

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL’S REPORT

MUR 7738

DATE COMPLAINT FILED: May 18, 2020

DATE OF NOTIFICATION: May 26, 2020

DATE OF LAST RESPONSE: None filed

DATE OF ACTIVATION: July 15, 2020



ELECTION CYCLE: 2020

SOL EXPIRATION: Mar. 6, 2025/June 19, 2025

COMPLAINANT:

Foundation for Accountability and Civic Trust

RESPONDENTS:

Americans for Progressive Action USA and Evan

Jones in his official capacity as treasurer

Evan Jones in his personal capacity¹

Unknown Respondent

**RELEVANT STATUTES AND
REGULATIONS:**

52 U.S.C. § 30102

52 U.S.C. § 30104

11 C.F.R. § 104.3

11 C.F.R. § 104.4

11 C.F.R. § 104.9

11 C.F.R. § 104.14

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that Americans for Progressive Action USA and Evan Jones in his official capacity as treasurer (the “Committee”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by filing false disclosure reports.² Based on a press report, the

¹ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3 (Jan. 3, 2005) (explaining that treasurers may, in certain matters, be notified in both their official and personal capacities and that, in such matters, the Commission will make findings as to the committee and the treasurer in both their official and personal capacities).

² Compl. at 1 (May 18, 2020).

Complaint alleges that the Committee operated as a “scam PAC” and falsely reported receiving \$4,805,000 in contributions and making more than \$2.5 million in independent expenditures on behalf of or in opposition to certain candidates.³ The Committee and Jones individually have not filed responses to the Complaint.

Based on the available information and for the reasons set forth below, we recommend that the Commission find reason to believe that the Committee, Evan Jones in his personal capacity, and Unknown Respondent violated 52 U.S.C. § 30104(b) by filing false disclosure reports. Additionally, we recommend that the Commission authorize compulsory process.

II. FACTUAL AND LEGAL ANALYSIS

A. Committee Disclosure in Filings with the Commission

The Committee is an independent-expenditure-only political committee (“IEOPC”) that registered with the Commission on March 6, 2020.⁴ Jones is listed as the Committee’s treasurer, and C. H. Richardson Sullivan (“C.H.R. Sullivan”) was originally listed as Designated Agent and “CEO.”⁵ As alleged in the Complaint and confirmed by publicly available information, there is reason to question the veracity of most or all of the information and activity disclosed by the Committee, beginning with the Committee’s Statement of Organization.

The Committee reports that its campaign depository is J.P. Morgan Chase, 333 Crescent Blvd., Dallas, Texas 75013;⁶ however, research indicates that there is no such bank at that

³ *Id.* (citing Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC – and Our Sleuthing to Find It*, POLITICO (May 5, 2020), <https://www.politico.com/news/2020/05/05/americans-progressive-action-super-pac-fake-234316> (“Politico Article”)).

⁴ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁵ *Id.*; see Amended Statement of Organization, Americans for Progressive Action USA (Apr. 13, 2020) (removing Sullivan as CEO and Designated Agent and adding Jones as Designated Agent and “Advisor/Atty,” with Jones also remaining treasurer).

⁶ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

address, no "Crescent Blvd." in Dallas, and the zip code is not associated with Dallas.⁷ The address reported for Jones on the initial disclosures is 112 E. Pecan Street, San Antonio, Texas 78205;⁸ later, the Committee's address changed from 636 Ivy Lane, San Antonio, Texas 78209 to 112 E. Pecan Street, *Suite 1800*, San Antonio, Texas 78205.⁹ The law firm Dykema Gossett PLLC is located at that address and suite number, but no one named Evan Jones is listed on the firm's website.¹⁰

Other identifying information could also not be verified. For instance, *Politico* determined, and we confirmed, that the telephone number listed for the Committee on its Statements of Organization appears to be disconnected.¹¹ When a *Politico* reporter contacted Jones at the email address provided for the Committee on its Statements of Organization, he replied with an email address from the domain ProgressActionUSA.org and reportedly informed them that someone working on a communications team would contact them.¹² No one did so,

⁷ The zip code appears to be for Allen, Texas.

⁸ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁹ 2020 May Monthly Report at 1, Americans for Progressive Action USA (May 20, 2020). The initial address listed for the Committee on its Statement of Organization is C.H.R. Sullivan's purported address. Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020). On the Statement of Organization, C.H.R. Sullivan's address also is listed as 646 Ivy Lane. Statement of Organization at 4, Americans for Progressive Action USA (Mar. 6, 2020). Our research was unable to confirm that Sullivan is associated with either address.

¹⁰ Dykema Gossett PLLC, Offices, San Antonio (last visited Nov. 6, 2020), <https://www.dykema.com/offices-san-antonio.html>.

¹¹ See *Politico* Article. Our research also indicates that there is no name currently associated with the Committee's phone number and that the phone number may be disconnected.

¹² *Id.* The Committee's provided email address is [REDACTED]

and *Politico* was unable to reach anyone with the Committee again.¹³ There is no live website at progressactionusa.org, but the domain name appears to have been registered on April 28, 2020.¹⁴

1. Contributions

The first disclosure report filed by the Committee, the 2020 April Quarterly, listed three individual contributors with donations totaling \$4,805,000, as set forth below.¹⁵

¹³ *Id.* Notably, the Committee through its treasurer Jones responded on August 25, 2020, to a courtesy late filing notification from the Commission's Electronic Filing Office, and the notification was sent to the Committee by email to the email address provided by the Committee on its Statement of Organization (americafdn210@icloud.com) and to ejones@progressusa.org. FEC Form 99, Americans for Progressive Action USA (Aug. 25, 2020). The Committee was also notified of the Complaint via email but has not submitted a response. *See* Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Evan Jones, Treasurer, Americans for Progressive Action USA (May 26, 2020) (stating that it was sent by email to americafdn210@icloud.com).

¹⁴ *See* Whois Information, *progressiveactionusa.com*, WHO.IS (last visited Nov. 6, 2020), <https://who.is/whois/progressactionusa.org>; *see also* Politico Article (stating that the domain name "was registered via proxy on the day a reporter initially reached out for comment"). A Twitter account named Americans for Progressive Action USA, @AFPA_USA, which was created in March 2020, states that it is "building infrastructure and electoral communication to engage America. We will build a powerful progressive base that energizes and empowers the fight!" *See* Americans for Progressive Action USA (@AFPA_USA), TWITTER https://twitter.com/AFPA_USA. Further research indicates that @chrisullivan210, who appears to be the C.H.R. Sullivan affiliated with the Committee, is associated with at least two other similarly named entities with Twitter accounts: Americans for Progressive Action Alliance (@ProgressiveFor) and Americans for Progressive Action Fund (@ProgressiveFnd). A Facebook page for "Americans for Progressive Action," @AmericansForProgressiveAction, was created on June 20, 2013 and does not appear to have been active since that time. *See* @AmericansForProgressiveAction, Facebook (last visited Nov. 6, 2020), <https://www.facebook.com/AmericansForProgressiveAction/> (containing a website link to www.progressiveactionusa.com which appears not to be currently registered). Additionally, an IEOPC named Americans for Progressive Action registered with the Commission in 2013 and terminated in 2014. *See* Termination Approval, Americans for Progressive Action (Jan. 23, 2014); Statement of Organization, Americans for Progressive Action (June 6, 2013). The treasurer of Americans for Progressive Action confirmed to *Politico* that it "has no affiliation" with the Committee. *See* Politico Article.

¹⁵ 2020 April Quarterly Report, Americans for Progressive Action USA at 6-7 (Apr. 8, 2020).

Name/Address	Employer/ Occupation	Contribution Date	Contribution Amount
Christopher Richardeson Sullivan ¹⁶ 636 Ivy Lane San Antonio, TX 78209	Mariposa Energy LLP Vice Chairman	3/15/2020 3/27/2020 3/31/2020	\$1,000,000 \$1,000,000 \$1,500,000
Vincent E. Sullivan 644 Grandview Place San Antonio, TX 78209	Mariposa Energy LLP Chairman	3/19/2020	\$ 500,000
Henry R. Bass 201 Main Street Fort Worth, TX 76102	ACLU Attorney/Investor	3/19/2020 3/30/2020	\$ 475,000 \$ 330,000
Total:			\$4,805,000

1 These are the only contributions the Committee has disclosed receiving to date. As the
 2 Complaint alleges, *Politico* was unable to locate the contributors, and the ACLU stated that it
 3 had no association with Henry R. Bass.¹⁷

4 After the Politico Article was published, the Committee filed its May Monthly Report
 5 disclosing full refunds of \$3.5 million to Christopher Richardson Sullivan and \$500,000 to
 6 Vincent E. Sullivan and a partial refund of \$804,000 (of \$805,000 originally reportedly
 7 contributed) to Bass.¹⁸ The purposes of the payments were listed as “refund,” “refund due to
 8 Politico,” and “refund after Montellaro” (author of the Politico Article), respectively.¹⁹ There

¹⁶ On the Statement of Organization, “Richardeson” is spelled “Richardson.” Statement of Organization at 4, Americans for Progressive Action USA (Mar. 6, 2020). Our research did not confirm whether either address or spelling is correct. On the May Monthly report, the name is spelled “Richardson.” 2020 May Monthly Report at 6, Americans for Progressive Action USA (May 20, 2020).

¹⁷ Compl. at 1-2 (citing Politico Article).

¹⁸ 2020 May Monthly Report, Americans for Progressive Action USA (May 20, 2020).

¹⁹ *Id.* The refunds were disbursed prior to the Politico Article’s publication.

remained \$1,000 cash-on-hand, and \$850 was refunded to Bass on May 29, 2020.²⁰ Beginning in July 2020 and continuing to the present, the Committee reported having no cash-on-hand.²¹

2. Disbursements

The Committee has not reported any disbursements on its quarterly or monthly disclosure reports. The Committee filed two 48-Hour reports regarding several independent expenditures totaling over \$2.5 million, all marked as estimates and all without a date of disbursement or obligation. As the Complaint alleges, several of the disbursements appear to be false.²² The expenditures are as follows:²³

²⁰ 2020 June Monthly Report, Americans for Progressive Action USA (June 19, 2020). The remaining \$150 may have been below the reporting thresholds for disbursements. 52 U.S.C. § 30104(b)(6)(B); 11 C.F.R. § 104.3(b)(3).

²¹ 2020 August Monthly Report, Americans for Progressive Action USA (Aug. 25, 2020); 2020 July Monthly Report, Americans for Progressive Action USA (July 20, 2020); *see also* FEC Form 99, Americans for Progressive Action USA (Aug. 25, 2020) (stating that “in response to [the Commission’s] notification of filing late, the committee has been inactive since the [M]ay report, and termination or subsequent no spending would render filing needless, as such the committee apologizes for any misunderstanding and would like to inform the FEC, this committee does not plan to engage in any political spending, and has refunded all contributions.”). The Committee has not filed its 2020 September or October Monthly Reports.

²² Compl. at 1-2.

²³ 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 26, 2020); 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 27, 2020).

	Vendor Name/ Address	Date of Public Distribution/ Dissemination	Purpose of Expenditure	Amount
48-Hour Report April 26, 2020	Google 1600 Amphitheater Way Mountain View, CA 94043	4/26/2020	AD Cost- estimate	\$ 212,001.12
		4/26/2020	AD BUY (Estimate)	\$ 158,722.21
	Dixon Gruper LLC 1325 K St Washington, DC 20007	4/26/2020	AD Production- Estimate	\$ 187,464.21
	Facebook 1 Hacker Way Menlo Park, CA 94025	4/26/2020	AD Buy- estimate	\$ 177,831.21
	M3 Media LLC 202 Main St Fort Worth, TX 76102	4/26/2020	AD COST (estimate)	\$ 108,711.68
	Targeted Media Victory LLP 1028 33rd St NW Washington, DC 20007	4/26/2020	Media Production Cost- Estimate	\$ 222,149.31
	Verizon 3005 K Street Washington, DC 20007	4/26/2020	AD Cost (Estimate)	\$ 500,411.47
48-Hour Report April 27, 2020	GmmB Direct 2033 K St [Suite] 450 Washington, DC 20037	4/28/2020	AD Buy and Media Production- Estimate	\$ 317,612.41
	Cadent Media LLP 50 South St [Suite] 2700 Philadelph[i]a, PA 19012	4/27/2020	Multimedia Ad Production and Purchase- estimate	\$ 573,412.79
	BlueWest Media LLC 5130 18th Avenue Denver, CO 80220	4/28/2020	AD production and Buy (estimate)	\$ 109,441.43
Total:				\$2,567,757.84

- 1 Both the Politico Article and our research have identified issues with several of the
- 2 independent expenditures. “Dixon Gruper LLC” appears to be a fictitious company.²⁴

²⁴ See Politico Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search*, <https://corponline.dhra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Name: Dixon Gruper). No quadrant of Washington, DC, is provided for the street address, but the 20007 zip code is not associated with that street address in the northwest or northeast quadrants of Washington, DC.

1 “Targeted Media Victory LLP” also appears to be a fictitious company.²⁵ Further, there is no
 2 record of “GmmB Direct;” GMMB is a real company, and they told *Politico* that they did not
 3 know of the Committee.²⁶ The address disclosed by the Committee is not GMMB’s actual
 4 address. “Cadent Media LLP” appears to be a fictitious version of a media company named
 5 “Cadent” based in Philadelphia, which reportedly has not heard of the Committee.²⁷ The address
 6 listed on the 48-Hour Report is also a variation of the company’s correct address, which is 50
 7 South 16th Street, Suite 2500, Philadelphia, PA 19102.²⁸

8 Other vendors listed on the disclosures are real companies whose addresses were
 9 accurately reported, but there is no record of the Committee conducting business with them. For
 10 instance, although Google, Facebook, and Verizon are real vendors, there appears to be no record
 11 of the Committee purchasing advertisements on Google or Facebook,²⁹ and Verizon reportedly
 12 said they have no record of doing business with the Committee.³⁰

²⁵ See Politico Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search* (last visited Nov. 6, 2020), <https://corponline.dcra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Name: Targeted Media Victory or Targeted Media).

²⁶ See *id.*

²⁷ See *id.*

²⁸ Cadent, Contact Us (last visited Nov. 6, 2020), <https://www.cadent.tv/contact/>.

²⁹ See Google Transparency Report, United States (last visited Nov. 6, 2020), <https://transparencyreport.google.com/political-ads/region/US> (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no results); Facebook Ad Library (last visited Nov. 6, 2020), [https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped) (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no relevant results); see also Facebook Ad Library, *Ads from Americans for Progressive Action* (last visited Nov. 6, 2020), https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=475903662498950 (demonstrating that a Facebook page for @AmericansForProgressiveAction was created in June 2013, and confirming that the page “[is not] running any ads in any country at this time”).

³⁰ See *id.*

B. Respondents' Liability under the Act

1. The Committee's Liability

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.³¹ The relevant reporting requirements under the Act and Commission regulations are intended to ensure public disclosure of “where political campaign money comes from and how it is spent.”³² Disclosure requirements also “deter[] and help[] expose violations” of the Act and Commission regulations.³³

This requirement includes reporting independent expenditures made by political committees other than authorized committees.³⁴ Every political committee that makes independent expenditures must report them in its regularly scheduled disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).³⁵ In addition, a political committee that makes or

³¹ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(3)(i), (ix) (political committees other than authorized committees); *id.* § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

³² *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

³³ *SpeechNow.org v. FEC*, 599 F.3d 686, 698 (D.C. Cir. 2010) (en banc); *see also Buckley*, 424 U.S. at 67-68 (explaining that disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light” and that “recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations” of the Act); *McConnell v. FEC*, 540 U.S. 93, 196 (2003) (concurring with the stated government interests in disclosure requirements described in *Buckley* — “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce” the Act and Commission regulations).

³⁴ 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

³⁵ 11 C.F.R. § 104.4(a). Such a political committee must disclose on Schedule E the name of a person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee. The report also must disclose the date, amount, and purpose of any such an independent expenditure and include a statement that indicates whether such an independent expenditure is in support of or in opposition to a candidate, as well as the name and office sought by such candidate. Independent expenditures of \$200 or less do not need to be itemized,

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1 contracts to make independent expenditures aggregating \$10,000 or more for an election in any
 2 calendar year, up to and including the 20th day before an election, must report these expenditures
 3 within 48 hours.³⁶ These reports, known as 48-Hour Reports, must be filed by the end of the
 4 second day “following the date on which a communication that constitutes an independent
 5 expenditure is publicly distributed or otherwise publicly disseminated.”³⁷ Additionally, “[e]very
 6 person must include in the aggregate total all disbursements during the calendar year for
 7 independent expenditures, and all enforceable contracts, either oral or written, obligating funds
 8 for disbursements during the calendar year for independent expenditures, where those
 9 independent expenditures are made with respect to the same election for Federal office.”³⁸

10 The available information indicates that the Committee filed inaccurate information on its
 11 Statements of Organization and 48-Hour, Quarterly, and Monthly Reports.³⁹ The Statements of
 12 Organization appear to include anomalies in the address of the Committee’s purported bank, a
 13 disconnected phone number, and apparently false addresses for the treasurer Jones and

though the committee must report the total of those expenditures on line (b) of Schedule E. *Id.*; *see also* 11 C.F.R. § 104.3(b)(3)(vii).

³⁶ 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

³⁷ 11 C.F.R. § 104.4(b)(2).

³⁸ *Id.* § 104.4(f).

³⁹ In August 2016, the Commission adopted an interim policy for the 2016 election cycle of sending verification letters to filers listing fictional characters, obscene language, sexual references, celebrities (where there is no indication that the named celebrity submitted the filing), animals, or similarly implausible entries as the name or contact information of the candidate or committee. *FEC Adopts Interim Verification Procedure for Filings Containing Possibly False or Fictitious Information*, FEC (Aug. 18, 2016), <https://www.fec.gov/updates/fec-adopts-interim-verification-procedure-for-filings-containing-possibly-false-or-fictitious-information/> (noting that the Commission preserved its “authority to pursue or refer action for false filing under 52 U.S.C. Section 30109(a) or otherwise report such filings under 52 U.S.C. Section 30107(a)(9)”). There is no indication here that the Committee’s filings would have triggered such a letter from the Commission.

1 designated agent C.H.R. Sullivan.⁴⁰ As to the Committee's 48-Hour Reports, several of the
 2 purported vendors appear to be fictitious: "Dixon Gruper LLC;" "Targeted Media Victory
 3 LLP"; GmmB Direct"; and "Cadent Media LLP."⁴¹ Further, the disclosed vendors that are real
 4 companies either have reportedly said that they have no record of doing business with the
 5 Committee, as in the case of Verizon, or have no record of the Committee purchasing
 6 advertisements, as in the case of Google and Facebook.⁴² On the Quarterly and Monthly
 7 Reports, the Committee appears to have disclosed false contributions and refunds involving three
 8 purported contributors. For example, *Politico* could not locate any of the contributors, and the
 9 ACLU confirmed no association with Bass despite being listed as his employer.⁴³ Our research
 10 thus far has failed to verify the purported contributors' addresses or other information. After
 11 publication of the Politico Article, the Committee disclosed that it refunded contributions in full
 12 to C.H.R. Sullivan and Vincent Sullivan and refunded nearly all of Bass's contribution, noting
 13 that the purpose of the refunds were "refund," "refund due to Politico," and "refund after

⁴⁰ See Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020); 2020 May Monthly Report at 1, Americans for Progressive Action USA (May 20, 2020); Politico Article; *see also* Dykema Gossett PLLC, Offices, San Antonio (last visited Nov. 6, 2020), <https://www.dykema.com/offices-san-antonio.html>.

⁴¹ See 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 26, 2020); 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 27, 2020); Compl. at 1-2; Politico Article; D.C. Dep't of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search*, <https://corponline.dcra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Names: Dixon Gruper, Targeted Media Victory, Targeted Media); Cadent, Contact Us (last visited Nov. 6, 2020), <https://www.cadent.tv/contact/>.

⁴² See Politico Article; Google Transparency Report, United States (last visited Nov. 6, 2020), <https://transparencyreport.google.com/political-ads/region/US> (searches for "Americans for Progressive Action," "Americans for Progressive Action USA," and "AFPA" yield no results); Facebook Ad Library (last visited Nov. 6, 2020), [https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped) (searches for "Americans for Progressive Action," "Americans for Progressive Action USA," and "AFPA" yield no relevant results); *see also* Facebook Ad Library, *Ads from Americans for Progressive Action* (last visited Nov. 6, 2020), https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=475903662498950.

⁴³ Compl. at 1-2 (citing Politico Article).

Montellaro.”⁴⁴ The Committee also reported refunding its contributions and had no cash on hand; thus it is unclear how it funded the reported independent expenditures, further suggesting those disbursements were fictitious.

Accordingly, based on the available information and given that the Committee falsely disclosed receiving over \$4.8 million, disbursing more than \$2.5 million for independent expenditures, and issuing over \$4.8 million in contribution refunds, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b) by filing false disclosure reports.⁴⁵

2. Treasurer's Liability

The Act requires every political committee to have a treasurer.⁴⁶ The treasurer is required to file periodic reports with the Commission disclosing the committee's receipts and disbursements.⁴⁷ The treasurer, and any other person required to file any report or statement under the Act, is “personally responsible . . . for the accuracy of any information or statement contained in it.”⁴⁸ According to Commission policy, a treasurer may be named as a respondent in his or her personal capacity when it appears that, while serving as a treasurer, he or she may

⁴⁴ See 2020 May Monthly Report, Americans for Progressive Action USA (May 20, 2020); 2020 June Monthly Report, Americans for Progressive Action USA (June 19, 2020).

⁴⁵ See Factual & Legal Analysis, MUR 6922 (ACPAC) (finding reason to believe that the committee violated the Act by filing inaccurate disclosure reports where false contributions and refunds were reported to cover up apparent accounting issues); Factual & Legal Analysis, MUR 5610 (North Carolina's Salute to George W. Bush Committee, Inc.) (finding reason to believe that the committee violated the Act by, *inter alia*, failing to file accurate disclosure reports where its assistant treasurer disbursed funds to himself that were not disclosed to the Commission). *But see* MUR 7282 (Andrew Learned for Congress) (EPS dismissal where Complaint alleged that fictitious addresses were used on Statements of Candidacy and Organization and respondents amended reports to correct what they contended were clerical errors).

⁴⁶ 52 U.S.C. § 30102.

⁴⁷ 52 U.S.C. § 30104(a)(1), (b).

⁴⁸ 11 C.F.R. § 104.14(d).

1 have violated obligations imposed by the Act or Commission regulations personally as a
 2 treasurer and where, for example, the violations were knowing and willful or “the treasurer
 3 recklessly failed to fulfill the duties imposed by law.”⁴⁹

4 Thus, under certain circumstances, the Commission may make findings as to Jones in his
 5 personal capacity in connection with violations of the Act while performing the duties of the
 6 treasurer. The circumstances here warrant a finding of reason to believe that Jones violated the
 7 Act in his personal capacity because, at a minimum, his actions appear to show a reckless failure
 8 to fulfill his duties as treasurer. As the Committee's named treasurer, it appears that he filed
 9 disclosure reports containing false names of contributors and vendors and even fabricated a bank
 10 depository on the Statement of Organization. He also appears to have engaged in activity
 11 designed to hide his actions. When a *Politico* reporter contacted Jones in connection with their
 12 reporting, Jones appears to have registered the website progressactionusa.org, created a new
 13 email address that same day to make it appear that the organization was legitimate, and then
 14 purportedly issued refunds to the Committee's contributors.⁵⁰ Thus, Jones's direct actions as
 15 treasurer effected the inaccurate disclosure reports.⁵¹ Accordingly, we recommend that the
 16 Commission find reason to believe that Evan Jones in his personal capacity violated 52 U.S.C.

⁴⁹ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 3-6 (Jan. 3, 2005); *see, e.g.*, MUR 5971 (Mary Jennifer Adams); MUR 5610 (Earl Allen Haywood); MUR 5721 (Lockheed Martin Employees' PAC); MUR 7225 (Jack Wu); MUR 7310 (Mark Takai for Congress) [REDACTED]

⁵⁰ See *Politico* Article. The available record does not provide an explanation for why, if the Committee's activity was legitimate, Jones would have refunded the contributions received by the Committee in anticipation of the *Politico* Article.

⁵¹ The Act addresses knowing and willful violations of the law, which occur when one has knowledge that he or she is violating the law. See 52 U.S.C. § 30109(a)(5)(B), (d); *Federal Election Commission v. John Dramei for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). The available record is insufficient to determine if the Respondents acted with such knowledge; thus, we do not recommend that the Commission make any knowing and willful findings at this time. If such information becomes available during the investigation, we will make appropriate recommendations.

§ 30104(b) by filing false disclosure reports.⁵² Additionally, because we have been unable to confirm Jones's identity, we also recommend that the Commission find reason to believe that Unknown Respondent violated 52 U.S.C. § 30104(b) by filing false disclosure reports.

III. PROPOSED INVESTIGATION

Our investigation would seek to clarify the public record and determine whether the Committee filed false disclosure reports. We will request documentation of the reported contributions, refunds, and expenditures, and substantiation of the identities of the purported contributors and vendors. Additionally, we will seek communications involving Committee agents, contributors, and vendors. If we determine that Jones does not exist or other individuals involved used pseudonyms on Commission filings, we will use all tools at our disposal to identify the individuals involved. For example, we may seek information from Twitter regarding the Twitter accounts associated with the Committee. We will seek to conduct our investigation through voluntary means but recommend that the Commission authorize the use of compulsory process, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary.

IV. RECOMMENDATIONS

1. Find reason to believe that Americans for Progressive Action USA and Evan Jones in his official capacity as treasurer violated 52 U.S.C. § 30104(b) by filing false disclosure reports;
2. Find reason to believe that Evan Jones in his personal capacity as treasurer violated 52 U.S.C. § 30104(b) by filing false disclosure reports;
3. Find reason to believe that Unknown Respondent violated 52 U.S.C. § 30104(b) by filing false disclosure reports;

⁵² See MUR 6766 (Jesse Jackson for Congress) (reason to believe treasurers violated the Act in their personal capacities where they filed inaccurate and false disclosure reports); MUR 5358 (Morgan for Congress) (reason to believe treasurer and candidate violated 52 U.S.C. § 30104(b) where they appeared to have filed false reports).

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First General Counsel's Report

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4. Approve the attached Factual and Legal Analyses;
5. Authorize compulsory process; and
6. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel for
Enforcement

Nov. 12, 2020

DATE

Peter G. Blumberg
Peter G. Blumberg
Acting Deputy Associate General Counsel
for Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Anne B. Robinson
Anne B. Robinson
Attorney

Attachments:

1. Factual and Legal Analysis for Americans for Progressive Action USA and Evan Jones in his personal capacity
2. Factual and Legal Analysis for Unknown Respondent

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENTS: Americans for Progressive Action USA and Evan MUR 7738
6 Jones in his official capacity as treasurer
7 Evan Jones in his personal capacity¹
8

9 **I. INTRODUCTION**

10 The Complaint alleges that Americans for Progressive Action USA and Evan Jones in his
11 official capacity as treasurer (the “Committee”) violated the Federal Election Campaign Act of
12 1971, as amended (the “Act”), by filing false disclosure reports.² Based on a press report, the
13 Complaint alleges that the Committee operated as a “scam PAC” and falsely reported receiving
14 \$4,805,000 in contributions and making more than \$2.5 million in independent expenditures on
15 behalf of or in opposition to certain candidates.³ The Committee and Jones individually have not
16 filed responses to the Complaint.

17 Based on the available information and for the reasons set forth below, the Commission
18 finds reason to believe that the Committee and Evan Jones in his personal capacity violated
19 52 U.S.C. § 30104(b) by filing false disclosure reports.

¹ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3 (Jan. 3, 2005) (explaining that treasurers may, in certain matters, be notified in both their official and personal capacities and that, in such matters, the Commission will make findings as to the committee and the treasurer in both their official and personal capacities).

² Compl. at 1 (May 18, 2020).

³ *Id.* (citing Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC – and Our Sleuthing to Find It*, POLITICO (May 5, 2020), <https://www.politico.com/news/2020/05/05/americans-progressive-action-super-pac-fake-234316> (“Politico Article”)).

II. FACTUAL AND LEGAL ANALYSIS

A. Committee Disclosure in Filings with the Commission

The Committee is an independent-expenditure-only political committee (“IEOPC”) that registered with the Commission on March 6, 2020.⁴ Jones is listed as the Committee’s treasurer, and C. H. Richardson Sullivan (“C.H.R. Sullivan”) was originally listed as Designated Agent and “CEO.”⁵ As alleged in the Complaint and confirmed by publicly available information, there is reason to question the veracity of most or all of the information and activity disclosed by the Committee, beginning with the Committee’s Statement of Organization.

The Committee reports that its campaign depository is J.P. Morgan Chase, 333 Crescent Blvd., Dallas, Texas 75013;⁶ however, research indicates that there is no such bank at that address, no “Crescent Blvd.” in Dallas, and the zip code is not associated with Dallas.⁷ The address reported for Jones on the initial disclosures is 112 E. Pecan Street, San Antonio, Texas 78205;⁸ later, the Committee’s address changed from 636 Ivy Lane, San Antonio, Texas 78209 to 112 E. Pecan Street, *Suite 1800*, San Antonio, Texas 78205.⁹ The law firm Dykema Gossett

⁴ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁵ *Id.*; see Amended Statement of Organization, Americans for Progressive Action USA (Apr. 13, 2020) (removing Sullivan as CEO and Designated Agent and adding Jones as Designated Agent and “Advisor/Atty,” with Jones also remaining treasurer).

⁶ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁷ The zip code appears to be for Allen, Texas.

⁸ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁹ 2020 May Monthly Report at 1, Americans for Progressive Action USA (May 20, 2020). The initial address listed for the Committee on its Statement of Organization is C.H.R. Sullivan’s purported address. Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020). On the Statement of Organization, C.H.R. Sullivan’s address also is listed as 646 Ivy Lane. Statement of Organization at 4, Americans for Progressive Action USA (Mar. 6, 2020). Our research was unable to confirm that Sullivan is associated with either address.

1 PLLC is located at that address and suite number, but no one named Evan Jones is listed on the
 2 firm's website.¹⁰

3 Other identifying information could also not be verified. For instance, *Politico*
 4 determined, and we confirmed, that the telephone number listed for the Committee on its
 5 Statements of Organization appears to be disconnected.¹¹ When a *Politico* reporter contacted
 6 Jones at the email address provided for the Committee on its Statements of Organization, he
 7 replied with an email address from the domain ProgressActionUSA.org and reportedly informed
 8 them that someone working on a communications team would contact them.¹² No one did so,
 9 and *Politico* was unable to reach anyone with the Committee again.¹³ There is no live website at
 10 progressactionusa.org, but the domain name appears to have been registered on April 28, 2020.¹⁴

¹⁰ Dykema Gossett PLLC, Offices, San Antonio (last visited Nov. 6, 2020), <https://www.dykema.com/offices-san-antonio.html>.

¹¹ See *Politico* Article. Our research also indicates that there is no name currently associated with the Committee's phone number and that the phone number may be disconnected.

¹² *Id.* The Committee's provided email address is americafdn210@icloud.com.

¹³ *Id.* Notably, the Committee through its treasurer Jones responded on August 25, 2020, to a courtesy late filing notification from the Commission's Electronic Filing Office, and the notification was sent to the Committee by email to the email address provided by the Committee on its Statement of Organization (americafdn210@icloud.com) and to ejones@progressusa.org. FEC Form 99, Americans for Progressive Action USA (Aug. 25, 2020). The Committee was also notified of the Complaint via email but has not submitted a response. See Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Evan Jones, Treasurer, Americans for Progressive Action USA (May 26, 2020) (stating that it was sent by email to americafdn210@icloud.com).

¹⁴ See Whois Information, *progressiveactionusa.com*, WHO.IS (last visited Nov. 6, 2020), <https://who.is/whois/progressactionusa.org>; see also *Politico* Article (stating that the domain name "was registered via proxy on the day a reporter initially reached out for comment"). A Twitter account named Americans for Progressive Action USA, @AFPA_USA, which was created in March 2020, states that it is "building infrastructure and electoral communication to engage America. We will build a powerful progressive base that energizes and empowers the fight!" See Americans for Progressive Action USA (@AFPA_USA), TWITTER https://twitter.com/AFPA_USA. Further research indicates that @chrisullivan210, who appears to be the C.H.R. Sullivan affiliated with the Committee, is associated with at least two other similarly named entities with Twitter accounts: Americans for Progressive Action Alliance (@ProgressiveFor) and Americans for Progressive Action Fund (@ProgressiveFnd). A Facebook page for "Americans for Progressive Action," @AmericansForProgressiveAction, was created on June 20, 2013 and does not appear to have been active since that time. See @AmericansForProgressiveAction, Facebook (last visited Nov. 6, 2020), <https://www.facebook.com/AmericansForProgressiveAction/> (containing a website link to www.progressiveactionusa.com which appears not to be currently registered). Additionally, an IEOPC named Americans for Progressive Action registered with the Commission in 2013 and terminated in 2014. See Termination

1 1. Contributions

2 The first disclosure report filed by the Committee, the 2020 April Quarterly, listed three
3 individual contributors with donations totaling \$4,805,000, as set forth below.¹⁵

Name/Address	Employer/ Occupation	Contribution Date	Contribution Amount
Christopher Richardeson Sullivan ¹⁶ 636 Ivy Lane San Antonio, TX 78209	Mariposa Energy LLP Vice Chairman	3/15/2020	\$1,000,000
		3/27/2020	\$1,000,000
		3/31/2020	\$1,500,000
Vincent E. Sullivan 644 Grandview Place San Antonio, TX 78209	Mariposa Energy LLP Chairman	3/19/2020	\$ 500,000
Henry R. Bass 201 Main Street Fort Worth, TX 76102	ACLU Attorney/Investor	3/19/2020	\$ 475,000
		3/30/2020	\$ 330,000
Total:			\$4,805,000

4 These are the only contributions the Committee has disclosed receiving to date. As the
5 Complaint alleges, *Politico* was unable to locate the contributors, and the ACLU stated that it
6 had no association with Henry R. Bass.¹⁷

7 After the Politico Article was published, the Committee filed its May Monthly Report
8 disclosing full refunds of \$3.5 million to Christopher Richardson Sullivan and \$500,000 to
9 Vincent E. Sullivan and a partial refund of \$804,000 (of \$805,000 originally reportedly

Approval, Americans for Progressive Action (Jan. 23, 2014); Statement of Organization, Americans for Progressive Action (June 6, 2013). The treasurer of Americans for Progressive Action confirmed to *Politico* that it “has no affiliation” with the Committee. See Politico Article.

¹⁵ 2020 April Quarterly Report, Americans for Progressive Action USA at 6-7 (Apr. 8, 2020).

¹⁶ On the Statement of Organization, “Richardeson” is spelled “Richardson.” Statement of Organization at 4, Americans for Progressive Action USA (Mar. 6, 2020). Our research did not confirm whether either address or spelling is correct. On the May Monthly report, the name is spelled “Richardson.” 2020 May Monthly Report at 6, Americans for Progressive Action USA (May 20, 2020).

¹⁷ Compl. at 1-2 (citing Politico Article).

1 contributed) to Bass.¹⁸ The purposes of the payments were listed as “refund,” “refund due to
 2 Politico,” and “refund after Montellaro” (author of the Politico Article), respectively.¹⁹ There
 3 remained \$1,000 cash-on-hand, and \$850 was refunded to Bass on May 29, 2020.²⁰ Beginning
 4 in July 2020 and continuing to the present, the Committee reported having no cash-on-hand.²¹

5 2. Disbursements

6 The Committee has not reported any disbursements on its quarterly or monthly disclosure
 7 reports. The Committee filed two 48-Hour reports regarding several independent expenditures
 8 totaling over \$2.5 million, all marked as estimates and all without a date of disbursement or
 9 obligation. As the Complaint alleges, several of the disbursements appear to be false.²² The
 10 expenditures are as follows:²³

¹⁸ 2020 May Monthly Report, Americans for Progressive Action USA (May 20, 2020).

¹⁹ *Id.* The refunds were disbursed prior to the Politico Article’s publication.

²⁰ 2020 June Monthly Report, Americans for Progressive Action USA (June 19, 2020). The remaining \$150 may have been below the reporting thresholds for disbursements. 52 U.S.C. § 30104(b)(6)(B); 11 C.F.R. § 104.3(b)(3).

²¹ 2020 August Monthly Report, Americans for Progressive Action USA (Aug. 25, 2020); 2020 July Monthly Report, Americans for Progressive Action USA (July 20, 2020); *see also* FEC Form 99, Americans for Progressive Action USA (Aug. 25, 2020) (stating that “in response to [the Commission’s] notification of filing late, the committee has been inactive since the [M]ay report, and termination or subsequent no spending would render filing needless, as such the committee apologizes for any misunderstanding and would like to inform the FEC, this committee does not plan to engage in any political spending, and has refunded all contributions.”). The Committee has not filed its 2020 September or October Monthly Reports.

²² Compl. at 1-2.

²³ 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 26, 2020); 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 27, 2020).

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	Vendor Name/ Address	Date of Public Distribution/ Dissemination	Purpose of Expenditure	Amount
48-Hour Report April 26, 2020	Google 1600 Amphitheater Way Mountain View, CA 94043	4/26/2020	AD Cost- estimate	\$212,001.12
		4/26/2020	AD BUY (Estimate)	\$158,722.21
	Dixon Gruper LLC 1325 K St Washington, DC 20007	4/26/2020	AD Production- Estimate	\$187,464.21
	Facebook 1 Hacker Way Menlo Park, CA 94025	4/26/2020	AD Buy- estimate	\$177,831.21
	M3 Media LLC 202 Main St Fort Worth, TX 76102	4/26/2020	AD COST (estimate)	\$108,711.68
	Targeted Media Victory LLP 1028 33rd St NW Washington, DC 20007	4/26/2020	Media Production Cost- Estimate	\$222,149.31
	Verizon 3005 K Street Washington, DC 20007	4/26/2020	AD Cost (Estimate)	\$500,411.47
48-Hour Report April 27, 2020	GmmB Direct 2033 K St [Suite] 450 Washington, DC 20037	4/28/2020	AD Buy and Media Production- Estimate	\$317,612.41
	Cadent Media LLP 50 South St [Suite] 2700 Philadelph[i]a, PA 19012	4/27/2020	Multimedia Ad Production and Purchase- estimate	\$573,412.79
	BlueWest Media LLC 5130 18th Avenue Denver, CO 80220	4/28/2020	AD production and Buy (estimate)	\$109,441.43
Total:				\$2,567,757.84

- 1 Both the Politico Article and our research have identified issues with several of the
- 2 independent expenditures. “Dixon Gruper LLC” appears to be a fictitious company.²⁴

²⁴ See Politico Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search*, <https://corponline.dcra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Name: Dixon

1 “Targeted Media Victory LLP” also appears to be a fictitious company.²⁵ Further, there is no
 2 record of “GmmB Direct;” GMMB is a real company, and they told *Politico* that they did not
 3 know of the Committee.²⁶ The address disclosed by the Committee is not GMMB’s actual
 4 address. “Cadent Media LLP” appears to be a fictitious version of a media company named
 5 “Cadent” based in Philadelphia, which reportedly has not heard of the Committee.²⁷ The address
 6 listed on the 48-Hour Report is also a variation of the company’s correct address, which is 50
 7 South 16th Street, Suite 2500, Philadelphia, PA 19102.²⁸

8 Other vendors listed on the disclosures are real companies whose addresses were
 9 accurately reported, but there is no record of the Committee conducting business with them. For
 10 instance, although Google, Facebook, and Verizon are real vendors, there appears to be no record
 11 of the Committee purchasing advertisements on Google or Facebook,²⁹ and Verizon reportedly
 12 said they have no record of doing business with the Committee.³⁰

Gruper). No quadrant of Washington, DC, is provided for the street address, but the 20007 zip code is not associated with that street address in the northwest or northeast quadrants of Washington, DC.

²⁵ See *Politico* Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search* (last visited Nov. 6, 2020), <https://corponline.dhra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Name: Targeted Media Victory or Targeted Media).

²⁶ See *id.*

²⁷ See *id.*

²⁸ Cadent, Contact Us (last visited Nov. 6, 2020), <https://www.cadent.tv/contact/>.

²⁹ See Google Transparency Report, United States (last visited Nov. 6, 2020), <https://transparencyreport.google.com/political-ads/region/US> (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no results); Facebook Ad Library (last visited Nov. 6, 2020), [https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped) (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no relevant results); see also Facebook Ad Library, *Ads from Americans for Progressive Action* (last visited Nov. 6, 2020), https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=475903662498950 (demonstrating that a Facebook page for @AmericansForProgressiveAction was created in June 2013, and confirming that the page “[is not] running any ads in any country at this time”).

³⁰ See *id.*

1 **B. Respondents' Liability under the Act**

2 1. The Committee's Liability

3 The Act and Commission regulations require political committees to report the name and
 4 address of each person to whom they make expenditures or other disbursements aggregating
 5 more than \$200 per calendar year, or per election cycle for authorized committees, as well as the
 6 date, amount, and purpose of such payments.³¹ The relevant reporting requirements under the
 7 Act and Commission regulations are intended to ensure public disclosure of “where political
 8 campaign money comes from and how it is spent.”³² Disclosure requirements also “deter[] and
 9 help[] expose violations” of the Act and Commission regulations.³³

10 This requirement includes reporting independent expenditures made by political
 11 committees other than authorized committees.³⁴ Every political committee that makes
 12 independent expenditures must report them in its regularly scheduled disclosure reports in
 13 accordance with 11 C.F.R. § 104.3(b)(3)(vii).³⁵ In addition, a political committee that makes or

³¹ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(3)(i), (ix) (political committees other than authorized committees); *id.* § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

³² *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

³³ *SpeechNow.org v. FEC*, 599 F.3d 686, 698 (D.C. Cir. 2010) (en banc); *see also Buckley*, 424 U.S. at 67-68 (explaining that disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light” and that “recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations” of the Act); *McConnell v. FEC*, 540 U.S. 93, 196 (2003) (concurring with the stated government interests in disclosure requirements described in *Buckley* — “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce” the Act and Commission regulations).

³⁴ 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

³⁵ 11 C.F.R. § 104.4(a). Such a political committee must disclose on Schedule E the name of a person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee. The report also must disclose the date, amount, and purpose of any such an independent expenditure and include a statement that indicates whether such an independent expenditure is in support of or in opposition to a candidate, as well as the name and office sought by such candidate. Independent expenditures of \$200 or less do not need to be itemized,

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1 contracts to make independent expenditures aggregating \$10,000 or more for an election in any
 2 calendar year, up to and including the 20th day before an election, must report these expenditures
 3 within 48 hours.³⁶ These reports, known as 48-Hour Reports, must be filed by the end of the
 4 second day “following the date on which a communication that constitutes an independent
 5 expenditure is publicly distributed or otherwise publicly disseminated.”³⁷ Additionally, “[e]very
 6 person must include in the aggregate total all disbursements during the calendar year for
 7 independent expenditures, and all enforceable contracts, either oral or written, obligating funds
 8 for disbursements during the calendar year for independent expenditures, where those
 9 independent expenditures are made with respect to the same election for Federal office.”³⁸

10 The available information indicates that the Committee filed inaccurate information on its
 11 Statements of Organization and 48-Hour, Quarterly, and Monthly Reports.³⁹ The Statements of
 12 Organization appear to include anomalies in the address of the Committee’s purported bank, a
 13 disconnected phone number, and apparently false addresses for the treasurer Jones and

though the committee must report the total of those expenditures on line (b) of Schedule E. *Id.*; *see also* 11 C.F.R. § 104.3(b)(3)(vii).

³⁶ 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

³⁷ 11 C.F.R. § 104.4(b)(2).

³⁸ *Id.* § 104.4(f).

³⁹ In August 2016, the Commission adopted an interim policy for the 2016 election cycle of sending verification letters to filers listing fictional characters, obscene language, sexual references, celebrities (where there is no indication that the named celebrity submitted the filing), animals, or similarly implausible entries as the name or contact information of the candidate or committee. *FEC Adopts Interim Verification Procedure for Filings Containing Possibly False or Fictitious Information*, FEC (Aug. 18, 2016), <https://www.fec.gov/updates/fec-adopts-interim-verification-procedure-for-filings-containing-possibly-false-or-fictitious-information/> (noting that the Commission preserved its “authority to pursue or refer action for false filing under 52 U.S.C. Section 30109(a) or otherwise report such filings under 52 U.S.C. Section 30107(a)(9)”). There is no indication here that the Committee’s filings would have triggered such a letter from the Commission.

1 designated agent C.H.R. Sullivan.⁴⁰ As to the Committee’s 48-Hour Reports, several of the
 2 purported vendors appear to be fictitious: “Dixon Gruper LLC;” “Targeted Media Victory
 3 LLP”; GmmB Direct”; and “Cadent Media LLP.”⁴¹ Further, the disclosed vendors that are real
 4 companies either have reportedly said that they have no record of doing business with the
 5 Committee, as in the case of Verizon, or have no record of the Committee purchasing
 6 advertisements, as in the case of Google and Facebook.⁴² On the Quarterly and Monthly
 7 Reports, the Committee appears to have disclosed false contributions and refunds involving three
 8 purported contributors. For example, *Politico* could not locate any of the contributors, and the
 9 ACLU confirmed no association with Bass despite being listed as his employer.⁴³ Our research
 10 thus far has failed to verify the purported contributors’ addresses or other information. After
 11 publication of the Politico Article, the Committee disclosed that it refunded contributions in full
 12 to C.H.R. Sullivan and Vincent Sullivan and refunded nearly all of Bass’s contribution, noting
 13 that the purpose of the refunds were “refund,” “refund due to Politico,” and “refund after

⁴⁰ See Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020); 2020 May Monthly Report at 1, Americans for Progressive Action USA (May 20, 2020); Politico Article; *see also* Dykema Gossett PLLC, Offices, San Antonio (last visited Nov. 6, 2020), <https://www.dykema.com/offices-san-antonio.html>.

⁴¹ See 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 26, 2020); 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 27, 2020); Compl. at 1-2; Politico Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search*, <https://corponline.dcra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Names: Dixon Gruper, Targeted Media Victory, Targeted Media); Cadent, Contact Us (last visited Nov. 6, 2020), <https://www.cadent.tv/contact/>.

⁴² See Politico Article; Google Transparency Report, United States (last visited Nov. 6, 2020), <https://transparencyreport.google.com/political-ads/region/US> (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no results); Facebook Ad Library (last visited Nov. 6, 2020), [https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped) (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no relevant results); *see also* Facebook Ad Library, *Ads from Americans for Progressive Action* (last visited Nov. 6, 2020), https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=475903662498950.

⁴³ Compl. at 1-2 (citing Politico Article).

Montellaro.”⁴⁴ The Committee also reported refunding its contributions and had no cash on hand; thus it is unclear how it funded the reported independent expenditures, further suggesting those disbursements were fictitious.

Accordingly, based on the available information and given that the Committee falsely disclosed receiving over \$4.8 million, disbursing more than \$2.5 million for independent expenditures, and issuing over \$4.8 million in contribution refunds, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b) by filing false disclosure reports.⁴⁵

2. Treasurer’s Liability

The Act requires every political committee to have a treasurer.⁴⁶ The treasurer is required to file periodic reports with the Commission disclosing the committee’s receipts and disbursements.⁴⁷ The treasurer, and any other person required to file any report or statement under the Act, is “personally responsible . . . for the accuracy of any information or statement contained in it.”⁴⁸ According to Commission policy, a treasurer may be named as a respondent in his or her personal capacity when it appears that, while serving as a treasurer, he or she may have violated obligations imposed by the Act or Commission regulations personally as a

⁴⁴ See 2020 May Monthly Report, Americans for Progressive Action USA (May 20, 2020); 2020 June Monthly Report, Americans for Progressive Action USA (June 19, 2020).

⁴⁵ See Factual & Legal Analysis, MUR 6922 (ACPAC) (finding reason to believe that the committee violated the Act by filing inaccurate disclosure reports where false contributions and refunds were reported to cover up apparent accounting issues); Factual & Legal Analysis, MUR 5610 (North Carolina’s Salute to George W. Bush Committee, Inc.) (finding reason to believe that the committee violated the Act by, *inter alia*, failing to file accurate disclosure reports where its assistant treasurer disbursed funds to himself that were not disclosed to the Commission). *But see* MUR 7282 (Andrew Learned for Congress) (EPS dismissal where Complaint alleged that fictitious addresses were used on Statements of Candidacy and Organization and respondents amended reports to correct what they contended were clerical errors).

⁴⁶ 52 U.S.C. § 30102.

⁴⁷ 52 U.S.C. § 30104(a)(1), (b).

⁴⁸ 11 C.F.R. § 104.14(d).

1 treasurer and where, for example, the violations were knowing and willful or “the treasurer
2 recklessly failed to fulfill the duties imposed by law.”⁴⁹

3 Thus, under certain circumstances, the Commission may make findings as to Jones in his
4 personal capacity in connection with violations of the Act while performing the duties of the
5 treasurer. The circumstances here warrant a finding of reason to believe that Jones violated the
6 Act in his personal capacity because, at a minimum, his actions appear to show a reckless failure
7 to fulfill his duties as treasurer. As the Committee’s named treasurer, it appears that he filed
8 disclosure reports containing false names of contributors and vendors and even fabricated a bank
9 depository on the Statement of Organization. He also appears to have engaged in activity
10 designed to hide his actions. When a *Politico* reporter contacted Jones in connection with their
11 reporting, Jones appears to have registered the website progressactionusa.org, created a new
12 email address that same day to make it appear that the organization was legitimate, and then
13 purportedly issued refunds to the Committee’s contributors.⁵⁰ Thus, Jones’s direct actions as
14 treasurer effected the inaccurate disclosure reports.⁵¹ Accordingly, the Commission finds reason

⁴⁹ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 3-6 (Jan. 3, 2005); *see, e.g.*, MUR 5971 (Mary Jennifer Adams); MUR 5610 (Earl Allen Haywood); MUR 5721 (Lockheed Martin Employees’ PAC); MUR 7225 (Jack Wu).

⁵⁰ See *Politico* Article. The available record does not provide an explanation for why, if the Committee’s activity was legitimate, Jones would have refunded the contributions received by the Committee in anticipation of the *Politico* Article.

⁵¹ The Act addresses knowing and willful violations of the law, which occur when one has knowledge that he or she is violating the law. See 52 U.S.C. § 30109(a)(5)(B), (d); *Federal Election Commission v. John Dramei for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). The available record is insufficient to determine if the Respondents acted with such knowledge; thus, the Commission does not make any knowing and willful findings at this time. If such information becomes available during the investigation, the Commission will make appropriate findings.

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- 1 to believe that Evan Jones in his personal capacity violated 52 U.S.C. § 30104(b) by filing false
- 2 disclosure reports.⁵²

⁵² See MUR 6766 (Jesse Jackson for Congress) (reason to believe treasurers violated the Act in their personal capacities where they filed inaccurate and false disclosure reports); MUR 5358 (Morgan for Congress) (reason to believe treasurer and candidate violated 52 U.S.C. § 30104(b) where they appeared to have filed false reports).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Unknown Respondent

MUR 7738

I. INTRODUCTION

The Complaint alleges that Americans for Progressive Action USA and Evan Jones in his official capacity as treasurer (the “Committee”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by filing false disclosure reports.¹ Based on a press report, the Complaint alleges that the Committee operated as a “scam PAC” and falsely reported receiving \$4,805,000 in contributions and making more than \$2.5 million in independent expenditures on behalf of or in opposition to certain candidates.²

Based on the available information and for the reasons set forth below, the Commission finds reason to believe that Unknown Respondent violated 52 U.S.C. § 30104(b) by filing false disclosure reports.

II. FACTUAL AND LEGAL ANALYSIS**A. Committee Disclosure in Filings with the Commission**

The Committee is an independent-expenditure-only political committee (“IEOPC”) that registered with the Commission on March 6, 2020.³ Jones is listed as the Committee’s treasurer, and C. H. Richardson Sullivan (“C.H.R. Sullivan”) was originally listed as Designated Agent and

¹ Compl. at 1 (May 18, 2020).

² *Id.* (citing Zach Montellaro, *The Bizarro Tale of a Phantom Super PAC – and Our Sleuthing to Find It*, POLITICO (May 5, 2020), <https://www.politico.com/news/2020/05/05/americans-progressive-action-super-pac-fake-234316> (“Politico Article”)).

³ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

“CEO.”⁴ As alleged in the Complaint and confirmed by publicly available information, there is reason to question the veracity of most or all of the information and activity disclosed by the Committee, beginning with the Committee’s Statement of Organization.

The Committee reports that its campaign depository is J.P. Morgan Chase, 333 Crescent Blvd., Dallas, Texas 75013;⁵ however, research indicates that there is no such bank at that address, no “Crescent Blvd.” in Dallas, and the zip code is not associated with Dallas.⁶ The address reported for Jones on the initial disclosures is 112 E. Pecan Street, San Antonio, Texas 78205;⁷ later, the Committee’s address changed from 636 Ivy Lane, San Antonio, Texas 78209 to 112 E. Pecan Street, *Suite 1800*, San Antonio, Texas 78205.⁸ The law firm Dykema Gossett PLLC is located at that address and suite number, but no one named Evan Jones is listed on the firm’s website.⁹

Other identifying information could also not be verified. For instance, *Politico* determined, and we confirmed, that the telephone number listed for the Committee on its

⁴ *Id.*; see Amended Statement of Organization, Americans for Progressive Action USA (Apr. 13, 2020) (removing Sullivan as CEO and Designated Agent and adding Jones as Designated Agent and “Advisor/Atty,” with Jones also remaining treasurer).

⁵ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁶ The zip code appears to be for Allen, Texas.

⁷ Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020).

⁸ 2020 May Monthly Report at 1, Americans for Progressive Action USA (May 20, 2020). The initial address listed for the Committee on its Statement of Organization is C.H.R. Sullivan’s purported address. Statement of Organization, Americans for Progressive Action USA (Mar. 6, 2020). On the Statement of Organization, C.H.R. Sullivan’s address also is listed as 646 Ivy Lane. Statement of Organization at 4, Americans for Progressive Action USA (Mar. 6, 2020). Our research was unable to confirm that Sullivan is associated with either address.

⁹ Dykema Gossett PLLC, Offices, San Antonio (last visited Nov. 6, 2020), <https://www.dykema.com/offices-san-antonio.html>.

Statements of Organization appears to be disconnected.¹⁰ When a *Politico* reporter contacted Jones at the email address provided for the Committee on its Statements of Organization, he replied with an email address from the domain ProgressActionUSA.org and reportedly informed them that someone working on a communications team would contact them.¹¹ No one did so, and *Politico* was unable to reach anyone with the Committee again.¹² There is no live website at progressactionusa.org, but the domain name appears to have been registered on April 28, 2020.¹³

1. Contributions

The first disclosure report filed by the Committee, the 2020 April Quarterly, listed three individual contributors with donations totaling \$4,805,000, as set forth below.¹⁴

¹⁰ See Politico Article. Our research also indicates that there is no name currently associated with the Committee's phone number and that the phone number may be disconnected.

¹¹ *Id.* The Committee's provided email address is americafdn210@icloud.com.

¹² *Id.* Notably, the Committee through its treasurer Jones responded on August 25, 2020, to a courtesy late filing notification from the Commission's Electronic Filing Office, and the notification was sent to the Committee by email to the email address provided by the Committee on its Statement of Organization (americafdn210@icloud.com) and to ejones@progressusa.org. FEC Form 99, Americans for Progressive Action USA (Aug. 25, 2020). The Committee was also notified of the Complaint via email but has not submitted a response. See Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Evan Jones, Treasurer, Americans for Progressive Action USA (May 26, 2020) (stating that it was sent by email to americafdn210@icloud.com).

¹³ See Whois Information, *progressiveactionusa.com*, WHO.IS (last visited Nov. 6, 2020), <https://who.is/whois/progressactionusa.org>; see also Politico Article (stating that the domain name "was registered via proxy on the day a reporter initially reached out for comment"). A Twitter account named Americans for Progressive Action USA, @AFPA_USA, which was created in March 2020, states that it is "building infrastructure and electoral communication to engage America. We will build a powerful progressive base that energizes and empowers the fight!" See Americans for Progressive Action USA (@AFPA_USA), TWITTER https://twitter.com/AFPA_USA. Further research indicates that @chrisullivan210, who appears to be the C.H.R. Sullivan affiliated with the Committee, is associated with at least two other similarly named entities with Twitter accounts: Americans for Progressive Action Alliance (@ProgressiveFor) and Americans for Progressive Action Fund (@ProgressiveFnd). A Facebook page for "Americans for Progressive Action," @AmericansForProgressiveAction, was created on June 20, 2013 and does not appear to have been active since that time. See @AmericansForProgressiveAction, Facebook (last visited Nov. 6, 2020), <https://www.facebook.com/AmericansForProgressiveAction/> (containing a website link to www.progressiveactionusa.com which appears not to be currently registered). Additionally, an IEOPC named Americans for Progressive Action registered with the Commission in 2013 and terminated in 2014. See Termination Approval, Americans for Progressive Action (Jan. 23, 2014); Statement of Organization, Americans for Progressive Action (June 6, 2013). The treasurer of Americans for Progressive Action confirmed to *Politico* that it "has no affiliation" with the Committee. See Politico Article.

¹⁴ 2020 April Quarterly Report, Americans for Progressive Action USA at 6-7 (Apr. 8, 2020).

Name/Address	Employer/ Occupation	Contribution Date	Contribution Amount
Christopher Richardeson Sullivan ¹⁵ 636 Ivy Lane San Antonio, TX 78209	Mariposa Energy LLP Vice Chairman	3/15/2020 3/27/2020 3/31/2020	\$1,000,000 \$1,000,000 \$1,500,000
Vincent E. Sullivan 644 Grandview Place San Antonio, TX 78209	Mariposa Energy LLP Chairman	3/19/2020	\$ 500,000
Henry R. Bass 201 Main Street Fort Worth, TX 76102	ACLU Attorney/Investor	3/19/2020 3/30/2020	\$ 475,000 \$ 330,000
Total:			\$4,805,000

1 These are the only contributions the Committee has disclosed receiving to date. As the
2 Complaint alleges, *Politico* was unable to locate the contributors, and the ACLU stated that it
3 had no association with Henry R. Bass.¹⁶

4 After the Politico Article was published, the Committee filed its May Monthly Report
5 disclosing full refunds of \$3.5 million to Christopher Richardson Sullivan and \$500,000 to
6 Vincent E. Sullivan and a partial refund of \$804,000 (of \$805,000 originally reportedly
7 contributed) to Bass.¹⁷ The purposes of the payments were listed as “refund,” “refund due to
8 Politico,” and “refund after Montellaro” (author of the Politico Article), respectively.¹⁸ There

¹⁵ On the Statement of Organization, “Richardeson” is spelled “Richardson.” Statement of Organization at 4, Americans for Progressive Action USA (Mar. 6, 2020). Our research did not confirm whether either address or spelling is correct. On the May Monthly report, the name is spelled “Richardson.” 2020 May Monthly Report at 6, Americans for Progressive Action USA (May 20, 2020).

¹⁶ Compl. at 1-2 (citing Politico Article).

¹⁷ 2020 May Monthly Report, Americans for Progressive Action USA (May 20, 2020).

¹⁸ *Id.* The refunds were disbursed prior to the Politico Article’s publication.

remained \$1,000 cash-on-hand, and \$850 was refunded to Bass on May 29, 2020.¹⁹ Beginning in July 2020 and continuing to the present, the Committee reported having no cash-on-hand.²⁰

2. Disbursements

The Committee has not reported any disbursements on its quarterly or monthly disclosure reports. The Committee filed two 48-Hour reports regarding several independent expenditures totaling over \$2.5 million, all marked as estimates and all without a date of disbursement or obligation. As the Complaint alleges, several of the disbursements appear to be false.²¹ The expenditures are as follows:²²

¹⁹ 2020 June Monthly Report, Americans for Progressive Action USA (June 19, 2020). The remaining \$150 may have been below the reporting thresholds for disbursements. 52 U.S.C. § 30104(b)(6)(B); 11 C.F.R. § 104.3(b)(3).

²⁰ 2020 August Monthly Report, Americans for Progressive Action USA (Aug. 25, 2020); 2020 July Monthly Report, Americans for Progressive Action USA (July 20, 2020); *see also* FEC Form 99, Americans for Progressive Action USA (Aug. 25, 2020) (stating that “in response to [the Commission’s] notification of filing late, the committee has been inactive since the [M]ay report, and termination or subsequent no spending would render filing needless, as such the committee apologizes for any misunderstanding and would like to inform the FEC, this committee does not plan to engage in any political spending, and has refunded all contributions.”). The Committee has not filed its 2020 September or October Monthly Reports.

²¹ Compl. at 1-2.

²² 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 26, 2020); 48-Hour Report of Independent Expenditures, Americans for Progressive Action USA (Apr. 27, 2020).

	Vendor Name/ Address	Date of Public Distribution/ Dissemination	Purpose of Expenditure	Amount
48-Hour Report April 26, 2020	Google 1600 Amphitheater Way Mountain View, CA 94043	4/26/2020	AD Cost- estimate	\$212,001.12
		4/26/2020	AD BUY (Estimate)	\$158,722.21
	Dixon Gruper LLC 1325 K St Washington, DC 20007	4/26/2020	AD Production- Estimate	\$187,464.21
	Facebook 1 Hacker Way Menlo Park, CA 94025	4/26/2020	AD Buy- estimate	\$177,831.21
	M3 Media LLC 202 Main St Fort Worth, TX 76102	4/26/2020	AD COST (estimate)	\$108,711.68
	Targeted Media Victory LLP 1028 33rd St NW Washington, DC 20007	4/26/2020	Media Production Cost- Estimate	\$222,149.31
	Verizon 3005 K Street Washington, DC 20007	4/26/2020	AD Cost (Estimate)	\$500,411.47
48-Hour Report April 27, 2020	GmmB Direct 2033 K St [Suite] 450 Washington, DC 20037	4/28/2020	AD Buy and Media Production- Estimate	\$317,612.41
	Cadent Media LLP 50 South St [Suite] 2700 Philadelph[i]a, PA 19012	4/27/2020	Multimedia Ad Production and Purchase- estimate	\$573,412.79
	BlueWest Media LLC 5130 18th Avenue Denver, CO 80220	4/28/2020	AD production and Buy (estimate)	\$109,441.43
Total:				\$2,567,757.84

- 1 Both the Politico Article and our research have identified issues with several of the
- 2 independent expenditures. “Dixon Gruper LLC” appears to be a fictitious company.²³

²³ See Politico Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search*, <https://corponline.dcra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Name: Dixon

1 “Targeted Media Victory LLP” also appears to be a fictitious company.²⁴ Further, there is no
 2 record of “GmmB Direct;” GMMB is a real company, and they told *Politico* that they did not
 3 know of the Committee.²⁵ The address disclosed by the Committee is not GMMB’s actual
 4 address. “Cadent Media LLP” appears to be a fictitious version of a media company named
 5 “Cadent” based in Philadelphia, which reportedly has not heard of the Committee.²⁶ The address
 6 listed on the 48-Hour Report is also a variation of the company’s correct address, which is 50
 7 South 16th Street, Suite 2500, Philadelphia, PA 19102.²⁷

8 Other vendors listed on the disclosures are real companies whose addresses were
 9 accurately reported, but there is no record of the Committee conducting business with them. For
 10 instance, although Google, Facebook, and Verizon are real vendors, there appears to be no record
 11 of the Committee purchasing advertisements on Google or Facebook,²⁸ and Verizon reportedly
 12 said they have no record of doing business with the Committee.²⁹

Gruper). No quadrant of Washington, DC, is provided for the street address, but the 20007 zip code is not associated with that street address in the northwest or northeast quadrants of Washington, DC.

²⁴ See Politico Article; D.C. Dep’t of Consumer and Regulatory Affairs, *CorpOnline, Business Filings Search* (last visited Nov. 6, 2020), <https://corponline.dhra.dc.gov/Account.aspx/LogOn> (account required) (enter Business Name: Targeted Media Victory or Targeted Media).

²⁵ See *id.*

²⁶ See *id.*

²⁷ Cadent, Contact Us (last visited Nov. 6, 2020), <https://www.cadent.tv/contact/>.

²⁸ See Google Transparency Report, United States (last visited Nov. 6, 2020), <https://transparencyreport.google.com/political-ads/region/US> (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no results); Facebook Ad Library (last visited Nov. 6, 2020), [https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped) (searches for “Americans for Progressive Action,” “Americans for Progressive Action USA,” and “AFPA” yield no relevant results); see also Facebook Ad Library, *Ads from Americans for Progressive Action* (last visited Nov. 6, 2020), https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=475903662498950 (demonstrating that a Facebook page for @AmericansForProgressiveAction was created in June 2013, and confirming that the page “[is not] running any ads in any country at this time”).

²⁹ See *id.*

B. The Treasurer's Liability under the Act

The Act requires every political committee to have a treasurer.³⁰ The treasurer is required to file periodic reports with the Commission disclosing the committee's receipts and disbursements.³¹ The treasurer, and any other person required to file any report or statement under the Act, is "personally responsible . . . for the accuracy of any information or statement contained in it."³² According to Commission policy, a treasurer may be named as a respondent in his or her personal capacity when it appears that, while serving as a treasurer, he or she may have violated obligations imposed by the Act or Commission regulations personally as a treasurer and where, for example, the violations were knowing and willful or "the treasurer recklessly failed to fulfill the duties imposed by law."³³

Thus, under certain circumstances, the Commission may make findings as to a treasurer in his personal capacity in connection with violations of the Act while performing the duties of the treasurer. The circumstances here warrant a finding of reason to believe that the treasurer violated the Act in his personal capacity because, at a minimum, his actions appear to show a reckless failure to fulfill his duties as treasurer. As the Committee's treasurer, it appears that he filed disclosure reports containing false names of contributors and vendors and even fabricated a bank depository on the Statement of Organization.³⁴ Accordingly, because the Commission has

³⁰ 52 U.S.C. § 30102.

³¹ 52 U.S.C. § 30104(a)(1), (b).

³² 11 C.F.R. § 104.14(d).

³³ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 3-6 (Jan. 3, 2005); see, e.g., MUR 5971 (Mary Jennifer Adams); MUR 5610 (Earl Allen Haywood); MUR 5721 (Lockheed Martin Employees' PAC); MUR 7225 (Jack Wu).

³⁴ The Act addresses knowing and willful violations of the law, which occur when one has knowledge that he or she is violating the law. See 52 U.S.C. § 30109(a)(5)(B), (d); *Federal Election Commission v. John Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). The available record is insufficient to determine if the Respondent acted with such knowledge; thus, the Commission does not make any knowing and willful findings at

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- 1 been unable to confirm the treasurer's identity, the Commission finds reason to believe that
- 2 Unknown Respondent violated 52 U.S.C. § 30104(b) by filing false disclosure reports.

this time. If such information becomes available during the investigation, the Commission will make appropriate findings.