

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**JOHN EDWARD MULLINS (CRD No.
1007176)**

AND

**KATHLEEN MARIA MULLINS (CRD No.
2790621).**

RESPONDENTS.

Disciplinary Proceeding
Nos. 20070094345
20070111775

Hearing Officer: Andrew H. Perkins

AMENDED COMPLAINT

The Department of Enforcement alleges:

OVERVIEW

1. Between approximately June 2002 and May 2007 (the "Relevant Period"), registered representative John Edward Mullins ("J. Mullins"), intentionally and without authority to do so, improperly used Foundation funds or wrongfully converted Foundation property totaling at least \$11,156 from a charitable organization established by EW, a 97-year old woman who resided in a nursing home. J. Mullins, during the Relevant Period, also attempted to convert funds from his member firm employer, breached his fiduciary duty to a customer of his member firm employer (the "Firm"), accepted a loan from EW, a customer of the Firm, without notifying the Firm, and failed to disclose material information on one or more Firm-issued compliance questionnaires.

2. During the Relevant Period, Kathleen Maria Mullins (“K. Mullins”), J. Mullins’s wife, Mullins’s accepted a loan from EW, her customer, without notifying the Firm, and failed to disclose material information on one or more Firm-issued compliance questionnaires.

RESPONDENTS AND JURISDICTION

3. J. Mullins first became employed in the securities industry on or about May 26, 1981. J. Mullins was registered as a General Securities Representative of the Firm on June 28, 2002, working at the Firm’s Northfield, New Jersey branch office. On or about August 16, 2006, the Firm terminated J. Mullins’s employment.

4. On or about October 11, 2006, J. Mullins began working as a General Securities Representative at another FINRA member firm and remained employed at that firm until on or about October 29, 2007.

5. On or about October 29, 2007, J. Mullins began working as a General Securities Representative at another FINRA member firm, and remained employed at that firm until February 19, 2007. J. Mullins is not currently associated with a FINRA member firm.

6. K. Mullins first became employed in the securities industry on or about February 1, 1993. K. Mullins was registered as a General Securities Representative of the Firm on June 28, 2002, working at the Firm’s Northfield, New Jersey branch office. On or about August 16, 2006, the Firm terminated K. Mullins’s employment.

7. On or about October 11, 2006, K. Mullins began working as a General Securities Representative at another FINRA member firm and remained employed at that firm until on or about October 29, 2007.

8. On or about October 29, 2007, K. Mullins began working as a General Securities Representative at another FINRA member firm and remained employed at that firm until February 19, 2007. K. Mullins is not currently associated with a FINRA member firm.

9. On or about September 15, 2006, the Firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U-5”) with FINRA Enforcement (at the time, the Division of Enforcement of NYSE Regulation, Inc.) which reported that J. Mullins’s employment was terminated on August 16, 2006 for “[f]ailure to comply with Firm policies, including acting as a fiduciary for a client without prior approval in writing from Firm and withdrawing funds for his own benefit from a client’s account.” Additionally, the Form U-5 for J. Mullins reported that the Firm was reviewing the circumstances whereby a customer of the Firm executed four checks totaling \$375,000 to pay down J. Mullins’s and his wife’s mortgage line of credit and that EW’s account statements were sent to EW’s attorney instead of EW.

10. On or about September 15, 2006, the Firm filed a Form U-5 with FINRA Enforcement, which reported that K. Mullins’s employment was terminated on August 16, 2006 for “[f]ailure to comply with Firm policies, including acting as a fiduciary for a client without prior approval in writing from Firm.” Additionally, the Form U-5 for K. Mullins reported that the Firm was reviewing the circumstances whereby a customer of the Firm executed four checks totaling \$375,000 to pay down her and her husband’s mortgage line of credit, that EW’s account statements were sent to EW’s attorney instead of EW and whether any funds were withdrawn for K. Mullins’s own benefit from a client’s account.

11. J. Mullins’s and K. Mullins’s effective dates of termination of registration pursuant to Article V, Section 3 of the NASD’s By-Laws from FINRA member firms occurred

on February 19, 2008. Pursuant to Article V, Section 4 of the NASD's By-Laws, J. Mullins and K. Mullins remain subject to the jurisdiction of FINRA for purposes of this action.

FACTS

12. J. Mullins and K. Mullins first met EW, who was born in 1910, in 1981 when EW and her husband became J. Mullins's customers at his earlier member employer. At the time, EW was a homemaker in her 70s, who in her spare time pursued her musical interests of playing the piano and singing.

13. EW had no children, siblings or close relatives. On or about December 14, 1999, at the age of 89, EW's husband, Paul, passed away.

14. On or about December 16, 1999, EW established a charitable foundation (the "Foundation") as a nonprofit corporation under Section 501(c)(3) of the Internal Revenue Code so that it could receive and administer funds for the benefit of charities devoted to the promotion of musical arts. The Foundation's certificate of incorporation listed EW, J. Mullins and K. Mullins, as Trustees. EW was President, J. Mullins was Vice President, and K. Mullins was Secretary/Treasurer of the Foundation.

15. J. Mullins's and K. Mullins's status with the Foundation did not change during the term of their employment with the Firm.

16. To qualify as tax-exempt under Section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for the purposes set forth in Section 501(c)(3), and none of its earnings may benefit any private shareholder or individual.

17. On or about May 31, 2000, EW entered a nursing home.

18. On or about August 29, 2000, EW executed a Last Will and Testament (the “Will”), which bequeathed upon her death her condominium in Philadelphia (or its value if sold before she died) plus an additional \$25,000 to J. Mullins and K. Mullins.

19. In the Will, K. Mullins was appointed as Co-Executor, and J. Mullins as Successor Co-Executor. K. Mullins was also named Co-Trustee, and J. Mullins was Successor Co-Trustee. J. Mullins’s and K. Mullins’s status in the Will did not change during the term of their employment with the Firm.

20. When J. Mullins and K. Mullins became employed at the Firm, EW became a customer of the Firm beginning in June 2002. EW opened approximately eight accounts at the Firm, including an account for the Foundation (the “Foundation Account”).

21. Although EW’s accounts were assigned either to J. Mullins’s or K. Mullins’s registered representative numbers, both J. Mullins and K. Mullins shared all of their customer accounts, working jointly, and with other associated persons of the Firm as the “Mullins Group.”

22. The Firm’s supervisory procedures during the Relevant Period prohibited any registered representative from managing an account if the registered representative had a fiduciary relationship with a customer such as EW or the Foundation, absent Firm approval.

23. During the Relevant Period, J. Mullins and K. Mullins managed EW and the Foundation’s accounts in which they had fiduciary relationships, without Firm approval, in violation of Firm policies and procedures.

24. During the Relevant Period, each registered representative at the Firm was required to complete a Firm-issued compliance questionnaire on an annual basis, which included questions dealing with outside activities and loans from customers.

COMPLIANCE QUESTIONNAIRES

25. In or about June 2003, J. Mullins completed a Firm-issued 2003 Compliance Branch Office Examination Registered Personnel Questionnaire, which requested the following information [3]: *“List account numbers and positions for any [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor, and/or beneficiary (except beneficiary of parent, siblings and/or spouse accounts). Please **attach** a copy of Compliance Department approval(s).”* In response to this request, J. Mullins falsely responded “None” and failed to disclose his position as a trustee of the Foundation.

26. On or about June 20, 2003, K. Mullins completed a Firm-issued 2003 Compliance Branch Office Examination Registered Personnel Questionnaire, which requested the following information [3]: *“List account numbers and positions for any [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor, and/or beneficiary (except beneficiary of parent, siblings and/or spouse accounts). Please **attach** a copy of Compliance Department approval(s).”* In response to this request K. Mullins failed to disclose her position as a trustee of the Foundation.

27. K. Mullins’s June 20, 2003, Firm-issued 2003 Compliance Branch Office Examination Registered Personnel Questionnaire also requested the following information [6a]: *“List all profit and non-profit organizations, companies and/or corporations in which you are a director, officer, employee or representative and identify position...”* and [6b] *“Are accounts maintained at [the Firm] for the organizations or companies named in [6a] including retirement plans or accounts for officers and directors?”* In response to these questions, K. Mullins falsely answered “None” and failed to disclose her positions as Secretary and Treasurer of the Foundation.

28. On or about March 16, 2004, J. Mullins completed a Firm-issued 2004 Compliance Branch Office Examination Registered Personnel Questionnaire, which requested the following information [3]: *“List account numbers and positions for any [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor, and/or beneficiary (except beneficiary of parent, siblings and/or spouse accounts). Please **attach** a copy of Compliance Department approval(s).* In response to this request J. Mullins falsely responded “NONE” and failed to disclose his position as a trustee of the Foundation.

29. On or about March 11, 2004, K. Mullins completed a Firm-issued 2004 Compliance Branch Office Examination Registered Personnel Questionnaire issued by the Firm, which requested the following information [3]: *“[L]ist account numbers and fiduciary relationship for any [Firm] accounts in which you are named as trustee, successor trustee, guardian, executor and/or beneficiary (except beneficiary of parent, siblings, and/or spouse accounts).”* K. Mullins did not list the Foundation Account in response to this request and thus failed to disclose her position as a trustee of the Foundation.

30. K. Mullins’s March 11, 2004, Firm-issued 2004 Compliance Branch Office Examination Registered Personnel Questionnaire also requested the following information [6a]: *“List all profit and non-profit organizations, companies and/or corporations in which you are a director, officer, employee or representative and identify position....”* and [6b] *“Are accounts maintained at [the Firm] for the organizations or companies named in [6a] including retirement plans or accounts for officers and directors?”* In response to these questions, K. Mullins falsely answered “NONE” and failed to disclose her positions as Secretary and Treasurer of the Foundation.

31. On or about March 8, 2005, J. Mullins completed a Firm-issued Financial Advisor Questionnaire issued by the Firm, which requested the following information [10]: “*List or **attach** account numbers and fiduciary relationships for and (sic) [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor, and/or beneficiary (except beneficiary of parent, siblings and/or spouse accounts). Please attach a copy of Compliance Department approval(s).*” In response to this request J. Mullins falsely responded “none” and failed to disclose his position as a trustee of the Foundation.

32. J. Mullins’s March 8, 2005, Firm-issued Financial Advisor Questionnaire also requested the following information [13]: “*List all profit and non-profit organizations, companies and/or corporations in which you are a director, officer, employee or representative and identify position.*” In response to this question, J. Mullins failed to disclose his position as Vice-President of the Foundation.

33. On or about March 8, 2005, K. Mullins completed a Firm-issued Financial Advisor Questionnaire issued by the Firm, which requested the following information [10]: “*List or **attach** account numbers and fiduciary relationships for and (sic) [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor, and/or beneficiary (except beneficiary of parent, siblings and/or spouse accounts). Please attach a copy of Compliance Department approval(s).*” In response to this request K. Mullins failed to disclose her position as a trustee of the Foundation.

34. K. Mullins’s March 8, 2005, Firm-issued Financial Advisor Questionnaire also requested the following information [13]: “*List all profit and non-profit organizations, companies and/or corporations in which you are a director, officer, employee or representative*

and identify position.” In response to this question, K. Mullins failed to disclose her positions as Secretary and Treasurer of the Foundation.

35. On or about January 19, 2006, J. Mullins completed a Firm-issued GWM Internal Audit Branch Financial Advisor Questionnaire issued by the Firm, which requested the following information [48]: *“Do you maintain fiduciary relationships for any [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor and or beneficiary (except beneficiary of parent, sibling and or spouse account).”* In response to this question, J. Mullins responded “no,” and failed to disclose his position as a trustee of the Foundation.

36. On or about January 19, 2006, K. Mullins completed Firm-issued GWM Internal Audit Branch Financial Advisor Questionnaire issued by the Firm, which requested the following information [48]: *“Do you maintain fiduciary relationships for any [Firm] accounts in which you are named as a trustee, successor trustee, guardian, executor and or beneficiary (except beneficiary of parent, sibling and or spouse account).”* In response to this question, K. Mullins responded “no,” and failed to disclose her position as a trustee of the Foundation.

37. In sum, during 2003 through 2006, J. Mullins falsely responded to five questions in Firm-issued compliance questionnaires seeking to identify outside interests and/or fiduciary relationships with customers.

38. During the same period, K. Mullins falsely responded to seven questions in Firm-issued compliance questionnaires seeking to identify outside interests and/or fiduciary relationships with customers.

39. J. Mullins’s and K. Mullins’s failure to disclose their association and fiduciary relationship with the Foundation in their responses to inquiries in the Firm- issued compliance

questionnaires set forth above pertaining to material information sought by the Firm, did not comply with just and equitable principles of trade.

UNAPPROVED LOAN FROM CUSTOMER

40. On or about March 1, 2005, while associated with the Firm, J. Mullins and K. Mullins borrowed \$100,000 from EW in violation of Firm policy. Firm policy prohibited borrowing from customers and J. Mullins and K. Mullins each were provided a copy of this policy. The loan was deposited in J. Mullins's and K. Mullins's joint outside bank account on or about March 2, 2005 and was paid back on or about March 7, 2005.

41. Subsequently, J. Mullins and K. Mullins completed Firm-issued compliance questionnaires in the years 2005 and 2006 in which they each falsely responded to a question seeking to identify loans received from Firm customers. In responding, J. Mullins and K. Mullins both failed to identify the loan from EW.

42. J. Mullins's and K. Mullins's failure to disclose their loan from EW in response to inquiries contained in Firm compliance questionnaires pertaining to material information sought by the Firm, failed to comply with just and equitable principles of trade.

IMPROPER USE OF CUSTOMER FUNDS OR CONVERSION OF CUSTOMER PROPERTY

43. On or about April 3, 2006, EW became ill and was taken to a hospital where she remained until approximately April 11, 2006.

44. On or about April 11, 2006, EW was transferred from the hospital to the third floor hospital wing of her nursing home where she required professional nursing care on a 24-hour basis due to her illness.

45. Between approximately April 2006 and May 2007, J. Mullins intentionally and without authority to do so, improperly used Foundation funds or wrongfully converted Foundation property totaling at least \$11,156.

46. J. Mullins either had EW sign a check that he prepared or signed EW's name, or his own name, to debit card receipts in order to purchase items with Foundation funds that J. Mullins ultimately used for his own purposes.

47. On or about April 14, 2006, J. Mullins purchased \$11,000 in various denominations of Four Seasons Hotel gift certificates. First J. Mullins attempted to use the Foundation Account's debit card by signing his own name to the debit card bill, but then he ultimately presented to the Four Seasons Hotel a check written by J. Mullins, and signed by EW, on the Foundation's account.

48. On or about May 23, 2006 to May 28, 2006, J. Mullins improperly redeemed approximately \$4,000 of the Four Seasons Hotel gift certificates purchased by J. Mullins on or about April 14, 2006 for his and his wife's own use and purposes during a vacation to London. J. Mullins did not have permission or authority to use the Four Seasons Hotel gift certificates to pay for part of his vacation to London.

49. On or about May 8, 2006, while EW was in the medical wing of her nursing home, J. Mullins visited Morton's Restaurant in Atlantic City where he used the Foundation Account debit card to purchase 23 bottles of wine at \$72.00 per bottle for approximately \$1,656.47.

50. J. Mullins signed his own name to EW's Foundation Account debit card receipt and then had the wine placed in his personal wine locker at Morton's Restaurant where he could access it.

51. J. Mullins used four bottles of the wine purchased on May 8, 2006 with the Foundation debit card. Specifically, on August 15, 2006, J. Mullins used one bottle, on October 19, 2006 he used another and on May 3, 2007, J. Mullins used two more bottles of the wine. J. Mullins used three of the bottles of wine when he was no longer affiliated with the Foundation and no longer in contact with EW, and he did not have permission or authority to use or maintain the bottles of wine for his personal use.

52. J. Mullins used the Foundation's debit card to purchase gift certificates to pay down his retail account balance at a men's and women's high fashion clothier. On or about April 15, 2006, while EW was in the medical wing of her nursing home, J. Mullins used the Foundation Account debit card to purchase eight gift certificates, totaling approximately \$3,000 from Boyds of Philadelphia ("Boyds"), where J. Mullins had an account.

53. On April 19, 2006, J. Mullins improperly redeemed five of the Boyds gift certificates, totaling approximately \$2,500, for his own uses and purposes.

54. On April 25, 2006, while EW was in the medical wing of her nursing home, J. Mullins improperly redeemed approximately another \$500 of the Boyds gift certificates for his own uses and purposes.

55. On or about June 25, 2006, J. Mullins used the Foundation Account debit card to purchase a Boyds gift certificate for approximately \$2,500. On July 12, 2006, J. Mullins improperly redeemed the Boyd's gift certificate totaling approximately \$2,500 for his own uses and purposes.

56. J. Mullins did not have permission or authority to use Foundation funds to pay his clothing bill at Boyds.

ATTEMPTED CONVERSION OF FIRM FUNDS

57. During the approximate period June 13, 2006 to June 17, 2006, J. Mullins and K. Mullins attended a seminar with his wife in Washington DC organized by the American Institute of Certified Public Accountants.

58. To pay for J. Mullins's and his wife's lodging, airfare, parking, tips and seminar, J. Mullins wrote out a blank Foundation check, subsequently signed by EW, to himself for "Washington DC Seminar" in the amount of \$6,247.

59. The Foundation check was dated July 18, 2006 and was deposited into J. Mullins's and K. Mullins's outside joint checking account on or about July 31, 2006.

60. Even though the Foundation agreed to pay for the trip to Washington D.C attended by J. Mullins and K. Mullins, J. Mullins completed, or caused to be completed, a Firm travel and expense ("T&E") form and caused the T&E form to be submitted to the Firm to cover \$4,793.53 of J. Mullins's and K. Mullins's hotel and seminar expenses incurred in Washington DC.

61. While the T&E form did not seek reimbursement for the Mullinses' airfare and some other expenses, it did seek reimbursement for the Mullinses' hotel and other significant expenses.

62. The T&E form was ultimately not paid by the Firm based upon its commencement of an internal investigation into J. Mullins's and K. Mullins's activities.

BREACH OF FIDUCIARY DUTY

63. J. Mullins, as Trustee and Vice President of the Foundation, owed a fiduciary duty to the Foundation. This fiduciary duty required J. Mullins to place the Foundation's interests ahead of his own, in his dealings with it.

64. By improperly using funds or converting property from the Foundation, J. Mullins breached the fiduciary duty he owed to the Foundation.

RESTITUTION

65. As a result of Enforcement's investigation and intervention by EW's and the Foundation's attorneys, J. Mullins has returned to the Foundation the approximately \$11,156 discussed above, in addition to other funds and items that he obtained from EW and the Foundation which are not alleged her as part of the improper use or conversion charge.

FIRST CAUSE OF ACTION IMPROPER USE OF CUSTOMER FUNDS

(RESPONDENT J. MULLINS VIOLATED NASD RULES 2330(A) AND 2110)

66. The Department realleges and incorporates by reference paragraphs 1 through 64 above.

67. NASD Rule 2330(a) prohibits members and associated persons from making an improper use of a customer's funds.

68. NASD Rule 2110 requires that members and associated persons observe "high standards of commercial honor and just and equitable principles of trade."

69. On one or more occasions, J. Mullins made improper use of customer funds by wrongfully using Foundation funds to purchase gifts certificates and wine that J. Mullins subsequently used for his own purposes.

70. The aforementioned conduct was an intentional and unauthorized taking of Foundation funds by J. Mullins who neither owned the funds nor was entitled to use them for his own purposes.

71. By virtue of the above, J. Mullins's conduct constitutes separate and distinct violations of NASD Rule 2330(a) and as a result, Rule 2110.

**SECOND CAUSE OF ACTION
(ALTERNATIVE TO FIRST CAUSE OF ACTION)
CONVERSION OF CUSTOMER PROPERTY**

(RESPONDENT J. MULLINS VIOLATED NASD RULE 2110)

72. The Department realleges and incorporates by reference paragraphs 1 through 64 above.

73. NASD Rule 2110 requires that members and associated persons observe “high standards of commercial honor and just and equitable principles of trade.”

74. On one or more occasions, J. Mullins engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade by wrongfully converting property from one or more customers of his member employer.

75. By virtue of the above, J. Mullins’s conduct constitutes separate and distinct violations of NASD Rule 2110.

**THIRD CAUSE OF ACTION
ATTEMPTED CONVERSION FROM MEMBER**

(RESPONDENT J. MULLINS VIOLATED NASD RULE 2110)

76. The Department realleges and incorporates by reference paragraphs 1 through 64 above.

77. J. Mullins engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade by wrongfully attempting to convert funds from his member employer.

78. By virtue of the above, J. Mullins’s conduct constitutes a violation of NASD Rule 2110.

**FOURTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY**

(RESPONDENT J. MULLINS VIOLATED NASD RULE 2110)

79. The Department realleges and incorporates by reference paragraphs 1 through 64 above.

80. J. Mullins engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade by breaching the fiduciary duty he owed to the Foundation.

81. By virtue of the above, J. Mullins's conduct constitutes a violation of NASD Rule 2110.

**FIFTH CAUSE OF ACTION
FAILING TO DISCLOSE AND MISSTATING MATERIAL INFORMATION ON ANNUAL COMPLIANCE
QUESTIONNAIRES REQUIRED BY THE FIRM AND CAUSING THE FIRM TO MAINTAIN
INACCURATE BOOKS AND RECORDS**

(RESPONDENTS J. MULLINS AND K. MULLINS VIOLATED NASD RULES 2110 AND 3110)

82. The Department realleges and incorporates by reference paragraphs 1 through 64 above.

83. NASD Rule 3110 requires members to maintain books and records in conformity with SEC Rule 17a-3, and NASD Rule 0115 provides that all members and associated persons of a member shall have the same duties and obligations as a member under the NASD Rules.

84. J. Mullins and K. Mullins each misstated and failed to disclose material information on one or more annual compliance questionnaires required by the Firm, thus causing the Firm to maintain inaccurate books and records.

85. By virtue of the above, J. Mullins's and K. Mullins's conduct constitute a violation of NASD Rules 2110 and 3110.

SIXTH CAUSE OF ACTION
BORROWING FUNDS FROM A CUSTOMER WITHOUT APPROVAL FROM MEMBER EMPLOYER
(RESPONDENTS J. MULLINS AND K. MULLINS EACH VIOLATED NASD RULES 2370 AND 2110)

86. The Department realleges and incorporates by reference paragraphs 1 through 64 above.

87. NASD Rule 2370 requires, among other things, that members pre-approve in writing associated persons borrowing from customers.

88. J. Mullins and K. Mullins borrowed \$100,000 from EW without approval from their member employer.

89. By virtue of the above, J. Mullins's and K. Mullins's conduct constitute separate and distinct violations of NASD Rules 2370 and 2110.

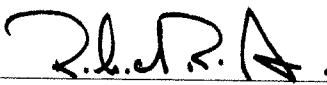
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.
- B. order that the Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date 12/6/08


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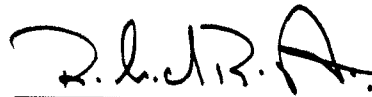
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Certificate of Service

I hereby certify that on this 24th day of November 2008, I caused a copy of the foregoing Amended Complaint to be sent by electronic mail, and first class mail and facsimile to the following counsel for Respondents at the below-listed addresses:

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