

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

|                      |   |                           |
|----------------------|---|---------------------------|
| In re:               | ) | Case No. 10-50494         |
|                      | ) |                           |
| FAIR FINANCE COMPANY | ) | Chapter 7                 |
|                      | ) |                           |
| Debtor.              | ) | Judge Marilyn Shea-Stonum |
|                      | ) |                           |

**STATUS REPORT FOR SEPTEMBER 18, 2012 STATUS CONFERENCE**

Brian A. Bash, Trustee herein, submits the following summary of the status of the Trustee's administration of the estate:<sup>1</sup>

**Recent Recoveries For the Estate**

The Trustee and his professionals continue their work of recovering funds for the victims of the massive fraudulent scheme perpetuated by Timothy Durham, James Cochran and Ricky Snow. Since the last status conference on August 21, 2012, the Trustee has recovered **\$247,471.65** for the estate constituting payments on fraudulent transfer settlements and accounts receivable collections, and the Trustee has filed or will be filing motions to compromise in connection with those settlements. As of September 14, 2012, the balance in the money market account maintained by the Trustee for the benefit of the Debtor's estate is **\$4,979,013.61**.

**Pending Litigation**

The Trustee has filed a number of lawsuits for the benefit of the estate that can be categorized as follows:

a) **The "Group A" Cases:** The claims in this group of cases are based primarily on fraudulent transfers from the Debtor as well as aiding and abetting and conspiracy in the lawsuits filed against Textron Financial Corporation, Fortress Credit Corp. and Donald R. Fair. This

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<sup>1</sup> The Trustee and his professionals have addressed and resolved many of the administrative issues in this matter. This list is not exhaustive, but focuses on the issues most significant to asset recovery.



group of cases originally included twelve (12) cases, although the defendants in three (3) of those cases are in default of answer and the Trustee has reached settlements with defendants in two (2) cases subject to Court approval.

The seven (7) remaining Group A cases include the following:

1. The *Textron / Fortress* litigation (more than \$1 billion in claims);
2. The *Donald Fair* litigation (approximately \$150 million in claims);
3. The *Osler and Geist Sports* litigation (approximately \$1.2 million in claims);
4. The *Somerset* litigation (approximately \$760,000 in claims);
5. Litigation against the former legal advisor for Fair Finance, Ronald Kaffen (approximately \$180,000); and
6. Litigation against former officers or directors of the Debtor, including John Head and Ricky Snow, and associated persons, including Dana Osler.

A chart listing the Group A cases is attached as **Exhibit A**.

Three (3) defendants had filed motions to dismiss the Trustee's claims, including Textron Financial Corporation, Fortress Credit Corp., and Somerset CPAs, P.C. On August 1, 2012, the Court filed a report recommending the denial of the motions to dismiss filed by Textron and Fortress, and on August 3, 2012, the Court filed a report recommending the denial of the motion to dismiss filed by Somerset. Textron, Fortress and Somerset have objected to the Court's reports and recommendations, and the Trustee has opposed those objections.

b) **The "Group B" Cases:** The one hundred and ten (110) cases in the "Group B" category of cases include claims based on non-debtor transfers, loans or preferential transfers. These cases include the following:

1. **Fraudulent Transfer or Contract Claims:** This group of cases includes ninety-one (91) lawsuits. Of those lawsuits, approximately **twenty-six lawsuits (26) remain active and contested**. The Trustee has **settled or otherwise resolved his claims in twenty-six (26) lawsuits**. In addition, a number of defendants in these lawsuits have defaulted, including all of the defendants in thirty-nine (39) lawsuits and some of the defendants in three (3) lawsuits, and the Trustee has obtained

default judgments in these cases. The Trustee is exploring options regarding disposition of the default judgments obtained. He is concerned about obtaining value for those judgments.

2. **Section 547 Claims Against Investors:** The Trustee filed twelve (12) preference complaints against investors. All of these complaints have been settled or otherwise resolved.
3. **Section 547 Claims Against Non-Investors:** The Trustee filed seven (7) complaints against non-investors receiving preferential payments from the Debtor. The Trustee has settled six of those seven lawsuits, and one lawsuit remains in which the Trustee is seeking over \$66,000.00. The Trustee has filed a summary judgment motion in that remaining lawsuit.

A chart listing the Group B cases is attached as **Exhibit B**. The chart also includes a list of those cases that have been settled or otherwise resolved by the Trustee.

c) **Other Litigation:** The Trustee is pursuing recovery for the estate in several other lawsuits involving certain state-law claims, including loan claims and claims against certain insiders of the Debtor. This group of cases includes the only lawsuit filed by the Trustee outside of this district (the *National Lampoon* litigation filed in district court in California). These cases include the following:

1. The *Laikin* litigation (approximately \$25 million). The Court recently granted the Trustee's motion to reopen discovery in the litigation, and the Trustee expects the matter to proceed to trial.
2. The *National Lampoon* litigation (approximately \$9 million). The judge in the district court in California where this case is pending has set a discovery schedule and a current trial date of March 5, 2013. The parties have exchanged written discovery, and the Trustee continues to pursue the discovery necessary to support his claims.
3. The *McKibben* litigation against insiders of the Debtor and entities they controlled, which seeks to recover all investor losses. The Trustee is making progress in discussions to resolve the pending motion of National Union regarding a directors and officers insurance policy and the Trustee's claims against several of the defendants. The Trustee believes that settlement discussions with defendants Durham and Cochran have become complicated since these defendants purportedly made an assignment to their attorneys in or around May, 2012. The Trustee, however, continues to participate in discussions with counsel for defendants Durham and Cochran to explore options for settlement.

**Forthcoming Litigation**

a) **Subsequent Transfer Claims:** The Trustee expects that some of the defendants in the loan and fraudulent transfer litigation may not have the financial ability to pay the amounts sought by the Trustee. If the Trustee's claims are successful, the Trustee will consider pursuing subsequent transferee claims against transferees of those defendants.

b) **Additional Litigation:** The Trustee continues to evaluate additional potential claims that may be pursued for the benefit of the estate, including loan and fraudulent transfer claims for which the statute of limitations will not be expiring in the near future.

**Trustee's Focus in the Upcoming Weeks**

**Continuing Litigation:** The Trustee's counsel will continue to focus efforts on the litigation of those claims that have been filed by the Trustee to date.

Date: September 17, 2012

Respectfully submitted,

/s/ Brian A. Bash

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**EXHIBIT A**  
**THE “GROUP A” CASES**

| <b>GROUP A ACTIVE AND CONTESTED ACTIONS</b>                 |  |                            |  |
|---|--|----------------------------|--|
| <b>#</b>  | <b>Case Name</b>   | <b>Bankruptcy Case No.</b> | <b>District Case No.<br/>(if applicable)</b> |
| 1   | Bash v. Ricky D. Snow  | 12-5096                    | 12-00980                                     |
| 2   | Bash v. John J. Head; Head Consulting Group, Inc.                | 12-5097                    | 12-00981                                     |
| 3   | Bash v. Textron; Fortress; Fair Facility                         | 12-5101                    | 12-00987                                     |
| 4   | Bash v. Somerset CPAs, P.C.                                      | 12-5108                    | 12-00992                                     |
| 5   | Bash v. Ronald O. Kaffen; Kaffen & Zimmerman                     | 12-5149                    | 12-00994                                     |
| 6   | Bash v. Donald R. Fair   | 12-5152                    | 12-00996                                     |
| 7   | Bash v. Dana Osler; Geist Sports Academy, LLC; Elizabeth McClure | 12-5158                    | 12-00997                                     |
| <b>GROUP A ACTIONS WITH DEFENDANTS IN DEFAULT OF ANSWER</b> |  |                            |  |
| <b>#</b>  | <b>Case Name</b>   | <b>Bankruptcy Case No.</b> | <b>District Case No.<br/>(if applicable)</b> |
| 1   | Bash v. James Cochran; Susan Cochran                             | 12-5098                    | 12-00988                                     |
| 2   | Bash v. Fair Holdings, Inc.; DC Investments, LLC                 | 12-5103                    | 12-00990                                     |
| 3   | Bash v. Timothy Durham   | 12-5107                    | 12-00991                                     |
| <b>GROUP A ACTIONS THAT HAVE BEEN SETTLED</b>               |  |                            |  |
| <b>#</b>  | <b>Case Name</b>   | <b>Bankruptcy Case No.</b> | <b>District Case No.<br/>(if applicable)</b> |
| 1   | Bash v. BGBC Partners, LLP <b>(subject to Court approval)</b>    | 12-5102                    | 12-00989                                     |
| 2   | Bash v. Terry Whitesell; Julia Whitesell                         | 12-5109                    | 12-00993                                     |

**EXHIBIT B**  
**THE “GROUP B” CASES**

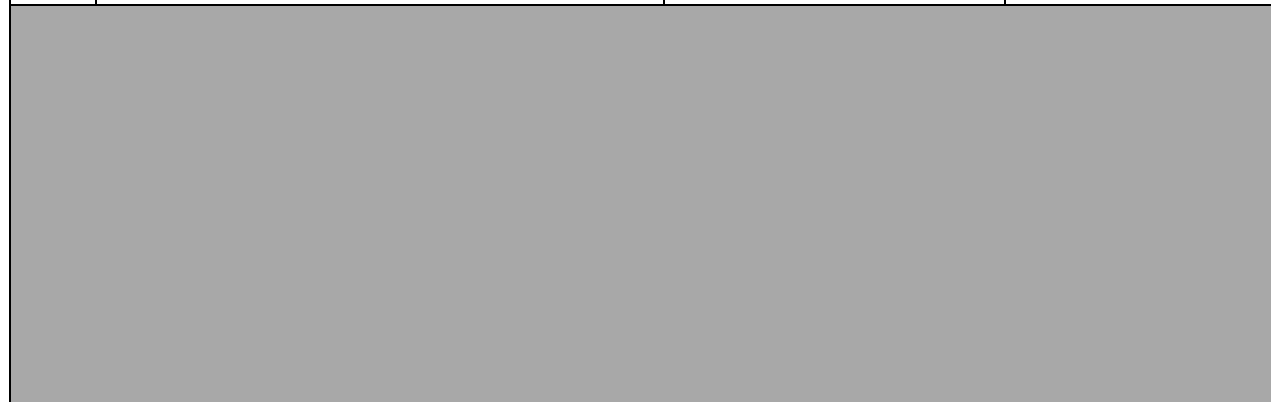
| <b>GROUP B ACTIVE AND CONTESTED ACTIONS</b> |  |                            |  |
|---|--|----------------------------|--|
| <b>#</b>                                    | <b>Case Name</b>   | <b>Bankruptcy Case No.</b> | <b>District Case No.<br/>(if applicable)</b> |
| 1   | Bash v. Etelco Services, Inc. et al.   | 11-5233                    | 12-00984                                     |
| 2   | Bash v. Car Collector Magazine, LLC; Jeffrey Broadus; RM Classic Car Production, Inc.  | 12-5017                    | 12-01155                                     |
| 3   | Bash v. Alternate Billing Corporation  | 12-5020                    | 12-00999                                     |
| 4   | Bash v. Cindy Landeen  | 12-5026                    | 12-01152                                     |
| 5   | Bash v. Erika Lookadoo Jiles   | 12-5029                    | 12-01671                                     |
| 6   | Bash v. Mitza Durham   | 12-5032                    | 12-01672                                     |
| 7   | Bash v. Table Moose Media, LLC   | 12-5035                    | N/A  |
| 8   | Bash v. Neil Lucas   | 12-5046                    | 12-00998                                     |
| 9   | Bash v. Balint and Associates; Raymond W. Balint <b>(Preference Claim)</b>   | 12-5049                    | N/A  |
| 10  | Bash v. Stephen Blaising   | 12-5057                    | 12-00977                                     |
| 11  | Bash v. Mercho, Wells & Masterson, Inc. and Hassan Mercho  | 12-5059                    | N/A  |
| 12  | Bash v. Henri Najem; Najem Durham Enterprises, LLC; Najem Management, Inc.; Najem Enterprises, Inc.; Najem Durham Investments, LLC | 12-5061                    | N/A  |
| 13  | Bash v. Bennett Productions, Inc.  | 12-5069                    | 12-00982                                     |
| 14  | Bash v. Joseph Hennigin  | 12-5078                    | 12-00979                                     |
| 15  | Bash v. Bernard Durham aka B.J. Durham   | 12-5104                    | 12-01153                                     |
| 16  | Bash v. Courtney Durham  | 12-5105                    | 12-01673                                     |
| 17  | Bash v. Joan Servaas   | 12-5106                    | 12-01154                                     |
| 18  | Bash v. Bruce Long   | 12-5110                    | 12-00986                                     |

| 19  | Bash v. Dalinger Designs, Inc.  | 12-5111             | N/A                               |
|---|---|---------------------|-----------------------------------|
| 20  | Bash v. Phillip Press, Inc.   | 12-5113             | N/A                               |
| 21  | Bash v. Cornelius Alig <b>[Stayed due to Alig Chapter 7 bankruptcy]</b>                 | 12-5141             | N/A                               |
| 22  | Bash v. Melissa McDowell  | 12-5142             | N/A                               |
| 23  | Bash v. Shannon Connor Design, Inc.   | 12-5144             | 12-01156                          |
| 24  | Bash v. Shannon Frantz <b>[Stayed due to Frantz Chapter 7 bankruptcy]</b>               | 12-5151             | N/A                               |
| 25  | Bash v. Plopper and Partners, LLC   | 12-5156             | N/A                               |
| 26  | Bash v. Edward Morris   | 12-5163             | N/A                               |
| 27  | Bash v. 77 <sup>th</sup> Street Partners, et al.  | 12-5212             | N/A                               |
| <b>GROUP B ACTIONS THAT HAVE BEEN SETTLED OR RESOLVED</b> |   |                     |                                   |
| #   | Case Name   | Bankruptcy Case No. | District Case No. (if applicable) |
| 1   | Bash v. Obsidian Conference and Catering Center, LLC <b>[Subject to Court Approval]</b> | 11-5230             | 12-00983                          |
| 2   | Bash v. Durham Whitesell & Associates, LLC  | 11-5240             | N/A                               |
| 3   | Bash v. Mathie Construction, Ltd. (Preference Claim)                                    | 12-5013             | N/A                               |
| 4   | Bash v. Rubin & Levin Professional Corporation (Preference Claim)                       | 12-5014             | N/A                               |
| 5   | Bash v. Sanders Group of Indianapolis, Inc. (Preference Claim)                          | 12-5015             | N/A                               |
| 6   | Bash v. Voyles Zahn Paul Hogan & Merriman (Preference Claim)                            | 12-5016             | N/A                               |
| 7   | Bash v. Robert Shoemake <b>[Subject to Court Approval]</b>                              | 12-5019             | N/A                               |
| 8   | Bash v. Scott Solem and Limitless Yachting, Inc. <b>[Subject to Court Approval]</b>     | 12-5034             | N/A                               |

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|----|--|---------|-----|
| 9  | Bash v. Billie Dennie & Ann Dennie   | 12-5045 | N/A |
| 10 | Bash v. Michael Rypel  | 12-5047 | N/A |
| 11 | Bash v. Kevin James <b>[Subject to Court Approval]</b>   | 12-5094 | N/A |
| 12 | Bash v. Carlile Patchen & Murphy LLP<br>(Preference Claim)   | 12-5050 | N/A |
| 13 | Bash v. Michael Durham   | 12-5060 | N/A |
| 14 | Bash v. American Legends Publicity, Inc.<br><b>[Subject to Court Approval]</b>   | 12-5065 | N/A |
| 15 | Bash v. Auburn Automotive Heritage, Inc.<br>dba Auburn Cord Deussenberg Museum   | 12-5067 | N/A |
| 16 | Bash v. Benjamin Harrison Presidential Site,<br>Inc. dba Benjamin Harrison Home <b>[Subject<br/>to Court Approval]</b> | 12-5068 | N/A |
| 17 | Bash v. Dennis Barsky <b>[Subject to Court<br/>Approval]</b>   | 12-5071 | N/A |
| 18 | Bash v. Disturbing Tha Peace Touring, Inc.<br><b>[Subject to Court Approval]</b>                                       | 12-5072 | N/A |
| 19 | Bash v. Girls, Inc.  | 12-5074 | N/A |
| 20 | Bash v. Green Lantern Partners, Ltd.   | 12-5075 | N/A |
| 21 | Bash v. Jamie Ferrell  | 12-5076 | N/A |
| 22 | Bash v. Kato Kaelin  | 12-5079 | N/A |
| 23 | Bash v. Kathryn James & The Charles L.<br>James Trust  | 12-5080 | N/A |
| 24 | Bash v. Ludacris Foundation, Inc. <b>[Subject<br/>to Court Approval]</b>   | 12-5081 | N/A |
| 25 | Bash v. Stonefield Josephson nka Marcum<br>LLP <b>[Subject to Court Approval]</b>                                      | 12-5086 | N/A |
| 26 | Bash v. Obsidian Capital Co., LLC; Timothy<br>Durham; Terry Whitesell  | 12-5090 | N/A |
| 27 | Bash v. Mitch for Governor   | 12-5126 | N/A |
| 28 | Bash v. Fragola & Fragola Limited<br>Partnership; Albert Fragola; The Estate of<br>Nunzie Fragola (Preference Claim)   | 12-5129 | N/A |



|    |   |         |     |
|----|---|---------|-----|
| 29 | Bash v. H. Joanne Allen, Trustee (Preference Claim)   | 12-5130 | N/A |
| 30 | Bash v. Hazel Cossey (Preference Claim)   | 12-5131 | N/A |
| 31 | Bash v. The Doe Trust; James O. Pigg (Preference Claim)   | 12-5132 | N/A |
| 32 | Bash v. Joseph P. Spohn (Preference Claim)  | 12-5133 | N/A |
| 33 | Bash v. Julie Imhoff (Preference Claim)   | 12-5134 | N/A |
| 34 | Bash v. Marie Ebert; Clyde Ebert (Preference Claim)   | 12-5135 | N/A |
| 35 | Bash v. Schippers (Preference Claim)  | 12-5136 | N/A |
| 36 | Bash v. Scot W. Kingan; Donald W. Kingan (Preference Claim)                                     | 12-5137 | N/A |
| 37 | Bash v. Thomas O'Neal (Preference Claim)  | 12-5138 | N/A |
| 38 | Bash v. Revocable Trust of Victoria Scaia, Vicktoria Scaia; Lorainne Brienza (Preference Claim) | 12-5139 | N/A |
| 39 | Bash v. William Barton (Preference Claim)   | 12-5140 | N/A |
| 40 | Bash v. Michael Reardon <b>[Subject to Court Approval]</b>                                      | 12-5143 | N/A |
| 41 | Bash v. Davis & Davis Electric, LLC   | 12-5146 | N/A |
| 42 | Bash v. DW Trailer, LLC; Terry G. Whitesell   | 12-5147 | N/A |
| 43 | Bash v. Jaffe & Asher LLP (Preference Claim)  | 12-5150 | N/A |
| 44 | Bash v. Misty Rice-Baniewicz  | 12-5154 | N/A |



| <b>GROUP B ACTIONS WITH DEFENDANTS IN DEFAULT OF ANSWER</b> |  |                            |  |
|---|--|----------------------------|--|
| <b>#</b>  | <b>Case Name</b>   | <b>Bankruptcy Case No.</b> | <b>District Case No.<br/>(if applicable)</b> |
| 1   | Bash v. Cedric Rashad  | 11-5203                    | 12-01236                                     |
| 2   | Bash v. Alexander Talbott, Inc.  | 11-5204                    | 12-01237                                     |
| 3   | Bash v. Pointe Leasing, LLC  | 11-5205                    | 12-01238                                     |
| 4   | Bash v. Square One design, Inc.  | 11-5207                    | 12-01315                                     |
| 5   | Bash v. CargoTrailerUSA.com  | 11-5209                    | 12-01239                                     |
| 6   | Bash v. Obsidian Conference and Catering Center, LLC <b>(2 of 3 Defendants)</b>                | 11-5230                    | 12-00983                                     |
| 7   | Bash v. Blair Kiel Partners Inc.   | 11-5231                    | 12-02011                                     |
| 8   | Bash v. Durham Capital Corporation   | 11-5232                    | 12-01241                                     |
| 9   | Bash v. Etelco Services, Inc.  | 11-5233                    | 12-00984                                     |
| 10  | Bash v. Guyer Durham, LLC  | 11-5234                    | 12-01242                                     |
| 11  | Bash v. J Blanton LLC  | 11-5235                    | 12-01243                                     |
| 12  | Bash v. My Ghetto Holdings, LLC  | 11-5237                    | 12-01244                                     |
| 13  | Bash v. Medical Collections Group, LLC   | 11-5239                    | 12-01246                                     |
| 14  | Bash v. Durham Whitesell & Associates <b>(2 of 3 Defendants)</b>                               | 11-5240                    | n/a  |
| 15  | Bash v. Indianapolis Concours, Inc.  | 12-5018                    | 12-02041                                     |
| 16  | Bash v. Bad Boyz Toy Shop, LLC   | 12-5021                    | 12-01194                                     |
| 17  | Bash v. Black Rock Acquisition Corporation   | 12-5022                    | 12-01195                                     |
| 18  | Bash v. Cannonball World Evens, LLC  | 12-5023                    | 12-01196                                     |
| 19  | Bash v. Chairman Cigars, LLC   | 12-5024                    | 12-02013                                     |
| 20  | Bash v. Champion Trailer Acquisition, LLC; Champion Trailer Company LP; Champion Trailer, Inc. | 12-5025                    | 12-01197                                     |
| 21  | Bash v. Durco Leasing, LLC   | 12-5028                    | 12-01198                                     |
| 22  | Bash v. Fashion House, LLC   | 12-5030                    | 12-01199                                     |

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|----|---|---------|----------|
| 23 | Bash v. Rated X Custom Garage, LLC  | 12-5033 | 12-01200 |
| 24 | Bash v. Vizion Enterprises, LLC   | 12-5036 | 12-01201 |
| 25 | Bash v. Waterway Group Realty, LLC  | 12-5037 | 12-01202 |
| 26 | Bash v. DC Investments Leasing, LLC   | 12-5038 | 12-01294 |
| 27 | Bash v. DW Leasing Company, LLC   | 12-5039 | n/a      |
| 28 | Bash v. Evaco Acquisition Corporation   | 12-5058 | 12-02195 |
| 29 | Bash v. Pyramid Coach, Inc.   | 12-5062 | 12-01296 |
| 30 | Bash v. Timothy Porter and Nina Porter  | 12-5063 | 12-02017 |
| 31 | Bash v. Aaron Landau  | 12-5064 | 12-01203 |
| 32 | Bash v. Social Connects   | 12-5085 | 12-01204 |
| 33 | Bash v. Strategic Sports Agency, Inc.   | 12-5087 | 12-01205 |
| 34 | Bash v. Obsidian Capital Company, LLC;<br>Timothy Durham                          | 12-5090 | n/a      |
| 35 | Bash v. Speedster Motorcars, Inc.;<br>SpeedsterMotorSales Timothy Durham          | 12-5091 | n/a      |
| 36 | Bash v. Obsidian Leasing Company, Inc.  | 12-5092 | 12-01206 |
| 37 | Bash v. Playa del Racing, Inc.  | 12-5093 | 12-01297 |
| 38 | Bash v. Four Leaf Management  | 12-5112 | 12-02015 |
| 39 | Bash v. Aesthetic Surgery Center, LLC;<br>Beeson Aesthetic Surgery Institute, LLC | 12-5145 | 12-02016 |
| 40 | Bash v. DW Trailer, LLC <b>(1 of 2 Defendants)</b>                                | 12-5147 | n/a      |
| 41 | Bash v. US Rubber Reclaiming, Inc.  | 12-5148 | 12-02018 |
| 42 | Bash v. Impressive Interiors and Designs,<br>Inc.                                 | 12-5153 | n/a      |

601576262

**CERTIFICATE OF SERVICE**

A copy of the foregoing has been served via ECF or regular, U.S. Mail, on September 17, 2012, on the attached service list.

*/s/ Brian A. Bash*

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Brian A. Bash

## SERVICE LIST

### Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive e-mail notice/service for this case.

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