



November 2, 2023

Ms. Evangeline Hawthorne, Director
Mr. Robert E. Weisberg, Regional Attorney
U.S. Equal Employment Opportunity Commission, Miami District Office
100 SE 2nd St. Ste. 1500
Miami, FL 33131

Request for Investigation of NASCAR and Rev Racing, LLC

Dear Ms. Hawthorne and Mr. Weisberg:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans. We write under 29 C.F.R. § 1601.6(a) to request that the Equal Employment Opportunity Commission (“EEOC”) open an investigation into NASCAR Enterprises, LLC, and Rev. Racing, LLC for violating Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2(d), 2000e-3(b).¹

I. Background

NASCAR, headquartered at 1 Daytona Blvd., Daytona Beach, Florida, 32114, is a company under your jurisdiction.² NASCAR is a privately owned enterprise consisting of several interconnected sports entertainment businesses.

Rev Racing, headquartered at 5254 Pit Road South, Concord, North Carolina, 28027, is also a company under your jurisdiction.³ Rev Racing is a “NASCAR-supported racing team charged with developing female and minority drivers.”⁴ Claiming to be the “competition arm” of NASCAR’s “Drive for Diversity” program, Rev Racing is a privately owned family business that generates revenue by convincing large corporations to make payments for, *inter alia*, “Diversity and equal opportunity initiatives,” “Cause-related marketing,” “Experiential marketing,” “Philanthropic alignment,” “Entertainment and hospitality,” and “Corporate rallying point/employee

¹ Copies of this letter are also addressed to each Member of the Commission and AFL makes the same request of them pursuant to 29 C.F.R. § 1601.6(a).

² *Detail by Entity Name, NASCAR Enterprises*, FLORIDA DEPARTMENT OF STATE, <https://bit.ly/3PO-pArO>.

³ *Limited Liability Company, Rev Racing LLC*, NORTH CAROLINA SECRETARY OF STATE, <https://bit.ly/452IOhK>.

⁴ *Driver Eligibility*, REV RACING, <https://bit.ly/46jvFSv> (accessed via the Internet archive).

relations.”⁵ The company’s Board of Directors is Max Siegel (Chairman), Jennifer Satterfield-Siegel (Vice-Chair), Max Siegel II (Director of Diversity, Equity, and Inclusion), Madeline Siegel (Marketing, Lifestyle Brand Management), and Matthew Siegel (Chair of Community Outreach and Philanthropy”).⁶

An unlawful employment practice is established when race, color, religion, sex, or national origin is a motivating factor for any employment practice. *See* 42 U.S.C. § 2000e-2(m). It is unlawful, *inter alia*, for any employer to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training. 42 U.S.C. § 2000e-2(d). It is also unlawful for an employer controlling an apprenticeship or other training program to publish or cause to be published any notice or advertisement relating to such program indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-3(b).

II. Title VII Violations

The “NASCAR Drive for Diversity Program” provides “training and opportunities for women and minorities in the driver’s seat and on pit crews within the NASCAR industry.”⁷ To implement the “Drive for Diversity Program,” NASCAR and Rev Racing jointly operate a “Diversity Driver Development Program” and a “Diversity Pit Crew Development Program.”⁸ NASCAR separately operates a paid “Diversity Internship Program.” As explained below, each of these programs violates Title VII.

A. The “Diversity Driver Development Program”

NASCAR and Rev Racing jointly operate a “Diversity Driver Development Program.” The “Diversity Driver Development Program” is an “apprenticeship” or “training program” subject to 42 U.S.C. § 2000e-2(d).

Prior to September 1, 2023, NASCAR described the program as one in which “Top minority and female drivers are provided with coaching, mentoring, and development...while competing with Rev Racing...”⁹ Further, the “Driver Eligibility” page explicitly limited admission to “female[s] or member[s] of one or more of the following ethnic minority classifications: American Indian, Alaskan Native or of

⁵ Rev Racing, *PARTNERING WITH REV RACING*, <https://bit.ly/3tIxSci> (last accessed Oct. 24, 2023).

⁶ Rev Racing, *Board of Directors*, <https://bit.ly/3Q7Qn1d> (last accessed Oct. 24, 2023).

⁷ Press Release, NASCAR Digital Media, 2020 Drive for Diversity Team Revealed (Nov. 20, 2019) (available at <https://bit.ly/3FAad0l>).

⁸ Press Release, NASCAR, NASCAR and Rev Racing Reveal 2023 Drive for Diversity Driver Development Class (Jan. 13, 2023) (available at <https://nas.cr/46kttKK>).

⁹ *NASCAR Drive for Diversity Pit Crew Development Program*, REV RACING, <https://bit.ly/3LywQ8S> (accessed via the Internet archive).

native/indigenous descent; Asian or Pacific Islander; Black or African-American; Latino or Hispanic.”¹⁰

However, on or about September 1, 2023, the website was changed. The prefatory statement that “Each year the NASCAR Drive for Diversity Driver Development Program along with its competition arm, Rev Racing, seeks to obtain the highest quality of applicants representing diverse backgrounds and develop them into successful NASCAR drivers” was retained. But the anodyne sounding phrase “diverse backgrounds and experiences” was substituted for the explicit race, color, national origin, and sex requirements. NASCAR and Rev Racing fail to define or explain what “diverse backgrounds and experiences” means.

B. The “Diversity Pit Crew Development Program”

NASCAR and Rev Racing also jointly operate a “Diversity Pit Crew Development Program.” The “Diversity Pit Crew Development Program” is an “apprenticeship” or “training program” subject to 42 U.S.C. § 2000e-2(d).

Prior to September 1, 2023, NASCAR described the program as “a comprehensive training program for aspiring minority and female pit crew members.”¹¹ Now, NASCAR’s “Pit Crew Development Program” page claims that it is for “aspiring pit crew members from diverse backgrounds and experiences [sic].”¹²

Prior to September 1, 2023, the Rev Racing website stated that eligibility for the “Diversity Pit Crew Development Program” included:

- [Being a] female or a member of one or more of the following ethnic minority classifications:
 - Black or African American – A person having origins in any of the black racial groups of Africa.
 - Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
 - Hispanic or Latino – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
 - Native Hawaiian or Other Pacific Islander – A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands

¹⁰ Publication of such requirements violates 42 U.S.C. § 2000e-3(b). *Driver Eligibility*, REV RACING, <https://bit.ly/46jvFSv> (accessed via the Internet archive).

¹¹ *NASCAR Drive for Diversity Pit Crew Development Program*, REV RACING, <https://bit.ly/3LywQ8S> (accessed via the Internet archive).

¹² *NASCAR Drive for Diversity Pit Crew Development Program*, REV RACING, [HTTPS://BIT.LY/46MKRBD](https://bit.ly/46MKRBD).

- American Indian or Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain documented tribal affiliation or community attachment.
- Two or More Races – All persons who identify [sic] with more than one of the above five races.¹³

Now, Rev Racing has removed these explicitly discriminatory requirements from its website, describing the “Diversity Pit Crew Development Program” as a “comprehensive training program for aspiring pit crew members from diverse backgrounds and experiences.”¹⁴ NASCAR and Rev Racing do not define or explain what the phrase “diverse backgrounds and experiences” means.

C. The “NASCAR Diversity Internship Program”

Prior to September 1, 2023, NASCAR promoted a paid “Diversity Internship Program” requiring that interns be “a member of one or more of the following races/ethnic minority classifications: Black or African American, American Indian or Alaska Native, Asian, Latino or Hispanic, Native Hawaiian or Other Pacific Islander.”¹⁵ Now, NASCAR promotes a paid internship for “undergraduate and graduate students from diverse backgrounds and experiences” without explaining what the term “diverse backgrounds and experiences” means.¹⁶

III. The Commission Should Investigate NASCAR and Rev Racing

An investigation is especially proper here because the evidence strongly suggests that NASCAR and Rev Racing have chosen to continue their unlawful employment practices under the cloak of a “diverse backgrounds and experiences” rebranding. NASCAR continues to aver that the point of the “Diversity Driver Development Program,” the “Diversity Pit Crew Program,” and the “Diversity Internship Program” is to “provide training and opportunities for women and minorities in the driver’s seat and on pit crews within the NASCAR industry.”¹⁷ NASCAR’s and Rev Racing’s commitment to race and sex-based hiring has not wavered—the website changes described above seem to have been designed only to conceal their ongoing, deliberate, and illegal discrimination against white, male Americans.

¹³ Publication of such requirements violates 42 U.S.C. § 2000e-3(b). *Driver Eligibility*, REV RACING, <https://bit.ly/46jvFSv> (accessed via the Internet archive).

¹⁴ *NASCAR Drive for Diversity Pit Crew Development Program*, REV RACING, <https://bit.ly/46MKRbD>.

¹⁵ Publication of such requirements violates 42 U.S.C. § 2000e-3(b). Asher Notheis, *NASCAR Criticized Over Apparent Discrimination in Diversity Internship*, THE WASHINGTON EXAMINER (Aug. 29, 2023), <https://bit.ly/40fJj7j>.

¹⁶ NASCAR Diversity Internship Program, NASCAR, <https://nas.cr/3Si5at0>.

¹⁷ Press Release, NASCAR Digital Media, 2020 Drive for Diversity Team Revealed (Nov. 20, 2019) (available at <https://bit.ly/3FAad0l>).

Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority” in its victims “that may affect their hearts and minds in a way unlikely to ever be done.”¹⁸ More broadly, the discrimination here necessarily foments contention and resentment; it is “odious and destructive.”¹⁹ It truly “is a sordid business, this divvying us up” by race, national origin, or sex.”²⁰ It always has been, and it always will be.

NASCAR and Rev Racing have violated and will likely continue to violate 42 U.S.C. § 2000e-2(d). Furthermore, the publication and promotion of these programs on the NASCAR and Rev Racing websites violates 42 U.S.C. § 2000e-3(b). Therefore, America First Legal respectfully requests that the Commission commence a comprehensive investigation of their unlawful employment practices.

Sincerely,

/s/ Nicholas R. Barry

Nicholas R. Barry

America First Legal Foundation

Cc: The Honorable Charlotte A. Burrows, Commission Chair
The Honorable Jocelyn Samuels, Commission Vice Chair
The Honorable Keith E. Sonderling, Commissioner
The Honorable Andrea R. Lucas, Commissioner
The Honorable Kalpana Kotagal, Commissioner

¹⁸ *Brown v. Bd. of Education*, 347 U.S. 483, 494 (1954).

¹⁹ *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

²⁰ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

APPENDIX

Old Eligibility Policy DRIVER ELIGIBILITY

Each year the NASCAR Drive for Diversity Driver Development Program along with its competition arm, Rev Racing, seeks to obtain the highest quality of applicants representing diverse backgrounds and develop them into successful NASCAR drivers. Drivers will have the opportunity to submit a digital application via our site, highlighting racing experience, references and historical success.

APPLICANTS MUST MEET THE FOLLOWING REQUIREMENTS:

- Be a female or member of one or more of the following ethnic minority classifications: American Indian, Alaskan Native or of native/indigenous descent; Asian or Pacific Islander; Black or African-American; Latino or Hispanic
- Be at least 15 years of age but no older than 22 years of age as of October 1st of the present year
- Be legally eligible to work in the United States. Drivers from foreign countries are welcome to apply, however, if the applicant is not already a U.S. Citizen or permanent resident alien, the applicant must be legally capable of traveling to designated program-related locations in the United States. Applicants must also be able to obtain necessary authorization to accept employment in the United States if selected to participate in the Drive for Diversity Driver Development Program.

New Driver Eligibility Policy

DRIVER ELIGIBILITY

Each year the NASCAR Drive for Diversity Driver Development Program along with its competition arm, Rev Racing, seeks to obtain the highest quality of applicants representing diverse backgrounds and develop them into successful NASCAR drivers. Drivers will have the opportunity to submit a digital application via our site, highlighting racing experience, references and historical success.

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NASCAR Drive for Diversity aligns its drivers with a team of executives, athletic trainers, crew chiefs and mentors helping them achieve professional success, and thus improving their likelihood of reaching one of the three NASCAR national series. Selected drivers will compete in the ARCA Menards Series, ARCA Menards Series East, NASCAR Advance Auto Parts Weekly Series or Summer Shootout Series at Charlotte Motor Speedway. For additional information please email info@RevRacing.net (mailto:info@RevRacing.net).

Old Pit Crew Eligibility Policy

ELIGIBILITY REQUIREMENTS

ELIGIBILITY

Applicants must meet the following requirements:

- Between the ages of 18 and 26 (as of October 1, of each year)
- A U.S. citizen, permanent resident alien or if you are legally allowed to work in the US; and
- A female or a member of one or more of the following ethnic minority classifications:
 - Black or African American – A person having origins in any of the black racial groups of Africa.
 - Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
 - Hispanic or Latino – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
 - Native Hawaiian or Other Pacific Islander – A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands
 - American Indian or Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain documented tribal affiliation or community attachment.
- Two or More Races – All persons who identify with more than one of the above five races.

New Pit Crew Eligibility Policy



ELIGIBILITY REQUIREMENTS

ELIGIBILITY

- Between the ages of 18 and 26 (as of October 1, of each year)
- A U.S. citizen, permanent resident alien or if you are legally allowed to work in the US; and
- High School Diploma or GED
- No criminal record and agree to a background check
- Possesses a valid driver's license and personal transportation
- Participated in a high school or college sport and preferable a starter
- Live or move within a 50-mile radius of Pit Crew Development Training Facility in Concord, NC
- Ability and willingness to travel 11 months of the year from February through December
- Be in good physical condition and willing to work out and train a minimum of three days per week
- Provide a completed physical exam by a physician within 90 days of starting the program and annual physical throughout the program
- Be available for media training, interviews and appearances throughout the duration of the program
- Four-year commitment to the developmental program

For more information on open enrollment opportunities please contact Coach Phil Horton, from Rev Racing, at pghatc4@aol.com.

NASCAR DRIVE FOR DIVERSITY PIT CREW DEVELOPMENT PROGRAM

INTRODUCTION

The NASCAR Drive For Diversity Pit Crew Development Program is a comprehensive training program for aspiring minority and female pit crew members. The program focuses on instilling the fundamentals, discipline and confidence required to be a top athlete on a NASCAR pit crew. The program includes weekly hands-on, over-the-wall position training and coaching for tire changers, tire carriers, fuelers and jackmen, as well as weight training, agility and footwork programs.

OBJECTIVE: Conduct a pit crew development program designed to identify, coach, train and develop minority athletes who possess the skill, ability and attitude to be successful as a pit crew member into elite levels of the sport.

OUR PROGRAMS



NASCAR DRIVE FOR DIVERSITY PROGRAM

The NASCAR Drive for Diversity Program is a developmental program designed to provide training and opportunities for women and minorities in the driver's seat and on pit crews within the NASCAR industry.

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