

**§ 9038.1 Audit.**

(a) \* \* \*

(2) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter, including examinations and audits of multicandidate political committees operating under 11 CFR 9034.10.

\* \* \* \* \*

44. Section 9038.2 would be amended by:

- a. Revising paragraph (b)(2)(ii)(A);
- b. Revising the introductory text of paragraph (b)(2)(iii); and
- c. Revising paragraph (b)(4).

Revisions are to read as follows:

**§ 9038.2 Repayments.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(A) Determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 CFR part 9035, by either making disbursements that are expenditures or by receiving or accepting in-kind contributions that are subject to the expenditure limitations pursuant to 11 CFR 9035.1(a)(3);

\* \* \* \* \*

(iii) The amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to: the candidate's total deposits, as of 90 days after the candidate's date of ineligibility plus the usual and normal charge for all goods or

services provided as in-kind contributions. For the purposes of this paragraph (b)(2)(iii)—

\* \* \* \* \*

(4) The Commission may determine that the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus. The Commission may determine that the net income derived from an investment or other use of surplus public funds after the candidate's date of ineligibility, less Federal, State and local taxes paid on such income, shall be paid to the Treasury.

\* \* \* \* \*

Dated: April 7, 2003.

**Ellen L. Weintraub,**

*Chair, Federal Election Commission.*

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