

SUMMARY OF THE RESPONSE AND ARGUMENT

1. Defendants argue the Texas Business Organization Code (“BOC”) should be read in a vacuum and thus limits what documents and information officers and directors have access to based on Section 3.152, which states governing persons may examine the books and records, “reasonably related to the governing person’s service...”¹ Defendants continue their erroneous theory by arguing that a person hired by the Board of Directors can decide what documents or information an officer or director is entitled to access based on the employee’s subjective determination of their responsibilities. This is not the law. Significantly, where in the law is any employee given the authority to deny officers and directors of a corporation access to corporation records? Tellingly, Defendants have not cited any authority to the Court for this absurd argument that a hired employee can dictate to officers and directors what corporation records they can see.

2. In keeping with their isolationist theory, Defendants wholly fail to acknowledge the “General Standards for Directors” - to discharge their duties in “good faith, with ordinary care, and in a manner the director reasonably believes to be in the best interest of the corporation.” *See* TEX. BUS. ORG. CODE § 22.221(a) (emphasis added). It is the governing person’s subjective determination which

¹ Defendants also continually mention Texas Business Organizations Code Section 22.351 as to “proper purpose” and mostly fail to point out this is applicable only to a request from members.

guides access to information and documents for them to comply with their legal responsibilities *Id.* This statutory construction is also logical. It is nonsensical that a corporation would hire an employee who then determined what was needed for the employers to discharge their responsibilities imposed by law. Moreover, per the statute cited by the Defendants a “court may require” the opening of books and records. *See* TEX. BUS. ORG. CODE § 3.152(b).

3. Finally, although the Defendants seem to believe the number of pages produced complies with the Code, without the requested information, it is impossible to determine if ARBOR is being run in accordance with the laws of the State of Texas, the United States, the ARBOR bylaws and/or the ARBOR policies and procedures. The many issues identified so far are included in the Response which clearly creates at least a fact issue as to whether ARBOR has complied with its duty because none of the directors including President Dent can fulfill their duties of ensuring compliance with US and Texas law and the ARBOR bylaws, policies, and procedures. In addition, many of the Plaintiffs have served on the ARBOR Board and have provided in their affidavits that when they served, access was not limited. In fact, Plaintiff Johnson was ARBOR’s CEO and never denied any governing person (nor member) any record of the corporation requested. Defendants’ Motion should be denied.

INTRODUCTION

4. On July 8, 2025, this Court granted Plaintiffs' Motion for Partial Summary Judgement and Order Under Section 22.512 of the Texas Business Organizations Code. *See* Ex. Z. Thus, Plaintiff Martha Dent was deemed ARBOR's duly elected President-Elect, Plaintiff Paula Womack was ruled to be ARBOR's duly elected Secretary/Treasurer, and Plaintiff Sundee Hinchliffe was elected as an ARBOR director. *Id.* Their offices were effective January 1, 2025, per the Order. *Id.* The Order continued with, "Defendants shall immediately take all steps necessary to allow the foregoing persons to exercise their offices (*e.g.*, executing new signature cards for bank accounts, *etc.*, as necessary)." ² *Id.*

5. Now Defendants contend the Business Organization Codes authorizes an employee of the non-profit corporation to dictate what the officers and directors are entitled to see in order to perform their job. ARBOR's CEO, Taylor Oldroyd continues to deny access to information and documents President Dent and others have requested so they can fulfill their general standards of acting in good faith, with ordinary care, and in a manner they reasonably believe to be in the best interest of the corporation.

² Contemporaneously with the filing of Plaintiffs' Motion to Reconsider Denial of Plaintiffs' Second Motion for Partial Summary Judgment, Plaintiff filed a Motion for Clarification as to this language in the Order which Plaintiffs incorporate by reference.

6. Moreover, in all of the documents produced in this litigation and the access to records actually provided to President Dent, the Plaintiffs have produced a plethora of evidence creating genuine issues of material facts to prevent a summary judgment that ARBOR has complied with Texas law or this Court's Order. Some minor and some very serious concerns as to the business of ARBOR are apparent from these records, which Plaintiffs now have that are before the Court. Only full access to books and records will show if any malfeasance has and is occurring.

ARGUMENT AND AUTHORITIES

Traditional Summary Judgment Standard

7. A party may obtain a traditional summary judgment if it is able to show there is no genuine issue as to any material fact and that it is entitled to judgment as a matter of law. *See* TEX. R. CIV. P. 166a(c); *Park Place Hosp. v. Estate of Milo*, 909 S.W.2d 508, 510 (Tex. 1995). To conclusively establish a matter, the movant must show that reasonable minds could not differ as to the conclusion to be drawn from the evidence. *City of Keller v. Wilson*, 168 S.W.3d 802, 814 (Tex. 2005). As is arguably the case here, when cross-motions are presented, each party must establish it is entitled to judgment as a matter of law. *See Famers Grp. V. Geter*, 620 S.W.3d 702, 708 (Tex. 2021). When a movant does not prove as a matter of law it is entitled to relief, the summary judgment must be denied. *See City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 678 (Tex. 1979). Likewise,

when a non-movant produces evidence creating a genuine issue of material fact, summary judgment **must** be denied. *See, e.g., Dillard's Inc. v. Newman*, 299 S.W.3d 144, 148 (Tex. App.—Amarillo 2008, pet. denied).

Statutory Construction Is A Legal Determination

8. In construing statutes, words are given their ordinary meaning, but the Court's role is to effectuate the Legislature's intent as expressed in the statute's language. TEX. GOV'T CODE §§ 312.002, 312.005. The Court should consider the entire Code, its nature and object, and the consequences that would follow from each construction in determining legislative intent. *See generally, 20801, Inc. v. Parker*, 249 S.W.3d 392, 396 (Tex. 2008); *Osterberg v. Peca*, 12 S.W.3d 31, 38 (Tex. 2000). Intent must be construed through the "entire act not just isolated portions." *20801, Inc.*, at 396. Each statute must be considered within its role in the broader statutory scheme. *Id.*

Officers and Directors

9. Section 3.151 of the BOC cannot be read in a vacuum. *See generally, 20801, Inc. v. Parker*, 249 S.W.3d 392, 396 (Tex. 2008); *Osterberg v. Peca*, 12 S.W.3d 31, 38 (Tex. 2000). To interpret Section 3.151 as Defendants request would require this Court to nullify the subjective element of Section 22.221 of the BOC. In addition, it would be nonsensical for an employee of an organization who is not a governing person to be the authority on what a governing person is entitled to review

in order for the governing person to perform their governing role. Moreover, simply because other Defendants do not believe certain documents were necessary to perform their service as President does not mean it is not necessary for President Dent or others (it is simply their subjective belief in accordance with Section 22.221 of the BOC).

10. BOC Section 22.221 provides the management of a non-profit corporation, which includes ARBOR, will be through the board of directors. “Board of Directors” is defined as the people “vested with the management of the affairs of the corporation.” TEX. BUS. ORG. CODE § 22.001(1).

11. The BOC statutorily tasks the directors with several important and specific duties.

Based on records maintained under Subsection (a) the board of directors of the corporation shall annually provide or approve a financial report for the corporation for the preceding year. The report must conform to accounting standards as adopted by the American Institute of Certified Public Accountants and must include:

- (1) a statement of support, revenue, and expenses;
- (2) a statement of changes in fund balances;
- (3) a statement of functional expenses; and
- (4) a balance sheet for each fund.

TEX. BUS. ORG. CODE 22.352(b) (emphasis added).³ In addition, the BOC provides

³ It is worth noting Subsection (a) of Section 22.352 of the BOC requires the corporation to “maintain current and accurate financial records **with complete entries as to each financial transaction** of the corporation, including income and expenditures, in accordance with generally accepted accounting principles.” (emphasis added) The management of the corporation is in the hands of the directors and thus tasking the corporation is placing another duty on the directors. Here, President Dent nor any of the other Directors can even confirm this is being done!

the “General Standards for Directors” - to discharge their duties in “good faith, with ordinary care, **and in a manner a director reasonably believes to be in the best interest of the corporation.**” *See* TEX. BUS. ORG. CODE § 22.221(a) (emphasis added). This is a **subjective standard** as to what each particular director believes. *Id.* Moreover, the Code provides immunity of the director to the corporation if these standards are followed. *Id.* at §§ 22.221(b) and 22.235.

12. With the requirements of the board in Section 22.352 and this subjective standard in Section 22.221, it is clear the ARBOR officers and directors shall have access to all the information and documentation of the corporation and shall review all information and documentation *each individual director believes is reasonable to discharge their fiduciary duties*. The affidavits stating it was not necessary for that particular governing person to have are not relevant as well as contrary to the legal obligations imposed on the governing persons.⁴

13. Clearly, in order to fulfill their common law and statutory fiduciary duties, the general standards pursuant to the BOC, and to manage the corporation, the board directors are entitled to all books and records of the corporation – all of the

⁴ In addition to not being relevant, Mr. Dixon’s statement he never received the information is false. As Larry Johnson, the former CEO of Arbor opined, Mr. Dixon as Secretary/Treasurer of ARBOR met with him to countersign checks twice a month. *See* Ex. U, ¶9. When a check was presented for countersignature attached was the expense form and receipt(s). *Id.* There was no need to ask for backup documentation – it was provided as a matter of how ARBOR business was done under the former CEO. *Id.* As President or Chair, Mr. Dixon often countersigned contracts. *Id.* at ¶9. Again, Mr. Dixon was involved with the underlying documents as the usual course of business. However, it is curious as to whether Mr. Dixon who was President at the time was aware of the engagement and payment to a law firm for which no minutes indicate the Board ever discussed or approved. *See* Ex. T, ¶7L. Perhaps Past President Dixon should have been asking more questions and requesting to see more documentation.

information and documentation of the corporation they believe is necessary to perform the service they are providing required by law. No request is even required by the directors in Section 3.152 (as opposed to members and this difference is important in statutory construction because the Texas Legislature is presumed not to have required a request from officer or directors by the mere absence). As President Dent states in her affidavit, she wants to fulfill her duties which includes verifying the following among other issues: (1) why the alleged investments showing the approximate \$800,000.00 missing from financials are indeed in existence; (2) why ARBOR is receiving IRS levy notices, Texas business forfeiture notices, and paying interest on credit card; (3) why Mr. Oldroyd wrote to himself a check and whether it was for a proper purpose; (4) why travel expenses to Salt Lake City, Utah, on Taylor Oldroyd's ARBOR credit card were for a proper purpose or whether ARBOR was reimbursed if not for a proper purpose; (5) why law firms were retained and paid without Board notice or approval of the engagement (which occurred while Mr. Dixon was President and who says he didn't need any more access to documents than President Dent has been provided – perhaps he should have asked to see more documentation); (6) why three persons on the nominating committee were placed on the ballot for the second unlawful election in only a few years; (7) why contracts are being entered into without board approval; (8) why expense reimbursements are being paid without documentation including receipts, which far exceed ARBOR

standards; and (9) why the merger was presented as a vote to “initiate procedure for a legal merger...” if as Mr. Oldroyd opined in his affidavit it was simply to explore the possibility of a merger. *See* Ex. T, Aff. of M. Dent, ¶7-10; Ex. U, ¶10; Ex. U-1. Instead, President Dent has been harassed and threatened for inquiries she is obligated by law to make. Ex. T, ¶13.

Members

14. Only members are statutorily required to ask a non-profit entity for books and records. TEX. BUS. ORG. CODE § 22.351. (The Texas Legislature did not place any request requirement on governing persons and Defendants have not cited to any such statutory requirement.) Texas case law is very clear that once a proper request is made, even the documents Defendants are clinging to shall be produced including general ledgers which would greatly assist in clarifying many of the issues in this case. *See e.g., Gaughan v. Nat’l Cutting Horse Ass’n*, 351 S.W.3d 408, 411, 416-21 (Tex. App.—Fort Worth 2011, pet denied) (holding the trial court did not error in requiring a protective order in the production of documents to a member that the public was not entitled and which included bank statements, employment contracts, payroll records, and payments to and contracts with vendors); *Burton v. Cravey*, 759 S.W.2d 160, 162 (Tex. App.—Houston [1st Dist.] 1998, no writ), disapproved on other grounds by *Huie v. DeShazo*, 922 S.W.2d 920, 924 (Tex. 1996) (stating in dicta, “[t]he right to inspect under article 1396-2.23 encompasses *all* books and

records.”).⁵ (citing *In re Bay Area Citizens Against Lawsuit Abuse*, 982 S.W.2d 371, 381-82 (Tex. 1998)). *Citizens Ass’n for Sound Energy v. Boltz*, 866 S.W.2d 283, 290 (Tex. App.—Amarillo 1994, writ denied) (articulating that the right of a member to inspect the books and records is not limited and includes “all” books and records of a corporation and holding the allowance of the inspection of a financial statement was not sufficient for original financial records); *Shiolen v. Sandpiper Condominiums Council of Owners, Inc.*, No. 13-07-00312-CV, A.II., I., II.A2b (Tex. App.—Corpus Christi, July 17, 2008) (reviewing whether a non-profit condominium association had complied with the Texas Non-Profit Corporation Act by providing the requesting member income tax returns for four years, some depreciation schedules, the member’s 1099 and contracts with one entity for five years and holding it had not complied because it did not produce nor provide access to **backup transactions** for the “general ledger entries, [Form] 1099’s filed by Sandpiper, access to Sandpiper’s computers, or complete correspondence as requested” nor the fixed asset depreciation records for the three years requested, the contracts between

⁵ Article 1396-2.23 of the Texas Revised Civil Statutes Annotated was very similar to Texas Business Organization Code Section 22.351 and stated:

BOOKS AND RECORDS. A. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any authority of the board of directors and shall keep at its registered office or principal office in this State a record of the names and addresses of its members entitled to vote.
B. A member of a corporation, on written demand stating the purpose of the demand, has the right to examine and copy, in person or by agent, accountant, or attorney, at any reasonable time, for any proper purpose, the books and records of the corporation relevant to that purpose, at the expense of the member.

Sandpiper and employees, contractors, or companies for three years, correspondence between Sandpiper board members other than minutes, correspondence between Sandpiper and its accountant for three years, and work papers). Thus, the interpretation of the BOC should be that all books and records may be required to be produced should a proper purpose be articulated in a request.⁶

Issues Requiring Further Access to Information and Documents by Officers

15. Although the Defendants argue they have fully complied with all requests, there is a genuine issue of material fact as to whether compliance is complete. Moreover, President Dent has continually requested access to documentation and been denied. *See e.g.*, Ex. T, ¶3, Ex. S, Ex. P. Through the documents obtained, there are so many issues, both serious and minor, by ARBOR personnel, officers, directors, and members, which require more access to information and documents in order for President Dent and Director Hinchliff to fulfill their fiduciary duties, including, but not limited to:

Exhibit	Description of Exhibit and Issue Raised
A	ARBOR Investment Accounts decreased by more than \$800,000.00 and more than 25% in four years. (There are no documents showing why the accounts have decreased substantially. The full 2024 Audit has not been produced or provided.) ⁷

⁶ Defendants’ Motion appears to be a response to Plaintiffs’ Motion to Reconsider Denial of Plaintiffs’ Second Motion for Partial Summary Judgment and Motion for Clarification and it is difficult to ascertain exactly how Defendants are asking the Court to interpret statutes. However, Plaintiffs have not yet argued any member has requested documents for a “proper purpose” unless the officers and directors’ numerous request is also considered a request as a member.

⁷ Per the Affidavit of President Dent and documents obtained, ARBOR’s total cash and cash investments of \$3,022,774.00 at year end in 2020 decreased to \$2,215,802 (which includes investments in insurance contracts) at

B	ARBOR Credit card bills without receipts (when President Dent attempted to look for the receipts she found none in bills.com), without expense reports, without detail of purpose or who attended. Includes interest paid by ARBOR for no known reason. (No documents have been provided to substantiate these alleged expenses.) ⁸
C	North Texas Real Estate Center, Inc. (the profit side of ARBOR) Notice of Intent to Levy or Seize Your Property, Texas Notice of Tax/Fee Due. ⁹
D	ARBOR Event Center, LLC (part of the ARBOR building) Texas Notice of Intent to Forfeit Rights to Transact Business. ¹⁰
E	Contract for Merger Marketing Consultant without Board Approval in violations of bylaws and upon information and belief without the required dual signatures. ¹¹ (The contract has not been provided. <i>See</i> Ex. T, ¶7E.)
F	Contract with GoSocial Group, LLC without Board Approval in violations of bylaws and upon information and belief without the required dual signatures. ¹² (The contract has not been provided. <i>See</i> Ex. T, ¶7F.)

year end in 2023, which is a decrease of \$806,972.00 (and even considering the increase in prepaid expenses and “other assets” there is still a decrease of approximately \$650,000). *See* Ex. T, ¶7A.

⁸ Per the Operations Manual, all expense reimbursements require an expense request form and receipts be presented. *See* Ex. X, p.28. ARBOR limits daily meal expenses. *Id.* Here, President Dent’s attempt to verify the proper documentation existed was met with “access denied.” *See* Ex. T, ¶7B. Unfortunately, ARBOR is no longer presenting the backup documentation when a check for reimbursement is signed as was the normal course of business from approximately 2005 to 2020. *See* Ex. U, ¶¶2, 3, and 9.

⁹ It is unknown why ARBOR is receiving notices from the IRS when, as alleged by Defendants, everything is being handled by the CEO Taylor Oldroyd. These are serious issues as recognized by the unknown writing on the notice. *See generally*, Ex. T, ¶7C.

¹⁰ During the tenure of CEO Larry Johnson ARBOR went from a fair financial condition to a very good position. *See* Ex. U, ¶5. As CEO, I oversaw the construction and pay off of a building. *Id.* Upon information and belief, this is the same building at issue within this LLC which was threatened with losing its rights to transact business in Texas.

¹¹ *See* Exhibit R, ARBOR Bylaws §2, ¶(d).

¹² *See* Exhibit R, ARBOR Bylaws §2, ¶(d).

G	Contract with Tiffany Freeman without Board Approval in violations of bylaws and upon information and belief without the required dual signatures. ¹³ (The contract has not been provided, and it is not clear who this person is or what service or product was provided. <i>See</i> Ex. T, ¶7G.)
H	Contract without Board Approval in violations of bylaws and upon information and belief without the required dual signatures ¹⁴ was reclassified from general consulting to maintenance (The contract has not been provided. <i>See</i> Ex. T, ¶7H.)
I	Travel Expenses of T. Oldroyd without receipts, without reports, and no information as to business purpose. ¹⁵
J	Check written by T. Oldroyd to himself. (No documentation as to what this was for and if for a proper business purpose has been provided. <i>See</i> Ex. T, ¶7J.)
K	Attempted bylaws change requested by T. Oldroyd without Board or Member approval. (At a meeting after the Court installed President Dent, Mr. Oldroyd requested the Board members sign a document which altered bylaws presumably to claim they “agreed” to circumvent the bylaws by signed the agreement. <i>See</i> Ex. T, ¶7JK.)
L	Payments to the Hurlbut Law Firm without Board notification nor approval. ¹⁶ (No minutes have been provided for the hiring of the law

¹³ *See* Exhibit R, ARBOR Bylaws §2, ¶(d).

¹⁴ *See* Exhibit R, ARBOR Bylaws §2, ¶(d).

¹⁵ Upon information and belief, Mr. Oldroyd is from and his family lives in Salt Lake City, Utah. *See* Ex. T, ¶10; Ex. I. On November 1, 2023, there is a charge for a flight from DFW to Salt Lake City and it is unknown if this was for personal or business use and if for personal, if ARBOR was reimbursed. *See* Ex. T, ¶10. There is also no knowledge as to the purpose of \$5900.55 in hotel expenses, \$1755.66 for Atlas/Eventstable, and numerous other charges without receipts or expense reports that have been provided. If receipts and expense reports exist, they should be provided to officers and directors to fulfill their duties and to members upon request.

¹⁶ Ms. Dent has received the board minutes for 2021 and there is no notation of hiring the Hurlbut Law Firm. *See* Ex. T, ¶7J. Dixon Holman was President of ARBOR during this time and upon information and belief knew of the hiring of the Hurlbut Law Firm and any potential lawsuit and may have breached his fiduciary duties by not placing the hiring on the Board agenda and getting board approval. *Id.* In that regard, a search of the minutes does not show an approval of any contract for the hiring of Curnutt Hafer, nor to tender the defense from ARBOR’s insurance company. *Id.*

	firm or contract with the law firm.) <i>See</i> Ex. T, ¶7L.
M	Donation by TREPAC to C. Harris approved by Board with a representation from T. Oldroyd that C. Harris had filed a campaign treasurer designation when he had not. ¹⁷
N	The Nominations Committee placed three nominations committee members on the Board ballot in violations of ARBOR bylaws. Two of the three were allegedly elected. ¹⁸ <i>See</i> Ex. T, ¶7N.
O	Checks without two signatures as required by ARBOR Bylaws. ¹⁹
P	Refusal by T. Oldroyd to provide access to the books and records requested by President Dent and his contract, which may have been altered against the agreed order of the Court not to change anything outside the normal course of business. ²⁰ On information and belief he has been paid a bonus and/or given a raise in compensation, which would also be against the agreed order.
Q	Campaigning on ARBOR property in direct violation of ARBOR bylaws. ²¹

16. These documents alone show genuine issues of material fact as to whether ARBOR has fully complied with Texas law and this Court’s Order. Moreover, the

¹⁷ *See* Ex. T, ¶7M.

¹⁸ ARBOR Bylaws state, “No Member of the Nominating Committee shall be eligible to be placed in nomination for Officer or Director Place.” *See* Ex. R, § 3. 1. However, Tim Beary and Beth Steinke were on the nominations committee with at least one other person and all three were nominated to be on the ballot for the Board of Directors in violation of the ARBOR bylaws. *See* Ex. T, ¶7M. Tim Beary and Beth Steinke were allegedly elected although it was not valid and should be challenged. *Id.*

¹⁹ *See* Ex. T, ¶7O.

²⁰ *See* Ex. T, ¶7P.

²¹ *See* Ex. T, ¶7Q.

affidavits of Plaintiffs Dent, Johnson, and Hale are counter to Defendants as to the books and records typically provided to officers and directors, the normal course of business, and whether the former CEO did or would have withheld anything from any officer or director. *See* Ex. T, U, and V. And, as Mr. Hale shows the Court, neither Mr. Harris nor Mr. Hurley were officers prior to Mr. Oldroyd being hired. *See* Ex. V, ¶10.

16. Simply producing thousands of pages of records in alleged “good faith” is not *ipso facto* compliance with the law. In addition, the National Associate of Realtors is not a legislative body, cannot create laws, and is not the standard for ARBOR nor any Texas governing person. Defendants’ reliance on such simply shows they are grasping at anything to justify hiding ARBOR books and records. If there’s nothing to hide, why not produce? In the same regard, if business is being run properly, why did ARBOR receive notices from the IRS and the State of Texas to levy property and forfeit business rights?

18. All of ARBOR’s Directors and Officers should be concerned with the issues identified in this Response. In President Dent’s subjective belief, it is in the best interest of ARBOR for these issues to be fully investigated, to identify if any malfeasance has occurred, and rectify any issues. *See* Ex. T, ¶¶ 3, 11, and 14. Moreover, Plaintiff Johnson, as a member, will be sending a request for books and records pursuant to Section 22.351 of the BOC. In accordance with Texas case law,

they too will be entitled to see all documentation necessary for the proper purpose of investigating the many issues found. *See e.g., Gaughan*, 351 S.W.3d at 411, 416-21; *Shiolen*, No. 13-07-00312-CV at A.II., I., II.A2b discussed *supra*.

19. Summary judgment should be denied on all grounds for Defendants and if necessary, the parties should proceed to trial to determine if ARBOR has complied with its statutory duties pursuant to Texas law. In addition, this Court should grant Plaintiffs' summary judgment holding that "books and records" can include all documents of the entity and it is the governing person's subjective belief as to what books and records are necessary to fulfill their service to the non-profit and fulfill their fiduciary duties.

PRAYER

For the foregoing reasons, Plaintiffs pray the Court deny Defendants' Traditional Motion for Summary Judgment on Plaintiffs' Claims for Declaratory Relief, grant Plaintiffs' Motion for Partial Summary Judgment, and for such other relief as the Plaintiffs may be entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned certifies the foregoing document will be served electronically upon all parties or their counsel of record who have appeared in this case through their registration on the ECF Filing system of the court on March 5, 2026.

/s/Brooke Allen
Brooke Allen

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