

FEDERAL ELECTION COMMISSION FIRST GENERAL COUNSEL'S REPORT

MUR: 7824

DATE COMPLAINT FILED: 10/21/2020

DATE OF NOTIFICATIONS: 10/27/2020

LAST RESPONSE RECEIVED: 12/14/2020

DATE ACTIVATED: 3/23/21

ELECTION CYCLE: 2020

EXPIRATION OF SOL: 9/5/2025

COMPLAINANT:

Scotty Robinson

RESPONDENTS:

Letlow for Congress and Scott Franklin in his
official capacity as treasurer
Luke Letlow (deceased)
Bill Hogan

RELEVANT STATUTES AND REGULATIONS:

52 U.S.C. § 30101(8)(A)(i)
52 U.S.C. § 30116(a)(1)(A), (f)
11 C.F.R. § 100.52(a)
11 C.F.R. § 110.1(b)
11 C.F.R. § 110.9

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint in this matter, filed by Scotty Robinson, a 2020 candidate for Louisiana's

32 5th Congressional District, alleges that Luke Letlow and his principal campaign committee,

³³ Letlow for Congress and Scott Franklin in his official capacity as treasurer (the "Letlow

34 Committee”), offered to pay Robinson’s campaign debts, potentially as much as \$60,000 —

35 \$80 000 if he would agree to withdraw from the race and endorse Letlow. Specifically,

³⁶ Robinson alleges that Bill Hogan, a Letlow supporter, approached him on behalf of the Letlow

³⁷ campaign, suggesting that he should drop out of the race and promising that he, other Letlow

³⁸ supporters, and the Letlow campaign would pay off Robinson's expenses and debt. In addition,

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1 Robinson submits a text message he received from a local pastor claiming that “someone from
2 the [Letlow] campaign” approached him and “said [Letlow] would pay all your expenses if you
3 drop out and endorse him.” The Complaint does not describe a particular violation of the
4 Federal Election Campaign Act of 1971, as amended (the “Act”), but appears to be alleging that
5 Respondents offered to make excessive campaign contributions to Robinson.

6 Respondents deny that anyone from the Letlow campaign or acting on behalf of the
7 campaign approached Robinson with any such offer to pay Robinson’s debts in exchange for
8 Robinson dropping out of the race. The Letlow Committee asserts that Hogan did not have any
9 connection with the campaign other than being a donor and that he was not authorized to speak
10 on its behalf. Hogan states that Robinson was actually the one who approached him about
11 dropping out of the race and that Robinson asked Hogan for assistance with retiring campaign
12 debts in the normal course.

13 As discussed below, the record before the Commission raises factual questions about
14 whether Respondents offered Robinson or his committee money to withdraw from an election in
15 which he was a candidate. While a solicitation of an excessive contribution or the making of an
16 excessive contribution are both squarely prohibited by the Act, an unsolicited, rejected offer of
17 an excessive contribution is not directly prohibited by either the provisions governing
18 contribution amount limitations or soft money. Therefore, we recommend that the Commission
19 find no reason to believe that Letlow, the Letlow Committee, and Hogan violated 52 U.S.C.
20 § 30116(a)(1)(A), and 52 U.S.C § 30125(e)(1) and close the file.

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1 II. FACTUAL BACKGROUND

2 On November 3, 2020, Luke Letlow won the primary election for Louisiana's 5th
 3 Congressional District; he won the general election on December 5, 2020.¹ Letlow died from
 4 complications related to COVID-19 prior to taking office and, on March 20, 2021, Julia Letlow,
 5 his wife, won a special election for what would have been her husband's seat.² Complainant,
 6 Scotty Robinson, was one of Letlow's opponents in the November 2020 primary.³ As described
 7 below, prior to the primary, Robinson alleges that Letlow and his Committee attempted to "buy
 8 me out" of the race, but that he denied their offer.⁴ Respondents deny making any such offer and
 9 argue that, even if true, the allegations would not result in a violation of the Act because there
 10 was no receipt or expenditures of campaign funds.⁵

11 The Complaint alleges that, on September 1, 2020, Bill Hogan, CEO of Century Next
 12 bank, a donor and supporter of Letlow, asked Robinson whether Robinson would consider
 13 backing out of the race.⁶ Robinson alleges that Hogan told him: "I would almost personally
 14 guarantee you that I, other donors, and the Letlow campaign would easily be able to raise \$60k,

¹ Official Election Results, U.S. Representative Fifth Congressional District, LA SEC'Y OF STATE, (<https://voterportal.sos.la.gov/graphical>) (last visited May 12, 2021); *see also* Louisiana Election Code, R.S.18:402(B) (1),(2) (stating that primary elections for members of congress are held on the first Tuesday after the first Monday in November of an election year; general elections for members of congress are held on the fifth Saturday after the first Tuesday after the first Monday in November of an election year).

² Greg Hilburn, *Louisiana Congressman-Elect Luke Letlow dies from COVID Complications at 41*, MONROE NEWS STAR, (Dec. 29, 2020), (<https://www.thenewsstar.com/story/news/2020/12/29/louisiana-congressman-elect-luke-letlow-dies-covid/4082977001/>); Official Election Results, U.S. Representative Fifth Congressional District, LA SEC'Y OF STATE, (<https://voterportal.sos.la.gov/graphical>) (last visited May 12, 2021).

³ Compl. at 1 (Oct. 21, 2020).

⁴ *Id.*

⁵ *Id.* Letlow for Congress Resp. at 1 (Dec. 14, 2020) (the Letlow Committee and Letlow filed a joint response); Franklin Resp. at 1 (Dec. 14, 2020) (Franklin, the treasurer, filed a separate response that mostly recasts the Letlow Committee's and Letlow's Response); Hogan Resp. at 2-3 (Nov. 10, 2020).

⁶ Compl. at 1 (noting that Century Next bank is the location of Robinson's campaign depository). Scotty Robinson for Congress, Amended Statement of Org. at 4 (Apr. 5, 2020).

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1 \$70k, or even \$80k to help pay off any expenses or debt.”⁷ Robinson states that he told Hogan
 2 that he was not interested in dropping out.⁸ Robinson states that, on September 3, 2020, Hogan
 3 phoned him to relay a message from Adam Terry, a political consultant, that “[Letlow] would
 4 absolutely be interested in me backing out of the race, paying any debts I have, and my
 5 endorsement.”⁹ Terry allegedly told Robinson the deal would include a “\$50,000 or even
 6 \$100,000 job.”¹⁰ Again, the Complaint states that Robinson told Hogan that he was not
 7 interested.¹¹

8 The Complaint states that Robinson uploaded a video on Facebook on September 8,
 9 2020, “and told this story, but [] left out the names.”¹² Hogan apparently saw the video and sent
 10 Robinson a text to “apologize if I created a situation that was uncalled for,” stating, in part: “The
 11 only person that I talked to was [Terry] and he said that the only person he was going to talk to
 12 was Luke to see if he would do right. . . . It might be beneficial for us to agree on what was said
 13 in our conversations last week.”¹³ The Complaint asserts that, in a prior election, Robinson was

⁷ *Id.* At the time of this conversation, the most recent disclosure report filed by Robinson's authorized committee showed campaign debts in the amount of \$58,000. Scott Robinson for Congress 2020 Pre-Primary Report at 2; Schedule C, 34-36 (July 16, 2020) (covering Apr. 1 — July 4, 2020). The next disclosure report filed after the conversation, showed campaign debts in the amount of \$26,379.50. Scotty Robinson for Congress 2020 October Quarterly Report at 2; Schedule C, 26-27; Schedule D, 28 (Oct. 15, 2020) (covering July 5 — Sept. 30, 2020).

⁸ Compl. at 1.

⁹ *Id.*

¹⁰ *Id.* It is unclear who Robinson is referring to by using “they,” but in context he appears to mean Hogan, Terry, and Letlow. *See id.*

¹¹ *See id.* The next day, September 4, 2020, Hogan sent Complainant a text message: “If you decide to move forward, [Terry] suggests an in person meeting to work out details and solidify commitments. I’m not pushing and just want what’s best for all concerned.” *Id.* at 1; *id.*, Attach. at 1 (screenshot of text message from Hogan to Robinson, sent on Sept. 4, 2020, at 8:04 AM EST).

¹² Compl. at 1. We do not have access to the video, which according to Hogan has been taken down. Hogan Resp. at 2.

¹³ *Id.*; *id.*, Attach. at 2 (screenshot of text message from Hogan to Robinson, sent on Sept. 8, 2020, at 5:52 PM EST).

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1 similarly contacted by an intermediary for Letlow who offered him a job if he were to agree to
 2 not run for the same seat as Letlow.¹⁴

3 In Response, Hogan asserts that Robinson “grossly distorted and exploited” their
 4 communications regarding the election.¹⁵ He contends that, on September 1, 2020, it was
 5 Robinson who stated that he was struggling to keep his campaign alive and was looking for “exit
 6 strategies” to pay off campaign debt and make him a viable candidate in the future.¹⁶ According
 7 to Hogan, the two discussed ways to raise funds to pay Robinson’s campaign debt, and Robinson
 8 expressly asked Hogan to approach others about his desire to drop out of the race and to find
 9 ways to help pay off his campaign debt.¹⁷ Pursuant to Robinson’s alleged instructions, Hogan
 10 states that he contacted Terry, who was not affiliated with the Letlow campaign, to discuss the
 11 notion that Robinson was considering dropping out.¹⁸ Hogan further asserts that at no time did
 12 he speak with Letlow or the Letlow Committee about Robinson’s alleged desires to drop out of
 13 the race or pay off his campaign debts.¹⁹ Letlow and the Letlow Committee similarly deny that
 14 Hogan or Terry were acting on their behalf.²⁰

15 Separate from his contacts with Hogan, on September 5, 2021, the Complaint asserts that
 16 Robinson received a text message from Tommy Lester, a local pastor from Monroe, Louisiana,

¹⁴ Compl. at 2.

¹⁵ Hogan Resp. at 1.

¹⁶ *Id.*

¹⁷ *Id.* (“Mr. Hogan and Mr. Robinson . . . discussed how funds might be raised to retire his campaign debt and allow him to exit the race. Mr. Robinson expressly authorized Mr. Hogan to approach others to discuss his interest in dropping out of the race if he could find a way to retire his campaign debt.”). There is no indication from Hogan’s Response that Robinson himself solicited an excessive contribution.

¹⁸ *Id.* at 2.

¹⁹ *Id.*

²⁰ Letlow for Congress Resp. at 1-2 (stating that Hogan’s only connection to the Letlow Committee is that he was a donor and that Terry is a political consultant but did not work for the Letlow Committee).

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1 that read: "Talked to someone from the Luke [Letlow] campaign the other day (he knows I'm in
 2 your corner) he said he would pay all your expenses if you drop out and endorse him. He was
 3 sure you would be offended. I just thought I'd pass it along."²¹ Lester also sent a follow-up text:
 4 "I think they wanted me to work on you. But I said I wouldn't get involved."²² Robinson states
 5 that he does not know who asked Lester to reach out to him and that he asked Lester a question
 6 to confirm that it was not Hogan.²³ In Response, Letlow and the Letlow Committee state that,
 7 without knowing the identity of the alleged Letlow campaign official who approached Lester,
 8 they cannot sufficiently address the allegation.²⁴

9 III. LEGAL ANALYSIS

10 The Act limits the amount an individual may contribute to a candidate's authorized
 11 committee per election (\$2,800 during the 2020 election cycle) and limits the amount a candidate
 12 committee may contribute to another candidate committee per election (\$2,000 during the 2020
 13 election cycle).²⁵ Likewise, the Act prohibits any candidate or committee from knowingly
 14 accepting an excessive contribution.²⁶ A contribution is any gift, subscription, loan, advance, or
 15 deposit of money or anything of value made by any person for the purpose of influencing any
 16 election for federal office.²⁷

²¹ Compl., Attach. at 3 (screenshot of text message from Lester to Robinson, sent on Sept. 5, 2020, at 1:07 PM EST).

²² *Id.* (screenshot of text message from Lester to Robinson, sent on Sept. 5, 2020, at 1:07 PM EST).

²³ Compl. at 2 (explaining that he asked Lester whether the person who approached him was from the city where Hogan is from). Robinson states that he did not ask further questions of Lester to identify the person from the Luke campaign, "out of respect for Mr. Lester and his occupation." Compl. at 2.

²⁴ Letlow for Congress Resp. at 1-2.

²⁵ 52 U.S.C. § 30116(a)(1)(A); *see also* 11 C.F.R. § 110.1(b); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 84 Fed. Reg. 2,504, 2,505 (Feb. 7, 2019) (adjusting certain limitations for the 2019-2020 election cycle).

²⁶ 52 U.S.C. § 30116(f), *see also* 11 C.F.R. § 110.9.

²⁷ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

1 The Act's soft money provision provides that any "candidate, individual holding Federal
 2 office, agent of a candidate or an individual holding Federal office, or an entity directly or
 3 indirectly established, financed, maintained or controlled by or acting on behalf of one or more
 4 candidates or individuals holding Federal office," shall not solicit, receive, direct, transfer, or
 5 spend funds in connection with an election for federal office, unless the funds are subject to the
 6 Act's "limitations, prohibitions, and reporting requirements."²⁸

7 The underlying facts regarding whether Respondents offered Robinson a sum of money
 8 to drop out of the congressional race are in dispute. Robinson's sworn Complaint maintains that
 9 Hogan told him that "[Hogan], other donors, and the Letlow campaign would easily be able to
 10 raise \$60k, \$70k, or even \$80k to help pay off any expenses or debt."²⁹ Further, Robinson states
 11 that Hogan relayed a message from Terry, a political consultant, who claimed to have spoken
 12 with Letlow, that "[Letlow] would pay all your expenses if you drop out and endorse him."³⁰
 13 Robinson alleges that Respondents attempted to "buy me out of this race."³¹

14 As an initial matter, it is unclear whether these overtures were necessarily meant to
 15 convey that funds would come solely from Hogan and/or the Letlow campaign, or whether this
 16 would be in conjunction with funds from "other donors," in an effort to either legitimately
 17 "raise" funds within the Act's limitations and source prohibitions in order to retire Robinson's
 18 campaign debts or achieve the same result through illegal straw donor contributions.³² Hogan,

²⁸ 52 U.S.C. § 30125(e)(1); *see also* 11 C.F.R. § 300.52.

²⁹ Comp. at 1.

³⁰ *Id.*

³¹ Compl. at 1 (quotations removed).

³² *See* 52 U.S.C. § 30122 ("No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person"); *accord* 11 C.F.R. § 110.4.

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1 Letlow, and the Letlow Committee deny making an offer to Robinson of any kind.³³ Hogan
2 asserts that Robinson has the story backwards and that it was actually Robinson, not Hogan, who
3 talked about exiting the race and asked for help to retire campaign debts in the normal course.³⁴

4 At the same time, there is the text message that Lester, a local pastor, appears to have sent
5 to Robinson to relay a message from an unidentified Letlow campaign official, claiming that
6 “[Letlow] would pay all your expenses if you drop out and [e]ndorse him.”³⁵ Lester said that
7 “they wanted me to work on you.”³⁶ The Letlow Committee denies authorizing anyone to
8 approach Robinson with a “buy out” and has otherwise declined to respond factually regarding
9 this allegation, while Lester appears to have texted Robinson that someone from the Letlow
10 Committee did just that.³⁷ It is questionable whether Lester, an individual with no apparent role
11 in politics outside of potential status as a community leader, would have invented and
12 communicated a story that happened to align with the alleged offer Hogan made to Robinson just
13 days earlier. There is no information to suggest that the text messages submitted with the
14 Complaint are fictitious. And there is the text message from Hogan to Robinson in which Hogan
15 states that he was working with Terry and “the only person [Terry] was going to talk to was Luke
16 to see if he would do right.”³⁸ This stands in contrast to Hogan’s unsworn assertion in his
17 Response that he “never approached or had any communications with Mr. Letlow or anyone with

³³ *Id.* at 1; Letlow for Congress Resp. at 1; Hogan Resp. at 1-2.

³⁴ Hogan Resp. at 2.

³⁵ Compl. at 1; Attach. at 3 (screenshot of text message from Lester to Robinson, sent on Sept. 5, 2020, at 1:07 PM EST).

³⁶ *Id.*

³⁷ Letlow for Congress Resp. at 1.

³⁸ Compl., Attach. at 2 (screen shot of text message from Hogan to Robinson, sent on Sept. 8, 2020, at 5:52 PM EST).

1 his campaign about these matters.”³⁹ The Responses do not question the authenticity of the text
 2 messages attached to the Complaint between Hogan and Robinson.

3 However, there is no need to resolve the factual allegations in order to consider violations
 4 within the Commission’s jurisdiction. Even assuming *arguendo* that Respondents did offer to
 5 pay funds to Robinson, as alleged, Robinson states that he denied the offer and, thus, did not
 6 receive any funds. Commission regulations state that a contribution “shall be considered to be
 7 made when the contributor relinquishes control over the contribution” and “[a] contributor shall
 8 be considered to relinquish control over the contribution when it is delivered by the contributor
 9 to the candidate, to the political committee, or to an agent of the political committee.”⁴⁰ Here,
 10 the parties appear to agree that no such relinquishment or delivery occurred, and thus no money
 11 contribution to Robinson was made.

12 Whereas the Act and Commission regulations prohibit any person from making an
 13 excessive contribution,⁴¹ and prohibit candidates, their agents, and entities directly or indirectly
 14 established, financed, maintained or controlled by or acting on behalf of one or more candidates
 15 from soliciting, receiving, directing, transferring, or spending funds in connection with an
 16 election that are not subject to the amount limitations,⁴² these provisions do not specifically
 17 prohibit any person from offering to make an excessive contribution.⁴³ Finally, looking beyond
 18 the fact that no money appears to have changed hands, there is a potential question as to whether

³⁹ Hogan Resp. at 2.

⁴⁰ 11 C.F.R. § 110.1(b)(6).

⁴¹ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1.

⁴² 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.52.

⁴³ We note that, in the context of foreign national contributions, 52 U.S.C. § 30121(a)(1)(A) prohibits a foreign national from making an “express or implied promise to make a contribution or donation.”

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1 the Letlow Committee solicited a prohibited in-kind contribution from Robinson when it
2 allegedly sought to induce him to drop out of the race and endorse Letlow. However, as
3 discussed above, the facts of whether such an overture occurred are in dispute and, even if any
4 prohibited solicitation did occur, it is unclear whether the person who approached Robinson was
5 acting as an agent of the Letlow Committee. In light of the undeveloped factual record as to this
6 issue, and given Letlow's death and the absence of any allegations relating to his widow, who
7 took office in his stead, it would not appear to be worth expending Commission resources to
8 further develop the factual record.

9 Therefore, we recommend that the Commission find no reason to believe that

10 Respondents violated 52 U.S.C. § 30116(a)(1)(A), and 52 U.S.C. § 30125(e)(1).⁴⁴

11 **IV. RECOMMENDATIONS**

12 1. Find no reason to believe that Letlow for Congress and Scott Franklin in his
13 official capacity as treasurer, Luke Letlow, and Bill Hogan violated 52 U.S.C.
14 § 30116(a)(1)(A) and 52 U.S.C. § 30125(e)(1);
15
16 2. Approve the attached Factual and Legal Analysis;
17
18 3. Approve the appropriate letters; and
19

⁴⁴ As mentioned above, Respondent Letlow passed away in December 2020, after Letlow and the Letlow Committee filed their Response. The Commission has generally not pursued deceased respondents in enforcement matters. *See, e.g.*, Second Gen. Counsel's Rpt. at 7 & Cert. ¶ 1 (Apr. 27, 2012), MUR 6249 (KCUMB/Karen Pletz) (taking no further action as to primary respondent because she was deceased); Closing Ltr. From Margaret Toalson, Attorney, FEC, to Warren Gotcher, Esq., (W.H. Layden) (June 30, 2004) (notification that the Commission closed the file as to McAlester Industrial Credit Company and Layden, President, because Layden died sometime after the Commission's reason-to-believe finding); First Gen. Counsel's Rpt. at n. 5 (June 25, 2007), MUR 5922 (Richard Morrison Congressional Committee) (refraining from making reason-to-believe findings as to Sheri Morrison who was deceased). However, because we are recommending a no reason to believe finding, the recommendation as to him is ultimately unaffected.

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1 4. Close the file.

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June 16, 2021

9 Date

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