Preliminary Audit Report of the Audit Division on John Edwards for President

Why the Audit Was Done
Federal law requires the Commission to audit every political committee established by a candidate who receives public funds for the primary campaign.\(^1\) The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

Future Action
The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Campaign (p. 2)
John Edwards for President is the principal campaign committee for John Edwards, a candidate for the Democratic Party's nomination for the office of President of the United States. The Committee is headquartered in Chapel Hill, NC. For more information, see the chart on the Campaign Organization, p.2.

Financial Activity (p. 3)
- Receipts
  - Contributions From Individuals $39,643,966
  - Matching Funds Received 7,404,083
  - Bank Loan 8,974,714
  - Offsets to Expenditures 967,088
  - Other Receipts 129,527
  Total Receipts $57,119,378
- Disbursements
  - Operating Expenditures $44,405,156
  - Contribution Refunds 3,720,268
  - Loan Repayments and Other Disbursements 7,383,067
  Total Disbursements $55,508,491

Findings and Recommendations (p. 4)
- Matching Funds Received in Excess of Entitlement (Finding 1)
- Misstatement of Financial Activity (Finding 2)
- Failure to Itemize Loan Repayments (Finding 3)
- Stale-Dated Checks (Finding 4)

\(^1\) 26 U.S.C. §9038(a).
Preliminary Audit Report of the Audit Division on John Edwards for President

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Part I
Background

Authority for Audit
This report is based on an audit of John Edwards for President (JEFP), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states “After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037.” Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission’s Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

Scope of Audit
This audit examined:
1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The receipt of transfers from other authorized committees.
4. The disclosure of contributions and transfers received.
5. The disclosure of disbursements, debts and obligations.
6. The recordkeeping process and completeness of records.
7. The consistency between reported figures and bank records.
8. The accuracy of the Statement of Net Outstanding Campaign Obligations.
9. The campaign’s compliance with spending limitations.
10. Other campaign operations necessary to the review.

Inventory of Campaign Records
The Audit staff routinely conducts an inventory of campaign records before it begins the audit fieldwork. JEFP’s records were substantially complete and the fieldwork began immediately.
# Part II
## Overview of Campaign

### Campaign Organization

<table>
<thead>
<tr>
<th>Important Dates</th>
<th>John Edwards for President</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Date of Registration</td>
<td>January 5, 2007</td>
</tr>
<tr>
<td>• Eligibility Period</td>
<td>October 31, 2007 – January 30, 2008²</td>
</tr>
<tr>
<td>• Audit Coverage</td>
<td>January 3, 2007 – March 31, 2008³</td>
</tr>
</tbody>
</table>

### Headquarters

Chapel Hill, North Carolina

### Bank Information

- • Bank Depositories
  - Three
- • Bank Accounts
  - 17 Checking, 2 Investment

### Treasurer

- • Treasurer When Audit Was Conducted
  - Julius L. Chambers
- • Treasurer During Period Covered by Audit
  - Julius L. Chambers

### Management Information

- • Attended FEC Campaign Finance Seminar
  - Yes
- • Used Commonly Available Campaign Management Software Package
  - Yes
- • Who Handled Accounting and Recordkeeping Tasks
  - Paid Staff

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² The period during which the candidate was eligible for matching funds began on the date of certification of his matching fund eligibility and ended on the date the candidate announced his withdrawal from the campaign. See 11 CFR §9033.

³ Limited reviews of receipts and expenditures were performed after March 31, 2008, to determine whether the candidate was eligible to receive additional matching funds.
Overview of Financial Activity  
(Audited Amounts)

<table>
<thead>
<tr>
<th>Cash on hand @ January 3, 2007</th>
<th>$0</th>
</tr>
</thead>
<tbody>
<tr>
<td>o Contributions From Individuals</td>
<td>39,643,966</td>
</tr>
<tr>
<td>o Matching Funds Received</td>
<td>7,404,083  (^4)</td>
</tr>
<tr>
<td>o Bank Loan</td>
<td>8,974,714</td>
</tr>
<tr>
<td>o Offset to Expenditures</td>
<td>967,088</td>
</tr>
<tr>
<td>o Other Receipts</td>
<td>129,527</td>
</tr>
<tr>
<td><strong>Total Receipts</strong></td>
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<td>o Contribution Refunds</td>
<td>3,720,268</td>
</tr>
<tr>
<td>o Loan Repayments and Other Disbursements</td>
<td>7,383,067</td>
</tr>
<tr>
<td><strong>Total Disbursements</strong></td>
<td><strong>$55,508,491</strong></td>
</tr>
<tr>
<td>Cash on hand @ March 31, 2008</td>
<td>$1,610,887</td>
</tr>
</tbody>
</table>

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\(^4\) JEFF received an additional $5,478,795 in matching funds after March 31, 2008 for a total of $12,882,878. This represents 61% of the maximum entitlement ($21,025,000) a Presidential candidate could have received in the 2008 cycle.
Part III
Summaries

Findings and Recommendations

Finding 1. Matching Funds Received in Excess of Entitlement
A review of JEFP’s financial activity through December 31, 2008, and estimated winding down costs indicated that it received matching funds over $2.3 million in excess of the Candidate’s entitlement. JEFP’s Statement of Net Outstanding Campaign Obligations (NOCO) understated its cash-on-hand, overstated its accounts payable, and overstated its winding down expenses. The Audit staff recommends that JEFP provide evidence that it did not receive matching funds in excess of entitlement. Absent such evidence, the Audit staff will recommend that the Commission make a determination that $2,352,348 is repayable to the United States Treasury. (For more detail, see p. 6)

Finding 2. Misstatement of Financial Activity
A comparison of JEFP’s reported financial activity to its bank records revealed a material misstatement of reported cash-on-hand in calendar year 2007 through March 31, 2008. JEFP understated its December 31, 2007, cash-on-hand balance by $585,814 and understated its March 31, 2008, cash-on-hand balance by $468,676. The Audit staff recommends that JEFP amend its most recently filed report to correct the cash-on-hand balance. (For more detail, see p. 13)

Finding 3. Failure to Itemize Loan Repayments
The Audit staff identified loan repayments totaling $4,344,469 that were not itemized. Although the amounts were reported by JEFP on the Detail Summary Pages and itemized on Schedule C (Loans) and Schedule C-1 (Loans and Lines of Credit From Lending Institutions), they were not itemized on Schedule B-P (Itemized Disbursements). The Audit staff recommends that JEFP file amended reports to itemize the loan repayments. (For more detail, see p. 14)

Finding 4. Stale-Dated Checks
The Audit staff identified 202 stale-dated checks totaling $267,529. It is recommended that JEFP provide evidence that the checks are not outstanding or make a payment to the United States Treasury. (For more detail, see p. 15)
Summary of Amounts Potentially Owed to the United States Treasury

<table>
<thead>
<tr>
<th>Finding 1</th>
<th>Matching Funds Received in Excess of Entitlement</th>
<th>$2,352,348</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finding 4</td>
<td>Stale-Dated Checks</td>
<td>267,529</td>
</tr>
<tr>
<td></td>
<td><strong>Total Due U.S. Treasury</strong></td>
<td>$2,619,877</td>
</tr>
</tbody>
</table>
Part IV
Findings and Recommendations

Finding 1. Matching Funds Received in Excess of Entitlement

Summary
A review of JEFP's financial activity through December 31, 2008, and estimated winding down costs indicated that it received matching funds over $2.3 million in excess of the Candidate’s entitlement. JEFP’s Statement of Net Outstanding Campaign Obligations (NOCO) understated its cash-on-hand, overstated its accounts payable, and overstated its winding down expenses. The Audit staff recommends that JEFP provide evidence that it did not receive matching funds in excess of entitlement. Absent such evidence, the Audit staff will recommend that the Commission make a determination that $2,352,348 is repayable to the United States Treasury.

Legal Standard
A. Net Outstanding Campaign Obligations. Within 15 days after the candidate’s date of ineligibility (see definition below), the candidate must submit a statement of “net outstanding campaign obligations.” This statement must contain, among other things:

- The total of all committee assets including cash on hand, amounts owed to the committee and capital assets listed at their fair market value;
- The total of all outstanding obligations for qualified campaign expenses; and
- An estimate of necessary winding down costs. 11 CFR §9034.5(a).

B. Date of Ineligibility. The date of ineligibility is whichever of the following dates occurs first:

- The day on which the candidate ceases to be active in more than one state;
- The 30th day following the second consecutive primary in which the candidate receives less than 10 percent of the popular vote;
- The end of the matching payment period, which is generally the day when the party nominates its candidate for the general election; or
- In the case of a candidate whose party does not make its selection at a national convention, the last day of the last national convention held by a major party in the calendar year. 11 CFR §§9032.6 and 9033.5.

C. Qualified Campaign Expense. Each of the following expenses is a qualified campaign expense.

- An expense that is:
  - Incurred by or on behalf of the candidate (or his or her campaign) during the period beginning on the day the individual becomes a candidate and continuing through the last day of the candidate’s eligibility under 11 CFR §9033.5;
o Made in connection with the candidate's campaign for nomination; and
o Not incurred or paid in violation of any federal law or the law of the state
where the expense was incurred or paid. 11 CFR §9032.9(a).

• An expense incurred for the purpose of determining whether an individual should
become a candidate, if that individual subsequently becomes a candidate,
regardless of when that expense is paid. 11 CFR §9034.4(a)(2).

• An expense associated with winding down the campaign and terminating political
activity. 11 CFR §9034.4(a)(3).

• Monetary bonuses paid after the date of ineligibility for committee employees and
consultants shall be considered qualified campaign expenses provided that they
are paid in recognition of campaign related activities or services; are paid
pursuant to a written contract made before the date of ineligibility; and, are paid
no later than 30 days after the date of ineligibility. 11 CFR §9034.4(a)(5).

D. Value of Capital Assets. The fair market value of capital assets is 60% of the total
original cost of the assets when acquired. A candidate may claim a lower fair market
value for a capital asset by listing the asset on the NOCO statement separately and
demonstrating, through documentation, the lower fair market value. 11 CFR
§9034.5(c)(1).

E. Entitlement to Matching Payments after Date of Ineligibility. If, on the date of
ineligibility, a candidate has net outstanding campaign obligations as defined under 11
CFR §9034.5, that candidate may continue to receive matching payments provided that
he or she still has net outstanding campaign debts on the day the matching payment is
made. 11 CFR §9034.1(b).

Facts and Analysis
The Audit staff prepared a Statement of Net Outstanding Campaign Obligations as of
January 30, 2008, the Candidate's date of ineligibility (DOI). The audited statement that
appears on the next page was based on the review of JEFP's financial activity through
December 31, 2008 and includes estimates for winding down costs thereafter. The Audit
staff and JEFP agree on all NOCO components except for accounts payable for qualified
campaign expenses.
John Edwards for President  
Statement of Net Outstanding Campaign Obligations  
As of January 30, 2008  
Prepared thru April 30, 2010

### Assets

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Election Cash in Bank</td>
<td>$3,971,887</td>
</tr>
<tr>
<td>General Election Cash in Bank</td>
<td>3,321,290</td>
</tr>
<tr>
<td>Accounts Receivable</td>
<td>455,789</td>
</tr>
<tr>
<td>Capital Assets</td>
<td>29,134</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$7,778,100</strong></td>
</tr>
</tbody>
</table>

### Liabilities

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Election Accounts Payable for Qualified</td>
<td>$2,313,509</td>
</tr>
<tr>
<td>Campaign Expenses @ 1/30/08</td>
<td></td>
</tr>
<tr>
<td>Refund of General Election Contributions</td>
<td>3,321,290</td>
</tr>
<tr>
<td>Loan Payable @ 1/30/08</td>
<td>8,974,713</td>
</tr>
<tr>
<td>Actual Winding Down Costs (1/31/08 – 4/30/10)</td>
<td>2,584,568</td>
</tr>
<tr>
<td>Estimated Winding Down Costs (5/1/10 – 12/31/11)</td>
<td>1,423,060 [a]</td>
</tr>
<tr>
<td>Payable to U.S. Treasury – Stale-Dated Checks</td>
<td>72,583</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td><strong>$18,689,723</strong></td>
</tr>
</tbody>
</table>

**Net Outstanding Campaign Obligations (Deficit) as of January 30, 2008**  
($10,911,623)

Footnote to NOCO Statement:

[a] Estimated winding down costs will be compared to actual winding down costs and adjusted accordingly.

Shown below are adjustments for funds received after January 30, 2008 through July 17, 2008.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Outstanding Campaign Obligations (Deficit) as of 1/30/08</td>
<td>($10,911,623)</td>
</tr>
<tr>
<td>Private Contributions Received 1/31/08 through 7/16/08</td>
<td>358,983</td>
</tr>
<tr>
<td>Interest Income Received 1/31/08 through 7/16/08</td>
<td>22,110</td>
</tr>
<tr>
<td>Matching Funds Received 1/31/08 through 7/16/08</td>
<td>8,825,425</td>
</tr>
<tr>
<td>Remaining entitlement as of 7/16/08</td>
<td>($1,705,105)</td>
</tr>
<tr>
<td>Matching Funds Received 7/17/08</td>
<td>4,057,453</td>
</tr>
<tr>
<td><strong>Amount Received in Excess of Matching Fund Entitlement</strong></td>
<td><strong>$2,352,348</strong></td>
</tr>
</tbody>
</table>
As a result, JEFP was not entitled to $2,352,348 of the matching fund payment ($4,057,453) it received on July 17, 2008.

This matter was presented to JEFP at the exit conference held on February 3, 2009, and, at JEFP's insistence, a second exit conference on April 2, 2009, after additional records were provided by JIEFP. The Audit staff's NOCO and workpapers supporting all NOCO components were also provided.

**Cash In Bank**

The primary difference between the NOCO presented on the previous page and those prepared by JEFP is the cash-in-bank balance. JEFP understated cash by $4.5 million. Most of the understatement of cash represented funds received for the general election during the primary election period. The understatement of assets caused the NOCO statements to show a larger deficit and matching fund entitlement than was the case. The Audit staff and JEFP agree on the cash balances presented in the NOCO statement.

**Accounts Payable for Qualified Campaign Expenses – Payroll**

Even though JEFP's accounts payable figure on its NOCO was not accurate, the Audit staff and JEFP now agree on the amount of accounts payable, except for the February 7, 2008 payroll. The Audit staff's calculation of accounts payable on the NOCO statement does not include $556,871 in payroll paid on February 7, 2008. Absent further documentation, $556,871 is considered to be a monetary bonus paid to 99 employees. As noted in the legal standards, in order to be qualified campaign expenses, monetary bonuses paid after DOI to employees in recognition of campaign-related activities or services must be paid no later than 30 days after DOI and provided for pursuant to a written contract made prior to DOI (11 CFR §9034.4(a)(5)). JEFP representatives confirmed that there were no written contracts.

**Analysis of the February 7, 2008 Payroll**

JEFP staff was paid twice monthly from inception through January 30, 2008. In January 2008, the payroll periods ended on January 15, 2008 and January 30, 2008. On January 31, 2008, another pay period was concluded. This payroll totaled $761,193 and was paid on February 7, 2008. The amount, in effect, tripled each employee's pay for the month of January.

Throughout the audit fieldwork, numerous requests were made for an explanation and documentation of this payroll. Approximately 5 weeks after the initial request, the Assistant Treasurer responded that the purpose of the February 7, 2008, payroll was to reimburse employees who had not been paid their entire salary due to limited funds available beginning sometime in August 2007. Although requested, no specific details were provided to explain how this payroll was calculated or which employees were not paid their full salary. At the exit conference, the Assistant Treasurer was made aware that documentation supporting this payroll had not been made available.

During the exit conference response period, the Audit staff analyzed JEFP's payroll for the period August 2007 through January 2008. Our review indicated that JEFP's
explanation was incorrect. Employees were paid in full from August 2007 through January 15, 2008. However, the following pay period which ended January 30, 2008, employees received half of their normal net pay. Therefore, the Audit staff considered that portion of the February 7, 2008, payroll necessary to make up the difference in net pay plus associated employee/employer payroll taxes ($204,322) to be a qualified campaign expense and included the amount on the NOCO in accounts payable. The remaining portion of the February 7, 2008 payroll or $556,871 is considered a non-qualified campaign expense and not included in the NOCO payables.

Subsequent to JEFP's response to the exit conference, a second explanation of this payroll was provided. The Assistant Treasurer indicated that as of January 1, 2008, campaign staff worked 24 hours a day, 7 days a week, with the understanding that salary would be increased for those affected. The Assistant Treasurer further indicated that JEFP did not have sufficient funds to pay the increased salary on the normal pay dates in January and that after DOI, JEFP calculated the total amount due each employe and paid the increased salary on February 7, 2008. It is JEFP’s opinion that the February 7, 2008, payroll represents a qualified campaign expense, which was due at DOI and, therefore, should be included in the NOCO.

With respect to resources not being available during January 2008 to pay the increased salaries, JEFP records indicate its average daily cash was approximately $4.2 million for January, excluding general election contributions which could not be used for primary expenses. Further, no explanation was offered as to how the increased amount was calculated, how and when employees were notified, or documentation for the decision to increase salary. As a result, JEFP’s explanation has not been accepted.

JEFP was notified of the Audit staff’s conclusion by email. The email explained that $556,871, representing employee net pay and employee/employer payroll taxes, would not be included in the NOCO. JEFP was provided 10 days to respond. Counsel for JEFP (Counsel) objected to the notification by email and demanded a second exit conference. Although not required, a second exit conference was held. The Audit staff again informed JEFP that $556,871 of salary and payroll taxes were considered non-qualified campaign expenses, excludable from the NOCO. Counsel offered as a possible (third) explanation that certain staff may have traveled to state office locations in order to clean out the offices and return rental cars. Again, JEFP was provided an additional 10-day response period.

In response, Counsel stated that in December 2007 JEFP determined that those staying through the end of the campaign would receive a salary increase, which would be paid out as permitted by JEFP resources. This pay increase was intended primarily to compensate staff for the fact that JEFP dispatched staff to many different field locations throughout the country for the January primaries and caucuses, placing them on an

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5 It is not clear why this payroll was reduced. As can be seen from the NOCO statement, JEFP appears to have had funds available to meet the payroll even setting aside the general election contributions which could not be used for primary expenses.
around-the-clock schedule. The increase in pay was also designed to cover increased costs that staffers were required to incur because they were on the road. In addition, Counsel stated that on January 30, 2008, the date of ineligibility, JEFP had approximately 70 office and volunteer sites in several cities in various states. Staff had been deployed to these locations, where it was necessary to clean out and close field offices. JEFP determined that it would be more efficient to pay these individuals a finite amount in lieu of any attempt to have employees turn in receipts for reimbursement. According to Counsel, this would have been a difficult accounting process, which JEFP could more efficiently manage by a lump sum salary payment.

A few days later, JEFP provided a schedule that reflected JEFP’s determination that all employees received a 31% increase in salary between December 23, 2007 and February 15, 2008, which was paid in one lump sum on February 7, 2008. JEFP gave examples of 3 different employees and how this paycheck would have been allocated between payable and winding down categories.

With respect to the accounting burden of paying travel expenses, JEFP had accounting procedures in place for handling travel reimbursements. Throughout the campaign, the staff submitted travel reimbursements; some were included in the NOCO’s accounts payable. The effect of a campaign increasing salary in lieu of paying for travel reimbursements creates additional expenses for the campaign, such as the employer’s share of payroll taxes, not to mention the additional tax burden placed on employees. While it is reasonable that some staff would have been involved in the office close out process, it is not likely that all staff, such as the chief of staff, chief financial officer, and the finance director, took part in this effort. The close out took place after DOI when only 14 people remained on the payroll.

**Estimated Winding Down Expenses**

In response to the exit conference, JEFP estimated it would spend a total of $2,771,004 in winding down expenses for calendar years 2009 through 2011 ($969,972 for 2009, $959,972 for 2010, $841,060 for 2011). For the period, January 31, 2008 through April 30, 2010, estimates were converted to actual winding down expenses. Based on JEFP’s actual spending from January 2009 through April 2010, the Audit staff has calculated that estimated winding down expenses for the period May 1, 2010, through December 31, 2011, of $1,423,060 may be necessary to wind down the campaign. With the exception of the adjustment for storage costs, the Audit staff’s remaining estimated winding down expenses are very close to the amount calculated by JEFP.

It should be noted that throughout the post-audit period, estimated winding down expenses are consistently monitored. Bank records and reported activity are reviewed in order to convert estimated winding down expenses to actual winding down expenses.

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6 In its 2009 estimates, JEFP included storage cost of $18,000 for the next 7 years. JEFP inadvertently included this same cost in its 2010 and 2011 estimates. The necessary adjustment has been made.
JEFP's Overall Objection to the Repayment of Matching Funds

JEFP argues that the combination of a shortfall in the Presidential Primary Matching Payment Account (Matching Payment Account) and the lack of a quorum in the Commission during the first half of 2008 put JEFP at a disadvantage with respect to the receipt of matching funds. It is argued that matchable contributions received prior to DOI should be matched regardless of whether there are qualified campaign expenses to pay, and concludes that the failure to match these contributions violates the First Amendments rights of both the candidate and those individuals who contributed to the candidate’s committee.

Under 26 USC §9033(c)(2), a candidate who has passed the date of ineligibility is not entitled to any further matching fund payments except to defray qualified campaign expenses incurred before the candidate became ineligible. The fact that contributions were received that would otherwise be matchable does not determine whether the candidate is eligible for further payments. The intent of this section is to allow the candidate to receive matching funds after the date of ineligibility only to pay debts for qualified campaign expenses. In implementing this provision, the Commission considered both debts incurred before the date of ineligibility and necessary costs of wrapping up the campaign. It also established a procedure to monitor whether the candidate still has qualified campaign expenses to be paid prior to each post date of ineligibility payment; the NOCO Statement. Finally, the possibility of a shortage in the Matching Payment Account is recognized and an equitable distribution calculation is specified in both 26 USC §9037(b) and 11 CFR §9037.2. That equitable distribution formula was followed.

Subsequent to the date of ineligibility, campaigns are required to submit a NOCO indicating the campaign has sufficient net debt to justify additional matching funds. The last matching fund payment JEFP received was $4,057,453 on July 17, 2008. This payment was based on a NOCO filed on June 25, 2008 that reflected net debt of $4,684,340. However, as previously noted, that NOCO statement was misstated.

There is no question that the combination of the shortfall in the Matching Payment Account and the lack of a quorum on the Commission delayed payments. The Commission took all steps in its power to minimize the impact on all matching fund recipients. All matching funds requests received through December of 2007 were processed and certified while the Commission still had a quorum. That allowed the Treasury Department to begin making payments as soon as funds became available without the need for further Commission action. All payments certified by the Commission before January 1, 2008, were paid as funds became available between February and April 2008. This procedure also allowed campaigns to borrow funds using the matching funds as collateral. JEFP used this avenue to borrow $8.9 million in November and December 2007 before any payments could have been made under any circumstances. Even though the Commission could not certify any payments during the first half of 2008, matching fund requests received after January 1, 2008, were processed.

7 See 11 CFR 9034.1(b), and 9034.5
and the campaigns were informed of the matchable amount. Campaigns could use those amounts as collateral for loans if they desired. Finally, any additional expenses incurred by campaigns as a result of these circumstances, such as interest on loans or increased legal costs, would have been treated as qualified campaign expenses and could have resulted in additional matching fund entitlement.

In summary, although it is true that matching fund payments were delayed during the first half of 2008, the Act and Commission’s regulations are clear that in order to receive matching fund payments after the date of ineligibility a candidate must have net outstanding campaign obligations on the date that the matching fund payments are made. JEFP does not argue that it had sufficient obligations to justify the full amount it received and agrees that it significantly understated its assets on its NOCO Statement. The fact that there may be contributions received before the date of ineligibility that were not matched or that payments were delayed for reasons beyond the control of the Commission or JEFP, does not allow JEFP to receive matching fund payments after the date of ineligibility in excess of the amount of qualified campaign expenses to be paid.

Based on the above, JEFP was not entitled to $2,352,348 of the matching funds payment ($4,057,453) it received on July 17, 2008.

**Preliminary Audit Report Recommendation**

The Audit staff recommends that, within 60 calendar days of service of this report, JEFP demonstrate that it did not receive matching funds in excess of its entitlement. Absent such a demonstration, the Audit staff will recommend that the Commission make a determination that $2,352,348 in matching funds is repayable to the United States Treasury.

**Finding 2. Misstatement of Financial Activity**

**Summary**

A comparison of JEFP’s reported financial activity to its bank records revealed a material misstatement of reported cash-on-hand in calendar year 2007 through March 31, 2008. JEFP understated its December 31, 2007, cash-on-hand balance by $585,814 and understated its March 31, 2008, cash-on-hand balance by $468,676. The Audit staff recommends that JEFP amend its most recently filed report to correct the cash-on-hand balance.

**Legal Standard**

**Contents of Reports.** Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle; and
- The total amount of disbursements for the reporting period and for the election cycle.
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4), and (5).
**Facts and Analysis**

A comparison of JEFP's reported financial activity to its bank records revealed a material misstatement of reported cash-on-hand for calendar year 2007 through March 31, 2008. The ending cash-on-hand balance for calendar year 2007 was understated by $585,814 and the ending cash-on-hand balance as of March 31, 2008 was understated by $468,676.

The misstatement of cash on hand was primarily due to two factors. First, JEFP understated unitemized receipts, most of which represented small credit card transactions. This was due to a contribution processing software malfunction. JEFP was unaware of this problem until the audit fieldwork. Second, certain disbursements, although initially reported, were inadvertently voided and missing in the amended reports.

This matter was discussed at the exit conference. JEFP representatives were provided copies of the Audit staff's bank reconciliations and indicated a willingness to correct the misstated cash-on-hand figures.

**Preliminary Audit Report Recommendation**

The Audit staff recommends that, within 60 calendar days of service of this report, JEFP amend its most recently filed report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment. It is also recommended that JEFP reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may have affected adjustments recommended by the Audit staff.

**Finding 3. Failure to Itemize Loan Repayments**

**Summary**

The Audit staff identified loan repayments totaling $4,344,469 that were not itemized. Although the amounts were reported by JEFP on the Detail Summary Pages and itemized on Schedule C (Loans) and Schedule C-1 (Loans and Lines of Credit From Lending Institutions), they were not itemized on Schedule B-P (Itemized Disbursements). The Audit staff recommends that JEFP file amended reports to itemize the loan repayments.

**Legal Standard**

When to itemize. When a loan repayment is made to any person in any amount, the committee must report the:

- Name and address of the payee; and
- Date and amount of payment. 2 U.S.C. §434(b)(5)(D) and 11 CFR §104.3(b)(4)(iii).

**Facts and Analysis**

The Audit staff identified loan repayments totaling $4,344,469 that were not itemized. Although JEFP included the aggregate amount of these payments on the detailed summary pages, it failed to provide supporting Schedules B-P, itemizing the payments. There was no obvious reason why the loan repayments were not itemized.
This matter was discussed at the exit conference. A JEFP representative stated that amendments would be filed to itemize the loan repayments.

**Preliminary Audit Report Recommendation**
The Audit staff recommends that, within 60 calendar days of service of this report, JEFP file amended reports itemizing the loan repayments on Schedule B-P, line 27(b).

### Finding 4. Stale-Dated Checks

**Summary**
The Audit staff identified 202 stale-dated checks totaling $267,529. It is recommended that JEFP provide evidence that the checks are not outstanding or make a payment to the United States Treasury.

**Legal Standard**

Handling Stale-Dated (Uncashed) Checks. If a committee has issued checks that the payees (creditors or contributors) have not cashed, the committee must notify the Commission of its efforts to locate the payees and encourage them to cash the outstanding checks. The committee must also submit a check payable to the United States Treasury for the total amount of the outstanding checks. 11 CFR §9038.6.

**Facts and Analysis**
The Audit staff identified 202 stale-dated checks totaling $267,529. The checks were dated between February 22, 2007, and May 21, 2008, and had not cleared the bank as of February 28, 2010. A majority of the stale-dated checks represent refunds of general election contributions.

The Audit staff provided JEFP representatives with a schedule of stale-dated checks at the exit conference. In response, JEFP indicated that it contacted a number of individuals/vendors and reissued $114,481 in stale-dated checks.

Based on our review of the bank statements it appears that some of the reissued checks may have cleared the bank. However, although requested, JEFP has not provided the check numbers of the reissued checks.

**Preliminary Audit Report Recommendation**
The Audit staff recommends that, within 60 calendar days of service of this report, JEFP provide:

- Evidence that the $114,481 in reissued checks have cleared the bank by providing copies of the front and back of the negotiated checks along with bank statements; and
- Evidence that the remaining stale-dated checks, $153,048 ($267,529 - $114,481) have either been reissued and cleared JEFP's bank, or have been voided because no obligation exists.

Absent such evidence, the Audit staff recommends that JEFP make a payment of $267,529 to the United States Treasury.