

nearly identical to the definition in former 11 CFR 110.10. Because that definition remains appropriate in the context of the Title 26 regulations, the Commission is adopting the definition of "personal funds" in 11 CFR 9003.2 for purposes of 11 CFR 9035.2. Accordingly, rather than changing the cross-reference in 11 CFR 9035.2(c) from former 11 CFR 110.10 to new 11 CFR 100.33, the Commission is changing the cross-reference to the existing Title 26 definition of "personal funds" in 11 CFR 9003.2.

Millionaires' Amendment Hypothetical

In an effort to provide a better understanding of the manner in which the various provisions of the Millionaires' Amendment would operate in the context of a primary and general election, the Commission presents the following hypothetical example. All candidates in the following example are fictional and any similarities to past or present candidates or elections for Federal office are purely coincidental. The contribution and coordinated party expenditure limits in the example will probably be different in subsequent years due to indexing for inflation.

Statement of Candidacy

For months, local newspapers had been speculating about the possibility that Frank Rogers, an independently wealthy investment banker from New Franklin was planning to enter the race for the Democratic Party's nomination for the U.S. Senate. Some of Rogers's most ardent supporters had already formed a committee, called the "Draft Frank Rogers Committee" and had been soliciting contributions on behalf of his potential candidacy. By February 1, 2003, the Draft Frank Rogers Committee ("Committee") had received contributions aggregating in excess of \$5,000. On February 15, 2003, Rogers received a letter from the Federal Election Commission ("FEC" or "Commission") notifying him of the Committee's efforts on his behalf and informing Rogers that, unless he disavowed the Committee's activities within 30 days of receiving the Commission's notification, the Commission would consider Frank Rogers to be a candidate, under 11 CFR 100.3(a).

On March 3, 2003, Frank Rogers filed a Statement of Candidacy on FEC Form 2 and designated a principal campaign committee by filing a Statement of Organization on FEC Form 1, pursuant to 11 CFR 102.12 and 102.2, respectively. Because Rogers was running for the Senate, he was required

to file the original FEC Form 2 and FEC Form 1 with the Secretary of the United States Senate, under 11 CFR 105.2.

Rogers noticed that he was also required to send a copy of FEC Form 2 (but not FEC Form 1) to the Commission and to each opposing candidate in the same election, under 11 CFR 400.20.

When he began to fill out the forms, Rogers noticed that they had changed since the last time he had seen them, a year earlier, when he considered but decided against a race for Federal office. In addition to the information Form 2 used to require (name, address, party affiliation, office sought, etc.), he was now also required to state a dollar figure representing the amount of his personal funds that he intended to spend on behalf of his campaign in excess of a certain "threshold amount," as defined in 11 CFR 400.9. In addition, the new Form 1 required Rogers' principal campaign committee to provide either its electronic mail address or its facsimile number. Rogers completed Form 1 first and then turned his attention to FEC Form 2.

Rogers retrieved his copy of the Code of Federal Regulations and determined that, for Senate candidates like him, the threshold amount was equal to the sum of \$150,000 plus the product of the voting age population of his State (as certified under 11 CFR 110.18) multiplied by \$0.04. After looking at 11 CFR 110.18, Rogers realized that, in order to determine the voting age population of New Franklin, he needed to search the **Federal Register** for the most recent voting age population estimate published annually by the Department of Commerce. Considering that the voting age population of New Franklin was listed as 24,800,000, he calculated the threshold amount, as follows:

$$\begin{aligned} \$150,000 + (24,800,000 \times \$0.04) = \\ \$1,142,000. \end{aligned}$$

Rogers's personal fortune was estimated to be at least \$500 million. Frank Rogers had determined that his campaign would need an initial infusion of \$7.5 million of his personal funds. Rogers sincerely hoped he would not have to spend any more of his personal funds, but he was willing to spend more if necessary. Thus, on FEC Form 2, Rogers stated his intention to exceed the threshold amount by \$6,358,000 (\$7,500,000 - \$1,142,000 threshold amount). In addition to filing the original FEC Form 2 and FEC Form 1 with the Secretary of the Senate, Rogers faxed a copy of FEC Form 2 to the Commission as required by 11 CFR 400.20. Considering that Rogers was the only candidate in the race at that point,

he was not required to fax or e-mail a copy of FEC Form 2 to any opposing candidates.

On March 31, 2003, Arlene Miller announced her intention to oppose Frank Rogers for the Democratic Party's nomination for the U.S. Senate. Although Miller was not nearly as wealthy as Frank Rogers, she stated on her FEC Form 2 that she intended to exceed the threshold amount (\$1,142,000) by \$1,858,000. This meant that Miller intended to make expenditures from personal funds totaling \$3,000,000 (\$1,858,000 + \$1,142,000 threshold amount). Miller also designated a principal campaign committee on FEC Form 1. Miller filed her original FEC Form 2 and FEC Form 1 with the Secretary of the Senate, faxed a copy of FEC Form 2 to the Commission, and sent an electronic copy of FEC Form 2 to opposing candidate Frank Rogers as an attachment to an e-mail message.

On April 3, 2003, Jim Hyer entered the Democratic primary race. Given his position as Chairman of the New Franklin Democratic Party, Hyer had high name recognition among party activists but almost no money. He was counting on his popularity with the state's Democratic Party activists to carry him to victory in the June 1, 2004, primary election. Within 15 days of becoming a candidate, Hyer filed his original FEC Form 2 and FEC Form 1 with the Secretary of the Senate, and faxed copies of FEC Form 2 to the Commission and to the Rogers and Miller campaigns. On FEC Form 2, Hyer indicated that he did not intend to spend any of his personal funds on the race.

On April 15, 2003, James Rockford, a venture capitalist, announced his intention to seek the Republican Party's nomination for the U.S. Senate. Rockford had made a fortune in the technology boom of the late 1990s (he was worth an estimated \$20 billion) and was extremely well known throughout the state for his support of a popular statewide referendum, Proposition 895. At the time that Rockford announced his candidacy, he was the only candidate seeking the Republican Party's nomination. Within 15 days of becoming a candidate, Rockford filed his original FEC Form 2 and FEC Form 1 with the Secretary of the Senate. On FEC Form 2, Rockford stated that he intended to exceed the threshold amount (\$1,142,000) by \$148,858,000. This meant that Rockford intended to spend \$150 million of his personal funds on the race (\$148,858,000 = \$150,000,000 - \$1,142,000 threshold amount). The same day, Rockford