

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:
:
:
HHLP Saint Gregory :
Lessee, LLC, and Tredici :
DC, LLC, :
t/a St. Gregory Luxury :
Hotel & Suites and :
Tredici Enoteca :
2033 M Street NW : Fact Finding
Retailer CH - ANC 2A : Hearing
License No. 98868 :
Case #19-AUD-00096 :
:
(Questionable Sales :
Figures in Quarterly :
Statements 2018) :

Wednesday
January 8, 2020

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Donovan W. Anderson, presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
JAMES SHORT, JR., Member
REMA WAHABZADAH, Member

ALSO PRESENT:

ADENIE ADEJUNMOBR, Applicant
ROBERT CLARK, Applicant
STEPHEN O'BRIEN, Counsel for Applicant

1 P-R-O-C-E-E-D-I-N-G-S

2 10:04 a.m.

3 CHAIRMAN ANDERSON: All right, the
4 next case on our calendar, it's a fact-finding
5 hearing, case no. 19-AUD-00096, the St. Gregory
6 Luxury Hotel & Suites and Tredici Enoteca,
7 license number 98868. Will all parties having
8 matters before the ABC Board in this matter
9 please appear.

10 We'll have introductions. We'll start
11 with the agency's representative.

12 MR. ADEJUNMOBR: Adenie Adejunmobr.
13 A-D-E-J-U-N-M-O-B-R.

14 CHAIRMAN ANDERSON: Yes, sir.

15 MR. O'BRIEN: Stephen O'Brien for the
16 licensee. I'm accompanied by Robert Clark.
17 That's Clark without an E who is the general
18 manager of the St. Gregory Hotel.

19 MR. CLARK: Good morning.

20 CHAIRMAN ANDERSON: All right. This
21 is a fact-finding hearing and one of the reasons
22 why we are here today.

23 As you're aware the agency does
24 auditing of the books and records. And we found
25 some discrepancies in the information that was

1 provided to the agency.

2 And so therefore the board want to
3 find more information. That's one of the reasons
4 why you're here today.

5 So, maybe -- also for the record I'll
6 have our auditor. Maybe he can just tell us who
7 you are, how long you've been working for the
8 agency, what your role is and how are you
9 familiar with the audit regarding this business,
10 sir.

11 MR. ADEJUNMOBR: I'm a compliance
12 analyst. That's my official title. I am
13 sometimes still the auditor for Alcoholic
14 Beverage Regulation Administration.

15 And approximately I've been doing this
16 for the agency for the last 10 years.

17 It's my duty here to audit self-
18 satisfied quarterly statement that is my duty to
19 perform by DC law.

20 In other words, I'm talking about
21 quarterly filings that needed to be filed by
22 certain classes of licenses which are CR and CH.

23 CR is a restaurant. CH is a hotel.
24 And in the process of doing that sometimes audit
25 comes up based on so many red flags either from

1 the bar that ran through this audit, or as
2 mandated, required by law.

3 I select using a status per sample to
4 do random audits because we have over 1,000 in
5 the database. We don't have enough manpower to
6 do all. We're supposed to do all.

7 So I pick them using a sample to do
8 the audit.

9 And St. Gregory was picked for the
10 particular audit. And I provided notification
11 based on the law, gave them 30 days at least in
12 advance, and went to the site to conduct the
13 audit.

14 We were there. It was a lady that
15 received us. With that lady she was managing the
16 restaurant I believe probably in the basement of
17 the hotel.

18 And I start explaining the audit
19 process, what we need to do. I brought out the
20 quarterly statements, copy of what was filed.

21 I showed it to her and she took one
22 look and said that's not ours. Then I brought up
23 another one. She said oh, that's the hotel.

24 The reason why I'm saying this is that
25 the one filed by the restaurant, the source, the

1 matter of source is pretty large. The one filed
2 by St. Gregory is very little which means that
3 it's room service.

4 But the point of the fact is when we
5 went out there we only have four quarterly
6 statements. And I think only one of the
7 quarterly statement measured the restaurant.

8 The quarterly statements were
9 intensified for application purposes which is
10 required for the licensees to do. It was not
11 properly identified.

12 For instance, St. Gregory's when they
13 filed their own he have St. Gregory's and the
14 name of the restaurant. I may not pronounce it
15 properly. It's called Tredici something.

16 And then when Tredici filed their own,
17 it's only Tredici, and we have somebody here
18 which is a compliance monitor.

19 When I'm ready to do this audit I just
20 supply the name and the license number to her.
21 And she provides me for the particular audit year
22 that I'm requesting for.

23 She provided me with only four
24 quarterly statements. And I thought this
25 quarterly four statements, I think it was only

1 Tredici that had one. The rest was St.
2 Gregory's.

3 So when I explained to them what is
4 going on the lady called the gentleman sitting on
5 that side, Mr. Clark, and they just told me they
6 didn't know they have to prepare together. But
7 that was out of my hands.

8 With the audit quarterly statement for
9 2018. They didn't file an amendment within the
10 mandatory time period. I can only go with what
11 is on file.

12 So we rescheduled the audit for the
13 purpose of reconciliation. So I went back and I
14 did the audit and I came up with my findings
15 which was documented in my case report.

16 CHAIRMAN ANDERSON: So when you did
17 the audit -- what was in the quarterly statement
18 and what information should have been provided to
19 the agency?

20 MR. ADEJUNMOBR: I'm sorry. What did
21 you say?

22 CHAIRMAN ANDERSON: I'm saying what
23 numbers were provided in the quarterly statements
24 and what should have been provided?

25 MR. ADEJUNMOBR: I'm not sure whether

1 you have the case document in your hands.

2 CHAIRMAN ANDERSON: Yes, I do.

3 MR. ADEJUNMOBR: It's right there in
4 the case document.

5 CHAIRMAN ANDERSON: But I need you to
6 put it on the record. I need you to put it on
7 the record.

8 MR. ADEJUNMOBR: Yes, I will.

9 CHAIRMAN ANDERSON: That's why I --

10 MR. ADEJUNMOBR: Can I read from my
11 report, sir?

12 CHAIRMAN ANDERSON: Of course. Yes,
13 you can.

14 MR. ADEJUNMOBR: Report on alcoholic
15 beverages, gross sales reported. For calendar
16 year 2018. Quarterly statement was \$496,062
17 whereas the audit revealed that \$1,877,635 should
18 have been reported.

19 The total sales reported for calendar
20 year 2018 was understated by \$1,381,573.

21 CHAIRMAN ANDERSON: Now, did you give
22 them an opportunity to -- and I'm not sure of
23 your process and procedure -- for them to correct
24 the audit and was that done?

25 MR. ADEJUNMOBR: At that point in time

1 the process -- it's not a lot of them because
2 this audit was done from September 27, 2019. It
3 was close to approximately a year. I mean that's
4 how it's been done. There's no audit that's
5 going to be done for 2019 until like April this
6 year.

7 So there is no opportunity to correct
8 anything. So all they can do is, they can file
9 and it will be in our record that post audit,
10 after the fact.

11 CHAIRMAN ANDERSON: I know, but I'm
12 saying have they done that.

13 MR. ADEJUNMOBR: Yes, they have.

14 CHAIRMAN ANDERSON: So they have done
15 a post audit filing to correct the record?

16 MR. ADEJUNMOBR: Yes, but can I say
17 something about that?

18 CHAIRMAN ANDERSON: Yes, sir.

19 MR. ADEJUNMOBR: It was still wrong.

20 CHAIRMAN ANDERSON: Why was it wrong?

21 MR. ADEJUNMOBR: Because when I did
22 the audit I came up with different figures from
23 what they filed.

24 CHAIRMAN ANDERSON: And what was the
25 difference?

1 MR. ADEJUNMOBR: That's what I just
2 told you, sir.

3 CHAIRMAN ANDERSON: No.

4 MR. ADEJUNMOBR: Oh, no. What was the
5 difference. I didn't bother to do that because
6 there was no reason to do that.

7 But I can come up with that later. I
8 have the documents. It's not anything hard to
9 do.

10 CHAIRMAN ANDERSON: No, I was just
11 trying to find out whether or not --

12 MR. ADEJUNMOBR: Let me speak. I
13 think I have something here.

14 CHAIRMAN ANDERSON: Okay. Whether or
15 not they --

16 MR. ADEJUNMOBR: I have something
17 here.

18 CHAIRMAN ANDERSON: -- they figured
19 out --

20 MR. ADEJUNMOBR: I don't think I have
21 it here, sir, but it's something -- I have the
22 records. I can easily go to computation and come
23 up with it. Because there was just no need to do
24 it.

25 CHAIRMAN ANDERSON: All right.

1 MR. ADEJUNMOBR: You know. Except
2 since you're asking for it. Because it would
3 have been irrelevant to me.

4 CHAIRMAN ANDERSON: All right. Now,
5 you said you have been working for 10 years as
6 the auditor for the agency. Is this the first
7 time you have ever audited this establishment?

8 MR. ADEJUNMOBR: Yes. This particular
9 hotel, yes.

10 CHAIRMAN ANDERSON: We're going to
11 change that. And it's not necessarily -- and
12 I'll just say for the record I found it appalling
13 that if there's 1,000 establishments in DC to be
14 audited and there's only one auditor for that
15 agency. That has changed. I made sure. That's
16 one of the first things I recognized when I
17 became chair and we're going to change that
18 because I don't think anyone is trying to -- my
19 position has always been if we're going to have a
20 regulation then people need to be audited. Why
21 have a regulation if the compliance analyst has
22 stated he's worked here for 10 years.

23 And I'm assuming, I shouldn't assume,
24 but I'm assuming that the St. Gregory is older
25 than 10 years in DC.

1 MR. O'BRIEN: It's 2015 under current
2 ownership.

3 CHAIRMAN ANDERSON: But under the
4 previous ownership. And this is their first
5 audit. And that shouldn't be so.

6 MR. O'BRIEN: I'd be willing to
7 venture that there are establishments that have
8 never been audited.

9 CHAIRMAN ANDERSON: Mr. O'Brien, I've
10 been in here and I had someone who said she has
11 been in business for 30 years and she was audited
12 one time and it was horrible basically.

13 And I'm saying how can you be in
14 business for 30 years and you have never been
15 audited. So I'm aware of that, and that's going
16 to change.

17 MR. ADEJUNMOBR: Can I say something?

18 CHAIRMAN ANDERSON: Yes, sir.

19 MR. ADEJUNMOBR: You see, we could
20 have avoided all this because due to the
21 director, ABRA director. When I took over this,
22 when I started doing this for the agency
23 approximately 10 years ago the processes wasn't
24 there. I set up the processes. I put everything
25 into place.

1 And the initial audit that we did in
2 2009 and '10, there was a lot of people that were
3 not meeting the requirements.

4 And the reason behind that is they are
5 not aware of alcoholic beverage law. A typical
6 accountant, this is compliance audit. Compliance
7 audit is all about guidelines and standards that
8 you follow in doing what you're supposed to do.

9 So when an auditor is doing the job,
10 especially compliance audit, it's a matter of
11 saying was this done based on what the law or the
12 guidelines or the standards says as opposed to
13 doing the profit and loss for a company.

14 So my point here is we organize
15 training for the licensee as a customer service
16 since then. We do it twice a year.

17 Twice a year we send out approximately
18 1,000 letters. Hardly do we get 10 or 15 to show
19 up.

20 Had it been that they'd been at one of
21 these trainings they wouldn't have had these
22 problems.

23 But if they don't show up in the
24 training. Because the training, the purpose of
25 it is to go through on the audit process, how we

1 do it, how you prepare the quarterly statement.

2 And they will have seen it.

3 And then furthermore part of the stuff
4 that is submitted had a lot of problems with it.
5 The training was not captured properly. The
6 compliance monitor will have difficulty in
7 picking it or in locating it.

8 CHAIRMAN ANDERSON: Well, you just
9 answered my question because the question I was
10 going to ask you was does the agency offer
11 training.

12 MR. ADEJUNMOBR: We do.

13 CHAIRMAN ANDERSON: And you have
14 answered the question.

15 MR. ADEJUNMOBR: Twice a year. Four
16 sessions.

17 CHAIRMAN ANDERSON: Twice a year.

18 MR. ADEJUNMOBR: Twice a year. Two
19 times each day making four sessions.

20 And the good thing about it is we pay
21 for the interpreter. The agency pays for the
22 interpreter if they ask for one.

23 CHAIRMAN ANDERSON: And so you have
24 basically stated that we have approximately 1,000
25 establishments and you have not seen 1,000

1 establishments walk through, or even -- you've
2 seen a minuscule amount of establishments that
3 have taken advantage of these trainings, is that
4 correct?

5 MR. ADEJUNMOBR: That's true, sir.

6 CHAIRMAN ANDERSON: Yes, Mr. Short.

7 MR. SHORT: Yes. Just for the record,
8 Mr. Chair, I'd just like to say to our
9 director's, Mr. Fred Moosally, benefit ABRA is
10 one of the newest agencies in the District of
11 Columbia.

12 ABC businesses at one time were under
13 DCRA, Department of Consumer and Regulatory
14 Affairs.

15 And so I think that Mr. Moosally in
16 hiring, I wanted to thank you, a great job, sir.
17 To be commended for the work you do.

18 And I do know that our chair has been
19 working hard to get you some more staff working
20 with you.

21 But at any rate, now that we found out
22 these fallacies or these issues that are coming
23 up and people not being audited for 30 years and
24 so on and so on, I think it would behoove this
25 board to maybe take under consideration.

1 And I'd just like this on record that
2 we make some recommendations to our director and
3 see if we can't find out some remedies so that
4 audits would take place as in our regulations
5 required by law. Thank you, Mr. Chair.

6 CHAIRMAN ANDERSON: Thank you, Mr.
7 Short. As I said before we have hired a second
8 auditor. I mean, that's one of the things that I
9 made sure that I requested when I first assumed
10 this position five years ago.

11 How is it that we have all these
12 establishments. If we have a rule and regulation
13 that says establishments need to be audited, and
14 if we have over 1,000 establishments and we have
15 one auditor then we shouldn't have the rule. We
16 might as well -- so we either need to hire
17 additional auditors or get rid of the rule, the
18 regulation, because it doesn't make sense.
19 Because we're not doing our jobs.

20 Mr. O'Brien, what response if any does
21 your client have?

22 MR. O'BRIEN: I'm going to give the
23 board a chronology here to explain what happened.
24 But I do want to emphasize that the auditor's
25 report makes clear that the property satisfies

1 the test, the 45 percent test. That's not been
2 in question.

3 CHAIRMAN ANDERSON: No, that has not
4 been in question.

5 MR. O'BRIEN: The issue here is the
6 form of the reports.

7 This has been the St. Gregory Hotel
8 for a period of time. Current ownership acquired
9 it in 2015.

10 In 2016 the restaurant portion was
11 leased to a third party, and that is the Tredici
12 DC entity, trading as Enoteca.

13 The Tredici tenant was operating it
14 not on behalf of the hotel, but as an arm's
15 length tenant for its own profit and loss.

16 CHAIRMAN ANDERSON: Whose license were
17 they operating under? Under the hotel's license,
18 or a separate license?

19 MR. O'BRIEN: Under the hotel's
20 license. The reason is that the hotel retained
21 alcohol service in the form of mini bars in the
22 rooms. So you had two parties deriving profits
23 and losses from sale of alcoholic beverages at
24 the hotel.

25 So in 2016 we filed and the board

1 approved a transfer of the license from the St.
2 Gregory alone to the St. Gregory and the tenant.
3 They became joint licensees. And that is not
4 unusual where you have two different parties
5 deriving profits from the sale of alcohol.

6 Each party has its own business
7 license. Each party set up its own tax accounts.
8 And for a couple of years the business went on
9 under joint licensure.

10 So again, 2015 it's just party A, the
11 hotel. License is transferred in 2016 to A and
12 B, the hotel and the tenant.

13 What the hotel did not realize, and
14 they were wrong. But what they did not realize
15 is because there's only one license, there is
16 only one quarterly report to be filed. And that
17 report has to consolidate the operations in the
18 building.

19 And I believe the auditor will confirm
20 that the hotel routinely filed reports. But the
21 numbers only reflected purchases and sales and
22 acquisition of inventory for the mini bars,
23 ridiculously low numbers given the scope of the
24 hotel operation.

25 The expectation was that Tredici

1 Enoteca was filing its quarterly reports with the
2 board. And in some cases that happened. I know
3 at least for the first quarter of 2018 the agency
4 received two quarterly reports for one license.
5 Again, impermissible, but that's the mistake that
6 was made.

7 The audit team first visited the hotel
8 it looks like on or about July 10, 2019. And as
9 the auditor has related met somebody from the
10 restaurant who didn't have sufficient
11 information.

12 The audit was rescheduled and I
13 believe conducted on August 22 if I'm correct,
14 2019, at which Mr. Clark, the general manager of
15 the hotel, the hotel's controller were present.

16 As a result of what was discovered, as
17 a result of the mistake being discovered, the
18 separate filings, consolidated replacement
19 returns for the four quarters of 2018 were all
20 filed on September 12, 2018.

21 Now, I understand those were beyond
22 the lookback period, but at least the effort was
23 made to rectify the mistakes.

24 I don't know -- I haven't followed
25 what the auditor said that perhaps even these

1 reports were not exactly correct.

2 CHAIRMAN ANDERSON: I think what he
3 stated was that he never -- because it was post
4 audit he never looked at the numbers because
5 there was really no requirement for him to look.
6 So I don't know if that was even done correctly.

7 MR. O'BRIEN: Tredici Enoteca was a
8 problem tenant from start to finish. And finally
9 this year -- I'm sorry, we're in 2020 now. In
10 late 2019 the hotel filed to evict the tenant,
11 filed in court to evict the tenant for non-
12 payment of a lot of rent.

13 Faced with a looming eviction the
14 tenant withdrew and departed I believe on
15 December -- mid-November 2018. '19. So that
16 tenant is gone.

17 And the license has reverted back to
18 just the hotel entity. And the board approved
19 that I believe last month.

20 CHAIRMAN ANDERSON: But, so moving
21 forward what's going to happen with the space?
22 I'm saying in the space in the sense that for us
23 not to have this problem anymore.

24 MR. O'BRIEN: The hotel is presently
25 operating the restaurant itself, in-house if you

1 will.

2 We anticipate that an application is
3 going to be filed to transfer to a new tenant,
4 but the tenant will be an affiliate of the hotel.

5 So we're not going to have in the
6 foreseeable future an unrelated third party out
7 there.

8 But certainly as I said we fully
9 acknowledge that only one report should have been
10 filed each month. Each quarter, thank you. That
11 problem is not going to arise again.

12 CHAIRMAN ANDERSON: Any questions from
13 any of the board members? Mr. Short.

14 MR. SHORT: Mr. O'Brien, does your
15 client -- has he ever thought about coming here
16 for some training about books and records which
17 is offered free by the agency?

18 Would he be willing to do that?

19 MR. CLARK: I'm most assuredly willing
20 to do it. Generally speaking from my career with
21 the ownership group that -- we didn't have third
22 parties. And our legal team and accounting
23 team's corporate labor filing from our P&L
24 reports.

25 So knowing that I needed to file, I do

1 the online filing when our P&L's are closed for
2 the mini bar. I never had access to any of the
3 reports from the third party.

4 So when Adenie came we were kind of
5 amazed that they needed to be a joint filing. So
6 moving forward that will definitely be the case
7 and I'm more than happy to have myself and my
8 accounting manager and the general manager from
9 the restaurant to be in the training sessions.

10 MR. SHORT: Thank you very much.

11 MR. CLARK: I think it's critical.

12 Thirty years in the city.

13 MR. ADEJUNMOBR: Can I say something,
14 sir?

15 CHAIRMAN ANDERSON: Yes, sir.

16 MR. ADEJUNMOBR: Looking at what we
17 audited based on what Mr. O'Brien said, St.
18 Gregory didn't file for four quarters. Yes, they
19 did not because I have it in here.

20 They filed for three quarters. They
21 was missing seven quarters. Seven quarters they
22 never filed at all.

23 CHAIRMAN ANDERSON: They never filed
24 the second quarter?

25 MR. ADEJUNMOBR: They filed for first,

1 third and fourth. In addition, filed only for
2 second. That's where the figures are off because
3 when Tredici making a lot of sales, in the
4 hundred thousands, the room service just making
5 sales in like \$8,000, \$10,000. The difference is
6 very clear.

7 And like I said earlier too, just
8 looking at what is in here I don't have a
9 specific figure to you.

10 Even when they said during the
11 remediation of the quarterly statement. In other
12 words, they prepared a new one and everything.
13 There were still mistakes in there. There were
14 still mistakes in there.

15 So, and part of my job here is to
16 organize this training. We've been doing it for
17 years. We have a PowerPoint and everything
18 prepared.

19 And again I emphasize to the licensee
20 when I'm in the field part of my job is to train
21 them too. Mr. Clark probably can testify to
22 that. I told him that too.

23 So, when I'm there -- I said but, when
24 we send these letters to you, you need to --
25 because we are changing the law that you're not

1 aware of that we're going to talk about in the
2 training.

3 So that's why it's very good for them
4 to show up at the training because the system to
5 prepare the quarterly statements is not going to
6 change. It's standardized. It's not going to
7 change except if we change the law.

8 CHAIRMAN ANDERSON: Any other
9 questions by board members? Any final comments
10 you want to make, Mr. O'Brien?

11 MR. O'BRIEN: No, sir.

12 CHAIRMAN ANDERSON: All right.

13 MR. SHORT: Mr. Chair, one last thing.

14 CHAIRMAN ANDERSON: Yes.

15 MR. SHORT: I want to thank Mr. Adenie
16 and Mr. Clark. I think with the circumstances
17 under which they have been working they've done a
18 mighty excellent job. And now we have some more
19 training coming for people and we have your staff
20 being increased. I think we'll be a lot more
21 efficient. Thank you very much for your service.
22 Thank you, Mr. Clark.

23 CHAIRMAN ANDERSON: And what I say,
24 Mr. O'Brien, irrespective if the hotel decides
25 that it's going to be a third party and that's

1 not related to the hotel. There has to be some
2 mechanism put in place that the hotel is aware
3 that this filing has to be made, one filing has
4 to be made and it has to be -- they need to
5 combine with this entity. If somewhere down the
6 road they decide they're going to have this
7 similar situation as the previous tenant.

8 MR. O'BRIEN: Speaking for Mr. Clark
9 without checking with him first I think it's
10 clear now that the hotel is going to be
11 responsible for making sure these reports are
12 filed.

13 In other words it's going to be the
14 hotel's responsibility to go to some future third
15 party tenant and say let me have those numbers
16 because we're filing. We're not going to rely on
17 somebody else to file.

18 CHAIRMAN ANDERSON: All right. Thank
19 you, sir. With that I'll make a motion that we
20 take no further action on this. I think that it
21 --

22 MR. SHORT: I second that motion, Mr.
23 Chair.

24 CHAIRMAN ANDERSON: Mr. Short has
25 seconded the motion. All those in favor say aye.

1 (Chorus of ayes)

2 CHAIRMAN ANDERSON: Those opposed.

3 The matter passed 5-0-0.

4 I mean, the basic explanation that was
5 provided. It's clear that it -- at least it's
6 clear to me that this was not an intentional act
7 by the hotel to under report.

8 That's something that we look at. And
9 I'll say to you routinely Mr. O'Brien when we see
10 this, since there is no penalty from our part,
11 but we report this to OTR. And OTR can do
12 whatever they want to do with it.

13 But if we see -- just generally when
14 we do our audit if we see a general numbers that
15 are -- just does not make sense that's what we do
16 because we have seen audits where it's \$7 million
17 and they're off, they might be off by a couple of
18 dollars.

19 And so if you have an establishment
20 that can do \$7 million then when we do the audit
21 and they're off by -- sometimes they're off by --
22 I've seen they're off by a dollar, or a couple of
23 dollars. And I'm like okay.

24 But anyway. But that's what we do
25 routinely.

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In the matter of: St. Gregory Luxury Hotel

Before: DCABRA

Date: 01-08-20

Place: Washington, DC

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