

*Reporting of Gross Receipts as of December 31, 2003*

On January 31, 2004, the principal campaign committees of Arlene Miller, Jim Hyer, and James Rockford filed the reports required under 11 CFR 104.19(b)(2) disclosing gross receipts as of December 31, 2003. Frank Rogers's principal campaign committee did not have to file a report because he had withdrawn from the election.

Arlene Miller's principal campaign committee reported that it had received \$6 million in gross receipts in connection with the primary. That \$6 million included her \$3 million contribution from personal funds. The committee also reported that it had \$2 million in gross receipts that could be spent on the general election. This amount came from contributions it had received under the applicable limit that had been designated for the general election. Miller did not make any contribution from personal funds for the general election.

Jim Hyer's principal campaign committee disclosed that it had \$1.2 million in gross receipts that could be spent for the primary. He did not make any contribution from personal funds. Additionally, the committee reported that it had no gross receipts for the general election.

James Rockford was a candidate for the Republican nomination for the Senate. His principal campaign committee was also required to file this report. It disclosed that it had received \$50.3 million in gross receipts in connection with the primary including a \$50 million contribution from Rockford's personal funds. The committee also reported that, as of December 31, 2003, it had \$1.1 million in gross receipts for the general election, \$1 million of which was a contribution from Rockford's personal funds made on December 15, 2003. The remaining \$100,000 of the committee's gross receipts represented contributions from contributors other than Rockford.

The remaining months of the primary campaign were brutal. As the primary election day neared, polls showed Miller and Hyer in a statistical dead heat. On June 1, 2004, Miller received 47% of the vote, Hyer received 43% of the vote, and, despite the fact that he withdrew from the race more than five months before the primary election, 10% of New Franklin's Democratic primary voters wrote in Frank Rogers name. Because neither Miller nor Hyer received 50% or more of the vote, New Franklin law required that a run-off election be held.

The run-off election was scheduled for July 1, 2004. Neither campaign had much money left at this point because both had spent nearly every available dollar on a last-minute advertising blitz. The Miller campaign, however, was in a better position than the Hyer campaign. Whereas Hyer's authorized committee had only \$25,000 cash on hand, Miller's authorized committee had \$2,075,000 total cash on hand, but only \$75,000 was available for the primary run-off. Both candidates wondered whether they were permitted to use any of these funds for the run-off election, though, considering that they were raised in the primary election cycle under the increased contribution limits. They turned to the definition of "election cycle" at 11 CFR 400.2, however, and determined that a run-off election was considered to be an extension of the election cycle containing the election that necessitated the run-off election. Thus, the Miller and Hyer campaigns were permitted to use the funds remaining from the primary election for the July 1, 2004, run-off election because the July 1, 2004, run-off was considered to be part of the June 1, 2004, primary election cycle.

On July 1, 2004, Arlene Miller won the run-off election and prepared to face off against James Rockford in the general election. Rockford ran unopposed in the Republican primary and managed to secure the Republican Party's nomination without spending more than \$1 million of his personal funds. After winning the Republican endorsement, Rockford's authorized committee refunded the remaining \$49 million to the candidate. (His contribution on December 15th of \$1 million was for the general election.) Miller's authorized committee was completely out of primary cash by the time the run-off election ended.

*General Election Campaign*

The general election cycle got off to a raucous start. On July 2, 2004, Rockford used his own funds to purchase \$20 million in air time, locking up key commercial slots in every major media market in the state through Labor Day. As required by 11 CFR 400.21, within 24 hours of executing the air time contract, Rockford filed an initial notification of expenditures from personal funds on FEC Form 10. He filed the original form with the Secretary of the Senate and faxed copies to the Commission and the Miller campaign.

When Miller received Rockford's initial notification on July 3, 2004, she scrambled to determine the opposition

personal funds amount, under 11 CFR 400.10, and the increased contribution and party expenditure limits under 11 CFR 400.40.

*Calculating the Opposition Personal Funds Amount for the Miller Campaign*

Given that the date of computation was on or after December 31 of the year preceding the year in which the general election was to be held, the applicable formula was the one outlined in 11 CFR 400.10(a)(3)  $(a - b - ((e - f) \div (2)))$ , where:

(a) Represented the greatest aggregate amount of expenditures from personal funds made by Rockford in the general election (\$21 million);

(b) Represented the greatest amount of expenditures from personal funds made by Miller in the general election (\$0);

(e) Represented the aggregate amount of gross receipts of Miller's authorized committee (\$2 million), minus any contributions by Miller from personal funds (Note: This amount is \$0, because the \$3 million Miller contributed to her authorized committee on April 5, 2003 was made in connection with the primary and entirely spent), during any election cycle that may be expended in connection with the general election, as determined on December 31, 2003; and

(f) Represented the aggregate amount of gross receipts of Rockford's authorized committee (\$1.1 million), minus any contributions by Rockford from personal funds (\$1 million), during any election cycle that may be expended in connection with the general election, as determined on December 31, 2003, so the July 2, 2004, \$20 million expenditure is *not* included.

Miller determined the value of each variable as follows:

(a) = \$21,000,000

(b) = \$0.00

(e) = \$2,000,000 (\$2,000,000 - \$0)

(f) = \$100,000 (\$1,100,000 - \$100,000)

Inserting these above values into the applicable formula  $(a - b - ((e - f) \div (2)))$ , Miller determined that the opposition personal funds amount was \$20,050,000, calculated as follows:

$$\$21,000,000 - \$0 - ((\$2,000,000 - \$100,000) \div (2)) = \$20,050,000$$

Miller notified her national and State party committees and the Commission of this calculation, as required by 11 CFR 400.30(b).

*Calculating the Increased Contribution and Coordinated Party Expenditure Limits for the Miller campaign*

Having determined that the opposition personal funds amount was \$20,050,000, Miller determined that, because the opposition personal funds