

BEFORE THE FEDERAL ELECTION COMMISSION

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

v.

MUR No. **7781**

Fight for the American Dream PAC
FEC ID: C00746297
1217 Girard St. NW
Washington, DC 20009

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. This complaint is submitted, upon information and belief, to request the Federal Election Commission (FEC) investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act by the super PAC, Fight for the American Dream PAC.¹

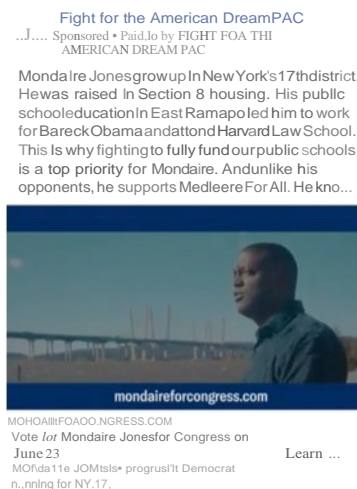
Federal law prohibits super PACs from republishing any campaign materials, including photographs and video footage. The facts indicate that is exactly what happened here: The Fight for the American Dream PAC, a super PAC that solely supports Mondaire Jones' federal congressional campaign, ran numerous ads that republished Jones' photographs and video. Just three days after Jones' campaign uploaded b-roll video to its YouTube page, the Fight for the American Dream PAC ran an ad that was 100% of Jones' footage and directed viewers to Jones' campaign website. A second ad consisted of 53% of Jones' footage and other ads consisted solely of a photograph of Jones used on Jones' campaign website. We request the Commission immediately investigate and take appropriate enforcement actions.²

¹ This complaint is submitted 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).

I. **Facts.** Mondaire Jones is a federal congressional candidate and the Fight for the American Dream PAC solely supports Mondaire Jones' campaign.³ In June 2020, Fight for the American Dream PAC "spent a sizable \$160,000 on [Jones'] behalf. It did so by way of a firm that just weeks earlier had been consulting for the Jones campaign itself, using resources the campaign had quietly made available to the super PAC, with money that appears to have been raised for the super PAC with the campaign's assistance."⁴ The super PAC's \$160,000 of advertising largely consisted of republishing Jones' campaign materials and directing ad viewers to the Jones' campaign website.

On June 9, 2020, Jones uploaded a video titled "Campaign" to his YouTube page, which was over two hours of various b-roll video clips without audio.⁵ Just three days later, Fight for the American Dream PAC ran its first ad, which was made up of 100% of Jones' video footage and linked to Jones' campaign website:⁶



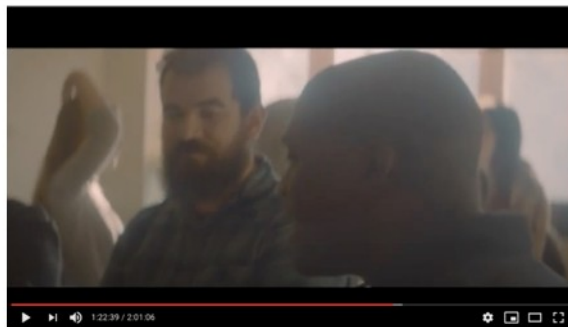
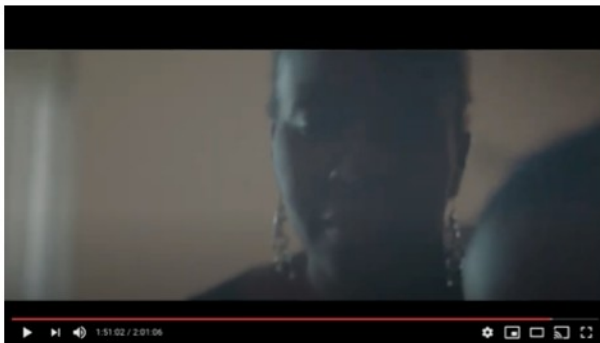
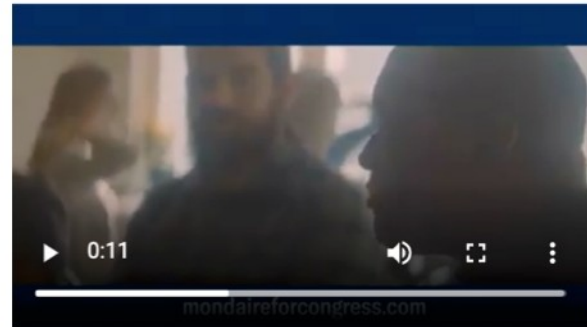
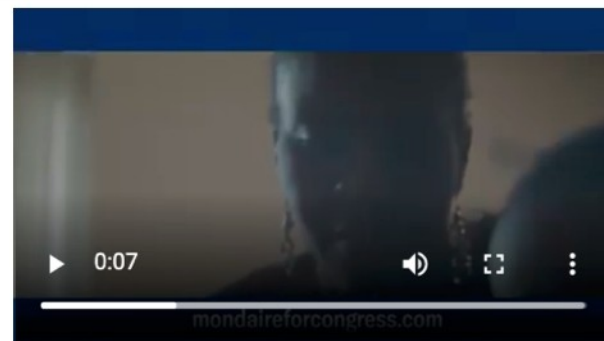
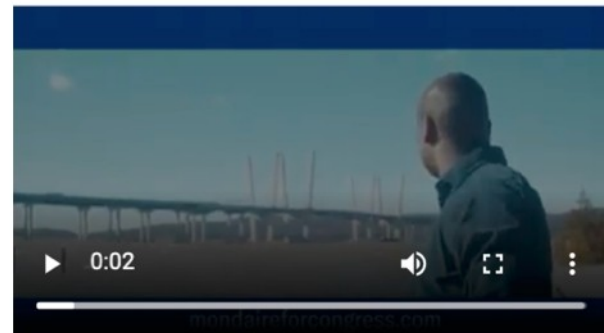
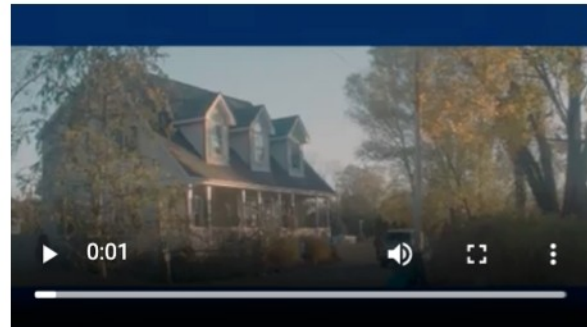
³Lachlan Markay, *A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit*, The Daily Beast, July 16, 2020 (stating the super PAC is "devoted solely to supporting [Jones'] campaign"). Both the Jones' campaign and super PAC have donors and media vendors in common. *Id.*

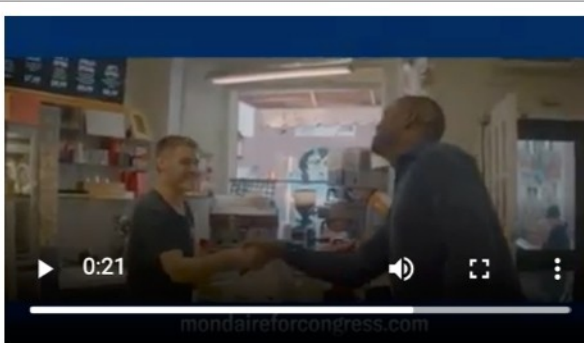
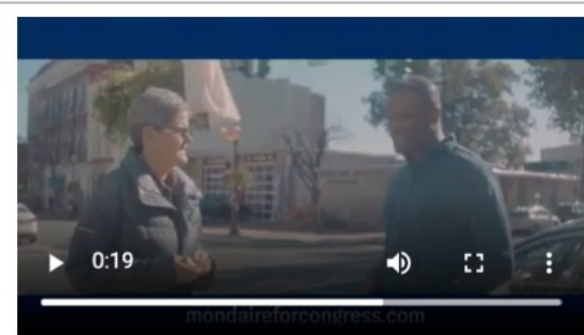
⁴*Id.*; Fight for the American Dream PAC, FEC, July Quarterly Report, filed July 15, 2020, available at <https://docquery.fec.gov/cgi-bin/forms/C00746297/1422337/>.

⁵Mondaire Jones, *Campaign*, YouTube, available at <https://www.youtube.com/watch?v=FZR7ZNszRrA>, uploaded June 9, 2020; Lachlan Markay, *A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit*, The Daily Beast, July 16, 2020.

⁶Fight For The American Dream PAC, Facebook Ad, available at <https://www.facebook.com/ads/library/?id=2597872157119943>, uploaded June 12, 2020; Mondaire Jones, *Campaign*, YouTube, available at <https://www.youtube.com/watch?v=FZR7ZNszRrA>, uploaded June 9, 2020; Lachlan Markay, *A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit*, The Daily Beast, July 16, 2020.

For instance, the images of the left are from Jones' video footage and the images on the right are from the superPAC's ad:

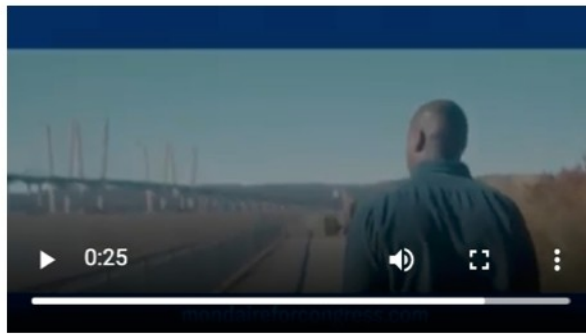
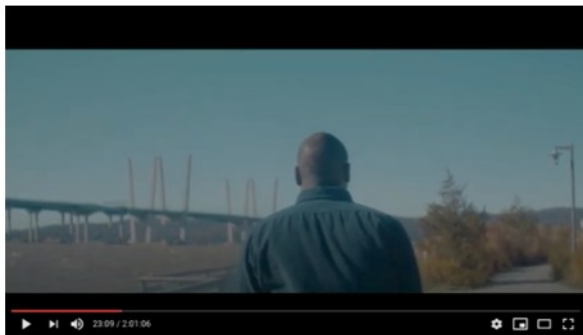
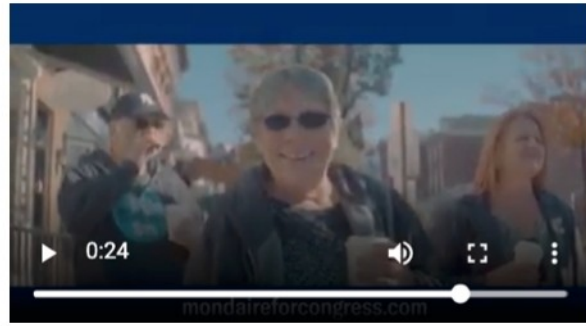
Mondaire Jones YouTube**Fight for The American Dream Ad**

Mondaire Jones YouTube**Fight for The American Dream Ad**

Mondaire Jones YouTube



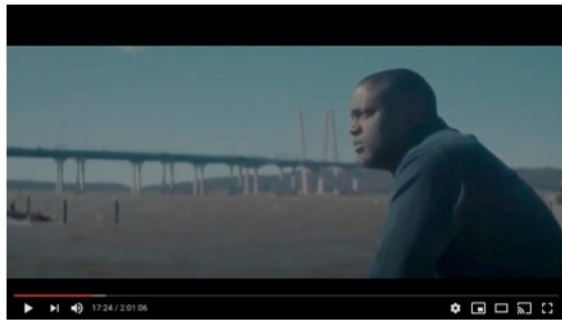
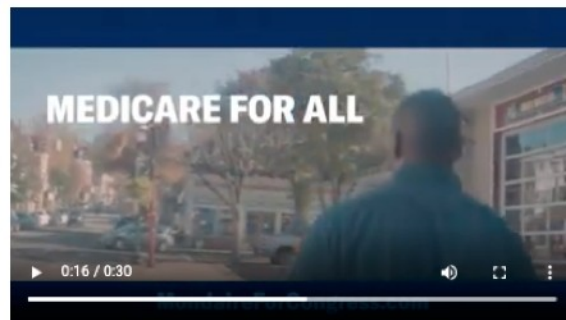
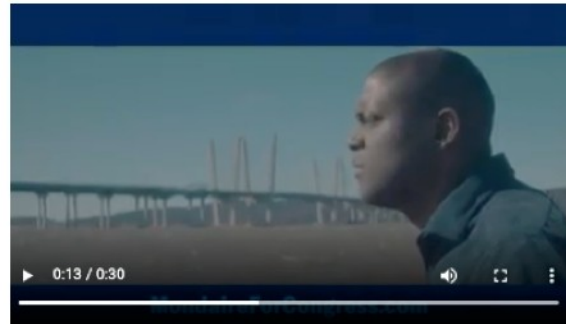
Fight for The American Dream Ad



Then the super PAC ran "dozens more" ads republishing Jones' campaign materials.⁷ This includes a second video ad that consisted of 53% of Jones' campaign b-roll video and other ads that solely consisted of a photo of Jones from his campaign website, all directing viewers to Jones' campaign website.^s For instance, the images of the left are from Jones' campaign web site and video footage and the images on the right are from the super PAC's second video ad:

⁷ Fight For The American Dream PAC, Facebook Ad Library, available at [https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_the&view_all_page_id=109068654174470&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_the&view_all_page_id=109068654174470&sort_data(direction)=desc&sort_data(mode)=relevancy_monthly_grouped), accessed August 4, 2020; Lachlan Markay, *A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit*, The Daily Beast, July 16, 2020.

^s Mondaire for Congress, available at <https://mondaireforcongress.com/media/>; Mondaire Jones, *Campaign*, YouTube, available at <https://www.youtube.com/watch?v=FZR7ZNszRrA>, uploaded June 9, 2020; Fight For The American Dream PAC, Facebook ad, available at <https://www.facebook.com/ads/library/?id=365629961081844>, uploaded June 18, 2020; Lachlan Markay, *A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit*, The Daily Beast, July 16, 2020.

Mondaire Jones B-Roll/Images**Fight For The American Dream PAC Ad**

Mondaire Jones B-Roll/Images**Fight For The American Dream PAC Ad**

II. **Law.** Under federal law, super PACs are prohibited from making contributions to a candidate.⁹ Contributions are broadly defined to include cash donations, but also "anything of value ... for the purpose of influencing any election for Federal office."¹⁰ Additionally, "[t]he financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's authorized committee, or an agent of either of the foregoing shall be considered a contribution for the purposes of

⁹ 52 U.S.C. § 30116.

¹⁰ 52 U.S.C. § 30101(8)(A).

contribution limitations and reporting responsibilities of the person making the expenditure."¹¹ Any republication of photographs or video prepared by a campaign is a contribution, even if the campaign materials are only a small part of a larger advertisement.¹² Whether the video was obtained from a publicly available source is "not relevant to the analysis of whether it was republished under 11 C.F.R. § 109.23."¹³

III. Cause of Action. As shown above, this is a clear, egregious, and straightforward case. Fight for the American Dream PAC clearly republished Jones' photographs and b-roll footage. The photograph and video were identified campaign materials- the photograph was currently being used by the campaign on its website and the video was posted on a campaign YouTube page.¹⁴ The super PAC's first ad consisted of 100% of campaign video, a second ad consisted of 53% of campaign video and a photograph, and multiple other ads consist solely of a candidate photograph simultaneously used by the campaign on its website. All the ads direct viewers to the Jones campaign's website.

¹¹ 11 CFR § 109.23(a); *see also* 52 U.S.C. § 30116(a)(7)(B). In the case of republication by an outside group, the "candidate who prepared the campaign material does not receive or accept an in-kind contribution, and is not required to report an expenditure, unless the dissemination, distribution, or republication of campaign materials is a coordinated communication under 11 CFR 109.21 or a party coordinated communication under 11 CFR 109.37." *Id.*

¹² *See, e.g.,* Federal Election Commission, *First General Counsel's Report*, **MUR** 6357, at 5-11 (Aug. 31, 2011) (available at <https://eqs.fec.gov/eqsdocsMUR/12044312188.pdf>) (finding an outside group republished campaign materials and made an in-kind contribution to the campaign when it obtained campaign video footage from the campaign's YouTube page and used it in an advertisement).

¹³ Federal Election Commission, Ellen L. Weintraub, Cynthia L. Bauerly, and Steven T. Walther, Statement of Reasons, **MUR** 6357, at 3, Feb. 27, 2012 (available at <https://www.fec.gov/files/legal/murs/6357/12044312290.pdf>).

¹⁴ In addition to being used by the Jones' campaign, the photograph and "video depiction of the candidate in a favorable manner perviously selected by the [campaign] Committee." Federal Election Commission, *First General Counsel's Report*, **MUR** 6357, at 5-11 (Aug. 31, 2011) .

Federal law does not allow for **any** use of campaign materials by a super PAC, regardless of the source from which it obtained the materials.¹⁵ Thus, it is irrelevant whether Fight for the American Dream PAC obtained the photographs and video from a website or YouTube page.¹⁶ Moreover, the ads are directing viewers to the campaign website, which is direct advertising for the campaign and valuable - and an illegal in-kind contribution.¹⁷

IV. Conclusion. Fight for the American Dream PAC is prohibited from reproducing **any** materials prepared by Jones or Jones' authorized committee and doing so is an illegal in-kind contribution to him. Thus, based on the content of the ads, there is reason to believe Fight for the American Dream PAC made an illegal contribution by financing "the dissemination, distribution, or republication, in whole or part" of Jones' video materials.¹⁸ This is an egregious and straightforward violation and the Commission must act immediately to ensure the integrity of this and other federal campaigns. FACT respectfully requests the Commission immediately investigate and hold the Respondents accountable.

¹⁵ Although not the case here, even if republication is only a small portion of an advertisement, it is a prohibited in-kind contribution. *See, e.g.,* Federal Election Commission, *First General Counsel's Report*, MUR 6357, at 5-11 (finding an outside group republished campaign materials and made an in-kind contribution to the campaign when it obtained campaign video footage from the campaign's YouTube page and used it in an advertisement). Only the exceptions expressly listed permit republication of campaign materials, and none of the five narrow circumstances are even remotely applicable here. *See* 11 C.F.R. § 109.23. The exceptions are:

1. The campaign material is disseminated, distributed, or republished by the candidate or the candidate's authorized committee who prepared that material;
2. The campaign material is incorporated into a communication that advocates the defeat of the candidate or party that prepared the material;
3. The campaign material is disseminated, distributed, or republished in a news story, commentary, or editorial exempted under 11 CFR 100.73 or 11 CFR 100.132;
4. The campaign material used consists of a brief quote of materials that demonstrate a candidate's position as part of a person's expression of its own views; or
5. A national political party committee or a State or subordinate political party committee pays for such dissemination, distribution, or republication of campaign materials using coordinated party expenditure authority under 11 CFR 109.32.

¹¹ 11 C.F.R. § 109.23. *See also*, Federal Election Commission, *First General Counsel's Report*, MUR 6357 (Aug. 31, 2011) (finding the use of a video clip does not fall under the exception 11 C.F.R. § 109.23(b)(4) of consisting of a brief quote).

¹⁶ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.23(a); *see also*, Federal Election Commission, Ellen L. Weintraub, Cynthia L. Bauerly, and Steven T. Walther, *Statement of Reasons*, MUR 6357, at 3, Feb. 27, 2012.

¹¹ 11 C.F.R. § 109.23.

^{1s} 11 C.F.R. § 109.23.

Respectfully submitted,

Karnold

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

STATE OF IOWA

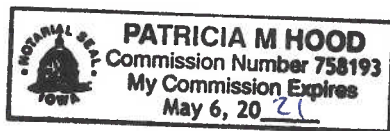
)

) ss.

COUNTY OF POLK

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Subscribed and sworn to before me on August 6th, 2020.



Patricia M. Hood

Notary Public in and for the State of Iowa

Exhibit: Lachlan Markay, *A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit*, The Daily Beast, July 16, 2020.

A Progressive Star Railed Against Money In Politics As His Team Pushed Election Laws To The Limit

The Daily Beast | Lachlan Markay | July 16, 2020
[View Source](#)

Mondaire Jones' bid to succeed a powerful House Democrat in New York has him on the [cusp of progressive stardom](#). But while he [runs a campaign](#) on pledges to combat corruption and the influence of money in politics, Jones' team has also quietly and adeptly sidestepped major campaign-finance rules.

Jones, a lawyer and activist affiliated with the progressive Working Families Party, was officially declared the winner this week in a crowded Democratic primary for the seat held by [Rep. Nita Lowey](#), the chairwoman of the powerful House Appropriations Committee who did not seek re-election. Jones' victory came with a helping hand from a super PAC devoted solely to supporting his campaign. Fight for the American Dream PAC spent a sizable \$160,000 on his behalf. It did so by way of a firm that just weeks earlier had been consulting for the Jones campaign itself, using resources the campaign had quietly made available to the super PAC, with money that appears to have been raised for the super PAC with the campaign's assistance.

The tactics the campaign and super PAC used to complement each other's efforts do not appear to have violated laws barring coordination between campaigns and independent political spenders supporting them. Indeed, some of the tactics are common methods of circumventing super PAC coordination rules.

Brendan Fischer, the director of federal reforms at the Campaign Legal Center, told PAY DIRT that the Jones campaign's "close relationship with a supportive super PAC may not be unprecedented and may not cross any legal lines, but it certainly looks more like the kind of thing we'd see from an establishment-backed candidate."

Indeed, it's just that sort of status quo practice that Jones has pledged to combat in Washington. "Our broken campaign-finance system- aided and abetted by a series of Supreme Court decisions, the most infamous of which is *Citizens United*- has allowed a torrent of dark money to flood our political system," [he wrote](#) last month. "This has pushed our democracy into crisis, and nowhere is that more apparent than in our legislative process."

"In this election cycle, Democrats have been talking about enacting big, systemic change," Jones added. "But we cannot just talk the talk; we have to walk the walk."

In an emailed statement to PAY DIRT, Jones campaign manager Charles Blaettler defended the campaign's relationship with the super PAC, and stressed the candidate's commitment to campaign-finance reform.

"Our campaign was supported by a variety of groups, mainly organizations dedicated to supporting LGBTQ, Black, and progressive candidates. These groups recognized that Mondaire will represent his constituents as he has run his campaign: with integrity and moral clarity," Blaettler wrote. "And they know that in Congress, he will champion the restoration of democracy and comprehensive campaign-finance reform, ensuring we have a democracy where every voice is represented."

Jones has pledged not to accept any corporate PAC money, and as of its most recent Federal Election Commission filing, Fight for the American Dream PAC hasn't done so either. But the overlap between funders for the super PAC and the campaign is substantial: Eighteen of the super PAC's donors, who provided about 93 percent of its revenue from its founding in May through the end of June, are also donors to the Jones campaign, according to FEC records.

Asked whether the campaign had shared fundraising leads with the super PAC, Blaettler did not deny that they had. "FEC guidance permits campaigns to provide information about prospective donors to interested PACs who make such requests," Blaettler said in an email. He didn't respond to follow-up questions.

There was significant overlap on the expenditure side as well. From the fall of 2019 through early June of this year, the Jones campaign paid a little over \$75,000 to the company Middle Seat Consulting, a digital firm run by former aides to Sen. Bernie Sanders (I-VT). The last payment from the Jones campaign came on June 2, FEC records show.

Less than two weeks later, Fight for the American Dream PAC began buying digital ads promoting Jones' campaign. And it retained Middle Seat to produce and place those ads. That means the vendor that had consulted on the campaign's digital strategy was in a position to apply its knowledge of that strategy to its digital work for a group with which the campaign was legally barred from coordinating its advertising strategies.

Middle Seat did not respond to questions about its overlapping roles for the campaign and the super PAC. In general, vendors are permitted to work for both campaigns and supportive super PACs as long as they establish internal "firewalls" between their work for the clients.

Blaettler said the campaign was not aware, when it stopped working with Middle Seat, that the firm would soon be producing and placing ads for Fight for the American Dream PAC. "The campaign was notified by Middle Seat that Middle Seat would be engaging in an independent expenditure in our race and Middle Seat provided proper legal notification of their internal firewall as advised by their attorneys," he wrote. "The campaign was unaware of what specifically Middle Seat would be doing."

The content of the ads Middle Seat produced for the super PAC underscored its apparent synergy with the Jones campaign. A week after its last payment to Middle Seat, the campaign uploaded [two hours of "b-roll" footage](#) to its YouTube page, featuring audio-free clips of Jones talking to voters and gazing thoughtfully at the Governor Mario M. Cuomo Bridge (formerly the Tappan Zee Bridge) in New York's 17th District, among other shots.

Three days after that footage was uploaded to YouTube, segments of it popped up in [Facebook ads](#) run by Fight for the American Dream PAC. Those ads- and dozens more run by the super PAC since then, which also drew from the campaign's b-roll-directed viewers to Jones' campaign website, even as they disclosed that they were paid for by an independent group.

The b-roll tactic is a common method for campaigns and super PACs to circumvent rules barring direct cooperation between the groups, as Blaettler noted.

But that practice allows campaigns to provide resources to supportive organizations with which they're legally banned from coordinating without running afoul of federal law, effectively providing an end-run around those election rules. Campaign-finance watchdogs have criticized the practice, even as they acknowledge it's perfectly legal.

"It has become common practice for candidates to signal to supportive super PACs or dark-money groups their preferred messaging and images and video b-roll*, [according](#) to Fischer. But "it does represent an embrace of the big-money political system made possible by *Citizens United*."

It's exactly that system that Jones has pledged to take on if he prevails in November. And he's received the backing of some of the nation's chief *Citizens United* antagonists to do so. Progressive stalwarts such as Sen. Elizabeth Warren (O-MA) and Rep. Alexandria Ocasio-Cortez (D-NY) have endorsed Jones' candidacy. He also has the backing of the group End Citizens United, which [reported spending](#) more than \$70,000 on his behalf during the primary.

Whether Fight for the American Dream PAC will continue backing Jones in the general election remains to be seen. It hasn't yet reported any spending on Jones' behalf since the June 23 primary date, and it won't report more income or operating expenditures until October.