



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

January 3, 2007 - March 31, 2008

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).

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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

Important Dates	John Edwards for President
• Date of Registration	January 5, 2007
• Eligibility Period	October 31, 2007 – January 30, 2008 ²
• Audit Coverage	January 3, 2007 – March 31, 2008 ³
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

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)

Cash on hand @ January 3, 2007	\$ 0
o Contributions From Individuals	39,643,966
o Matching Funds Received	7,404,083 ⁴
o Bank Loan	8,974,714
o Offset to Expenditures	967,088
o Other Receipts	129,527
Total Receipts	\$57,119,378
o Operating Expenditures	44,405,156
o Contribution Refunds	3,720,268
o Loan Repayments and Other Disbursements	7,383,067
Total Disbursements	\$55,508,491
Cash on hand @ March 31, 2008	\$ 1,610,887

⁴ JEFPP 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

• Finding 1	Matching Funds Received in Excess of Entitlement	\$2,352,348
• Finding 4	Stale-Dated Checks	267,529
	Total Due U.S. Treasury	\$ 2,619,877

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;

- Made in connection with the candidate's campaign for nomination; and
- 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

Primary Election Cash in Bank	\$3,971,887
General Election Cash in Bank	3,321,290
Accounts Receivable	455,789
Capital Assets	<u>29,134</u>

Total Assets \$ 7,778,100

Liabilities

Primary Election Accounts Payable for Qualified Campaign Expenses @ 1/30/08	\$2,313,509	
Refund of General Election Contributions	3,321,290	
Loan Payable @ 1/30/08	8,974,713	
Actual Winding Down Costs (1/31/08 – 4/30/10)	2,584,568	
Estimated Winding Down Costs (5/1/10 – 12/31/11)	1,423,060	[a]
Payable to U.S. Treasury – Stale-Dated Checks	<u>72,583</u>	

Total Liabilities \$18,689,723

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.

Net Outstanding Campaign Obligations (Deficit) as of 1/30/08	(\$ 10,911,623)
Private Contributions Received 1/31/08 through 7/16/08	358,983
Interest Income Received 1/31/08 through 7/16/08	22,110
Matching Funds Received 1/31/08 through 7/16/08	<u>8,825,425</u>
Remaining entitlement as of 7/16/08	(\$ 1,705,105)
Matching Funds Received 7/17/08	<u>4,057,453</u>
Amount Received in Excess of Matching Fund Entitlement	<u>\$ 2,352,348</u>

As a result, JEFPP 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 JEFPP at the exit conference held on February 3, 2009, and, at JEFPP's insistence, a second exit conference on April 2, 2009, after additional records were provided by JEFPP. 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 JEFPP is the cash-in-bank balance. JEFPP 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 JEFPP agree on the cash balances presented in the NOCO statement.

Accounts Payable for Qualified Campaign Expenses – Payroll

Even though JEFPP's accounts payable figure on its NOCO was not accurate, the Audit staff and JEFPP 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 expense, monetary bonuses paid after DOI to employees in recognition of campaign-related activities or services must be paid no later than 30 days after DCI and provided for pursuant to a written contract made prior to DOI (11 CFR §9034.4(a)(5)). JEFPP representatives confirmed that there were no written contracts.

Analysis of the February 7, 2008 Payroll

JEFPP 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 JEFPP's payroll for the period August 2007 through January 2008. Our review indicated that JEFPP'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.⁵ 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 JEPF'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 JEPF did not have sufficient funds to pay the increased salary on the normal pay dates in January and that after DOI, JEPF calculated the total amount due each employee and paid the increased salary on February 7, 2008. It is JEPF'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, JEPF 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, JEPF's explanation has not been accepted.

JEPF 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. JEPF was provided 10 days to respond. Counsel for JEPF (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 JEPF 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, JEPF was provided an additional 10-day response period.

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

⁵ It is not clear why this payroll was reduced. As can be seen from the NOCO statement, JEPF 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, JEFPP 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. JEFPP 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 JEFPP could more efficiently manage by a lump sum salary payment.

A few days later, JEFPP provided a schedule that reflected JEFPP'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. JEFPP 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, JEFPP 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, JEFPP 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).⁶ For the period, January 31, 2008 through April 30, 2010, estimates were converted to actual winding down expenses. Based on JEFPP'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 JEFPP.

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.

⁶ In its 2009 estimates, JEFPP included storage cost of \$18,000 for the next 7 years. JEFPP 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 DQI 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.⁷ 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. JEFPP 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 JEFPP, does not allow JEFPP 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, JEFPP 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, JEFPP 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 JEFPP'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. JEFPP 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 JEFPP 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 JEFPP'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, JEFPP understated unitemized receipts, most of which represented small credit card transactions. This was due to a contribution processing software malfunction. JEFPP 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. JEFPP 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, JEFPP 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 JEFPP 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 JEFPP 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 JEFPP 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 JEFPP 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 JEPF 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, JEPF 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 JEPF 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 JEPF representatives with a schedule of stale-dated checks at the exit conference. In response, JEPF 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, JEPF 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, JEPF 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 JEPF's bank, or have been voided because no obligation exists.

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