

Exhibit D

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

0001

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF MASSACHUSETTS
 3 - - - - - X
 4 RALPH NADER, :
 5 Plaintiff, :
 6 v. :
 7 COMMISSION ON PRESIDENTIAL :
 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
 15 Washington, D.C.
 16 Thursday, October 25, 2001
 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.

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1 DEAN, RPR, and transcribed under her direction.
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 3 APPEARANCES:
 4
 5 On behalf of the Plaintiff:
 6 HOWARD FRIEDMAN, ESQ.
 7 Law Offices of Howard Friedman
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 10 (617) 742-4100
 11
 12 On behalf of the Defendant John Vezeris:
 13 SCOTT DOUGLAS BURKE, ESQ.
 14 (Via telephone)
 15 Morrison, Mahoney & Miller, LLP
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 17 Boston, Massachusetts 02210
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0003

1 APPEARANCES (Continued):
2
3 On behalf of the Defendants Commission
4 on Presidential Debates, Paul G. Kirk, Jr.,
5 Frank J. Fahrenkopf, Jr.:
6 ANDREW MARKS, ESQ.
7 MIGUEL H. DEL TORO, ESQ.
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0045

1 Q. From watching it, was it your view that
2 Mr. Nader was making a serious statement of intent as
3 opposed to a joke when he said maybe I'll crawl up on
4 stage?
5 A. I took it as he was serious about
6 attending and that he viewed his attending as part of
7 his protesting of the debate. I didn't take
8 seriously that he would literally crawl up on the
9 stage. Among other reasons the Secret Service would
10 not permit him to do that.
11 Q. When he said that, there was laughter,
12 isn't that right?
13 A. Yes.
14 Q. He was laughing, Pat Buchanan was laughing
15 and Tim Russert was laughing?
16 A. That's my recollection. Well, my
17 recollection is Russert laughing, I don't recall if
18 Mr. Nader or Mr. Buchanan had laughed.
19 Q. I stopped you to get more details. You
20 were going on to other candidates for potential
21 disruption.
22 A. Far and away the most concrete threat of
23 disruption that we perceived was from third-party
24 candidate Ralph Nader in light of the information
25 I've just written down. I don't recall anything

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1 nearly as specific with other candidates.
2 Mr. Buchanan also expressed the view that a debate
3 that did not include him was not a legitimate
4 political event, but I don't recall any specific
5 information at any time that led us to believe that
6 he actually was showing up at the Boston debate. I
7 don't remember having that information.

8 Q. Did you have any information that
9 Mr. Buchanan was in Boston the day of the debate?

10 A. I believe we did, but my recollection is
11 not sharp on that.

12 MR. MARKS: Do you want to take a break
13 for a minute?

14 MR. FRIEDMAN: Sure.

15 (Recess.)

16 BY MR. FRIEDMAN:

17 Q. Back on the record. You indicated there
18 was something you wish to say.

19 A. Yes, yes, you asked me earlier whether I
20 had something to the effect of whether I had spoken
21 with Mr. Keady on any other time other than October 3
22 and I indicated I had not. I believe, I'm not
23 positive but I believe I may have spoken to him on
24 the telephone one time after that. It would have
25 been in the context of my doing a little factual