

$\$51,000,000 - \$0 -$   
 $((\$2,000,000 - \$100,000) \div 2) =$   
 $\$50,050,000$

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

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

Having determined that the opposition personal funds amount was \$50,050,000, Miller determined that, because the opposition personal funds amount was more than \$11,420,000 ( $\$0.40 \times 24,800,000$  (VAP of New Franklin) + \$1,500,000), the following increased contribution and coordinated party expenditure limits applied to her campaign, under 11 CFR 400.40:

*Increased contribution limit—Miller campaign*  
 $\$12,000 (6 \times \$2,000 \text{ (applicable limit)})$   
*Coordinated party expenditure limit—Miller campaign*  
 Unlimited

*Calculating the New Proportionality Provision Amount for the Miller Campaign*

Miller next calculated the aggregate amount of contributions her authorized committee would be able to receive before being in danger of exceeding 110 percent of the opposition personal funds amount (\$45,750,000), under 11 CFR 400.31:

$1.10 \times \$50,050,000 = \$55,055,000$

As of August 4, 2004, the aggregate amount of contributions received under the increased limits (including Duncan's \$2,000) and coordinated party expenditures made under the increased limits equaled \$22,055,000. Accordingly, Miller's campaign could now receive an additional \$33,000,000 ( $\$55,055,000 - \$22,055,000$ ) in contributions and/or coordinated party expenditures. Miller immediately called her old friend Rex Duncan and told him that he could now send her campaign an additional \$8,000 if he still wished to support her. Miller then received a call from a multicandidate political committee (PAC) wanting to know how much it could contribute to her campaign. She told the PAC's treasurer that she could accept up to \$5,000, as the PAC's contribution limits had not been raised.

*Prohibition on Redesignation of Contributions Received Above the Applicable Limit to Another Election Cycle*

When the election was over, Miller's authorized committee had \$50,000 in

contributions accepted under the increased limit left in its campaign account. Looking ahead to the 2010 primary and general elections, Miller wondered whether it would be possible to redesignate the \$50,000 to a future race, in the manner prescribed under 11 CFR 110.1(b)(5). Miller quickly determined, however, that redesignation of contributions received under the increased limits was strictly prohibited, under 11 CFR 400.52.

*Disposal of Excess Contributions Received Above the Applicable Limit*

Miller was puzzled about what her authorized committee was supposed to do with the extra \$50,000 in contributions her committee had received during the general election cycle. Under 11 CFR 400.51, Miller's authorized committee was required to refund the excess contributions within 50 days of the general election. Miller's committee refunded the \$50,000 in excess contributions to those individuals who had made increased contributions during the general election cycle, being careful to make sure that no individual contributor received a refund that exceeded the aggregate amount of their contributions to the Miller campaign, pursuant to 11 CFR 400.53.

Miller's committee was required to notify the Commission about the disposition of these excess contributions under 11 CFR 400.54. Information about the source and amount of these excess contributions and the manner in which the committee used the funds had to be included in the first report that was due more than 50 days after the general election. According to the regulation, the report had to be submitted with Miller's FEC Form 3. Miller noted that the first report due more than 50 days after the November 8, 2004, general election was not the post-general report, which was due on December 8, 2004, but the year-end report, due on January 31, 2005.

*Repayment of Rockford's Personal Loan*

Rockford's authorized committee spent every available dollar on the general election campaign and, after the election was over, had no funds remaining to repay Rockford's \$10 million personal loan. Rockford wondered whether his authorized committee could use funds raised after the date of the election to repay the loan. He quickly realized, however, that BCRA set a limit on the amount of personal loans that may be repaid with funds raised after the end of an election cycle. The Commission's regulation at 11 CFR 116.11, implementing the new

statutory limit, prohibited Rockford from using more than \$250,000 in contributions received after the date of the election to pay off his \$10 million personal loan. *See* 2 U.S.C. 441a(j). This meant, of course, that Rockford would never be able to recover the remaining \$9,750,000 (\$10,000,000 personal loan – \$250,000 limit) he lent his authorized committee during the general election cycle.

**Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)**

The attached interim final rules will not have a significant economic impact on a substantial number of small entities. Although the interim final rules add new substantive provisions to the current regulations, those provisions, which are mandated by BCRA, generally represent a relaxation of current limitations on contributions to candidates for Federal office in certain, specified circumstances. Therefore, the attached interim final rules will not have a significant economic impact on a substantial number of small entities.

**List of Subjects**

*11 CFR Part 100*

Elections.

*11 CFR Part 101*

Political candidates, Reporting and recordkeeping requirements.

*11 CFR Part 104*

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

*11 CFR Part 110*

Campaign funds, Political committees and parties.

*11 CFR Part 116*

Administrative practice and procedure, Business and industry, Credit, Elections, Political candidates, Political committees and parties.

*11 CFR Part 400*

Campaign funds, Elections, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

*11 CFR Part 9035*

Campaign funds, Reporting and recordkeeping requirements.

For the reasons set out in the Explanation and Justification, the Commission amends Subchapters A, C, and E of Chapter I of Title 11 of the Code of Federal Regulations as follows: