

PREMARITAL AGREEMENT

This *Premarital Agreement* ("Agreement") is made this 18 day of December, 2006, by and between Marvin R. Fowler (hereinafter referred to as "Fowler"), an adult residing at 11255 Whispering Pines, Olive Branch, Mississippi, and Naomi Ruth (Lutz) Ashley Powell (hereinafter referred to as "Powell"), an adult residing at 239 Collierville/Arlington Road South, Collierville, Tennessee 38017, in consideration of the contemplated marriage of the above-named parties. This Agreement shall not be effective until the marriage contemplated by the parties is solemnized. In the event that this agreement or any part of it is contested in any manner, the laws of the State of Mississippi shall control all aspects of any dispute and shall be binding upon both parties, their heirs or assigns.

RECITALS. This Agreement is made on the basis of the following facts:

1. The parties contemplate marriage to one another in the immediate future.
2. Each of the parties has been previously married and has adult children born unto their earlier marriages.
3. The parties desire to define their rights and responsibilities regarding property and financial matters to the extent these can be foreseen.

AGREEMENT

For and In Consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, the love and affection that exists between the parties, the marriage about to be entered into by and between the parties, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the parties mutually agree to the following:

1. **SEPARATE PROPERTY.** Except as otherwise provided in this Agreement, the

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following property currently owned or subsequently acquired by either party shall remain and be their separate property:

- A. All property, including real or personal property, the income from such property, and the investments and re-investments of such property.
- B. All property acquired by either party by gift, devise, bequest, or inheritance.
- C. All retirement accounts, pension funds or any other retirement asset shall remain the separate property of the individual owner unless voluntarily and intentionally expressly transferred to a jointly owned account of the parties at a later date.
- D. **Fowler affirmatively states that he currently owns the following real and personal property:**
 - 1. Ford F150 Truck - VIN 1FTRX12W74NC46871
 - 2. Ford Tractor Model 2810 Serial No. BC05991
 - 3. Polaris 2002 ATV Sportsman 500; VIN 4XACH50A52C598123
 - 4. Residence located at 11255 Whispering Pines Drive, Olive Branch, MS consisting of 10.32 Acres , more or less.
 - 5. Life Insurance on Bank Account Certificate, Last four digits of account No. 4811 in the amount of \$2000.00 at Bancorp South.
 - 6. CD, Last four digits of Acct No. 3388 in amount of \$10,000.00 at Bancorp South.
 - 7. CD, Last four digits of Acct No. 3376 in amount of \$10,500.00 currently at Bancorp South.
 - 8. Checking Account, Last four digits of Acct No. 1-481- with current balance of approximately \$14,747.41 at Bancorp South.
 - 9. Savings Account, Last four digits of Acct No. 9066 with current balance of approximately \$3,005.64 at Bancorp South.
 - 10. IRA, Last four digits of Acct. No. 1060 with current balance of

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approximately \$51,728.35 at Vanguard Group.

11. U. S. Government Savings Bonds Series E with current balance of approximately \$48,200.00.
12. Four (4) mortgage accounts managed by American Equity Funding, Inc. , P. O. Box 936, Alma, AR 72921 for loans owed by Ethel Maddox, Joseph Schoultz, Luis Miranda and Betty Demons with the combined original cumulative balance of approximately \$26,429.22.

E. Powell **affirmatively states that she currently owns the following real and personal property:**

1. Mass Mutual Whole Life Policy, Last four digits of Acct No. 7892, with face value of \$52,500.00 (estimated cash value of \$2,000.00).
2. Penn Mutual Term Life Policy, Last four digits of Acct No. 2204 with face value of \$50,363.52 with no cash value.
3. 2000 Toyota Camry LE automobile VIN 4T1BG22KXYU707430 with estimated outstanding indebtedness of approximately \$8,111.94 through Vystar Credit Union, P. O. Box 45085 Jacksonville, FL 32232-5085.
4. Lot No. 8 on Gismal Road in Lakeview Manor, Paris, TN with estimated value of \$1,500.00.
5. Checking account, Last four digits of Acct No. 1748 with current balance of approximately \$705.54 at Vystar Credit Union in Jacksonville, FL.
6. Savings Account, Last four digits of Acct No. 4010 with current balance of approximately \$93.28 at Vystar Credit Union in Jacksonville, FL.

Such separate property of each party shall be subject entirely to his or her own individual use, control, benefit and disposition. Neither of the parties shall, before or after the contemplated marriage, acquire for themselves individually, or their assigns or creditors, any interest in the separate property of the other party nor shall either of the parties have any right to the use,

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control, benefit, or disposition of such property. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT ANY INDIVIDUAL ASSET, TANGIBLE OR INTANGIBLE, OWNED BY EITHER PARTY INDIVIDUALLY PRIOR TO THE MARRIAGE SHOULD PASS DIRECTLY TO THE NATURAL BORN CHILDREN OF THE DECEDENT UPON HIS OR HER DEATH.

- a. Waiver. Additionally, both parties waive, release, and relinquish any ownership or right in the separate property of the other and waive, release, and relinquish the right to use, control, benefit, or dispose of the other's separate property now or in the future.
- b. Disposal of Property. Furthermore, it is agreed that each party shall have the right at all times to dispose of any or all of his or her separate property by deed, bill of sale, gift, trust, will, mortgage, encumbrance, pledge, lien, or charge without limitation in any manner whatsoever upon their own individual signature or act and without the necessity of any joinder, action, or consent by the other party.
- c. Community Property. If the parties reside or become residents of a state, territory or foreign country, and under the laws of such jurisdiction the property and interests of the couple are treated differently than as contemplated by this Agreement (such as a community property state) the property interests of the parties shall remain as stated in this Agreement.
- d. Cooperation Regarding Documents. There may be times when a party (dealing with his or her own separate property) desires to have the other party sign a document for the apparent purpose of relinquishing of record any apparent right of the party arising by reason of their marital relationship. Upon request, the other party shall so sign any documents solely for the above purpose. The signing of such documents shall not impose any personal liability upon the party signing such documents, nor shall such party executing any document requested be

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entitled to receive any financial compensation or other benefit by virtue of executing said document.

- e. Retirement or Pension Benefits. The parties each reserve the right to retain as their sole and absolute separate property, the entire interest in pension benefits now vested, or that become vested in the future, and the right to manage, control, transfer, and convey all such property and dispose of the same by will, or otherwise, without any interference from the other. Each party acknowledges that they have no right to the other party's retirement or pension. Each party agrees to execute a valid waiver of rights to a survivor's annuity or any other waiver required, as may be necessary to waive their rights in the other party's pension without compensation, directly or indirectly. The parties acknowledge that this Agreement shall constitute an effective waiver of any rights in the other's benefit plan. Fowler acknowledges that D. Russell Jones, Jr. and Jones & Moutoux, PLLC have not advised him regarding his specific rights and obligations under his retirement/pension plan and how these rights and obligations may be affected by the contemplated marriage of the parties or how Fowler's rights or obligations may be affected in the future. Fowler waives any claim against D. Russell Jones, Jr., Attorney, or Jones & Moutoux, PLLC now or in the future attributable to any adverse consequences, directly or indirectly, affecting any retirement/pension account that he may now hold or acquire in the future.
- f. No Advice regarding Estate Planning Issues. Fowler acknowledges that D. Russell Jones, Jr. and Jones & Moutoux, PLLC have not advised him regarding estate planning issues and that he has been advised to consult a Certified Financial Planner in this regard.
- g. Tax Consequences. That the parties agree to hold harmless D. Russell Jones, Jr. and Jones & Moutoux, PLLC for any tax consequences which may occur as a result of this agreement as they have not sought or received advice or counseling

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in this regard. The parties acknowledge that they should consult an attorney specializing in tax consultation or a certified public accountant for advice concerning these matters.

2. **RESIDENCE.** It is the intention of the parties that the residence presently owned by Fowler located at 11255 Whispering Pines, Olive Branch, DeSoto County, Mississippi, as per the Warranty Deed as recorded in Deed Book 188, Page 215 in the office of the Chancery Clerk of DeSoto County, Mississippi, shall remain the sole property of Fowler for all intents and purposes regardless of separation of the parties, divorce of the parties, or death of either party and, that Powell is prohibited from taking any action whatsoever, directly or indirectly, that affects Fowler's ownership or rights to use or occupy said real property. The parties intend to occupy such property as their principal residence. The sole exception to this arrangement is that in the event of the death of Fowler after the marriage of the parties, Powell shall have the right to continue to reside in said residence for a period of six (6) months following the death of Fowler. At the end of said six month period, Powell shall immediately vacate said premises, without the necessity of a court order, and shall turn over said real property together with all household contents in good condition less ordinary wear and tear to Fowler's natural born children excepting household furniture actually purchased by the parties subsequent to their marriage which she shall be entitled to keep as her sole personal property together with her tangible personal property owned by her prior to the marriage. Parties shall make photos of individually owned furniture/property in their possession prior to the marriage. Powell acknowledges that it shall be her burden to prove that such furniture items were, in fact, purchased subsequent to the marriage. Said furniture is the ONLY personal property, tangible or intangible, that Powell shall have any claim against in the event of the death of Fowler. Powell agrees that in the event that she fails to fulfill the terms of this agreement in all aspects, that she will pay all damages to said property in addition to all

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reasonable attorney fees and court costs incurred in enforcement of this Premarital Agreement. Powell further forfeits any rights of a surviving spouse to any real and/or personal property owned by Fowler at the time of his death including any and all tangible and intangible, real and/or personal property owned by Fowler at the time of his death.

Following the marriage of the parties, the expenses associated with the maintenance of the residence shall be paid as follows:

1. All maintenance expenses shall be paid by Fowler.
2. Payment of all real estate taxes shall be made by Fowler.
3. Insurance premiums for such residence shall be paid by Fowler and he shall continue as the sole payee on any hazard insurance policy currently in force or hereafter acquired.

3. **EARNINGS DURING MARRIAGE.** Each party agrees that all the earnings and accumulations resulting from the other spouse's personal services, skill, efforts, pension/retirement, investments, financial accounts of all types and employment, together with all property acquired or income derived therefrom, shall be the separate property of the party to whom the earnings and income are attributable, subject to other provisions of this Agreement. Each of the parties understands that except for this Agreement, the earnings and accumulations from the personal services, skill, effort, and work of the other throughout the marriage would be joint property, and that by this Agreement such earnings and income during the marriage are made the separate property of the person to whom the earnings and accumulations are attributable, e.g. the future pension/retirement income of Fowler shall be solely in his ownership and control and, the income earned by virtue of her continued employment with the City of Collierville, TN shall be solely owned and under the control of Powell.

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It is the expectation of the parties that the earnings and accumulations described in this Agreement may be used for joint expenses, household expenses, or other purposes. Such use shall not be construed to imply joint ownership of the earnings or accumulations.

4. **DEBTS.** Each party agrees to be separately liable for his or her debts incurred prior to the marriage including but, not limited to the debts listed below. **Powell affirmatively states that her current debts are the following and that she will be solely responsible for these and all other subsequently acquired debts:**

1. Powell owes the sum of \$2,491.61, more or less to Vystar Credit Union, Last four digits of Acct No: 4105 for a personal loan, P. O. Box 45085 Jacksonville, FL 32232-5085.
2. Powell owes the sum of \$10,860.37, more or less to Visa Credit Card, P. O. Box 45085 Jacksonville, FL 32232-5085, Last four digits of Acct No. 5536.
3. Powell owes the sum of \$8,114.94 d for automobile loan to Vystar Credit Union, P. O. Box 45085 Jacksonville, FL 32232-5085, Last four digits Acct No. 9433.

Fowler affirmatively states that he owes no debts for real or personal property other than Chase Mastercard, P.O. Box 94014, Palatine, IL 60094-4014 Last four digits of Acct No. 5286; and Sam's Club of Southaven, MS, Last four digits of Acct No. 8579, which he pays in full on a monthly basis.

5. **CREDIT.** The parties hereto agree that neither party shall charge or cause to be charged to the other party any purchases that either of them may make after this Agreement is entered into and shall not create any engagements or obligations in the name of or against the other; nor shall either party hereafter secure or attempt to secure any credit upon or in connection with the other. Each warrants that there are no charges on the other's credit that have not fully revealed to the other. If there are such unrevealed charges, the party

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making those charges shall be responsible for the payment of those unrevealed charges.

6. **JOINT PROPERTY.** The parties agree and understand that nothing in this Agreement shall preclude them from acquiring property interests during the course of their marriage as joint tenants with right of survivorship or as tenants in common with undivided interests. Additionally, nothing in this Agreement shall preclude them from making binding transfers of real or personal property to the other at any time during the marriage. Fowler acknowledges that he has been advised by D. Russell Jones, Jr., Attorney, that he should not purchase real or personal property jointly with Powell, that he should not incur any joint debt with Powell, and that he should not co-mingle any monetary assets with Powell at any time prior to or subsequent to their marriage.

Nothing in this Agreement shall preclude either party from making provisions for the other party under the terms of a Last Will and Testament signed after the marriage in which one party may provide for the distribution of property interest to the other in excess of those provisions, if any, provided by this Agreement. Each party releases all rights to share in the estate of the other or to serve as Executor or Administrator except as provided by Will or Codicil after the date of this agreement. In addition, it is agreed by the parties that all property, both real and personal, acquired by either party prior to the marriage, or by gift or inheritance during the marriage of the parties, shall be and remain the separate property of that party.

7. **TAXES.** Nothing in this Agreement shall be construed as waiving (I) any right of the parties to report their income for federal or state income tax in the same manner as permissible for any other husband and wife, (ii) any rights provided for husbands and wives under the federal gift tax law with reference to gifts, or (iii) any rights under the federal estate tax laws with the reference to any transfer to which such laws may apply.

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8. **DISSOLUTION OF MARRIAGE.** Both parties to this Agreement understand that Mississippi law provides for consideration by the court of a premarital agreement if a marriage is dissolved. The parties to this Agreement understand that some courts have disregarded provisions in premarital agreements that provide for disposition of property in the event of a dissolution. Without, in any way, anticipating a dissolution or planning for a dissolution, but recognizing the realities of the world, it is the express intention of Fowler and Powell that the following provisions shall remain in full force and effect in the event of a dissolution:
- a. All savings, investments, retirement/pension accounts, and property listed in this Agreement as property owned by a party prior to the marriage shall remain the property of the person who brought such property into the marriage. Any appreciation, income, or other increase to such property shall belong to the party who brought such property into the marriage.
 - b. Should Fowler disregard advice of counsel to avoid purchasing real or personal property jointly with Powell, to avoid co-mingling any monetary assets with Powell, and to avoid incurring any joint debt with Powell any time prior to or subsequent to their marriage, then ownership of any real or personal property with Powell acquired, merged, or co-mingled after the date of their marriage shall be equally shared between them in the event of divorce, and any joint debts will be equally shared between them in the event of divorce.
 - c. Any income tax liability, refund, or benefit in the year of the separation and/or dissolution of marriage shall be distributed based upon the pro rata income of both parties.
9. **SUPPORT.** Powell expressly acknowledges that she is capable of financially supporting herself without financial assistance from any other person. Powell is currently employed

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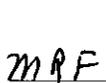
by the City of Collierville, Tennessee and fully expects and intends to increase her hours of work, which will be to her financial benefit. Each party has been self-supporting for a period of time prior to the contemplated marriage. Both parties feel that they are capable of future self-support and of maintaining themselves on a self-supporting basis.

Therefore, in the event of marital separation or a suit for dissolution of marriage or a suit for separate maintenance, it is agreed and understood that neither party shall seek or obtain any form of alimony or support from the other, or seek any relief other than a distribution of their joint property interests or those property interests acquired during the course of their marriage, in any manner other than as provided by this Agreement.

10. **SEPARATION/DIVORCE PROVISION.** Fowler and Powell expressly acknowledge and agree that in the event of separation and/or the institution of divorce proceedings by either party this Premarital Agreement may be filed with the court of proper jurisdiction and used by the court in adjudicating any issues before the court involving either party.
11. **REVOCATION OR REPUDIATION OF PRE-MARITAL AGREEMENT :** If the parties decide to revoke this Agreement, they shall do so in a written agreement, signed by both parties in the presence of a notary public or other official authorized to take oaths. Such revocation shall be ineffective until recorded with the recorder in the county where the parties maintain their primary residence or both counties if the parties are maintaining separate residences in separate counties. If either party attempts to repudiate or cancel this agreement or any portion of it, said party shall be required to post a cash bond of a reasonable amount as determined by a Court of competent jurisdiction which shall be intended to pay all costs of litigation of the offended party, including but, not limited to, attorney fees, deposition costs, expert review and attendance expenses, court costs , travel expenses and the value of any property held.

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12. **ADDITIONAL INSTRUMENTS.** Without any additional consideration, each party shall promptly, at the request of the other, execute, acknowledge and deliver from time to time whatever additional instruments may be required in order to accomplish the intent of this Agreement.
13. **FULL DISCLOSURE.** Each of the parties (i) is of lawful age, (ii) is competent to contract, (iii) is free to enter into the marriage contemplated, (iv) has full knowledge of the other party's property, debts and income, and (v) voluntarily enters into this Agreement. Additionally, each party has full knowledge of the terms and provisions of this Agreement. Specifically, the parties acknowledge and agree that they have disclosed to the other party (prior to the signing of this Agreement), the extent and probable value of their respective individual property interests as of the date of this Agreement. In addition, within this Agreement each party acknowledges that they have disclosed to the other party their respective investment property interests, including the approximate value of such property interests. All disclosures within this Agreement are understood and agreed by both parties to represent a full and complete listing of their respective property interests as of the date of this Agreement. Further, the parties acknowledge and agree that they have disclosed to the other party prior to the signing of this Agreement and within this Agreement, each and every debt in his or her name, including the name and current address of the creditor, the debt's account number, and the full amount of each debt. All disclosures within this Agreement are understood and agreed by both parties to represent a full and complete listing of their respective debts as of the date of this Agreement.
14. **MISCELLANEOUS PROVISIONS.**
- a. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, administrators, personal representatives, successors, and assigns.


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- b. Each party hereto agrees that it is a fair and reasonable agreement and that no representations of any kind whatsoever has been made to him or her as an inducement to enter into this agreement, other than the representations set forth herein, and that this agreement contains all of the terms of the contract between the parties hereto. Both the legal and practical effect of this agreement in each respect, and the financial status of the parties has been fully explained to both parties, and they both acknowledge that it is a fair agreement and it is not the result of any misrepresentation, fraud, duress, or undue influence exercised by either party upon the other, or by any person or persons upon either and they further agree that this agreement contains the entire understandings and all the covenants and agreements by and between the parties.
- c. This Agreement sets forth the entire Agreement between the parties with regard to the subject matter of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, and representations with respect to the subject matter of this Agreement are waived, and merged into this Agreement.
- d. If any of the provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision for this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- e. **THE PARTIES ACKNOWLEDGE THAT D. RUSSELL JONES, JR. AND THE LAW FIRM OF JONES & MOUTOUX, PLLC HAVE REPRESENTED THE INTERESTS OF MARVIN R. FOWLER ONLY AND THAT NAOMI RUTH (LUTZ) ASHLEY POWELL HAS BEEN ADVISED THAT SHE SHOULD SEEK THE ADVICE OF AN ATTORNEY OF HER CHOOSING TO REVIEW THIS DOCUMENT PRIOR TO SIGNING SAME OR AGREEING TO ANY OF THE TERMS**



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STATED HEREIN.

- f. If this Agreement is not signed by D. Russell Jones, Jr. and is not notarized by D. Russell Jones, Jr. or Julie Brakefield, paralegal for Jones & Moutoux, PLLC, then D. Russell Jones, Jr. and Jones & Moutoux, PLLC disclaim any and all responsibility for this Premarital Agreement.

Signed on this the 18 day of December, 2006, Southaven, DeSoto County, Mississippi.

Marvin R. Fowler
Marvin R. Fowler

Naomi Ruth (Lutz) Ashley Powell
Naomi Ruth (Lutz) Ashley Powell

THE PARTIES ACKNOWLEDGE THAT THIS PRE-NUPTIAL AGREEMENT HAS BEEN EXECUTED IN Four (4) ORIGINAL DUPLICATE COPIES AND THAT ANY DUPLICATE COPY MAY BE USED AS AN ORIGINAL DOCUMENT.

Acknowledged this the 18 day of December, 2006.

Marvin R. Fowler
Marvin R. Fowler

Naomi Ruth (Lutz) Ashley Powell
Naomi Ruth (Lutz) Ashley Powell

Prepared by:

D. Russell Jones, Jr.

D. Russell Jones, Jr.
Jones & Moutoux, PLLC
P.O. Box 671
7105 Swinnea Rd., Ste. 2
Southaven, MS 38671
662-349-2323

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STATE OF MISSISSIPPI
COUNTY OF DESOTO

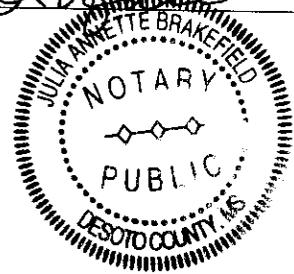
This day personally came and appeared before me, the undersigned authority within for the aforesaid County and State, the within named MARVIN R. FOWLER, who acknowledged that he signed, executed, and delivered the above and foregoing Premarital Agreement on the date thereof as and for his individual act and agreement of his own free will and that all information regarding his debts and assets is correct as of this date.

Marvin R. Fowler
MARVIN R. FOWLER

Sworn to and subscribed before me this the 18 day of December, 2006.

Julia Annette Brakefield
NOTARY PUBLIC

MISSISSIPPI STATEWIDE NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 28, 2009
SERVED THROUGH STEGALL NOTARY SERVICE



My Commission Expires: _____

STATE OF MISSISSIPPI
COUNTY OF DESOTO

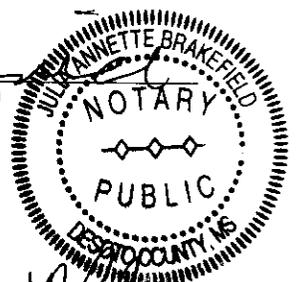
This day personally came and appeared before me, the undersigned authority within for the aforesaid County and State, the within named NAOMI RUTH (LUTZ) ASHLEY POWELL, who acknowledged that she signed, executed, and delivered the above and foregoing Premarital Agreement on the date thereof as and for her individual act and agreement of her own free will and that all information regarding her debts and assets is correct as of this date.

Naomi Ruth (Lutz) Ashley Powell
NAOMI RUTH (LUTZ) ASHLEY POWELL

Sworn to and subscribed before me this the 18th day of December, 2006.

Julia Annette Brakefield
NOTARY PUBLIC

MISSISSIPPI STATEWIDE NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 28, 2009
SERVED THROUGH STEGALL NOTARY SERVICE



My Commission Expires: _____

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