

Exhibit 1 to Administrative Complaint

Commission on Presidential Debates, Face Book



Ralph Nader
Pres. Candidate



Winona LaDuke
VP Candidate

Reformers



Pat Buchanan
Pres. Candidate



Ecola Foster
VP Candidate

Constitution



Howard Phillips
Presidential

Dr. J. Curtis Frazier
VP
(Not shown)

National Law



John Hagelin
Pres. Candidate



Nat Goldhaber
VP Candidate



Return to
Congress

Miscellaneous



Russ Verney
Former Reform

000000

Exhibit 2 to Administrative Complaint

Deposition of Lewis K. Loss (excerpts)
(Oct. 25, 2001)

Lewis Loss

Washington, DC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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3 ----- X
4 RALPH NADER, :
5 Plaintiff, :
6 v. : Case No.
7 COMMISSION ON PRESIDENTIAL : 00-12145-WGY
8 DEBATES, PAUL G. KIRK, JR., :
9 FRANK J. FAHRENKOPF, JR., :
10 JOHN VEZERIS, and :
11 SERGEANT CHARLES MCPHAIL, :
12 in his individual capacity, :
13 Defendants. :

14 ----- X

Washington, D.C.

Thursday, October 25, 2001

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17 Deposition of LEWIS K. LOSS, a witness
18 herein, called for examination by counsel for
19 Plaintiff in the above-entitled matter, pursuant to
20 notice, the witness being duly sworn by PENNY M.
21 DEAN, a Notary Public in and for the District of
22 Columbia, taken at the offices of Crowell & Moring,
23 1001 Pennsylvania Avenue, N.W., Washington, D.C., at
24 1:25 p.m., Thursday, October 25, 2001, and the
25 proceedings being taken down by Stenotype by PENNY M.

1 stigation in light of the issues raised in the
 2 nt, but I don't remember the details of the
 3 conversation.
 4 MR. MARKS: I wouldn't let you talk about
 5 it anyway.
 6 BY MR. FRIEDMAN:
 7 Q. Do you represent Mr. Keedy?
 8 A. No.
 9 Q. Now, we started to go through the
 10 information with regard to disruption. You had been
 11 discussing a meeting that you believe was on the
 12 subject of security in which various protocols had
 13 been mentioned. And you said I believe there was a
 14 need to make some sort of a determination, you
 15 learned there was a protocol of what would be done if
 16 there was a disruption in the Clark auditorium while
 17 the debate was going on and I stopped you to go back
 18 and get information about what fact you might have to
 19 think there could be a disruption.
 20 If we could pick up again at that meeting.
 21 A. The people in the room impressed upon me
 22 that they needed to know what the Commission on
 23 Presidential Debates's position was going to be with
 24 respect to the topic of whether a third-party
 25 candidate would be permitted into the auditorium. I

1 you then convey a position, you or anyone else for
 2 the Commission on Presidential Debates with regard to
 3 that issue?
 4 A. Yes. I communicated the CPD's decision to
 5 John Vezeris and my recollection is that Mr. Vezeris
 6 undertook to communicate it to the pertinent law
 7 enforcement authorities who had expressed a need to
 8 know.
 9 Q. What did you tell John Vezeris?
 10 A. That the CPD had decided that Mr. Nader
 11 and third-party candidates more generally, even if
 12 they had a ticket to the debate, would not be
 13 admitted into the debate hall.
 14 Q. Did you convey anything else to him at
 15 that time?
 16 A. We discussed who would -- I want to be
 17 clear, we made a decision that was of general
 18 application to third-party candidates, but it really
 19 is the case that our focus was very much on the very
 20 concrete threat that we perceived Mr. Nader posed and
 21 what we understood the very high likelihood that he
 22 was actually going to show up with a ticket -- that
 23 this was very real with respect to Mr. Nader. We
 24 weren't aware of any other concrete threat.
 25 So we discussed specifically who would

1 words that should be said?
 2 A. We did.
 3 Q. And what words were they?
 4 A. Again I don't remember them on this date
 5 with precision, but it was in the spirit of you're
 6 not an invited guest or something to that effect. I
 7 don't remember all of the wording of the sentence,
 8 but that was the thrust of it. I just don't remember
 9 the exact words that were agreed upon.
 10 Q. Did you discuss with him what would happen
 11 next if he had met with Mr. Nader and told him even
 12 if you have a ticket, you're not an invited guest in
 13 possession of that ticket, what the next step would
 14 be?
 15 A. Yes, I remember very clearly that we
 16 understood that our decision making and the decision
 17 we had been asked to make ended with whether we were
 18 going -- whether it was our position that we would
 19 permit him into the debate hall, but that once that
 20 had been communicated, our part was done, and we
 21 understood at that point that he would step aside and
 22 that he would --
 23 MR. MARKS: When you say he, you're
 24 talking Mr. Vezeris.
 25 THE WITNESS: Mr. Vezeris would step aside

1 think they probably appreciated from my questioning
 2 that I had some serious reservations about a scenario
 3 of admitting such a candidate and trying to control
 4 the disruption in the context of this particular
 5 event with a live television broadcast. But I was
 6 not in a position to make the decision. I told them
 7 I would have to consult with my clients and they
 8 understood they needed to know and that we would let
 9 them know what the CPD's position was.
 10 Q. What time was that meeting?
 11 A. I believe it was -- you know, it was
 12 roughly after I arrived, which I believe was around
 13 11-ish, so it was early afternoon.
 14 Q. Did you remain in the meeting -- until it
 15 was over or did you --
 16 A. I'm not certain whether at the point I
 17 left the meeting broke up, or whether they continued.
 18 I know I left to go discuss -- to try to discuss this
 19 issue with my clients. I'm not quite sure whether
 20 the rest of the group left or not.
 21 Q. When you say discuss, did you in fact
 22 discuss the issue with some of your clients?
 23 A. Yes.
 24 Q. What clients were they, what individuals?
 25 A. Well, I met with Janet Brown, Paul Kirk

1 communicate to Mr. Nader when he arrived what the
 2 CPD's position was, and we discussed the words that
 3 would be used.
 4 Q. Was there a conversation with Mr. Vezeris
 5 alone?
 6 A. Yes.
 7 Q. Where did the conversation take place?
 8 A. In the hallway outside -- again, in this
 9 area that the CPD was using as temporary offices.
 10 Q. To the best of your recollection, can you
 11 tell me what went down during that conversation, what
 12 you said, what Mr. Vezeris said?
 13 A. He was initially uncomfortable with
 14 playing the role of interacting with Mr. Nader. We
 15 discussed who would do it and it was my view that he
 16 was the appropriate person to it and ultimately he
 17 agreed to do it.
 18 Q. Well, did he tell you that that was not
 19 within the functions he contracted to perform?
 20 A. He did say that.
 21 MR. BURKE: Can I ask Howard to speak up,
 22 please?
 23 MR. FRIEDMAN: I'm sorry, can you hear
 24 that one?
 25 MR. BURKE: I caught the gist of it.

1 at that point and would not be involved in what
 2 happened next.
 3 BY MR. FRIEDMAN:
 4 Q. Well, if he stepped aside, what was
 5 supposed to happen next?
 6 A. Well, we understood that there would be
 7 law enforcement officials nearby who would at that
 8 point do whatever it is they thought was appropriate
 9 under the circumstances.
 10 Q. Did you understand what agency those law
 11 enforcement people would work for?
 12 A. At the time of this conversation, I don't
 13 think I -- I don't think I did know.
 14 Q. During that conversation, did you tell
 15 Mr. Vezeris that he been delegated some authority
 16 from the Commission on Presidential Debates?
 17 A. I didn't use those words, but that clearly
 18 was what I was doing.
 19 Q. Is there anything more you can recall
 20 about that conversation with John Vezeris?
 21 A. Not as I sit here.
 22 Q. Was there any discussion as to whether
 23 anyone would accompany Mr. Vezeris if he were to go
 24 out and meet with a third-party presidential
 25 candidate?

1 and Frank Fahrenkopf.
 2 Q. Where did you hold that meeting?
 3 A. It was up in this mezzanine area that was
 4 serving as the CPD's temporary offices. There was an
 5 office at the end of a hallway that had a door and we
 6 met in that office with the door closed.
 7 Q. Was anyone else in the office at that
 8 time?
 9 A. Not in that room, no.
 10 Q. As a result of that meeting, was there
 11 some public statement that you or anyone else was to
 12 make?
 13 MR. MARKS: Objection to the vagueness of
 14 your question.
 15 THE WITNESS: I'm not sure I understand
 16 public statement.
 17 BY MR. FRIEDMAN:
 18 Q. You had a meeting and as I understand it
 19 you understood that the people meeting on security
 20 needed a decision on the people from the Commission
 21 on Presidential Debates what to do with a third-party
 22 candidate who arrived on the campus with a ticket to
 23 the debate?
 24 A. Correct.
 25 Q. After your meeting with your clients, did

1 BY MR. FRIEDMAN:
 2 Q. What did you say when he told you that it
 3 was his view that this was not within the services
 4 that he had contracted to perform?
 5 A. I told him I had a different view.
 6 Q. You told him that -- did you tell him that
 7 your view was his agreement with the commission
 8 included actually performing security functions by
 9 meeting individuals and checking credentials?
 10 MR. MARKS: Objection to form.
 11 THE WITNESS: I told him that I thought
 12 this particular task we were discussing was one that
 13 fell within the scope of his area of expertise and
 14 what we would like him to do.
 15 BY MR. FRIEDMAN:
 16 Q. Did you discuss alternative individuals
 17 who could meet with Mr. Nader or any other
 18 third-party candidate?
 19 A. I don't recall that he did, but my
 20 recollection is not clear on that.
 21 Q. What else went down during that
 22 conversation?
 23 A. We discussed the wording that would be
 24 used.
 25 Q. Did you work out a specific -- specific

1 A. I -- I just don't recall anything specific
 2 on that at this point.
 3 Q. At any point did you tell him that you
 4 would go with him to meet with a third-party
 5 presidential candidate?
 6 A. I don't recall ever saying that to him.
 7 Q. At any point did he suggest that either
 8 you or Janet Brown would be the more appropriate
 9 person to meet with a third-party presidential
 10 candidate who arrived on the campus with a ticket?
 11 A. I don't recall that he did, but it
 12 wouldn't shock me if he did, because as I indicated,
 13 he was not particularly receptive initially to
 14 playing this role. It is entirely possible that he
 15 would have cast it out to someone else. I don't
 16 recall him saying specific names.
 17 Q. When you spoke with Mr. Vezeris in the
 18 conversation we've just been talking about, did you
 19 discuss what would happen if anyone else other than a
 20 third-party presidential candidate appeared on the
 21 campus with a ticket that had been given to them --
 22 transferred to them by someone who had been given a
 23 ticket, by one of the agencies or entities that give
 24 out those tickets?
 25 A. No.

1 Was there any plan to interest any other
 2 who had been given tickets second or third
 3 name, if you will?
 4 A. Not that I recall.
 5 Q. To the extent you're aware, I'll use some
 6 names for example, if for example a ticket had been
 7 given by Mr. Kirk of the commission to say Harvard
 8 professor Alan Dershowitz and say he got a call and
 9 had given a ticket to some other Harvard professor.
 10 Was there a system in place to intercept that person
 11 who had been transferred a ticket, to your knowledge?
 12 A. I don't think we would have had a way to
 13 know that.
 14 Q. It was your understanding that after you
 15 spoke to Mr. Vezeris, Mr. Vezeris was to convey the
 16 decision of the commission to other people, is that
 17 correct?
 18 A. Yes.
 19 Q. Did you go with him when he did that?
 20 A. No.
 21 Q. What did you do then?
 22 A. I don't recall.
 23 Q. Did you meet up with Mr. Vezeris later
 24 that day?
 25 A. We undoubtedly crossed paths and spoke a

1 document.
 2 Q. Did you give a copy to Mr. Vezeris?
 3 A. Likely so, but I don't have a clear
 4 recollection.
 5 Q. At some point did you meet a state police
 6 sergeant named McPhail?
 7 A. I don't know whether I did or not. And --
 8 I mean I know there is a McPhail who is a party to
 9 this lawsuit. I know what you've alleged his role
 10 was. I don't -- I don't really know firsthand who
 11 McPhail was or what he did. I don't have a specific
 12 recollection of having been introduced to
 13 Mr. McPhail.
 14 Q. Did you ever give the document with the
 15 photographs of third-party presidential candidates to
 16 any state police officers or any uniformed police
 17 officers?
 18 A. No, I did not.
 19 Q. After that first security meeting, was
 20 there a second security meeting that you went to on
 21 October 3rd before the presidential debate began?
 22 A. I don't recall a second meeting.
 23 Q. So as far as you can recall, there was no
 24 meeting where the Commission on Presidential Debates'
 25 decision with regard to admitting third-party

1 Mr. Vezeris.
 2 Q. Did you ever have a discussion as to
 3 whether Mr. Nader would be permitted to go to a Fox
 4 news trailer on October 3rd of 2000?
 5 A. On that day, no.
 6 Q. On that day did you ever have a discussion
 7 as to whether Ralph Nader would be allowed to go
 8 anywhere else on the University of Massachusetts
 9 campus on that day?
 10 A. No, we did not have a discussion -- with
 11 Mr. Vezeris is your question?
 12 Q. Did you ever have a discussion with anyone
 13 else on October 3rd of 2000 as to whether Mr. Nader
 14 would be allowed to go anywhere else on the UMass
 15 campus?
 16 A. The only other location and that was
 17 discussed with my client, was what you refer to as
 18 spin alley, when Mr. Nader would be permitted into
 19 spin alley if he did not have credentials to get in
 20 there or wasn't otherwise authorized or properly
 21 accompanied or so forth. And we were not going to
 22 let him just wander in to spin alley, which was
 23 within the secure area of the mags -- metal
 24 detectors, in that area.
 25 Q. Was it your understanding that the

1 number of times between the discussion that you've
 2 been asking about and the end of the day. We were
 3 all in a relatively confined space and we were there
 4 for a number of hours. I'm sure we crossed paths a
 5 number of times.
 6 (Loss Exhibit No. 5 was
 7 marked for identification.)
 8 BY MR. FRIEDMAN:
 9 Q. We've marked as Exhibit 5, I believe it is
 10 three sheets of paper with photographs of various
 11 third-party presidential and in some cases vice
 12 presidential candidates. Have you ever seen this
 13 document before?
 14 A. Yes.
 15 Q. When did you first see it?
 16 A. October 2nd, 2000.
 17 Q. Where were you when you saw it?
 18 A. In my office.
 19 Q. And how did you happen to see the
 20 document?
 21 A. I had these pictures pulled off the
 22 Internet.
 23 Q. For what purpose?
 24 A. To take with me to Boston. As I testified
 25 earlier I knew one issue we were going to need to

1 presidential candidates with tickets was discussed?
 2 A. I'm sorry, can you read that one back?
 3 THE REPORTER: "Question: So as far as
 4 you can recall, there was no meeting where the
 5 Commission on Presidential Debates' decision with
 6 regard to admitting third-party presidential
 7 candidates with tickets was discussed?"
 8 THE WITNESS: I am not aware of a meeting.
 9 I did not participate in a meeting that I recall. I
 10 wouldn't have a way of knowing if there were other
 11 meetings that I was not present for. Might have
 12 taken place where someone discussed it.
 13 BY MR. FRIEDMAN:
 14 Q. Did you learn of a system that was in
 15 place to handle a situation where a third-party
 16 presidential candidate came on the UMass campus on
 17 October 3rd of 2000?
 18 A. I -- I generally recall at this point that
 19 I would have been -- that there would have been some
 20 sort of radio transmission from someone at whatever
 21 location it was where a third-party candidate had
 22 been identified, in to either Mr. Vezeris or to
 23 myself, but I don't -- I don't know that I ever had a
 24 real clear understanding of, exact understanding of
 25 how that was going to work. And if I did, I

1 decision made by the Commission on Presidential
 2 Debates was that Mr. Nader would simply not be
 3 allowed into the secure areas, the areas secured by
 4 the metal detectors?
 5 A. Our decision was that he would not be
 6 permitted into the debate hall. If he -- and that
 7 was really where our focus was, or the debate hall.
 8 I don't think our position was as fully formed with
 9 respect to the media center. If he had had proper
 10 credentials, I believe he would have been admitted to
 11 the media center, which is in the secure area you've
 12 just described.
 13 Q. Did the Commission on Presidential Debates
 14 have any role in deciding whether Mr. Nader could be
 15 on the UMass campus outside of the secure area?
 16 A. None whatsoever.
 17 Q. At some point did you learn that Ralph
 18 Nader was on a bus coming to the UMass campus?
 19 A. Yes.
 20 Q. How did you learn that?
 21 A. I believe John Vezeris told me.
 22 Q. Where were you at that time?
 23 A. I don't recall.
 24 Q. Did he tell you in person or over the
 25 radio?

1 address on October 3 is what the Commission on
 2 Presidential Debates' position was going to be with
 3 respect to third-party candidates' attendance at the
 4 debate in the debate hall. And it occurred to me
 5 that if a decision was made that required the
 6 identification of these individuals, it might be
 7 useful to have pictures of at least the ones that I
 8 could locate relatively readily. So I had this.
 9 Q. That was because there was no check in
 10 where you would match somebody's name up if they came
 11 in with a ticket to go to the Clark auditorium, is
 12 that right?
 13 A. I don't think I actually went through that
 14 thought process.
 15 Q. Okay. What was done with this document?
 16 A. I brought it with me. I believe I had a
 17 few copies and I believe that I handed them out to
 18 the individuals who were going to be checking
 19 tickets -- CP -- people associated with the CPD. I
 20 told you there are a number of people associated with
 21 the CPD at these debates. I don't want to
 22 characterize their legal relationship, but they said
 23 it was those people who fit that description who
 24 were going to be actually checking tickets. And I
 25 was to those people that I gave copies of this

1 certainly don't recall it as I sit here today.
 2 Q. Did you have a radio that evening?
 3 A. I did.
 4 Q. What frequency was it on? Secret Service,
 5 commission, police?
 6 A. It was commission only.
 7 Q. When you discussed with Mr. Vezeris what
 8 would be said if a third-party presidential candidate
 9 came on the campus, did you discuss with him that he
 10 should tell the candidate to please leave
 11 voluntarily?
 12 A. I'm quite certain we would not have
 13 discussed that, because we had -- our decision was
 14 whether he would be admitted in, and that was the
 15 scope of our decision, not whether he leaves some
 16 place if he is not yet in. So we wouldn't have had
 17 that discussion.
 18 Q. When you say your decision was whether he
 19 would be admitted in --
 20 A. To the --
 21 Q. In to what?
 22 A. Into the debate hall, Clark debate hall.
 23 Q. Did you have a discussion as to whether he
 24 would be admitted into the spin room, spin alley?
 25 A. I don't recall a discussion with

1 A. I believe what happened and I want to be
 2 clear that my recollection is not terrific on this,
 3 my recollection is that over the radio he asked me to
 4 come meet him somewhere and he told me in person.
 5 Q. What happened after that?
 6 A. I don't have a recollection of the time
 7 that passed between my first learning that he was
 8 coming in and the time that Mr. Vezeris went out and
 9 had the exchange with Mr. Nader. So it is hard for
 10 me to answer what happened after that.
 11 Q. When Mr. Vezeris went out to speak to
 12 Mr. Nader, did you go with him?
 13 A. I did not go with him, I went.
 14 Q. Can you explain that?
 15 A. My recollection is that I trailed
 16 Mr. Vezeris on the walk out there and observed from
 17 some distance the exchange.
 18 Q. Did anyone go with Mr. Vezeris?
 19 A. I -- I can't remember what the walking
 20 procession was. I don't have it in my mind's eye
 21 whether Mr. Vezeris was walking by himself or with
 22 anyone else. I just don't recall.
 23 Q. Why did you trail him?
 24 A. It seemed --
 25 MR. WARKS: Is your question why he went

1 BY MR. FRIEDMAN:
 2 Q. Did you have any information that should
 3 Pat Buchanan arrive on the campus with a ticket to
 4 Clark, that he would disrupt the debate?
 5 A. We -- Mr. Buchanan had been second only to
 6 Mr. Nader in terms of being very vocal about his view
 7 that the debates to be sponsored by the Commission on
 8 Presidential Debates were not legitimate in his view
 9 if he was not included. I don't recall as I sit here
 10 today any specific statements he made, so I can't
 11 comment on whether any of those statements were more
 12 precise -- the cause for concern with second to
 13 disruption.
 14 Q. Were you aware of any specific information
 15 leading you to conclude that any of the other
 16 third-party candidates posed a risk of disrupting
 17 Clark if they were to gain access with a ticket?
 18 THE WITNESS: Can you read that back,
 19 please?
 20 THE REPORTER: "Question: Were you aware
 21 of any specific information leading you to conclude
 22 that any of the other third-party candidates posed a
 23 risk of disrupting Clark if they were to gain access
 24 with a ticket?"
 25 THE WITNESS: Our concern was that if a

1 third-party candidate who had not qualified for
 2 participation in the debate went to the trouble to
 3 get a ticket and attended the debate that it would be
 4 for the purpose of campaigning in some way, which
 5 seemed to imply the potential for disruption. But we
 6 did not have -- as I sit here now, I don't recall
 7 specific additional information of the type I
 8 reviewed concerned Ralph Nader.
 9 BY MR. FRIEDMAN:
 10 Q. In addition to the presidential election
 11 in the fall of 2000, there were elections for
 12 Congress and Senate as well; is that correct?
 13 A. Correct.
 14 Q. Were candidates for congressional or
 15 senatorial offices allowed to actually attend the
 16 debate in the Clark athletic center?
 17 A. I have no information on that.
 18 Q. So you don't know one way or the other
 19 whether a candidates from the Republican or
 20 Democratic party who were running for Senate or
 21 Congress were allowed to have tickets to the debate?
 22 A. There was no decisions that were made on
 23 that topic, the issue was never presented.
 24 Q. Were there ever any other issues presented
 25 with regard to restricting access to the debate with

1 people who had tickets other than the restriction on
 2 people who were third-party candidates for president?
 3 A. I don't remember participating in any
 4 other discussion.
 5 MR. FRIEDMAN: I have no other questions.
 6 Scott you can inquire.
 7 MR. BURKE: Thanks for asking, I don't
 8 have any.
 9 MR. MARKS: None for me.
 10 MR. FRIEDMAN: Andy has none so we're done.
 11 MR. BURKE: I appreciate it. Howard, have
 12 a nice trip back.
 13 (Whereupon, at 4:30 p.m., the taking of
 14 the instant deposition ceased.)
 15
 16 _____
 17 Signature of the Witness
 18 SUBSCRIBED AND SWORN to before me this _____ day of
 19 _____, 20_____.
 20
 21 _____
 22 Notary Public
 23 My Commission Expires: _____
 24
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Exhibit 3 to Administrative Complaint

Deposition of Frank J. Fahrenkopf, Jr. (excerpts)
(Dec. 5, 2001)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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RALPH NADER, :
Plaintiff, :
v. : Case No.
COMMISSION ON PRESIDENTIAL : 00-12145-WEY
DEBATES, PAUL G. KIRK, JR., :
FRANK J. FAHRENKOPF, JR., :
JOHN VEZERIS, and :
SERGEANT CHARLES MCPHAIL, in his :
Individual capacity, :
Defendants. :
----- X

Washington, D.C.
Wednesday, December 5, 2001

Deposition of FRANK J. FAHRENKOPF, JR.,
called for examination by counsel for Plaintiff in the
above-entitled matter, pursuant to notice, the witness
being duly sworn by CARLA L. ANDREWS, a Notary Public in
and for the District of Columbia, taken at the offices
of Crowell & Moring, 2001 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004-2595, at 2:17 p.m., Wednesday,
December 5, 2001, and the proceedings being taken down
by Stenotype by CARLA L. ANDREWS and transcribed under
her direction.

18

1 Voters. And so as a result of those two studies and
 2 the two recommendations -- and as I remember, the 20th
 3 Century Fund actually put up the seed money-- check
 4 this -- to pay for it because it was no entity to pay
 5 for the -- to get the Commission off the ground. And,
 6 as I said, I think it was '87 that we formed it. And
 7 that's when we were on our way.
 8 Q Was there an agreement between the two
 9 parties to create the CPD?
 10 A In truth, at the very beginning, I think when
 11 the Commission was created and the recommendations were,
 12 the feeling was that this should be an agreement between
 13 the two parties, that it should be a bipartisan rather
 14 than a nonpartisan entity. And I remember that I got
 15 approval from the Republican National Committee, and I
 16 think Paul got approval from the Democratic National
 17 Committee to create -- that, we, as party chairmen,
 18 could be involved.
 19 It became very clear to us, however, when
 20 lawyers started getting involved to draft documents and
 21 so forth that you probably couldn't do it if you were a
 22 bipartisan entity and that we had to be nonpartisan.
 23 And therefore, as we put the thing together and went
 24 away, it was clear that the parties could not have any
 25 say, control, input, funding, anything into the

19

1 Commission. And since we were created, then we went on
 2 the basis that we were going to be a nonpartisan entity.
 3 But there was no question that I think there probably --
 4 I am not sure what the recommendations of the CSIS study
 5 was, but it probably said that the parties should -- I
 6 have to go back and look. But we conducted ourselves as
 7 a nonpartisan.
 8 Q So it was formerly created as a bipartisan
 9 entity; is that correct?
 10 MR. MARKS: Initially.
 11 THE WITNESS: Initially.
 12 BY MR. ADKINS:
 13 Q And then was it ever formally changed?
 14 A No, it wasn't changed. We just changed the
 15 way we operated. It was going to be a nonpartisan
 16 entity. We cut off any input, control by the parties
 17 over the Commission.
 18 Q Now, were you -- when you formed the CPD, the
 19 Commission on Presidential Debates, were both you and
 20 Mr. Kirk still chairs at your respective --
 21 A Absolutely, yeah. If we formed it in
 22 '87 -- Paul and I left in '89 -- January of '89. So for
 23 the first -- I don't remember when we formed it in '87.
 24 But from the time of formation until January of '89, we
 25 were the party chairs.

20

1 Q Would it be fair to say, then, that it was
 2 bipartisan at least as long as you and Mr. Kirk were
 3 both the --
 4 A Well, it was bipartisan from the standpoint
 5 that Paul and I were --
 6 Q So the question is clear for the record.
 7 MR. ADKINS: Could you read back the
 8 beginning of my question?
 9 (The record was read back by the reporter.)
 10 BY MR. ADKINS:
 11 Q Of your respective National Committee?
 12 A No, I wouldn't say that that was true. I
 13 would say that when we put it together back in '87
 14 leading up to the time that it was put together, we
 15 assumed that this was going to be a bipartisan
 16 operation. Once the Commission was created, it was very
 17 clear to us from our lawyers that we couldn't be a
 18 bipartisan. If we were bipartisan, we couldn't meet the
 19 requirements of the law, as we understood it, by which
 20 you qualified to be a sponsor of debates. And remember,
 21 we started the sponsorship in 1988. So it became very
 22 clear to us once we were created that we had to be a
 23 nonpartisan even though Paul and I were the party
 24 chairmen. And we tried to run it and operate it that
 25 way as a nonpartisan entity.

21

1 Q And did the two parties and/or the CPD put
 2 out a press release for when the entity was created?
 3 A Yeah, sure we did. And that's why I am
 4 saying -- I think probably if you went back and looked
 5 at the recommendation -- I don't remember the
 6 recommendation from Harvard. But I sort of believe that
 7 the recommendation that came from the CSIS was urging
 8 the parties to do this. And when we first announced
 9 that we were creating this thing, we probably said that
 10 the two parties -- the theory was that if the two
 11 parties did it, that you could force the candidates to
 12 participate, that a candidate couldn't turn his or her
 13 back and walk away and not participate in the debates.
 14 As I said -- but when it was clear the lawyers got
 15 involved and we were drafting the documents and so forth
 16 that we realized that we had to be a nonpartisan.
 17 Q Well, I am a little curious as to how you
 18 could say it's not controlled by the parties if the two
 19 cochairs of the entity are still heads of the respective
 20 National Committee?
 21 A We have different hats on. We all operate
 22 with different hats on. We operated with different hats
 23 on. And anyone who goes back and looks at the history
 24 of -- I don't know if the word abuse is the right
 25 word -- but either Paul or I have taken from our

26	<p>1 Q And what was that position?</p> <p>2 A The position was that third-party candidates</p> <p>3 would not be allowed to be present in the debate hall.</p> <p>4 Q That was any third-party candidate?</p> <p>5 A Any third-party candidate, although to be</p> <p>6 candid with you, we only discussed really two --</p> <p>7 Mr. Nader and Mr. Buchanan.</p> <p>8 Q And who made this decision?</p> <p>9 A The decision was made by -- well, there were</p> <p>10 a number of people in the discussion. But</p> <p>11 fundamentally, Paul Kirk and I, as cochairmen, made the</p> <p>12 financial decision. Other people were involved in the</p> <p>13 discussion process.</p> <p>14 Q And you had the authority to make that</p> <p>15 decision for the CPD?</p> <p>16 A Yeah.</p> <p>17 Q Did you run the decision past any of the</p> <p>18 board of directors before making that decision?</p> <p>19 A You know what? I don't remember. We may</p> <p>20 have. I don't recall. I don't recall whether there</p> <p>21 were board members present, some of the board members</p> <p>22 attended and were in Boston, or not. I don't know. I</p> <p>23 don't recall whether we did or not.</p> <p>24 Q Do you remember if any of the board members</p> <p>25 were at -- well, strike that. Did the decision to</p>	28	<p>1 exclude third-party candidates from the presidential</p> <p>2 debates?</p> <p>3 MR. MARKS: Time out. Again, just so we are</p> <p>4 clear. You are talking about the decision that</p> <p>5 third-party candidates could not be in the audience.</p> <p>6 MR. ADKINS: Consistent with what we have</p> <p>7 been talking about it. It will all apply to that unless</p> <p>8 I change the context.</p> <p>9 MR. MARKS: Let me just ask. It would be</p> <p>10 better for all of us here, so we don't have a record out</p> <p>11 of context, that you build that into your question, if</p> <p>12 you don't mind.</p> <p>13 THE WITNESS: That's all right. I will build</p> <p>14 it into the answer.</p> <p>15 MR. MARKS: That's fine. Either way. One of</p> <p>16 you guys or the other so we have a good record.</p> <p>17 BY MR. ADKINS:</p> <p>18 Q You know what I am talking about?</p> <p>19 A Yeah. I think the final decision that we</p> <p>20 made with regard to not including third-party candidates</p> <p>21 in the audience -- I think the debate was on Tuesday. I</p> <p>22 think it was Tuesday -- was at a meeting Tuesday</p> <p>23 afternoon.</p> <p>24 Q That would be August 3?</p> <p>25 A August 3.</p>
27	<p>1 exclude any third-party candidate from the October 3</p> <p>2 presidential debate also extend to the other</p> <p>3 presidential debates in the year 2000?</p> <p>4 A Are you talking -- when you say debate, are</p> <p>5 you talking about participating in the debate or are you</p> <p>6 talking about being present physically in the audience?</p> <p>7 Q I am still talking about in the context we</p> <p>8 have been talking, which is as an audience?</p> <p>9 A Yeah. After we made our decision in Boston,</p> <p>10 it was fundamentally -- that was the policy that we</p> <p>11 followed for the remaining debates, although we</p> <p>12 never -- I don't recall ever sitting down and discussing</p> <p>13 it. That was my understanding.</p> <p>14 Q Did it also apply to the vice presidential</p> <p>15 debate?</p> <p>16 A I don't recall. I don't recall ever</p> <p>17 discussing the vice presidential debate.</p> <p>18 Q Any reason to think it wouldn't have applied</p> <p>19 to the vice presidential debate?</p> <p>20 MR. MARKS: Objection to the form of the</p> <p>21 question. Calls for speculation.</p> <p>22 THE WITNESS: Probably not. If the question</p> <p>23 came up, I assume it might be consistent.</p> <p>24 BY MR. ADKINS:</p> <p>25 Q Okay. Now, when was the decision made to</p>	29	<p>1 Q The day of the debate?</p> <p>2 A The day of the debate.</p> <p>3 Q And when did that meeting occur?</p> <p>4 A I know that it was made only after our</p> <p>5 counsel got there. Lou Loss was not there, and so --</p> <p>6 Q Let me stop you for a second. When you say</p> <p>7 our counsel --</p> <p>8 A He is counsel to the CPD. That Lou was</p> <p>9 expected in -- I don't know what time. But my</p> <p>10 recollection was that -- it was clearly in the</p> <p>11 afternoon. I can't remember whether it was before the</p> <p>12 walk-throughs or after the walk-throughs.</p> <p>13 Q What do you mean by walk-throughs?</p> <p>14 A The candidates who participated in the</p> <p>15 debates come to the hall in the afternoon of the day</p> <p>16 that they are going to debate. And they come in with</p> <p>17 their staff and their aides and their handlers so that</p> <p>18 when that come in at night they are not coming cold.</p> <p>19 But they go in and we show them where the podium is,</p> <p>20 whatever the situation is, where they stand. Usually</p> <p>21 their people want to see -- have them stand at the</p> <p>22 podium, and they shoot them with the cameras -- how many</p> <p>23 cameras --</p> <p>24 Q Rehearsal?</p> <p>25 A Rehearsal as much as logistical background.</p>

<p style="text-align: right;">42</p> <p>1 quickly. That really wasn't the context that I -- and 2 when I made the final decision, I wasn't worried about 3 him running up on stage or crawling up on stage. 4 Q You were not, you say? 5 A No. I didn't think he was -- it was no way. 6 There was no way anyone could get up on the stage. 7 Secret Service is right there. But it was a question of 8 whether or not he in the audience, based upon the 9 statements that he made, would attempt to disrupt the 10 debates. And, you know, I was convinced that we just 11 couldn't take the risk of that disruption. And that's 12 why I supported the decision to not allow him in the 13 room. 14 Q Given your -- strike that. 15 A Let me say -- now that I think about it, we 16 didn't make a decision to exclude all third-party 17 candidates. I mean, that's wrong. We talked clearly 18 about Ralph Nader and Pat. We had heard Pat was in 19 town. We said, look, if Ralph does it, you know, Pat -- 20 we didn't know what was going to happen. Harry Brown 21 and the other candidates were never -- I mean, we didn't 22 talk about it in the context of third-party candidates. 23 So you asked me earlier what would I have done if Harry 24 Brown had shown up with a ticket. I don't know. I 25 don't know what we would have done. But it was clear</p>	<p style="text-align: right;">44</p> <p>1 period of time. 2 A I have known him for a long period of time, 3 but I didn't know him well. I mean, Ralph and I over 4 the years have been on television shows where we have 5 debated issues and, you know, the talking-head type 6 shows. And we knew that if I saw Ralph coming down the 7 street, he knew me and I knew him. I would say, hi. 8 Ralph, how are you. But we were not, you know, close 9 friends. I didn't know him personally other than in 10 that context. 11 Q But Mr. Nader has been involved in the 12 political environment for a long time? 13 A Oh, yes, absolutely. 14 Q So you have seen him in action? 15 A I have known him in that context from the 16 Carveer days. 17 Q Do you think it would be uncharacteristic of 18 Mr. Nader to try to make a scene outside of the rules, 19 including by making any noise or protestation within the 20 debate while it was taking place? 21 A In light of the statements as they were 22 related to me that he allegedly made, it was my own view 23 and I came to be convinced this way that, geez, this guy 24 has been saying these things on national television and 25 cameras. He sort of laid down a marker. I don't think</p>
<p style="text-align: right;">43</p> <p>1 with Mr. Nader and Mr. Buchanan if they had showed up 2 with legitimate tickets, our decision was to exclude 3 them. 4 Q Are you changing your testimony from 5 previous -- 6 A I am trying to clarify it, I think. I think 7 you very astutely, as a good lawyer, jumped on where I 8 was going. That's not what happened. It was -- I mean, 9 we didn't say, Shall we exclude all third-party 10 candidates. It was a question of what happens if Ralph 11 Nader and/or Pat Buchanan show up with a ticket into the 12 hall, what we will do? That was the decision that we 13 reached. It didn't go any farther than that. 14 Q This sounds like a change of your prior 15 testimony. 16 A Well, I don't think it is. I think it is a 17 clarification. I think I misspoke. 18 Q Okay. 19 A But you are going to take the deposition of 20 my fellow people who were in the meeting. But that's my 21 recollection. 22 Q Let me explore that a little bit later. You 23 said you knew Ralph Nader. I got the impression that -- 24 maybe it wouldn't be picked up on the transcript -- that 25 you felt you knew him well and have known him for a long</p>	<p style="text-align: right;">45</p> <p>1 Ralph would run up to the stage and do that, but he 2 would very well stand up in the audience, stand up on a 3 chair and say, oh, I could be on that stage, why won't 4 you let me on the stage. That's what I was concerned 5 about. And I felt that that would be extremely 6 disruptive. 7 Q And you felt that was a possibility with 8 Mr. Nader? 9 A Yeah, I did. 10 Q Have you ever seen Mr. Nader act outside 11 rules in any other circumstance? 12 A I am not sure I have never been around enough 13 to see him in a context where there were rules and 14 whether or not he would. I don't know. 15 Q In terms of your personal experience, has he 16 ever gone outside of the norm of reasonable and 17 appropriate conduct? 18 MR. MARKS: Objection. Lack of foundation. 19 THE WITNESS: I have never seen him -- I 20 mean, I don't agree with positions that Ralph has taken 21 over the years. I don't agree with positions a lot of 22 anyone people take. But I don't know of him violating 23 the law or violating any rules in any context where 24 there were rules. 25 BY MR. ADKENS:</p>

Exhibit 4 to Administrative Complaint

“About CPD: National Debate Sponsors;” “About CPD: Web Credits”
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