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October 27, 2004

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV - 1 A 10:32

Federal Election Commission
Attn: Jeff S. Jordan
Kim C. Stevenson
999 E Street NW
Washington, DC 20463

Re: MUR 5563

Gentlemen:

Please find enclosed the Statement of Designation of Counsel in the above matter.

Please find enclosed herewith Mr. Shelmerdine's Affidavit in response to the complaint in the above matter.

If you have any questions, please contact me at your convenience.

Sincerely yours,

John F. Morrow, Sr.

JFM:jcf

Enclosures

cc: E. Kirk Shelmerdine

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FEDERAL ELECTION COMMISSION

999 E Street, NW

Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 NOV - 1 A 10:32

Statement of Designation of Counsel
(Respondent/Witness)

Name of Counsel: John F. Morrow, Sr.

Firm: Morrow Alexander Tash Kurtz & Porter, PLLC

3890 Vest Mill Road, Winston-Salem, NC 27103

Telephone: (336) 760-1400

Fax: (336) 760-4520

The above named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

27 Oct 04
Date

E. Kirk Shelmerdine
Signature

Name (Print): E. Kirk Shelmerdine, Registered Agent

Address: P.O. Box 1133
Welcome, NC 27374

Telephone: Home ()

Business (336) 731-3747

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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NORTH CAROLINA)
)
FORSYTH COUNTY)

AFFIDAVIT

E. KIRK SHELMEARDINE, first being duly sworn, deposes and says:

My name is E. Kirk Shelmerdine. I am 46 years of age and a resident of Davidson County, North Carolina.

I am the sole owner of Kirk Shelmerdine Racing, LLC. This limited liability corporation was formed in the year 2002 and is treated as a sole proprietorship by the IRS as I did not elect to be treated as a corporation.

During the year 2004, I have entered race cars in the NASCAR Nextel Cup Series. The cars are personally driven by me. I am considered to be a "field filler" as my race cars and race team are under funded and have no realistic chance of winning a race. In fact, the race cars are not able to qualify and participate in every race.

The race car was entered in the race at New Hampshire International Speedway conducted September 19, 2004. There were rumors and reports that President George W. Bush would attend and/or be present at some point in time during the race. I put the decals that are the subject of this complaint on the car solely because I thought that doing so would bring attention to the car and publicity for me and the car. It was not my intention, in any manner, to be a supporter of President Bush or to influence the Presidential election.

I am not a registered voter. I have never been actively involved in politics. I have not publicly endorsed or aided any politician. I have never contributed any money or considerations of any kind to any politician, Political Action Committee, etc.

The decals that were placed on the car would cost and have a value of \$50.00 or less.

I repeat that I put the decals on the car to bring attention to myself and my race car. The placing of the decals was in no way in concert or cooperation with Bush-Cheney 2004, Inc., or any persons or organizations that support President George W. Bush.

Prior to receiving the complaint and request for response from the Federal Election Commission, I had no knowledge of any of the laws, rules and regulations that affect contributions to politicians. Based upon the limited amount of knowledge I have acquired, I do not believe that I have violated any of those


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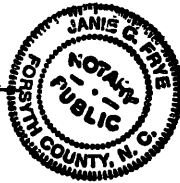
laws, rules or regulations. If I have violated same, it was purely unintentional and due to my lack of knowledge.

Out of an abundance of caution, I have removed the decals in question from my race car and do not intend to use them any more.


E. Kirk Shelmerdine, affiant

Sworn to and subscribed before me,
this the 27th day of October, 2004.


Notary Public



My commission expires:

February 16, 2006.

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