2010 (the "Application Period"), and Final Allowance of all Fees and Expenses awarded during the period from February 26, 2010 through December 15, 2010 (the "Final Period").

I. INTRODUCTION

A. Background

1. On February 28, 2010 (the "Petition Date"), the Debtors filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101-1532 (the "Bankruptcy Code").

2. Pursuant to an Order dated March 3, 2010, Debtors' Chapter 11 Cases are being jointly administered by this Court [Docket No. 41].

3. On February 28, 2010, Debtors filed an application for authority to employ and retain Parkland to provide Restructuring Services to the Debtors and designating Laurence V. Goddard as Chief Restructuring Officer ("CRO") of the Debtors *nunc pro tunc* to the Petition Date [Docket No. 9]. On March 25, 2010, the Court entered an order authorizing the retention of Parkland and designating Mr. Goddard as CRO [Docket No. 207], which is attached to this Application and marked as Exhibit A (the "Retention Order").

4. On February 28, 2010, the Debtors filed a Motion for an Order Establishing Procedures for Interim Monthly Compensation of Professionals (the "Compensation Motion") [Docket No. 19]. On March 24, 2010, this Court entered the order granting the Compensation Motion (the "Compensation Order") [Docket No. 201]. The Compensation Order was subsequently amended on July 9, 2010 to remove certain restrictions relating to the monthly amounts Debtors are permitted to compensate professionals in the Chapter 11 Cases [Docket No. 530].

5. On July 22, 2010 Parkland filed its First Application for Interim Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred for the Period February 26, 2010 through June 30, 2010 [Docket 545] (the "First Application"). An Order approving Parkland's First Application was entered on August 10, 2010 [Docket 585]².

² In consultation with the Debtors' other professionals, Parkland, along with other retained professionals, agreed to be paid only 80% of Allowed fees from the First Application until after the Confirmation Date. Attached hereto as Exhibit F is a schedule of all invoices presented and payments received by Parkland from the Debtors, along with a summary of all amounts remaining due.

6. On October 26, 2010, Debtors and the Committee (collectively, the “Plan Participants”) filed their *First Amended Joint Plan of Liquidation Dated October 26, 2010* [Docket No. 655] (the “Plan”).

7. On December 9, 2010, the Court held a hearing to consider confirmation of the Plan (the “Confirmation Hearing”).

8. At the Confirmation Hearing, the Court ruled that it would confirm the Plan.

9. On December 15, 2010 (the “Confirmation Date”), the Court entered the *Findings of Fact, Conclusions of Law and Order: (I) Approving First Amended Disclosure Statement with Respect to First Amended Joint Plan of Liquidation of Schwab Industries, Inc. et al. Pursuant to 11 U.S.C. §1125; and (II) Confirming First Amended Joint Plan of Liquidation Dated October 26, 2010* (the “Confirmation Order”) [Docket No. 698].³

10. Among other things, the Confirmation Order stated that professionals were directed to file final fee applications no later than thirty (30) days following entry of the Confirmation Order.

B. Compensation and Reimbursement of Expenses Requested

11. In accordance with sections 330(a), 331 and 363 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2016, the Retention Order, the Compensation Order, as well as the Guidelines for Compensation and Expense Reimbursement of Professionals, General Order 93-1, entered on July 28, 1993 (the “Court Guidelines”), and the U.S. Trustee Guidelines for Reviewing Application for Compensation and Reimbursement of Expenses, issued on

³ To the extent capitalized terms are not defined herein, such terms shall have the meanings ascribed thereto in the Confirmation Order.

January 30, 1986 (the “Trustee’s Guidelines” and, together with Court’s Guidelines, the “Guidelines”), Parkland makes this Application for:

- a. approval of compensation for Restructuring and Chief Restructuring Officer (“CRO”) professional services rendered to the Debtors during the Application Period in the amount of \$132,036.50;
- b. reimbursement of actual and necessary expenses incurred in connection with those services of \$486.65;
- c. final allowance of compensation for necessary and valuable services provided to the Debtors during the Final Period in the amount of \$730,040.00;
- d. final allowance for actual and necessary expenses incurred in connection with those services during the Final Period in the amount of \$10,454.23;
- e. final allowance of estimated compensation for necessary and valuable services provided to the Debtors’ estates and the necessary and valuable expenses incurred with providing such services after the Confirmation Date in the estimated amount of \$15,000.00, to the extent such services are actually provided and expenses are actually incurred;
- f. authority for Parkland to apply the full amount of the Chapter 11 Retainer currently being held in trust by Parkland to the Fees and Expenses; and
- g. authority for Debtors and/or Debtors’ estates to disburse to Parkland all sums awarded which have not yet been paid.

12. The Compensation Order specifically stated that estate professionals in the Debtors’ chapter 11 cases were authorized to submit a statement of fees and expenses (“Monthly Fee Statement”) to the Debtors for payment on a monthly basis. After a time period that gave Interested Parties an opportunity to object to the Monthly Fee Statement (the “Notice Period”), the Debtors were authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Fee Statement consistent with their approved budget.

13. Pursuant to the Compensation Order, Parkland has submitted Monthly Fee Statements totaling \$132,036.50 in fees⁴ and \$242.25 in expenses for the following periods: July 1, 2010 through July 30, 2010 (the “Fifth Monthly Fee Statement”); August 1, 2010 through August 31, 2010 (the “Sixth Monthly Fee Statement”); September 1, 2010 through September 30, 2010 (the “Seventh Monthly Fee Statement”); October 1, 2010 through October 31, 2010 (the “Eighth Monthly Fee Statement”); November 1, 2010 through November 30, 2010 (the “Ninth Monthly Fee Statement”); and December 10, 2010 through December 31, 2010 (the “Tenth Monthly Fee Statement”) to all parties required by the Compensation Order. No objections were or have been received to any Monthly Fee Statement.

14. Parkland has received payments totaling \$93,050.00 for fees and \$242.25 in expenses in accordance with the Compensation Order with respect to the Fifth through the Ninth Monthly Fee Statement. The Notice Period for the Tenth Monthly Fee Statement had not yet run as of the date of this Application, hence no payment against such statement was yet due and payable at the time of this Fee Application submission.

15. Parkland was awarded interim compensation in respect of its First Application as Debtors’ restructuring professionals and CRO for the period February 28, 2010 through June 30, 2010 (the “First Application Period”) in the amount of \$607,971.08 (the “Initial Award”), with \$598,003.50 allocable to Fees and \$9,967.58 allocable to Expenses. Payments have been received by parkland for the First Application in the amount of \$488,380.38.⁵ There remains an

⁴ Parkland’s actual December 2010 billing included \$896.00 in Fees for services provided during the post-Confirmation period December 16 through December 31, 2010, with no related expenses, which is not reflected in this total.

⁵ In consultation with the Debtors’ other professionals, Parkland, along with other retained professionals, agreed to be paid only 80% of Allowed fees from the First Application until after the Confirmation Date. Attached hereto as Exhibit F is a schedule of all invoices presented and payments received by Parkland from the Debtors, along with a summary of all amounts remaining due.

outstanding balance for Fees for the First Application Period in the amount of \$119,590.70 (the “Allowed Remainder”). For avoidance of doubt or confusion, the Allowed Remainder has been allowed by this Court in the Initial Award, but remains unpaid to Parkland.

16. A summary of Parkland invoices and payments received on those invoices is attached to this Application and marked as Exhibit B.

17. Parkland has been paid, and continues to hold, a retainer in the amount of \$93,845.45 (the “Chapter 11 Retainer”) which remains unapplied. With this Application, Parkland is requesting authority to apply the full amount of the Chapter 11 Retainer to the Fees and Expenses owed Parkland.

18. Parkland has not shared any compensation with any other entity and no agreement to share compensation exists between Parkland and any other entity.

II. SERVICES RENDERED BY PARKLAND

A. Overview of Services and Maintenance of Time Records

19. During the Application Period, Parkland provided a total of 450.4 hours of services to the Debtors. A summary schedule of the hours devoted by Parkland’s professionals, the hourly rate of each professional, and the total dollar amount charged for services rendered is attached to this Application as Exhibit C.

20. Each Parkland professional providing services to the Debtors maintains daily time entries, which are prepared contemporaneously with the rendition of services to the Debtors. These time records set forth the dates on which services were rendered, a summary description of such services, and the time spent each day delivering such services. A schedule of such services is attached to this Application and marked as Exhibit D.

21. Because Parkland’s description of services performed on behalf of the Debtors is extensive, and because the Debtors’ bankruptcy case requires a variety of professional services,

Parkland has categorized its services by project category. Under each project category, Parkland's professional services are arranged by date, with a description of each individual's services and the time devoted to such services. The project categories of services, along with the fees related to each, are summarized in Exhibit C to this Application.

22. The blended hourly billing rate, or composite rate, for all Parkland's professionals working on this matter equals 293.15.

B. Summary of Restructuring Services (including those as CRO) Performed During the Application Period

23. To provide a better understanding of Parkland's services in this case, the following is a narrative description of Parkland's principal Restructuring Services and CRO activities performed on behalf of the Debtors during the Application Period. These descriptions are not intended, however, to be an exhaustive summary of all of Parkland's services during the Application Period. A complete description of all of Parkland's Restructuring Services and CRO activities during the Application Period is set forth in the time detail contained in the attached Exhibit D.

Asset Sales

24. This category includes: (i) working with auctioneers to provide the services necessary on an expedited basis to liquidate certain identified Non-Core Assets; (ii) coordinating efforts with auctioneers after the approval of the bids deemed to be the highest and best bid(s) on Non-Core Assets, which removed many Non-Core or Excess Assets from the auction process; (iii) working with the Debtors, Oldcastle, RLH and the auction buyer of a certain parcel to identify which parts of the parcel are still required for Oldcastle's continued operations at the adjoining site and assisting in negotiating that settlement as appropriate; (iv) assisting the Debtors' auction companies in the production of their required Final Reports; (v) assisting the real estate sale process

by obtaining necessary information, sign-offs and other required items necessary to close each parcel; (vi) providing additional information, as needed and requested, on properties sold through the auction process, as well as properties retained by Oldcastle; and (vii) coordinating other document sign-off and handling as necessary to implement the sale of accounts receivable to Oldcastle as provided in the Sale Order.

25. During the Application Period, Parkland worked 41.6 hours with a time value of \$11,867.50 on matters relating to Asset Sales. The composite hourly rate for this work is \$285.28 based on the hours for which Parkland is requesting compensation.

Bankruptcy Administration

26. This category includes, but is not limited to: (i) developing and refining various analysis of administrative claims, including 503(b)(9) claims; (ii) reviewing all professional invoices presented in this case and scheduling their payment in accordance with the Compensation Order; (iii) assisting in the response to various objections and concerns raised by parties during the Application Period; (iv) working with Debtors' counsel, management and various parties to resolve various Administrative Claims and motions that were filed during the Application Period, particularly immediately preceding the Confirmation Hearing; (v) working with the Debtors and all professionals in this case in successfully resolving the matter introduced by FLSmidth, Inc.; (vi) working with the Debtors and the office of the U.S. Trustee in filing corrected first quarter and second quarter UST reports and the payment of amounts due; (vii) responding to various claimants, collection agencies and others attempting to collect amounts due; (viii) answering questions from former employees, medical facilities, collection agencies and others on administrative claims; and (ix) preparing Parkland's Fee Applications.

27. During the Application Period, Parkland worked 266.5 hours with a time value of \$78,431.50 on matters relating to Bankruptcy Administration. The composite hourly rate for this work is \$294.30 based on the hours for which Parkland is requesting compensation.

Cash Collateral

28. This category includes: (i) monitoring budgets and performance with such budgets; (ii) working with Debtors professionals and Secured Lenders to work through budget issues; (iii) and review of Key complaint against Huntington on insurance policies.

29. During the Application Period, Parkland worked 10.1 hours with a time value of \$3,219.50 on matters relating to Cash Collateral. The composite hourly rate for this work is \$318.76 based on the hours for which Parkland is requesting compensation.

Operations

30. The Operations category includes all activities connected with post-sale operations issues, securing Debtors records for Estate purposes, and discussions with former vendors regarding payment.

31. During the Application Period, Parkland worked 15.3 hours with a time value of \$4,985.50 on matters relating to Operations. The composite hourly rate for this work is \$325.85 based on the hours for which Parkland is requesting compensation.

Plan of Reorganization

32. This category included: (i) working with the Debtors, Debtors' counsel and the Committee's professionals on a Plan of Reorganization which was filed with and subsequently confirmed by this Court; (ii) investigating all administrative claims and providing various analysis to Debtors and Debtors' counsel on same; (iii) reviewing and commenting on various

drafts of the Plan; (iv) assembling various waterfall, liquidation and other analyses as requested by the Debtors, Debtors professionals, or Committee professionals; (v) updating all schedules of administrative, tax and other claims as needed and requested, (vi) filing the necessary reports and issuing payment of approved Administrative expenses pursuant to an Order from this Court; (vii) participating in meetings leading up to, and attending the Confirmation Hearing; and (viii) reviewing, commenting on and signing all documents necessary to file and effectuate the Plan.

33. During the Application Period, Parkland has classified 111.9 hours with a time value of \$32,787.50 as being devoted to Plan of Reorganization. The composite rate for this category is \$293.01 based on the hours for which Parkland is requesting compensation.

Travel

34. This category includes all time spent traveling to Court for the Confirmation hearing and meetings connected with same. Compliant with the Guidelines, travel time is billed by Parkland at one-half of its normal hourly rates.

35. During the Application Period, Parkland reports 5.0 hours with a time value of \$745.00 as time required to Travel for these Chapter 11 Cases. The composite hourly rate for this travel time is \$149.00 based on the hours for which Parkland is requesting compensation.

III. COMPENSATION REQUESTED AND RELEVANT LEGAL STANDARDS

A. Actual and Necessary Expenses, Disbursements, and Support Service Charges Incurred

36. Parkland seeks reimbursement for actual expenses (“Expenses”) incurred in the rendition of services during the Application Period in the sum of \$486.65. These expenses have been itemized on the Summary of Expenses, marked as Exhibit E.

37. Parkland utilized the following procedures with respect to the Expenses incurred in rendering services during the Application Period:

- a. No amortization of the cost of any investment, equipment, or capital outlay is included in the Expenses, and Parkland does not make a profit on any Expense. For those items or services that Parkland justifiably purchased or contracted for from a third party (such as outside copy or scanning services), Parkland seeks reimbursement only for the exact amount billed to Parkland by the third party vendor and paid by Parkland to the third party vendor.
- b. Parkland has documentation for all expenses in excess of \$25.00, which are attached to this Application as part of Exhibit E.
- c. Parkland used overnight delivery and third party messenger services only as necessary or as required by third-parties.
- d. PACER charges reflect the actual charges to obtain necessary documents to assist Parkland and/or Mr. Goddard in its Restructuring Advisor or Chief Restructuring Officer roles.

B. Factors to be Considered in Awarding Professional's Fees

38. Bankruptcy Code Section 330(a) lists the factors to be used by the Court in determining the amount of reasonable compensation:

(3) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent and the value of such services, taking into account all relevant factors, including --

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time, commensurate with the complexity, importance, and nature of the problem, issue or task addressed; and

(E) whether the compensation is reasonable based on the customary compensation charged by comparable skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3) (amended pursuant to the Bankruptcy Reform Act of 1994 to substantially incorporate the factors identified in *Johnson v. George Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974) to be used in determining the amount of reasonable compensation

C. Compensation

39. To grant a request for compensation under Bankruptcy Code Section 330, the Court must find that such request is reasonable. The reasonableness of a compensation request is determined by the so-called “lodestar” method:

It is now settled that the “lodestar” method of fee calculation developed by the Third Circuit, *see Lindy Bros. Builders, Inc. v. American Radiator & Standard Sanitary Corp.*, 487 F.2d 161, 167 (3rd Cir. 1973), is *the* method to be used to determine a “reasonable” attorney fee in all the federal courts, including the bankruptcy courts. *See Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 483 U.S. 711 (1987) [.]

In re Cena’s Fine Furniture, Inc., 109 B.R. 575, 581 (E.D.N.Y.) (parallel citations omitted). The lodestar amount is calculated by multiplying the number of hours reasonably expended by the hourly rate of that professional. There is a strong presumption that the lodestar product is reasonable under Bankruptcy Code Section 330. *See In re Drexel Burnham Lambert Group, Inc.*, 133 B.R. 13, 22 (Bankr. S.D.N.Y. 1991). The “lodestar” method referenced above and applied in this Application has also been endorsed by the Sixth Circuit. *In re Boddy*, 950 F. 2d 334 (6th Cir. 1991).

40. Parkland’s fees, for both the Application Period and the Final Period, are not unusual and are commensurate with fees that other professionals of comparable experience and expertise charge on a regular basis in chapter 11 cases. Parkland’s lodestar calculation is based

upon hourly rates that are well within the range of rates that are charged by comparable firms in other bankruptcy cases. Accordingly, Parkland's lodestar calculation is reasonable under section 330 of the Bankruptcy Code. *See Drexel Burnham Lambert*, 133 B.R. at 22.

D. Expenses

41. Sections 330(a)(2) and 503(b)(4) of the Bankruptcy Code permit reimbursement for actual, necessary expenses. Parkland has not included any Expenses that it deemed noncompensable. Accordingly, those Expenses for which reimbursement is sought in this Application satisfy the standards presented by section 330(a)(2) of the Bankruptcy Code and the Guidelines.

IV. CONCLUSION

Parkland respectfully submits that it is entitled to receive as reasonable compensation for fees and expenses the full amount requested herein, as such fees and expenses are related to services that were valuable to the Debtors' estates and are reasonable and commensurate with the rates and charges for professional services prevailing in the community for accountants of like standing and experience.

Parkland has complied with the Court and U.S. Trustee Guidelines in making this request for compensation. See *Certification of Laurence V. Goddard Regarding Final Application of The Parkland Group, Inc. for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for the Period July 1, 2010 through December 15, 2010*, attached hereto as Exhibit G. A form of order is attached hereto as Exhibit H.

For all of the foregoing reasons, Parkland believes that the fees requested in this Application are reasonable and reflect the value of the services provided to the Debtors. Moreover, Parkland has requested reimbursement only of actual and necessary expenses.

WHEREFORE, Parkland respectfully requests that the Court enter an order, attached hereto as Exhibit H,

- a. approving the compensation for Restructuring and Chief Restructuring Officer (“CRO”) professional services rendered to the Debtors during the Application Period in the amount of \$132,036.50;
- b. approving the reimbursement of actual and necessary expenses incurred in connection with those services of \$486.65;
- c. approving final allowance of compensation for necessary and valuable services provided to the Debtors during the Final Period in the amount of \$730,040.00;
- d. approving the final allowance for actual and necessary expenses incurred in connection with those services during the Final Period in the amount of \$10,454.23;
- e. approving the final allowance of estimated compensation for necessary and valuable services provided to the Debtors’ estates and the necessary and valuable expenses incurred with providing such services after the Confirmation Date in the estimated amount of \$15,000.00, to the extent such services are actually provided and expenses are actually incurred;
- f. granting Parkland authority to apply the full amount of the Chapter 11 Retainer currently being held by Parkland to the Fees and Expenses;
- g. authorizing and directing Debtors and/or Debtors’ estates to disburse to Parkland all sums awarded which have not yet been paid; and
- h. granting such other and further relief as the Court may deem proper.

Respectfully submitted,

Dated: January 14, 2011

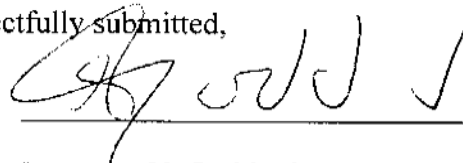
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*Chief Restructuring Officer and Financial Advisors for
Debtors and Debtors-in-Possession*

WHEREFORE, Parkland respectfully requests that the Court enter an order, attached hereto as Exhibit H,

- a. approving the compensation for Restructuring and Chief Restructuring Officer (“CRO”) professional services rendered to the Debtors during the Application Period in the amount of \$132,036.50;
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- f. granting Parkland authority to apply the full amount of the Chapter 11 Retainer currently being held by Parkland to the Fees and Expenses;
- g. authorizing and directing Debtors and/or Debtors’ estates to disburse to Parkland all sums awarded which have not yet been paid; and
- h. granting such other and further relief as the Court may deem proper.

Respectfully submitted,



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*Chief Restructuring Officer and Financial Advisors for
Debtors and Debtors-in-Possession*

Dated: January 14, 2011

Filed by:

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