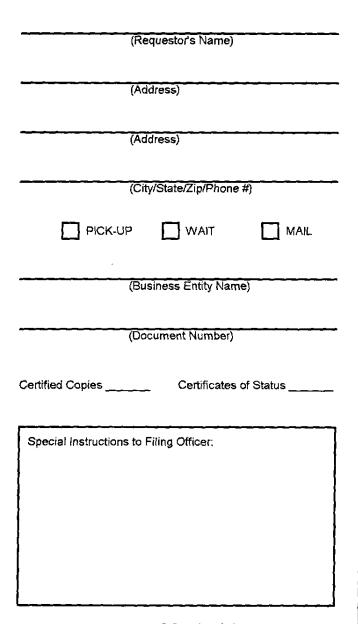
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Assignment T95-187

# ALSTON&BIRD LLP

Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000

> 704-444-1000 Fax: 704-444-1111 www.alston.com

George M. Taulbee

E-Mail: gtaulbee@alston.com

January 13, 2005

Glenda E. Hood
Secretary of State
Florida Department of State
Trademark Division
R. A. Gray Building
500 S. Bronough
Tallahassee, Florida 32399-0250

Re:

Nunc Pro Tunc Assignments

Marks: DALE EARNHARDT and INTIMIDATOR

Our File: 038643-209671

#### Dear Ms. Hood:

We are enclosing copies of three (3) original executed Nunc Pro Tunc Assignments for recording against the following Florida Trademark and Service Mark Registrations:

- 1. DALE EARNHARDT Reg. No. T95000000187, registered January 24, 1995, Class 6.
- 2. DALE EARNHARDT Reg. No. T95000000188, registered January 24, 1995, Class 41.
- 3. DALE EARNHARDT Reg. No. T95000000189, registered January 24, 1995, Class 21.
- 4. DALE EARNHARDT Reg. No. T95000000190, registered January 24, 1995, Class 25.
- 5. DALE EARNHARDT Reg. No. T95000000191, registered January 24, 1995, Class 28.

Glenda E. Hood January 13, 2005 Page 2

- 6. DALE EARNHARDT Reg. No. T95000000192, registered January 24, 1995, Class 16.
- 7. DALE EARNHARDT Reg. No. T95000000193, registered January 24, 1995, Class 8.
- 8. DALE EARNHARDT Reg. No. T95000000194, registered January 24, 1995, Class 14.
- 9. DALE EARNHARDT Reg. No. T96000000093, registered January 23, 1996, Class 42.
- 10. DALE EARNHARDT Reg. No. T95000001142, registered September 18, 1995, Class 9.
- 11. INTIMIDATOR Reg. No. T96000000091, registered January 23, 1996, Class 14.
- 12. INTIMIDATOR Reg. No. T96000000305, registered March 25, 1996, Class 6.
- 13. INTIMIDATOR Reg. No. T96000000306, registered March 25, 1996, Class 25.
- 14. INTIMIDATOR Reg. No. T96000000320, registered March 28, 1996, Class 24.

We request that you take the necessary steps to record each of the following Nunc Pro Tunc Assignments, in <u>sequential order</u>, against the above-identified registrations:

- Nunc Pro Tunc Assignment of Trademarks and Service Marks From
  Teresa H. Earnhardt, Executrix of the Estate of Ralph Dale Earnhardt,
  Acting on Behalf of Ralph Dale Earnhardt to Estate of Ralph Dale
  Earnhardt, effective February 18, 2001, and which was executed on June
  5, 2002 by Teresa H. Earnhardt. Teresa H. Earnhardt is the Executrix of
  the Estate of Ralph Dale Earnhardt, and is acting on behalf of Ralph Dale
  Earnhardt (now deceased). Also enclosed is a copy of the death certificate
  of Ralph Dale Earnhardt.
- 2. Nunc Pro Tunc Assignment of Trademarks and Service Marks From Estate of Ralph Dale Earnhardt to RDE Administrative Trust, a trust established under North Carolina law, effective February 18, 2001, and which was executed on March 27, 2002 by Teresa H. Earnhardt, Executrix.

Glenda E. Hood January 13, 2005 Page 3

3. Nunc Pro Tunc Assignment of Trademarks and Service Marks From RDE Administratiave Trust to Teresa H. Earnhardt, effective February 1, 2003, and which was executed on September 23, 2003 by Teresa H. Earnhardt, Trustee.

Thank you for your cooperation in attending to the recording of the three (3) Nunc Pro Tunc Assignments in the Trademark Division of the Florida Secretary of State's Office. Our check in the amount of \$2100.00 (\$150 per mark per assignment) is enclosed for recording the documents. If you require any additional information or documents in order to complete this process, please do not hesitate to contact us.

Sincerely,

George M. Taulbee

GMT:mjp Enclosures

#### ACKNOWLEDGMENT

I, George M. Taulbee, hereby certify that the copy of the Nunc Pro Tunc Assignment of Trademarks and Service Marks From the Estate of Ralph Dale Earnhardt, to RDE Administrative Trust, effective as of February 18, 2001, and which was executed on March 27, 2002 by Teresa H. Earnhardt, Executrix, is a true and accurate copy of the original document.

> George M. Taulbee Attorney

State of North Carolina ) ) ss: County of Mecklenburg )

I, Marie Jo Poveromo, a Notary Public for said County and State, do hereby certify that George M. Taulbee personally appeared before me this day and being duly sworn, acknowledged due execution of the foregoing instrument.

Subscribed and sworn to before me this // day of /anuary 2005.

(SEAL)

Notary Public

My Commission Expires: November 2, 2005

# NUI PRO TUNC ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS FROM ESTATE OF RALPH DALE EARNHARDT TO RDE ADMINISTRATIVE TRUST

WHEREAS, the Estate of Ralph Dale Earnhardt, having a mailing address of c/o Teresa H. Earnhardt, Executrix, 1675 Coddle Creek Highway, Mooresville, North Carolina 28115 (hereinafter referred to as "ASSIGNOR"), was formerly the exclusive and record owner of the entire right, title, and interest in and to (1) the Trademarks and Service Marks, and the corresponding common law rights therein and applications and registrations therefor, identified in Schedules A, B, C and D attached hereto (collectively "Marks") and all goodwill associated therewith, and (2) to the extent such Marks are the subject of "intent-to-use" applications, the portion of all business of ASSIGNOR to which such Marks that are the subject of such "intent-to-use" applications pertain;

WHEREAS, RDE Administrative Trust, a trust established under North Carolina law, having a mailing address of c/o Teresa H. Earnhardt, Trustee, 1675 Coddle Creek Highway, Mooresville, North Carolina 28115 (hereinafter referred to as "ASSIGNEE"), has acquired and purchased (1) the above-identified Marks, and all associated goodwill, and (2) to the extent such Marks are the subject of "intent-to-use" applications, the portion of all business of ASSIGNOR to which such Marks that are the subject of such "intent-to-use" applications pertain, from ASSIGNOR effective February 18, 2001 and is desirous of confirming that it has done so.

WHEREAS, ASSIGNOR and ASSIGNEE desire to confirm and perfect the sale and assignment of (1) said Marks and all associated goodwill, and (2) to the extent such Marks are the subject of "intent-to-use" applications, the portion of all business of ASSIGNOR to which

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such Marks that are the subject of h "intent-to-use" applications pertain )ffective February 18, 2001;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR hereby acknowledges and confirms that effective February 18, 2001, ASSIGNOR sold, transferred, and assigned to said ASSIGNEE the entire right, title, and interest in and to the above-identified Marks, and to the extent such Marks are the subject of "intent-to-use" applications, the portion of all business of ASSIGNOR to which such Marks that are the subject of such "intent-to-use" applications pertain, together with the goodwill of the business appurtenant to and symbolized by said Marks, and all rights of action against third parties for past infringement, current infringement and future infringement thereof, the same to be held and enjoyed by said ASSIGNEE as fully and entirely as the same would have been held by ASSIGNOR had the sale, transfer, and assignment not been made.

ASSIGNOR hereby warrants and covenants that it had the full power and authority to convey the rights, title, and interests sold, transferred, and assigned to ASSIGNEE, that it has not executed and will not execute any agreement in conflict herewith, and that it will execute any and all other instruments which may be necessary to perfect and evidence ASSIGNEE's ownership of the property and rights herein conveyed.

	IN WITNESS WHEREOF, SSIGNOR, intending to be legally bad, has caused this
Nun	ac Pro Tunc Assignment to be executed by its duly authorized person, as of the <u>21</u> day of <u>21</u> , 2002.
	ASSIGNOR
	By: Teresa H. Earnhardt Title: Executrix
	UNTY OF Judille
the	Subscribed and sworn to before me, a Notary Public of the State of North Carolina, this 27 day of 1 meh, 2002.  July Y. Speen
SEA	NO FARM CHAIB SHAL."  Notary Public, North Carolina  County of Gaston  Judy V Queen  Judy V Queen

My Commission Expires:

## Schedule A

#### U.S. Registrations

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	1,644,237	05/14/1991
DALE EARNHARDT (Signature)	2,035,107	02/04/1997
SUNDAY MONEY	2,137,990	02/17/1998
THE INTIMIDATOR	2,092,602	09/02/1997

# Schedule B

### U.S. Applications

Mark	Ser. No.	Filing Date
DALE EARNHARDT JR.	76/077,198	06/23/2000
DALE EARNHARDT JR. (Stylized)	76/077,199	06/23/2000
INTIMIDATORS	76/145,864	10/12/2000
KANNAPOLIS INTIMIDATORS	76/145,863	10/12/2000

# Schedule C

#### Foreign Registrations

#### CANADA

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	TMA515,212	08/25/1999
INTIMIDATOR	TMA490,052	02/16/1998
	CHINA	
<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	1,025,318	06/06/1997
DALE EARNHARDT	1,032,844	06/20/1997
DALE EARNHARDT	1,038,954	06/27/1997
DALE EARNHARDT	1,057,924	07/20/1997
DALE EARNHARDT	1,057,755	07/20/1997
DALE EARNHARDT	1,034,500	06/20/1997
DALE EARNHARDT	1,040,004	06/27/1997
DALE EARNHARDT	1,055,850	07/13/1997
INTIMIDATOR	1,025,320	06/06/1997
INTIMIDATOR	1,032,846	06/20/1997
INTIMIDATOR	1,038,899	06/27/1997
INTIMIDATOR	1,046,187	07/06/1997
INTIMIDATOR	1,057,756	07/20/1997
INTIMIDATOR	1,034,499	06/20/1997
INTIMIDATOR	1,040,005	06/27/1997

	51.0	** *
INTIMIDATOR	1,055,849	07/1 )997

	GREAT BRITAIN	
Mark	Reg. No.	Reg. Date
DALE EARNHARDT	2,124,825	02/25/1997
DALE EARNHARDT (Signature)	2,124,830	02/25/1997
	JAPAN	
Mark	Reg. No.	Reg. Date
DALE EARNHARDT	4,094,113	12/19/1997
DALE EARNHARDT	4,159,216	06/26/1998
DALE EARNHARDT	4,128,049	03/27/1998
DALE EARNHARDT	4,218,936	12/11/1998
DALE EARNHARDT	4,018,206	06/27/1997
DALE EARNHARDT	4,018,207	06/27/1997
DALE EARNHARDT	4,057,855	09/19/1997
DALE EARNHARDT	4,130,877	04/03/1998
INTIMIDATOR	4,094,114	12/19/1997
INTIMIDATOR	4,115,615	02/20/1998
INTIMIDATOR	4,128,050	03/27/1998
INTIMIDATOR	4,218,937	12/11/1998
INTIMIDATOR	4,018,208	06/27/1997
INTIMIDATOR	4,018,209	06/27/1997

10/29/1999

4,330,204

INTIMIDATOR

IN.	IM	ЮA	TOR

( ) 4,130,878

04/( )1998

#### **MEXICO**

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	519,966	03/29/1996
DALE EARNHARDT	520,881	04/23/1996
DALE EARNHARDT	520,882	04/23/1996
DALE EARNHARDT	553,373	07/25/1997
DALE EARNHARDT	520,883	04/23/1996
DALE EARNHARDT	520,884	04/23/1996
DALE EARNHARDT	520,885	04/23/1996
DALE EARNHARDT	520,886	04/23/1996
INTIMIDATOR	520,887	04/23/1996
INTIMIDATOR	522,282	05/17/1996
INTIMIDATOR	520,888	04/23/1996
INTIMIDATOR	520,893	04/23/1996
INTIMIDATOR	520,889	04/23/1996
INTIMIDATOR	520,890	04/23/1996
INTIMIDATOR	520,891	04/23/1996
INTIMIDATOR	545,232	03/31/1997

# Schedule D

#### State Registrations

#### **ALABAMA**

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	107,058	06/19/1997
DALE EARNHARDT	107,062	06/20/1997
DALE EARNHARDT	107,067	06/20/1997
DALE EARNHARDT	107,057	06/23/1997
DALE EARNHARDT	107,066	06/20/1997
DALE EARNHARDT	107,063	06/20/1997
DALE EARNHARDT	107,060	06/20/1997
DALE EARNHARDT	107,064	06/20/1997
INTIMIDATOR	107,065	06/20/1997
INTIMIDATOR	107,059	06/19/1997
INTIMIDATOR	107,061	06/20/1997

#### **CALIFORNIA**

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	102,676	07/01/1997
DALE EARNHARDT	102,677	07/01/1997
DALE EARNHARDT	102,674	07/01/1997
DALE EARNHARDT	102,686	07/01/1997
DALE EARNHARDT	102,675	07/01/1997
DALE EARNHARDT	102,680	07/01/1997

DALE EARNHARDT	) 102,684	07/ /1997	
DALE EARNHARDT	102,681	07/01/1997	
INTIMIDATOR	102,678	07/01/1997	
INTIMIDATOR	102,679	07/01/1997	
INTIMIDATOR	102,673	07/01/1997	
	FLORIDA		
<u>Mark</u>	Reg. No.	Reg. Date	
DALE EARNHARDT	T96/000,000,093	01/23/1996	
DALE EARNHARDT	T95/000,000,190	01/24/1995	
DALE EARNHARDT	T95/000,000,191	01/24/1995	
DALE EARNHARDT	T95/000,000,188	01/24/1995	
DALE EARNHARDT	T95/000,000,194	01/24/1995	
DALE EARNHARDT	T95/000,000,193	01/24/1995	
DALE EARNHARDT	T95/000,001,142	09/18/1995	
DALE EARNHARDT	T95/000,000,189	01/24/1995	
DALE EARNHARDT	T95/000,000,187	01/24/1995	
DALE EARNHARDT	T95/000,000,192	01/24/1995	
INTIMIDATOR	T96/000,000,305	03/25/1996	<b>50</b>
INTIMIDATOR	T96/000,000,091	01/23/1996	JAN 21
INTIMIDATOR	T96/000,000,306	03/25/1996	PH PH
INTIMIDATOR	T96/000,000,320	03/28/1996	)

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<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	T-16,437	06/19/1997
DALE EARNHARDT	T-16,436	06/19/1997
DALE EARNHARDT	T-16,434	06/18/1997
DALE EARNHARDT	T-16,440	06/23/1997
DALE EARNHARDT	T-16,433	06/18/1997
DALE EARNHARDT	T-16,439	06/19/1997
DALE EARNHARDT	T-16,438	06/19/1997
DALE EARNHARDT	T-16,442	06/18/1997
INTIMIDATOR	T-16,441	06/24/1997
INTIMIDATOR	T-16,432	06/18/1997
INTIMIDATOR	T-16,435	06/18/1997

#### INDIANA

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	1997/0,314	06/24/1997
DALE EARNHARDT	1997/0,354	07/16/1997
DALE EARNHARDT	1997/0,352	07/17/1997
DALE EARNHARDT	1997/0,356	07/17/1997
DALE EARNHARDT	1997/0,311	06/24/1997
DALE EARNHARDT	1997/0,312	06/24/1997
DALE EARNHARDT	1997/0,315	06/24/1997
DALE EARNHARDT	1997/0,318	06/24/1997

INTIMIDATOR	1997/0,353	07)//1997
INTIMIDATOR	1997/0,313	06/24/1997
INTIMIDATOR	1997/0,350	07/16/1997

#### **MICHIGAN**

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	M01,718	09/05/1997
DALE EARNHARDT	M01,721	09/05/1997
DALE EARNHARDT	M01,719	09/05/1997
DALE EARNHARDT	M01,715	09/05/1997
DALE EARNHARDT	M01,717	09/05/1997
DALE EARNHARDT	M01,712	09/05/1997
DALE EARNHARDT	M01,714	09/05/1997
DALE EARNHARDT	M01,720	09/05/1997
INTIMIDATOR	M01,716	09/05/1997
INTIMIDATOR	M01,713	09/05/1997
INTIMIDATOR	M01,711	09/05/1997

#### NORTH CAROLINA

<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	T-11872	01/22/1996
DALE EARNHARDT	T-11871	01/22/1996
DALE EARNHARDT	T-8170	05/23/1989
DALE EARNHARDT	T-11673	08/24/1995

DALE EARNHARDT	T-11668	08/2 1995
DALE EARNHARDT	T-11676	08/24/1995
DALE EARNHARDT	T-11672	08/24/1995
DALE EARNHARDT	T-11669	08/24/1995
DALE EARNHARDT	T-11848	01/02/1996
DALE EARNHARDT	T-11670	08/24/1995
DALE EARNHARDT	T-11671	08/24/1995
DALE EARNHARDT	T-11667	08/24/1995
INTIMIDATOR	T-12050	05/02/1996
INTIMIDATOR	T-11879	01/26/1996
INTIMIDATOR	T-11873	01/22/1996

#### SOUTH CAROLINA

Mark	Reg. No.	Reg. Date
DALE EARNHARDT	N/A (Int. Cl. 24)	01/31/1996
DALE EARNHARDT	N/A (Int. Cl. 16)	01/19/1995
DALE EARNHARDT	N/A (Int. Cl. 25)	01/19/1995
DALE EARNHARDT	N/A (Int. Cl. 28)	01/19/1995
DALE EARNHARDT	N/A (Int. Cl. 41)	01/19/1995
DALE EARNHARDT	N/A (Int. Cl. 14)	01/19/1995
DALE EARNHARDT	N/A (Int. Cl. 8)	01/19/1995
DALE EARNHARDT	N/A (Int. Cl. 9)	06/30/1995
DALE EARNHARDT	N/A (Int. Cl. 21)	01/19/1995

DALE EARNHARDT	N/A (Int. Cl. 6)	01/1 1995
INTIMIDATOR	N/A (Int. Cl. 14)	01/31/1996
INTIMIDATOR	N/A (Int. Cl. 16)	01/31/1996
INTIMIDATOR	N/A (Int. Cl. 25)	01/31/1996
INTIMIDATOR	N/A (Int. Cl. 24)	01/31/1996
INTIMIDATOR	N/A (Int. Cl. 7)	01/31/1996
INTIMIDATOR	N/A (Int. Cl. 6)	01/31/1996
	and where the test is	
	TENNESSEE	
<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT	N/A (TN Cl. 14)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 22)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 26)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 28)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 33)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 38)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 39)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 42)	01/16/1996
DALE EARNHARDT	N/A (TN Cl. 107)	01/16/1996
INTIMIDATOR	N/A (TN C1. 42)	01/16/1996
INTIMIDATOR	N/A (TN Cl. 14)	01/16/1996
INTIMIDATOR	N/A (TN Cl. 28)	01/16/1996
INTIMIDATOR	N/A (TN Cl. 38)	01/16/1996
INTIMIDATOR	N/A (TN Cl. 39)	01/16/1996

INTIMIDATOR	) N/A (TN Cl. 107)	01/. 1996
	TEXAS	
Mark	Reg. No.	Reg. Date
DALE EARNHARDT	56,817	06/23/1997
DALE EARNHARDT	56,826	06/19/1997
DALE EARNHARDT	56,829	06/19/1997
DALE EARNHARDT	56,832	06/19/1997
DALE EARNHARDT	56,815	06/23/1997
DALE EARNHARDT	56,816	06/23/1997
DALE EARNHARDT	56,830	06/19/1997
DALE EARNHARDT & Design	56,872	06/26/1997
INTIMIDATOR	56,827	06/19/1997
INTIMIDATOR	56,831	06/19/1997
INTIMIDATOR	56,828	06/19/1997
	VIRGINIA	
<u>Mark</u>	Reg. No.	Reg. Date
DALE EARNHARDT (Block)	1,455	09/19/1995
DALE EARNHARDT (Block)	1,419	09/07/1995
DALE EARNHARDT (Block)	1,418	09/07/1995
DALE EARNHARDT (Block)	1,878	12/27/1995
DALE EARNHARDT (Block)	1,456	09/19/1995
DALE EARNHARDT (Block)	1,457	09/19/1995

DALE EARNHARDT (Signature	<i>j</i> <b>1,417</b>	09/ 1995
DALE EARNHARDT (Signature)	1,420	09/07/1995
DALE EARNHARDT (Signature)	1,416	09/07/1995
DALE EARNHARDT (Signature)	1,454	09/19/1995
DALE EARNHARDT (Signature)	1,410	09/08/1995
DALE EARNHARDT (Signature)	1,406	09/08/1995
DALE EARNHARDT (Signature)	1,405	09/07/1995
DALE EARNHARDT (Signature)	1,404	09/08/1995
DALE EARNHARDT (Signature)	1,397	09/07/1995
DALE EARNHARDT (Signature)	1,402	09/08/1995
INTIMIDATOR	1,452	09/19/1995
INTIMIDATOR (Block)	1,347	09/08/1995
INTIMIDATOR (Block)	1,338	09/08/1995
INTIMIDATOR (Block)	1,337	09/08/1995
INTIMIDATOR (Block)	1,336	09/08/1995
INTIMIDATOR (Block)	1,877	12/27/1995
3 (Stylized)	1,320	09/07/1995
3 (Stylized)	1,317	09/07/1995
3 (Stylized)	1,316	09/07/1995
3 (Stylized)	1,453	09/19/1995
3 (Stylized)	1,273	09/07/1995
3 (Stylized)	1,315	09/07/1995
3 (Stylized)	1,276	09/07/1995

3 (Stylized)	1,272	09/ 1/1995
3 (Stylized)	1,269	09/07/1995
3 (Stylized)	1,270	09/07/1995