

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION

Plaintiff,
v.

CASE NO. 8:09-cv-2309-T-23TBM

**WASHINGTON DATA RESOURCES,
INC.**, a Florida corporation,

**OPTIMUM BUSINESS SOLUTIONS,
LLC**, a Nevada limited liability company
also known as Attorney Finance Services,
LLC, and doing business as Attorney
Finance Services,

CROWDER LAW GROUP, P.A.,
a Florida corporation, formerly known as
Jackson, Crowder & Associates, P.A.,
and doing business as Legal Support
Services,

RICHARD A. BISHOP, individually and
as a member of Optimum Business
Solutions, LLC,

BRENT MCDANIEL, individually and as
an officer of Washington Data Resources,
Inc.,

TYNA CALDWELL, individually,

DOUGLAS A. CROWDER, individually and
as an officer of Crowder Law Group, P.A.,

BRUCE MELTZER, individually and as an
officer of Crowder Law Group, P.A.,

KATHLEEN LEWIS, a/k/a Kathy Lewis,
individually and as a member of Optimum
Business Solutions, LLC,

Defendants.

**STIPULATED PRELIMINARY
INJUNCTION WITH ASSET FREEZE
AS TO DEFENDANTS BRUCE
MELTZER, TYNA CALDWELL,
KATHLEEN LEWIS, OPTIMUM
BUSINESS SOLUTIONS, LLC, AND
CROWDER LAW GROUP, P.A.**

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On November 12, 2009, Plaintiff, Federal Trade Commission (FTC or the Commission), pursuant to Sections 5(a), 13(b), and 19 of the FTC Act (FTC Act), 15 U.S.C. §§ 45(a), 53(b), 57b, filed its Complaint for Injunctive and Other Equitable Relief (Complaint), and moved for a Temporary Restraining Order with Asset Freeze, Appointment of a Receiver, and Order to Show Cause Why a Preliminary Injunction Should Not Issue pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65(b). On November 13, 2009, the Court granted, in part, the FTC's motion and entered a Temporary Restraining Order with Asset Freeze (Temporary Restraining Order).

The Commission and Defendants Bruce Meltzer, Tyna Caldwell, Kathleen Lewis, Optimum Business Solutions, LLC, and Crowder Law Group, P.A., having discussed with counsel the terms of this Stipulated Preliminary Injunction (Order), hereby stipulate to the following terms and conditions:

1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe it will have jurisdiction of all parties hereto;
2. The Commission and Defendants Bruce Meltzer, Tyna Caldwell, Kathleen Lewis, Optimum Business Solutions, LLC, and Crowder Law Group, P.A., after consulting with counsel, agree to the terms of this Order;
3. Defendants Bruce Meltzer, Tyna Caldwell, Kathleen Lewis, Optimum Business Solutions, LLC, and Crowder Law Group, P.A., are entering into this Order without in any way admitting liability for any allegations in the Complaint;

4. The Commission is entering into this Order without in any way admitting any of the defenses raised by Defendants Bruce Meltzer, Tyna Caldwell, Kathleen Lewis, Optimum Business Solutions, LLC, and Crowder Law Group, P.A.; and

5. Entry of this Order is in the public interest.

DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

1. **“Asset”** means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” “notes” (as these terms are defined in the Uniform Commercial Code), and all chattel, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located.

2. **“Assisting Others”** means knowingly providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing or billing services of any kind.

3. **“Corporate Defendants”** means Optimum Business Solutions, a/k/a Attorney Finance Services, LLC, and d/b/a Attorney Finance Services; and Crowder Law Group, P.A., f/k/a Jackson, Crowder & Associates, P.A., and d/b/a Legal Support Services.

4. **“Defendants”** means the Corporate Defendants and the Individual Defendants.

5. **“Document”** or **“Record”** is synonymous in meaning and equal in scope to the usage of their terms in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, electronically stored information, audio and video recordings, computer records, and other data compilations from which the information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

6. **“Individual Defendants”** means Bruce Meltzer, individually and as an officer of Crowder Law Group, P.A; Tyna Caldwell, individually; and Kathleen Lewis, a/k/a Kathy Lewis, individually and as a member of Optimum Business Solutions, LLC.

7. **“Material Fact”** means any fact that is likely to affect a Person’s choice of, or conduct regarding, goods or services.

8. **“Mortgage Loan Modification or Foreclosure Relief Service”** means any service, product, or program wherein the offeror, expressly or by implication, claims that it can assist a homeowner in any manner to (1) stop, prevent, or postpone any home mortgage foreclosure sale; (2) obtain or arrange a modification of any term of a home loan, deed of trust, or mortgage; (3) obtain any forbearance from any Mortgage Loan Holder or Servicer; (4) exercise any statutory right of reinstatement; (5) obtain any extension of the period within which the owner may reinstate his or her obligation; (6) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or

contained in that deed of trust or mortgage; (7) obtain a loan or advance of funds that is connected to the consumer's home ownership; (8) avoid or ameliorate the impairment of the owner's credit standing, credit rating or credit profile resulting from the recording of a notice of default or the conduct of a foreclosure sale; (9) save the owner's residence from foreclosure; or (10) assist the owner in obtaining proceeds from the foreclosure sale of the owner's residence. The foregoing shall include any manner of claimed assistance, including, but not limited to, debt, budget, or financial counseling, receiving money for the purpose of distributing it to creditors, contacting creditors on behalf of the homeowner, arranging or attempting to arrange for an extension of the period within which the owner of property sold at foreclosure may cure his or her default, arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale, and giving advice of any kind with respect to filing for bankruptcy.

9. **"Mortgage Loan Holder or Servicer"** means any beneficiary, mortgagee, trustee, loan servicer, or any other loan holder and/or their authorized agents.

10. **"Person"** means a natural person, organization, or other legal entity including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.

11. **"Telemarketing"** means a plan, program, or campaign (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) which is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

ORDER

CONDUCT REQUIREMENTS

I. PROHIBITION AGAINST VIOLATING SECTION 5 OF THE FTC ACT

IT IS ORDERED that, in connection with the advertising, marketing, promotion, offering for sale or sale of any Mortgage Loan Modification or Foreclosure Relief Service, Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those Persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby restrained and enjoined from:

A. Falsely representing, or Assisting Others who are falsely representing, either orally or in writing, expressly or by implication, any of the following:

1. that any Defendant or other Person will:
 - a. obtain or arrange a modification of any term of a consumer's home loan, deed of trust, or mortgage, including any recapitalization or reinstatement agreement;
 - b. obtain or arrange lower monthly mortgage payments for any consumer;
 - c. obtain or arrange affordable monthly mortgage payments for any consumer;
 - d. obtain or arrange lower interest rates on any home loan, deed of trust, or mortgage for any consumer;

- e. stop, prevent, or postpone any home mortgage foreclosure sale;
- f. save any consumer's residence from foreclosure;
- g. prevent a notice of default from being filed with respect to any consumer's residence or home loan;
- h. obtain or write a new home loan for any consumer;
- i. obtain or arrange a forbearance from any Mortgage Loan Holder or Servicer;
- j. obtain or arrange any agreement whereby any consumer's mortgage payments are deferred for any period of time; or
- k. immediately or promptly contact any consumer's Mortgage Loan Holder or Servicer;

2. the degree of success that any Defendant or any other Person has had in performing any Mortgage Loan Modification or Foreclosure Relief Service;

3. the length of time that any Defendant or any other Person has been providing any Mortgage Loan Modification or Foreclosure Relief Service;

4. the nature, expertise, position, or job title of any employee, agent, representative, contractor, independent contractor, or any other Person who provides any service to any Defendant or any other Person, including, but not limited to, that any Person has more legal knowledge or training than the typical individual, including that any Person is a paralegal or legal assistant;

5. the terms that any Mortgage Loan Holder or Servicer will or is likely to offer or accept to cure any delinquency or default on, or to reinstate, any mortgage, deed of trust, or other home loan;

6. the amount of time it will take or is likely to take for any Defendant or any other Person to obtain or arrange a modification of any term of a consumer's home loan, deed of trust, or mortgage, including any recapitalization or reinstatement agreement;

7. the nature of any Defendant's or any other Person's relationship with any Mortgage Loan Holder or Servicer, or other lender;

8. that any Defendant or any other Person is affiliated with, endorsed or approved by, or otherwise connected to the United States Government or any Federal homeowner relief or financial stability program; or

9. any other Material Fact.

B. Representing, or Assisting Others who are representing, expressly or by implication, any degree or rate of success that any Defendant or any other Person has had in performing any Mortgage Loan Modification or Foreclosure Relief Service, unless, at the time of making the representation, Defendants have a reasonable basis supporting such a representation.

II. PROHIBITION AGAINST VIOLATING THE TELEMARKETING SALES RULE

IT IS FURTHER ORDERED that, in connection with the Telemarketing, advertising, marketing, promotion, offering for sale or sale of any Mortgage Loan Modification or Foreclosure Relief Service, Defendants, and each of their successors,

assigns, members, officers, agents, servants, employees, and attorneys, and those Persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby restrained and enjoined from violating, or Assisting Others in violating, any provision of the Telemarketing Sales Rule (TSR), 16 C.F.R. Part 310, including, but not limited to, by:

A. Misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristic of any good or service, Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. § 310.3(a)(2)(iii); or

B. Misrepresenting, directly or by implication, affiliation with, or endorsement by, any government or third party organization, Section 310.3(a)(2)(vii) of the TSR, 16 C.F.R. § 310.3(a)(2)(vii).

III. RESTRICTION ON COLLECTION OF ADVANCE FEES

IT IS FURTHER ORDERED that, in connection with the advertising, marketing, promotion, offering for sale or sale of any Mortgage Loan Modification or Foreclosure Relief Service, Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those Persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby restrained and enjoined from requesting or receiving payment of any fee or consideration or any kind in advance of performing each and every Mortgage Loan Modification or Foreclosure Relief Service that Defendants contracted to perform or represented would be performed.

ASSET & RECORD RETENTION PROVISIONS

IV. ASSET FREEZE

IT IS FURTHER ORDERED that Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those Persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby restrained and enjoined from:

A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, perfecting a security interest in, or otherwise disposing of any Asset, wherever located, including outside the United States, that are:

1. owned or controlled by, or in the actual or constructive possession of, any Defendant, in whole or in part;
2. held, directly or indirectly, for the benefit of any Defendant, in whole or in part;
3. held by an agent of any Defendant as a retainer for the agent's provision of services to Defendants; or
4. owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, or other entity that is owned, managed, or controlled, directly or indirectly, by any Defendant, including, but not limited to, any Asset held by, for, or subject to access by, any Defendant at any bank or savings and loan institution, or with any credit card processing agent,

automated clearing house processor or other payment processor, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind;

B. Opening or causing to be opened any safe deposit box in the name of any Defendant, or subject to access by any Defendant;

C. Incurring liens or other encumbrances on any Asset in the name, singly or jointly, of any corporation, partnership, or other entity owned, managed, or controlled, directly or indirectly, by any Defendant;

D. Incurring charges or cash advances on any credit card or prepaid debit, credit or other bank card, issued in the name, singly or jointly, of any Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant;

Provided, however, that this Paragraph shall be construed to include (a) all of Defendants' Assets existing as of the date of entry of the Temporary Restraining Order, and (b) as to Assets acquired by the Defendants after the date of entry of the Temporary Restraining Order, those Assets derived directly or indirectly from the activities which are the subject of this action or from activities prohibited by this Order.

Provided further, however, that nothing in this Order shall prohibit an Individual Defendant's access to and use of any income or earnings he or she lawfully obtains after entry of this Order, subject to all reporting requirements in this Order and the Commission's continuing ability to collect any consumer redress from such future earnings or income.

Provided further, however, that the following personal bank accounts belonging to the Individual Defendants are released from the asset freeze upon entry of this Order and may be used for any lawful purpose, including payment of attorneys fees and payment of living expenses:

1. A full release of Defendant Bruce Meltzer's personal bank account ending in 0526 at PNC Bank; and
2. A full release of Defendant Kathleen Lewis's personal bank accounts ending in 7700 and 0754 at Bank of America.

Provided further, however, that, with prior approval of the FTC, Defendant Crowder Law Group, P.A., may use the account ending in 1257 at Fifth/Third Bank to pay wages, salaries, taxes, insurance premiums, and related expenses to employees of Crowder Law Group, P.A.; all such payments shall be approved in advance, in writing, by the FTC, whose approval shall not be unreasonably withheld. Payments approved by the FTC may be made without further action by this Court.

Provided further, however, that the funds currently held by Kynes, Markman & Felman, P.A., in its client trust account, on behalf of Defendants, may be used to pay reasonable attorneys fees related to the defense of this action.

V. DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that any financial or brokerage institution, business entity, or other Person who receives notice of this Order that holds, controls, or maintains custody of any account or Asset of any Defendant, or has held, controlled, or maintained custody of any account or Asset at any time since January 1, 2008, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any such Asset except by further order of this Court;

B. Deny Defendants access to any safe deposit box that is titled in the name of any Defendant, either individually or jointly; or otherwise subject to access by any Defendant;

C. Unless done pursuant to the Temporary Restraining Order, provide Plaintiff's counsel, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. the number of each account or Asset held on behalf of, or for the benefit of, any of the Defendants;

2. the balance of each such account, or a description of the nature and value of each Asset as of the close of business on the day on which this Order is received, and, if the account or other Asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the Person or entity to whom such account or other Asset was remitted; and

3. the identification of any safe deposit box that is either titled, individually or jointly, in the name of any Defendant, or is otherwise subject to access by any Defendant; and

D. Allow Commission representatives immediate access to inspect and copy all Documents and Records pertaining to the account, Asset, or safe deposit box, including, but not limited to, account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and

credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. Alternatively, the institution, entity, or other Person may deliver to the Commission copies of the Documents and Records requested by Plaintiff;

VI. REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that, within five (5) business days following service of this Order, Defendants shall:

A. Within three (3) business days following the service of this Order, take such steps as are necessary to transfer to the territory of the United States of America all Documents and Assets that are located outside of such territory and are held by or for Defendants or are under Defendants' direct or indirect control, jointly, severally, or individually;

B. Within three (3) business days following service of this Order, provide Plaintiff with a full accounting of all Documents and Assets that are located outside of the territory of the United States of America and are held by or for Defendants or are under Defendants' direct or indirect control, jointly, severally, or individually; and

C. Hold and retain all transferred Documents and Assets and prevent any transfer, disposition, or dissipation whatsoever of any such Assets or funds.

VII. INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from taking any action, directly or indirectly, that may result in the encumbrance or dissipation of foreign Assets or in the hindrance of the repatriation required by the preceding Section of this Order, including but not limited to:

A. Sending or causing to be sent any statement, letter, fax, e-mail, or wire transmission, or telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time as all Assets have been fully repatriated pursuant to the preceding Section of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order or of the fact that repatriation is required pursuant to a court order, until such time as all Assets have been fully repatriated pursuant to the preceding Section of this Order.

VIII. CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish to Plaintiff a consumer report concerning any Defendant.

IX. PROHIBITION ON DISCLOSURE OF CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those Persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, Social Security number, billing information (any data that enables any Person to access another Person’s account, such as a credit card,

checking, savings, share or similar account, utility account, mortgage loan account, or debit card), e-mail address, or other identifying information of any Person whose identifying information was acquired by any Defendant, at any time prior to entry of this Order, in connection with the purchase of any Mortgage Loan Modification or Foreclosure Relief Service; and

B. Using or benefitting from, for commercial purposes, the name, address, telephone number, Social Security number, billing information (any data that enables any Person to access another Person's account, such as a credit card, checking, savings, share or similar account, utility account, mortgage loan account or debit card), e-mail address, or other identifying information of any Person whose identifying information was acquired by any Defendant, at any time prior to entry of this Order, in connection with the purchase of any Mortgage Loan Modification or Foreclosure Relief Service;

Provided, however, that Defendants may disclose such identifying information (1) with the express written consent of the Person whose information is disclosed, (2) to a law enforcement agency, or (3) as required or authorized by any law, regulation, or court order.

X. PRESERVATION AND MAINTENANCE OF BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those Persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity,

corporation, subsidiary, division, affiliate or other device, are hereby restrained and enjoined from:

A. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any Documents or Records of any kind that relate to the business practices or business or personal finances of any Defendant, individually or jointly; or

B. Failing to create and maintain Documents or Records that, in reasonable detail, accurately, fairly, and completely reflect Defendants' incomes, disbursements, transactions, and disposition of their Assets.

NOTIFICATION AND MONITORING PROVISIONS

XI. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each affiliate, agent, partner, division, sales entity, successor, assignee, officer, director, employee, independent contractor, spouse, Internet web host or master, agent, attorney, and/or representative of Defendants, and shall, within ten (10) calendar days from the date of entry of this Order, provide Plaintiff with a sworn statement that Defendants have complied with this provision of the Order, which statement shall include the names and addresses of each such Person or entity who received a copy of this Order.

XII. MONITORING

IT IS FURTHER ORDERED that agents or representatives of the FTC may contact Defendants or their agents or representatives directly and anonymously for the

purpose of monitoring compliance with Sections I, II, and III of this Order, and may tape record any oral communications that occur in the course of such contacts.

XIII. NOTIFICATION OF BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that:

A. The Individual Defendants are restrained and enjoined, directly or indirectly, from creating, operating, or exercising any control over any business entity, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first serving on counsel for Plaintiff a written statement disclosing the following: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers and employees; and (4) a detailed description of the business entity's intended or actual activities.

B. The Individual Defendants shall notify Plaintiff at least seven (7) calendar days before affiliating with, becoming employed by, or performing any work for any business that is not a named defendant in this action. Each notice shall include the Individual Defendant's new business address and a statement of the nature of the business or employment and the nature of his or her duties and responsibilities in connection with that business or employment.

XIV. BANKRUPTCY PETITIONS

IT IS FURTHER ORDERED that, in light of the asset freeze, Defendants are prohibited from filing, or causing to be filed, on behalf of the Corporate Defendants, a petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.*, without permission from this Court; and

IT IS FURTHER ORDERED that, in light of the asset freeze, the Individual Defendants must give twenty-one (21) calendar days notice to Plaintiff and this Court before filing, or causing to be filed, on behalf of the Individual Defendants, a petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.*

XV. CORRESPONDENCE

IT IS FURTHER ORDERED that, for purposes of this Order, all correspondence and service of pleadings on Plaintiff shall be addressed to:

**Jonathan Kessler, Esq.
Federal Trade Commission
1111 Superior Avenue, Suite 200
Cleveland, Ohio 44114-2507
Phone (216) 263-3436 / Fax (216) 263-3426**

XVI. EXPIRATION OF ORDER

IT IS FURTHER ORDERED that the terms of this Order shall remain in place until such time as the Plaintiff and the Defendants enter into a stipulated final order or until such time as this Court enters or denies Plaintiff's request for a permanent injunction.

XVII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

ORDERED in Tampa, Florida, on November 18, 2009.



**STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE**

Stipulated and agreed to this 18th day of November 2009.

For Defendants:

James E. Felman (with permission/SCD)

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