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OFFICE OF GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

Foundation for Accountability and Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

v.

MUR No. **7738**

Americans for Progressive Action USA
(FEC ID C00741348)
112 E Pecan St, Suite 1800
San Antonio, TX 78209

COMPLAINT

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. FACT submits this complaint, upon information and belief, to request the Federal Election Commission investigate the super PAC, Americans for Progressive Action USA.¹ There is reason to believe, based upon public filings and media reports, that Americans for Progressive Action USA has filed false reports with the FEC. We request the Commission immediately investigate and take appropriate enforcement action to address these apparent violations of the Federal Election Campaign Act.²

On March 6, 2020, Americans for Progressive Action USA filed a statement of organization, and subsequently reported raising over \$4.8 million and spending more than \$2.5 million on political advertising.³ As reported in *Politico*, there were numerous irregularities with the super PAC's filings indicating they were false. The super PAC reported it received contributions from three individuals who gave \$4.8 million, but none of the contributors could be located and the employer listed for one of the contributors stated it had no association with anyone

¹ This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1).

² "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [Act] . . . [t]he Commission shall make an investigation of such alleged violation." 52 U.S.C. § 30109(a)(2); *see also* 11 C.F.R. § 111.4(a).

³ Americans for Progressive Action USA, Statement of Organization, FEC, filed Mar. 6, 2020, available at <https://docquery.fec.gov/pdf/066/202003069203792066/202003069203792066.pdf>; Americans for Progressive Action USA, April 15 Quarterly Report, FEC, filed Apr. 4, 2020, available at <https://docquery.fec.gov/pdf/964/202004089216616964/202004089216616964.pdf>; Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC—And Our Sleuthing to Find It*, Politico, May 5, 2020, available at <https://www.politico.com/news/2020/05/05/americans-progressive-action-super-pac-fake-234316> (attached as Exhibit A).

by that name.⁴ The super PAC reported it spent over \$2.5 million on media production and advertising with nine businesses: Blue West Media LLC, Cadent Media LLP, Dixon Gruper LLC, GmmB Direct, Facebook, Google, M3 Media LLC, Targeted Media Victory LLP, and Verizon.⁵ However, six of those “listed in the filings said they’ve never heard of the super PAC and have no records of doing business with it,” and the other three listed did not have any signs of activity, internet presence, or listed a false address.⁶ Specifically, the advertising platforms did not have any record of ads: “Google and Facebook’s public advertising databases show no hint of the hundreds of thousands of dollars Americans for Progressive Action USA supposedly spent with them.”⁷ Verizon stated it did not do any advertising for the super PAC.⁸ An outside advertising tracking firm had no evidence the super PAC ran any television advertisements.⁹ Finally, the super PAC’s filings also contained other inaccurate or false identifying information, i.e. a disconnected phone number for the Treasurer and its bank’s city did not match the zip code.¹⁰

Federal law requires a super PAC to file a Statement of Organization within 10 days of forming, and thereafter disclose the sources and amounts of contributions it receives and its spending.¹¹ The law requires these reports to be accurate, which is evidenced by the certification on each filing: “I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.”¹² The following warning is also plainly stated on FEC filings: “Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. § 30109.”¹³ It is a violation of federal law to file false reports with the Commission.

⁴ Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC—And Our Sleuthing to Find It*, Politico, May 5, 2020.

⁵ Americans for Progressive Action USA, 48 Hour Notification, FEC, filed Apr. 27, 2020, available at <https://docquery.fec.gov/pdf/921/202004279232298921/202004279232298921.pdf>; Americans for Progressive Action USA, 48 Hour Notification, FEC, filed Apr. 26, 2020, available at <https://docquery.fec.gov/pdf/916/202004269232294916/202004269232294916.pdf>.

⁶ Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC—And Our Sleuthing to Find It*, Politico, May 5, 2020.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ 52 U.S.C. §§ 30103, 30104.

¹² FEC, Statement of Organization (FEC Form 1); FEC, Reports of Receipts and Disbursements (FEC Form 3X).

¹³ FEC, Reports of Receipts and Disbursements (FEC Form 3X); *see also* FEC, Statement of Organization (FEC Form 1) (“Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. § 437g.”).

The facts in the present case demonstrate that Americans for Progressive Action USA did not file accurate reports disclosing the source and amount of contributions and spending.¹⁴ This is a violation of the law because the super PAC did not report the actual source and amount of its contributions and did not disclose its actual spending. The activities of the super PAC are unknown. Moreover, any funds raised by Americans for Progressive Action USA were not spent for the claimed advertising, indicating the funds could have been spent for improper purposes, personal or otherwise. Consequently, the super PAC should be investigated as a scam PAC, which raises funds and does not spend them on federal elections, and referred to the Department of Justice. Finally, the super PAC also violated the law by submitting false information in certified filings with the FEC.

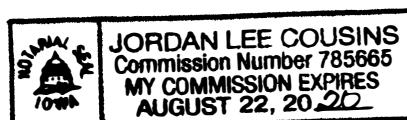
Therefore, FACT respectfully requests the FEC conduct an immediate investigation to determine whether Americans for Progressive Action USA filed false reports in violation of federal law and is operating as a scam PAC; and if so impose all appropriate penalties.

Respectfully submitted,

Kendra Arnold
 Kendra Arnold, Executive Director
 Foundation for Accountability & Civic Trust
 1717 K Street NW, Suite 900, Washington, D.C. 20006

STATE OF IOWA)
)
 COUNTY OF POLK) ss.
)

Subscribed and sworn to before me on May 18th, 2020.



Jordan Lee Cousins
 Notary Public in and for the State of Iowa

¹⁴ Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC—And Our Sleuthing to Find It*, Politico, May 5, 2020.

EXHIBIT

A

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POLITICO



2020 ELECTIONS

The bizarro tale of a phantom super PAC — and our sleuthing to find it

Americans for Progressive Action USA filed elaborate campaign finance reports, listing vendors that were never paid and ads that never ran.



Americans for Progressive Action USA isn't following the traditional M.O. of scam PACs, which typically prey on small-dollar donors. | Photo illustration by Justin Sullivan/Getty Images

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By ZACH MONTELLARO
05/05/2020 04:30 AM EDT



A new super PAC made a splashy entrance onto the Senate battleground scene last week, reporting millions in spending backing Democrats in key races. There's just one problem: The ads don't exist.

The group, Americans for Progressive Action USA, filed [campaign finance reports](#) showing more than \$2.5 million in advertising and associated costs across a half-dozen Senate races last week. But six ad makers and advertising platforms listed in the filings said they've never heard of the super PAC and have no records of doing business with it.

Advertisement

Google and Facebook's public advertising databases show no hint of the hundreds of thousands of dollars Americans for Progressive Action USA supposedly spent with them.

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GMMB, a major Democratic consulting firm listed as having received \$318,000 from the group, said a reporter's inquiry was the first it had heard of the super PAC. Two other Washington-based vendors listed by the super PAC — Targeted Media Victory and Dixon Gruper — have no trace of previous activity and aren't registered as corporations in D.C., according to a search of the city's Department of Regulatory and Consumer Affairs' database.

It is not unheard of for people to make false filings with the FEC. One prankster in 2016 became a brief internet phenomenon after filing paperwork for a candidate named "Deez Nuts." But more than a dozen political operatives and campaign finance watchdogs contacted for this story were baffled why someone would file apparently made-up spending reports with the FEC.

Americans for Progressive Action USA isn't following the traditional M.O. of scam PACs, which typically prey on small-dollar donors by convincing them they're giving money to support a political cause when the money actually lines the pockets of the PAC's operators. But filing detailed FEC reports could be an attempt to create the appearance of credibility for some other means.

"I've seen cases when candidates reported all these fake donors and all these fake expenses ... so they can come out and say they raised all this money. Money begets money," said Nancy Watkins, an experienced Republican treasurer of political committees. "There's very wealthy people who are easily fooled."

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Watkins was the treasurer of Americans for Progressive Action, a Republican group that waded into the 2013 special Senate election in Massachusetts. That similarly named group closed up after the election and has no affiliation with the mysterious super PAC.

Extensive efforts to reach Americans for Progressive Action USA were unsuccessful.

The phone number listed in FEC filings for the group's treasurer, Evan Jones, is disconnected. When POLITICO sent an email to an iCloud address listed on the FEC report seeking more information on the group, Jones responded hours later with an email address from the domain ProgressActionUSA.org, saying someone working on a communications team would be in contact. But then Jones went silent, and multiple emails to him and the communications team he referenced seeking an explanation of the group's filings went unanswered.

There is no active website located at the ProgressActionUSA web address, and

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registration information for the website indicates it was registered via proxy on the day a reporter initially reached out for comment. Additionally, a Twitter account representing itself as belonging to the super PAC did not respond to tweets directed toward it, and has since made itself private. The website linked in the Twitter account's bio was different from the one the email was sent from, linking to a site for a PAC called Progressive USA.

Progressive USA said it had no affiliation with Americans for Progressive Action USA, either. "Definitely not us, mistake that they have linked to our webpage," a representative for the group said.

Other vendors listed on Americans for Progressive Action USA's filing said they'd never heard of the organization, either. BlueWest Media founder Mary Wittemyer — whose firm was listed as the recipient of \$109,000 for ad production and an ad buy — contacted the Federal Election Commission after being notified of the filing. Felicia Greiff, a spokeswoman for the television ad firm Cadent, also said it had no business relationship with Americans for Progressive Action USA.

The super PAC also reported over \$870,000 worth of spending to three major tech firms: Facebook, Google and Verizon. Neither Facebook nor Google's public databases of political ads that run on their platforms included evidence of spending from Americans for Progressive Action USA.

As for Verizon, "I checked and we have no idea what this organization is or whether it's real," spokesman Rich Young said. "As such, we've done no advertising with it; that's if the PAC even exists."

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Advertising Analytics, an ad tracking firm, also found no evidence of any television buys from the group.

There are other irregularities. Three other listed vendors lack an internet presence or any sign of activity. One of the vendors, Targeted Media Victory LLP, seemingly mimics the name of a well-known Republican consulting firm and the other, Dixon Gruper LLC, lists the former headquarters of the FEC as its street address, with an incorrect zip code.

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Americans for Progressive Action USA also said it banks with a JP Morgan Chase branch in Dallas, but lists a zip code for a different city in its filing.

Americans for Progressive Action USA lists three donors from Texas in its only quarterly fundraising report, who reportedly gave \$4.8 million combined to the organization in March. But none of the givers could be tracked down. One of them was described as an “attorney investor” for the American Civil Liberties Union, but a spokesperson for the group said it had no association with anyone by that name.

The FEC created an internal policy in 2016 that allows the commission to follow up and flag filings with “possibly false or fictitious” information, noted Adav Noti, the senior director for trial litigation and chief of staff at the Campaign Legal Center and a former FEC lawyer.

Myles Martin, a spokesman for the FEC, said the commission cannot comment on the activities of a specific committee but said that policy was still in place. “If someone suspects that a violation of campaign finance laws has occurred, they may file a complaint with the Commission,” Martin wrote in an email. “Note that Commission disclosure forms specifically state that submission of false, erroneous, or incomplete information may subject the person signing the report or statement to enforcement penalties.”

Paul S. Ryan, a vice president for the good governance group Common Cause, said he’s seen all sorts of shenanigans in a long career immersed in campaign finance issues. But this one’s a true head-scratcher, he said.

“It is odd,” Ryan said. “I’ve been doing this for 20 years and this is a first for me.”