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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ANNETTE MICHELLE ISSAIAN
712 E. Harvard St.
Glendale, CA 91205

Pharmacy Technician Registration
No. TCH 83002

Respondent.

Case No. 5338

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 6, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5338 against Annette Michelle Issaian (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about November 12, 2015, Complainant filed First Amended Accusation No. 5338 against Respondent before the Board of Pharmacy. (First Amended Accusation attached as Exhibit B.)
3. On or about April 22, 2008, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 83002 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5338,

1 expired on July 31, 2015, and has not been renewed. This lapse in licensure, however, pursuant
2 to Business and Professions Code section 118(b) and/or agency-specific statute does not deprive
3 the [Board] of its authority to institute or continue this disciplinary proceeding.

4 4. On or about July 15, 2015, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 5338, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
8 is required to be reported and maintained with the Board. Respondent's address of record was
9 and is: 712 E. Harvard St., Glendale, CA 91205.

10 5. On or about November 17, 2015, Respondent was served by Certified and First Class
11 Mail copies of the First Amended Accusation No. 5338, Supplemental Statement to Respondent,
12 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
13 and 11507.7) at Respondent's alternate address of record which, pursuant to Business and
14 Professions Code section 4100, is required to be reported and maintained with the Board.
15 Respondent's address of record was and is: 239 N. Isabel Street, #2, Glendale, CA 91206.

16 6. Service of the Accusation and First Amended Accusation was effective as a matter of
17 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
18 Professions Code section 124.

19 7. On or about July 29, 2015, the aforementioned documents were returned by the U.S.
20 Postal Service marked "Return to sender - attempted - not known - unable to forward." The
21 address on the documents was the same as the address of record on file with the Board.
22 Respondent failed to maintain an updated address with the Board and the Board has made
23 attempts to serve the Respondent at the address on file. Respondent has not made herself
24 available for service and therefore, has not availed herself of her right to file a notice of defense
25 and appear at hearing.

26 8. On or about November 25, 2015, the U.S. Postal Service returned the green receipt
27 for certified mail, signed by Respondent on November 19, 2015, as receiving the aforementioned
28 documents at Respondent's alternate address of record.

1 9. Government Code section 11506 states, in pertinent part:

2 (c) The respondent shall be entitled to a hearing on the merits if the respondent
3 files a notice of defense, and the notice shall be deemed a specific denial of all parts
4 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

5 10. Respondent failed to file a Notice of Defense within 15 days after service upon her of
6 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5338.

7 11. California Government Code section 11520 states, in pertinent part:

8 (a) If the respondent either fails to file a notice of defense or to appear at the
9 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
10 respondent.

11 12. Pursuant to its authority under Government Code section 11520, the Board finds
12 Respondent is in default. The Board will take action without further hearing and, based on the
13 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
14 taking official notice of all the investigatory reports, exhibits and statements contained therein on
15 file at the Board's offices regarding the allegations contained in Accusation No. 5338 and First
16 Amended Accusation No. 5338, finds that the charges and allegations in Accusation No. 5338
17 and First Amended Accusation No. 5338, are separately and severally, found to be true and
18 correct by clear and convincing evidence.

19 13. Taking official notice of its own internal records, pursuant to Business and
20 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
21 and Enforcement is \$4,030.00 as of January 29, 2016.

22 **DETERMINATION OF ISSUES**

23 1. Based on the foregoing findings of fact, Respondent Annette Michelle Issaian has
24 subjected her Pharmacy Technician Registration No. TCH 83002 to discipline.

25 2. The agency has jurisdiction to adjudicate this case by default.

26 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
27 Registration based upon the following violations alleged in the Accusation which are supported
28 by the evidence contained in the Default Decision Evidence Packet in this case.

1 (a) Business and Professions Code sections 4301, subdivision (l) and 490, in conjunction
2 with California Code of Regulations, title 16, section 1770, in that Respondent has been convicted
3 of a crime substantially related to the qualifications, functions or duties of a pharmacy technician,
4 as follows:

5 (i) On or about September 14, 2015, Respondent was convicted of one misdemeanor
6 count of violating Penal Code section 484, subdivision (a) & Penal Code section 490.2 [petty
7 theft] in the criminal proceeding entitled *The People of the State of California v. Annette Michelle*
8 *Issaian* (Super. Ct. L.A. County, 2015, No. 5GN03648).

9 (ii) On or about March 9, 2015, Respondent was convicted of one misdemeanor count of
10 violating Health and Safety Code section 11364.1, subdivision (a)(1) [possession of controlled
11 substance paraphernalia] in the criminal proceeding entitled *The People of the State of California*
12 *v. Annette Michelle Issaian* (Super. Ct. L.A. County, 2015, No. 4GN02632).

13 (iii) On or about September 17, 2014, Respondent was convicted of one misdemeanor
14 count of violating Penal Code section 459 [burglary] in the criminal proceeding entitled *The*
15 *People of the State of California v. Annette Michelle Issaian* (Super. Ct. L.A. County, 2014, No.
16 4GN02643).

17 (iv) On or about May 8, 2014, Respondent plead guilty to one felony count of violating
18 Health and Safety Code section 664-11350, subdivision (a) [attempted possession of a narcotic
19 controlled substance-Heroin] in the criminal proceeding entitled *The People of the State of*
20 *California v. Annette Michelle Issaian* (Super. Ct. L.A. County, 2014, No. BA424099)

21 (b) Business and Professions Code section 4301, subdivision (f), in that Respondent
22 committed acts involving dishonesty, fraud, or deceit.

23 (c) Business and Professions Code section 4301, subdivision (h), in that Respondent used
24 a controlled substance to the extent or in a manner as to be dangerous or injurious to herself,
25 another person, or the public.

26 (d) Business and Professions Code section 4301, subdivision (j), as defined in section
27 4060, in that Respondent obtained or possessed a controlled substance.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 83002, heretofore issued to Respondent Annette Michelle Issaian, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on March 30, 2016.

It is so ORDERED February 29, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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DOJ Matter ID:LA2014512937
Jz(2/1/16)

Attachment:
Exhibit A: Accusation
Exhibit B: First Amended Accusation

Exhibit B

First Amended Accusation

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2 LINDA K. SCHNEIDER
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3 LINDA L. SUN
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 5338

FIRST AMENDED ACCUSATION

13 **ANNETTE MICHELLE ISSAIAN**
14 712 E. Harvard St.
Glendale, CA 91205

15 Pharmacy Technician Registration
16 No. TCH 83002

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs.

23 2. On or about April 22, 2008, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 83002 to Annette Michelle Issaian (Respondent). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein, expired on July 31, 2015, and has not been renewed.

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1 **JURISDICTION**

2 3. This First Amended Accusation is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 490 states, in pertinent part:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued."

11 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
12 discipline a licensee for conviction of a crime that is independent of the authority granted under
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
14 of the business or profession for which the licensee's license was issued."

15 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take
17 following the establishment of a conviction may be taken when the time for appeal has elapsed,
18 or the judgment of conviction has been affirmed on appeal, or when an order granting probation
19 is made suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code."

21 5. Section 492 states, in pertinent part:

22 "Notwithstanding any other provision of law, successful completion of any diversion
23 program under the Penal Code, or successful completion of an alcohol and drug problem
24 assessment program under Article 5 (commencing with Section 23249.50) of Chapter
25 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
26 (commencing with Section 500) of this code, or any initiative act referred to in that division, from
27 taking disciplinary action against a licensee or from denying a license for professional

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1 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
2 pertaining to an arrest.”

3 6. Section 493 states:

4 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or revoke a
6 license or otherwise take disciplinary action against a person who holds a license, upon the
7 ground that the applicant or the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question. As used in this section, "license"
13 includes "certificate," "permit," "authority," and "registration."

14 7. Section 4060 provides in pertinent part, that no person shall possess any controlled
15 substance, except that furnished to a person upon the prescription of a physician, dentist,
16 podiatrist, optometrist, veterinarian, or other authorized prescriber.

17 8. Section 4300 provides, in pertinent part, that every license issued by the Board is
18 subject to discipline, including suspension or revocation.

19 9. Section 4300.1 states:

20 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of
21 law or by order or decision of the board or a court of law, the placement of a license on a retired
22 status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction
23 to commence or proceed with any investigation of, or action or disciplinary proceeding against, the
24 licensee or to render a decision suspending or revoking the license."

25 10. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
28 Unprofessional conduct shall include, but is not limited to, any of the following:

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2 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
4 whether the act is a felony or misdemeanor or not.

5

6 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
7 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
8 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
9 to the extent that the use impairs the ability of the person to conduct with safety to the public the
10 practice authorized by the license.

11

12 (j) The violation of any of the statutes of this state, of any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

14

15 (l) The conviction of a crime substantially related to the qualifications, functions, and
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
18 substances or of a violation of the statutes of this state regulating controlled substances or
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
20 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
21 The board may inquire into the circumstances surrounding the commission of the crime, in order
22 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
23 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
24 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
25 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
26 of this provision. The board may take action when the time for appeal has elapsed, or the
27 judgment of conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.”

4 **REGULATORY PROVISIONS**

5 11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

6 "For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by his license or registration in a
11 manner consistent with the public health, safety, or welfare."

12 **COST RECOVERY**

13 12. Section 125.3 states, in pertinent part, that the Board may request the administrative
14 law judge to direct a licentiate found to have committed a violation or violations of the licensing
15 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
16 case.

17 **CONTROLLED SUBSTANCE**

18 13. "Heroin," is a Schedule I controlled substance as designated by Health and Safety
19 Code section 11054, subdivision (c)(11) and is categorized as a dangerous drug pursuant to
20 section 4022.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Conviction of a Substantially Related Crime)**

23 14. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
24 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
25 Respondent has been convicted of a crime substantially related to the qualifications, functions or
26 duties of a pharmacy technician, as follows:

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1 a. On or about September 14, 2015, Respondent was convicted of one misdemeanor
2 count of violating Penal Code section 484, subdivision (a) & Penal Code section 490.2 [petty
3 theft] in the criminal proceeding entitled *The People of the State of California v. Annette Michelle*
4 *Issaian* (Super. Ct. L.A. County, 2015, No. 5GN03648). The Court placed Respondent on 36
5 months probation, with terms and conditions. The circumstances surrounding the conviction are
6 that on or about July 31, 2015, Respondent entered the Glendale Galleria, selected a cellphone
7 from one of the Microsoft kiosk displays, and exited the Galleria with the cellphone without
8 paying for it. Respondent admitted that she came to the Glendale Galleria to steal merchandise
9 and was going to sell it. During a booking search of Respondent, the officer located a
10 hypodermic needle in her bra. Respondent admitted that she is a Heroin user.

11 b. On or about March 9, 2015, Respondent was convicted of one misdemeanor count of
12 violating Health and Safety Code section 11364.1, subdivision (a)(1) [possession of controlled
13 substance paraphernalia] in the criminal proceeding entitled *The People of the State of California*
14 *v. Annette Michelle Issaian* (Super. Ct. L.A. County, 2015, No. 4GN02632). The Court placed
15 Respondent on 1 year probation, with terms and conditions. The circumstances surrounding the
16 conviction are that on or about August 29, 2014, an officer observed Respondent to be smoking
17 in a parking lot. Respondent admitted that she had a "rig" in her purse, which is slang for
18 narcotic paraphernalia. During a search of Respondent's purse, the officer located a bag
19 containing several syringes, a burnt spoon, an elastic band, and numerous empty balloons. In
20 addition, Respondent admitted to using Heroin.

21 c. On or about September 17, 2014, Respondent was convicted of one misdemeanor
22 count of violating Penal Code section 459 [burglary] in the criminal proceeding entitled *The*
23 *People of the State of California v. Annette Michelle Issaian* (Super. Ct. L.A. County, 2014, No.
24 4GN02643). The Court sentenced Respondent to serve 3 days in Los Angeles County Jail and
25 placed her on 3 years probation, with terms and conditions. The circumstances surrounding the
26 conviction are that on or about September 15, 2014, Respondent entered the dwelling of another
27 with the intent to commit grand or petit larceny or any felony.

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1 d. On or about May 8, 2014, Respondent plead guilty to one felony count of violating
2 Health and Safety Code section 664-11350, subdivision (a) [attempted possession of a narcotic
3 controlled substance-Heroin] in the criminal proceeding entitled *The People of the State of*
4 *California v. Annette Michelle Issaian* (Super. Ct. L.A. County, 2014, No. BA424099). As a
5 result of the plea, Respondent was placed in a deferred entry of Judgment program for 18 months,
6 pursuant to Penal Code section 1000.2. On or about January 16, 2015, the case was called for
7 deferred entry of Judgment progress report. The Court ordered count one reduced to a
8 misdemeanor, pursuant to proposition 47, sentenced Respondent to serve 6 days in jail, and
9 placed her on 6 months probation, with terms and conditions. The circumstances surrounding the
10 charges are that on or about April 26, 2014, officers of the Los Angeles Police Department were
11 monitoring a cell phone belonging to a suspected drug dealer. At 1010 hours, officers received a
12 call from Respondent trying to buy Heroin. At 1115 hours, Respondent arrived at the designated
13 location and handed the officers \$20 in exchange for two bindles of fictitious Heroin.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Acts Involving Dishonesty, Fraud, or Deceit)**

16 15. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
17 that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to,
18 and by this reference incorporates, the allegations set forth above in paragraph 14, subparagraphs
19 (a) and (c), inclusive, as though set forth fully.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Dangerous Use of a Controlled Substance)**

22 16. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
23 that Respondent used a controlled substance the extent or in a manner as to be dangerous or
24 injurious to herself, another person, or the public, as follows:

25 a. On or about July 31, 2015, Respondent admitted that she is a Heroin user.
26 Complainant refers to, and by this reference incorporates, the allegations set forth above in
27 paragraph 14, subparagraph (a), as though set forth fully.

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1 b. On or about April 25, 2015, Respondent admitted that she injected Heroin into
2 herself. Complainant refers to, and by this reference incorporates, the allegations set forth below
3 in paragraph 17, subparagraph (a), as though set forth fully.

4 c. On or about August 29, 2014, Respondent admitted to using Heroin. Complainant
5 refers to, and by this reference incorporates, the allegations set forth above in paragraph 14,
6 subparagraph (b), as though set forth fully.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Illegally Obtained or Possessed a Controlled Substance)**

9 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), as
10 defined in section 4060, in that Respondent obtained or possessed a controlled substance, as
11 follows:

12 a. On or about April 25, 2015, a Glendale Police Department Officer observed
13 Respondent standing on the sidewalk south of a Von’s parking lot. During a consensual
14 encounter, the officer noticed that Respondent had recent puncture wounds on the side of her
15 neck. Respondent’s hands were trembling and she appeared extremely nervous. Respondent
16 admitted that she had “rigs” in her possession, which is slang for narcotic paraphernalia.
17 Respondent further admitted that she used the syringes yesterday to inject Heroin. During a
18 search of Respondent’s purse, the officer found (4) empty and used hypodermic syringes.
19 Respondent admitted that she used all the syringes to inject Heroin into herself.

20 b. On or about August 29, 2014, Respondent was found to be in possession of Heroin.
21 Complainant refers to, and by this reference incorporates, the allegations set forth above in
22 paragraph 14, subparagraph (b), as though set forth fully.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Pharmacy issue a decision:

26 1. Revoking or suspending Pharmacy Technician Registration No. TCH 83002, issued
27 to Annette Michelle Issaian;

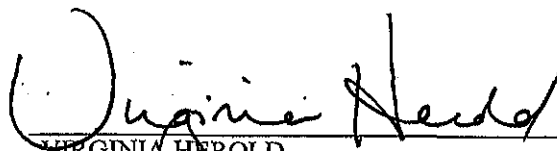
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1 2. Ordering Annette Michelle Issaian to pay the Board of Pharmacy the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.

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7 DATED:

11/12/15



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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