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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

July 31, 2013

Mr. Alejandro Mayorkas
Director
U.S. Citizenship and Immigration Services
111 Massachusetts Avenue NW
Washington, DC 20529

Dear Director Mayorkas:

Last Thursday, you testified before the Senate Committee on Homeland Security and Governmental Affairs. The hearing was held as part of the process for your nomination to become the Deputy Director of the Department of Homeland Security. The hearing was held despite protests from the Ranking Member and other Republicans on the Committee due to a pending Office of Inspector General inquiry. I also wrote to the Committee seeking a delay until the facts are more fully developed given new information provided to my office by whistleblowers raising questions about your role in providing preferential treatment for Terry McAuliffe and Anthony Rodham in connection with applications related to Gulf Coast Funds Management and/or GreenTech Automotive.

In an agency-wide memo of April 2, 2010, titled “Ethics and Integrity Memorandum No. 2: Preferential Treatment,” you wrote:

Any occurrence of actual or perceived preferential treatment, e.g., treating similarly-situated applicants differently, can call into question our ability to implement our Nation’s immigration laws fairly, honestly and properly.

A USCIS employee could violate the prohibitions against preferential treatment in a number of ways, by:

- Working on, or *in any way attempting to expedite* or otherwise influence the processing of, an immigrant application, petition, or benefit for a friend, relative, neighbor or acquaintance;
- Meeting with certain stakeholders to the exclusion of others

Often the appearance of preferential treatment can be as damaging to our Agency’s reputation as actual preferential treatment¹

¹ Memorandum from Director Mayorkas to USCIS Employees, “Ethics and Integrity Memorandum No. 2: Preferential Treatment,” April 2, 2010 (Attachment 1) (emphasis added).

Several documents call into question some of the statements you made regarding preferential treatment in your testimony at last Thursday's hearing. For example, you were asked in the hearing about communications with Terry McAuliffe with respect to Gulf Coast Funds Management. You testified: "I was asked to attend a meeting with Mr. McAuliffe so that I could hear in person his complaints . . . two years ago . . . I heard those complaints, and **that was the extent of the interaction. . . . I moved on with my work.**"²

Contrary to the impression left by your answer, documents indicate that both before and after that meeting, you actually engaged in nearly a dozen contacts with Gulf Coast Funds Management between 2010 and 2013, including direct communications with Gulf Coast's attorneys. That one meeting with Mr. McAuliffe was clearly not the extent of your interaction on that matter.³

Last Thursday you testified: "I have never ever in my career exercised undue influence to influence the outcome of a case."⁴ However, one of your senior career employees wrote in response to a question from the press office about whether Greentech had received special treatment: "**We absolutely gave special treatment to Green Tech at the directive of D1. D1 was working directly with the R[egional] C[enter]'s atty Additionally, I would call a wholesale rewrite of the AAO's decision by the front office special treatment.**"⁵ D1 is an apparent reference to you.

Several of the contacts from Gulf Coast were forwarded to you by Douglas Smith, the Assistant Secretary for the Office of the Private Sector in the Department of Homeland Security, who attended the groundbreaking for GreenTech's Mississippi plant on July 6, 2012, and reportedly attended a "private meeting session" with former President Bill Clinton and Chinese emigration executives.⁶ Smith forwarded you two e-mails from Mr. McAuliffe as early as July and August 2010. The first forward in July 2010 included a detailed e-mail from Mr. McAuliffe, who stated:

Doug, [i]t was great speaking with you today. . . . GCFM filed an Amendment Application in Jan 2010 to expand its operations to Virginia

² Testimony of Alejandro Mayorkas before the Senate Committee on Homeland Security and Governmental Affairs, July 25, 2013 (hereinafter HSGAC testimony), at 23.

³ See, for example, Attachment 18. (Gulf Coast attorney to Director Mayorkas: "I just wanted to check on the status of the Gulf cases and RFEs. . . . Any news on your end would be great as I need to call Terry [McAuliffe] back to update him." Special Assistant to USCIS Deputy Director reply: "I'm writing in response to the status inquiry that you sent to Director Mayorkas on August 10th. Could you please send me the receipt numbers of the cases you are inquiring about so the AAO can provide the most accurate status check?")

⁴ HSGAC testimony at 11.

⁵ Attachment 2.

⁶ EB-5 News Blog: Regional Centers in the USA, "Mr. Brian Su visits GTA facility July 6," <http://eb5news.blogspot.com/2012/07/mr-brian-su-visits-gta-facility-july-6.html> (accessed July 22, 2013).

and Tennessee to support G[reen] T[ech] A[utomotive]’s efforts. . . . I have been extremely frustrated by the USCIS approval process You should be aware that Senator Warner and other Members of Congress have made inquiries on this project.⁷

Assistant Secretary Smith forwarded Mr. McAuliffe’s e-mail to you after apparently speaking about it with you, as he simply stated: “A – Thanks! Looking forward to our dinner when you get back.”⁸ You forwarded Mr. McAuliffe’s e-mail to your subordinates in USCIS.

In August 2010, after USCIS denied Gulf Coast’s amendment application, Mr. McAuliffe sent another e-mail to Assistant Secretary Smith that Smith then forwarded to you. The first e-mail in the chain was from Gulf Coast’s attorney, who advised: “I suggest you do NOT appeal to the Administrative Appeals Office [AAO], as you will just lose there.”⁹ A GreenTech executive forwarded this to Mr. McAuliffe, stating: “Terry, [t]his approval process becomes ridiculous.”¹⁰ As Gulf Coast’s attorney had advised, instead of appealing to AAO, Mr. McAuliffe sent the chain to Assistant Secretary Smith, who forwarded it to you with the commentary: “This is what I called you about. Unless I am missing something, this is just crazy.”¹¹ Once again, you forwarded this to your subordinates in USCIS.

The next spring, Assistant Secretary Smith again contacted you about Mr. McAuliffe’s project with Anthony Rodham, this time related to an I-924 application of regional center status for the Virginia Center for Foreign Investment and Job Creation LLC. Mr. Smith wrote on May 26, 2011: “A – you mind seeing if you can get any intel on this one. Seems to be in a black hole.”¹²

Once again you forwarded this to your subordinates in USCIS, who apparently viewed the e-mail as inappropriate. One wrote: “[I]nquiries such as this should not be made unless we are ONPT.”¹³ You were informed the application had only been filed on one month before your e-mail.¹⁴ When a USCIS subordinate updated you on June 24, 2011, about the case—including its connection to Gulf Coast and GreenTech, your response shows you to be clearly in the weeds on the case: “I understand there to be two deficiencies, one with respect to the timeline for the project and the other with respect to the specific location of the automotive plant.”¹⁵ You proceeded to ask several questions about the specifics of the proposal.

⁷ Attachment 3.

⁸ *Id.*

⁹ Attachment 4.

¹⁰ *Id.*

¹¹ *Id.*

¹² Attachment 5.

¹³ *Id.*

¹⁴ Attachment 6.

¹⁵ *Id.*

In last Thursday's hearing for your nomination, you were asked: "In this situation with Gulf Coast Funds Management, where you had multiple requests to intervene in the regular process, what structures, rules or practices did you put into place to ensure that no ethics or rules were violated during your tenure?"¹⁶ You testified in response:

[T]he issues, difficult issues, complex issues, novel issues of law and policy that challenge the agency and that present opportunities for resolution percolate up through the supervisorial chain to me when they need resolution and when they have broad application. The manner in which those . . . issues reach me is through cases. . . . I become involved in those complex, difficult legal policy issues when they are raised to my attention by my colleagues, . . . by member of the Congress, . . . by news accounts, by members of the public, or by applicants or petitioners themselves. . . . I do not adjudicate cases. I address legal policy issues that are brought to my attention through the channels I have outlined.¹⁷

Yet on June 28, 2011, the attorney for Gulf Coast sent you a detailed e-mail regarding Gulf Coast that involved neither law nor policy issues.

The attorney asked for your assistance in speeding up the approval of their visas, writing: "Any assistance you can provide would be much appreciated."¹⁸ The attorney sent you a list of 96 individual investors, their WAC numbers, and the dates they had applied for visas. You replied: "**Thank you We will follow up on this.**"¹⁹

On July 7, 2011, the attorney for Gulf Coast again e-mailed you about their case, writing: "[T]he sense of urgency has escalated and requires your attention" ²⁰ You replied: "**Thank you for your e-mail below, which you and I just discussed by telephone. I will follow up.**"²¹ You then immediately forwarded the e-mail chain to subordinates, stating: "**Please address with appropriate urgency.**"²² The e-mail chain shows that your subordinates began working to provide you with information immediately.²³ Meanwhile, Gulf Coast's attorney wrote back: "*Thank you for your quick response. I am including below the updated chart that highlights the two errors I mentioned on the name and WAC.*"²⁴ You responded: "Thank you" ²⁵

Whistleblowers from within USCIS have indicated to me that this level of detailed interaction with a regional center's attorney regarding specific visa applications is extremely irregular. Nevertheless, on July 13, 2011, documents indicate that you were

¹⁶ HSGAC testimony at 9.

¹⁷ *Id.*

¹⁸ Attachment 7.

¹⁹ *Id.* (emphasis added).

²⁰ *Id.*

²¹ *Id.* (emphasis added).

²² *Id.*

²³ *Id.*

²⁴ Attachment 8 (emphasis added).

²⁵ *Id.*

again asking about the case.²⁶ On the evening of July 19, 2011, Gulf Coast's attorney e-mail you, "I am just following up on these cases listed below" ²⁷ You responded the next morning: "**I am back in the office and am following up right away.**"²⁸

The attorney replied: "Thank you very much. I spoke with Terry [McAuliffe] last night Whatever you can do would be much appreciated. . . . Terry asked me to remind you that we have not heard back yet on the VA Center's certification yet."²⁹ Once again, you forwarded this to your subordinates in USCIS.³⁰

Today the former Chief of the Administrative Appeals Office told my staff that while he headed the unit from 2009 to 2013, AAO did not provide copies of its draft or pending opinions to individuals in the front office, including you. When my staff asked him if it would be unusual for you to have a draft AAO opinion on your desk, he said that the only time anyone saw a case before it was completed was if it was being considered as a "precedent decision," which the Gulf Coast decision was not.

The former Chief of AAO told my staff that he was in Iraq from July 14 through August 16, 2011.

On July 20, 2011, a senior USCIS official e-mailed a group of USCIS employees: "It is my understanding that AAO wished to sustain the denial and that their draft decision is on Ali's desk pending review."³¹ Later on July 20, 2011, you e-mailed four senior USCIS officials, including the senior official referenced above but *not* including the AAO Chief:

I have been receiving inquiries about this regional center application and its status, including statements from [Gulf Coast's attorney] of unwarranted delays and denials. I have an AAO decision on my desk that was transmitted to me I need to meet with you tomorrow . . . to understand: The case chronology[;] What are the outstanding issues **This is time sensitive.**³²

One of the senior officials responded: "I recommend we include the AAO as they most likely considered additional arguments and evidence that were presented subsequent to our certification."³³ These documents appear to indicate that you became personally involved in reviewing a draft AAO decision in an unusual way without the Chief of AAO's knowledge just after he had left the country.

²⁶ Attachment 9.

²⁷ Attachment 8.

²⁸ *Id.* (emphasis added).

²⁹ *Id.*

³⁰ *Id.*

³¹ Attachment 10.

³² Attachment 11 (emphasis added).

³³ *Id.*

Last Thursday you were asked in the hearing: “Did you come to your agency and say after the meeting with [McAuliffe] . . . , ‘Let’s do things differently. Let’s change what we’re doing. Let’s change our course’ after this meeting?”³⁴ You replied: “[A]bsolutely not.”³⁵

Yet it is clear that between the time the draft AAO opinion was transmitted to you and the time the final opinion was issued, there was a change of course.

In last Thursday’s testimony, you apparently referenced the July 21, 2011, meeting, alluding to “the allegation . . . somehow that I, by sitting around the table and resolving a couple of difficult issues that were unsettled in our agency in the administration of the EB-5 program, I exercised undue influence.”³⁶ When asked for further detail on the “difficult issues,” you testified:

In the issue that the Gulf Coast case presented to my attention was the following: Is it the mere existence of a redemption agreement that disqualifies the individual from satisfying the legal requirement that the capital be at risk, or is it a question of looking at the terms of the redemption agreement and whether the terms militate against the requirement that the capital be at risk?

* * *

[T]he conclusion was reached around the table that, quite frankly, and as a matter of law in the interpretation of the deal document, the redemption agreement, the capital remained at risk because there may not ever be a market for that capital and, therefore, the redemption may never be realized.³⁷

However, it remains unclear why you became involved at all in this legal determination that should normally have been made by the career employees with experience and expertise within AAO.

In its draft opinion prior to your involvement, AAO had already concluded: “[T]he conversion price estimation . . . constituted an impermissible redemption agreement.”³⁸ The draft opinion stated:

The AAO concurs with the [California Regional Center] director . . . that the estimated fair market value five years in the future is problematic. For the alien’s money to be truly at risk, the alien cannot invest into a

³⁴ HSGAC testimony at 23.

³⁵ *Id.*

³⁶ *Id.* at 12.

³⁷ *Id.* at 14-15.

³⁸ Draft opinion, USCIS Administrative Appeals Office, In Re: Gulf Coast Funds Management, “Petition for Designation as a Regional Center . . . ,” at 2.

commercial enterprise knowing that he has a willing buyer in a certain number of years, nor can he be assured that he will receive a certain price. *Matter of Izummi*, 22 I&N Dec. 169, 186 (Comm'r 1998). That decision further notes: "True fair market value cannot be known five years in advance" and "assumes the existence of a market." The decision continues:

The alien must go into the investment not knowing for sure if he will be able to sell his interest at all after he obtains his unconditional permanent resident status; and if he is successful in selling his interest, the sale price may be disappointingly low (or surprising[ly] high and more than what he paid). This way, the alien risks both gain and loss.

Id. at 186-87.

The applicant did not respond to the [California Regional Center] director's concern that the conversion to stock with an estimated fair market value of [redacted] constitutes a redemption agreement. As the applicant has not explained how it can estimate the fair market value five years in the future, especially if no market may exist at that time, the AAO upholds the [California Regional Center] director's concerns.³⁹

Although AAO's draft opinion transmitted to you stated that the conversion price estimation was an impermissible redemption agreement, about a month after your July 21, 2011, intervention in the issue, USCIS issued a Request for Additional Evidence to Gulf Coast on August 24, 2011.⁴⁰ The final opinion from AAO, issued after you became involved and dated September 1, 2011, stated: "[W]hile any stock conversion agreement must be examined carefully to that it does not effectively constitute a redemption agreement, the record now reflects that the proposed conversion of membership interests in each of the funds to common stock does not, in this case, amount to a redemption agreement."⁴¹

The opinion was completely rewritten, with the two-and-a-half page discussion in the draft opinion becoming a four-and-a-half page discussion in the final opinion that found exactly the opposite of the draft agreement. The final opinion concluded: "[T]he applicant has asserted through counsel that no such [redemption] agreement exists and all of the investors' funds will be fully at risk. In light of the above . . . the AAO is persuaded that no impermissible redemption agreement exists."⁴²

³⁹ *Id.* at 10.

⁴⁰ USCIS Administrative Appeals Office, In Re: Gulf Coast Funds Management, "Request for Additional Evidence," Aug. 24, 2011.

⁴¹ USCIS Administrative Appeals Office, In Re: Gulf Coast Funds Management, "Petition for Designation as a Regional Center . . .," Sep. 1, 2011, at 5.

⁴² *Id.* at 20.

An additional issue in the draft opinion was whether individual investors constituted “management.” The draft opinion stated that the facts “do not support a finding that the aliens would be sufficiently engaged in the management of the new commercial enterprise. . . . As the applicant made no attempt to resolve the director’s concerns on this issue, the AAO finds that the applicant has not overcome those concerns.”⁴³

In a reversal, the final AAO opinion stated: “The AAO is persuaded that the provision in GTA Automotive Investment Fund 1, LLC’s operating agreement indicated that the members will have certain rights, powers and duties normally granted to limited partners. . . . Accordingly, the AAO withdraws the director’s finding on this issue.”⁴⁴ Overall, the fourteen page draft opinion became a twenty-one page final opinion.

Documents indicate that the issues of the redemption clause and management were also a cause for individual visa applications to be held up. USCIS officials e-mailed each other before your July 21, 2011, meeting: “Do the I-526s that are on hold have the same problems with the redemption clause and management rights cited in the denial of the RC amendment request?”⁴⁵ The response came: “Yes, the I-526 petitions have the same documentation involving impermissible redemption clauses and the lack of management rights that are required by the regulation at 8 CFR 204.6(j)(5).”⁴⁶

Thus, the AAO’s final decision cleared the way for Gulf Coast’s many I-526 immigrant visa petition applications to be approved, which it appears the AAO’s draft opinion would not have permitted.

Additionally, the day of your July 21, 2011, meeting with senior USCIS officials to discuss Gulf Coast’s application—two days after Gulf Coast’s attorney e-mailed you “Terry [McAuliffe] asked me to remind you that we have not heard back yet on the VA Center’s certification yet”—the Virginia Center received its I-924 approval from USCIS.⁴⁷

Gulf Coast continued to make requests of USCIS in 2012 as increasing numbers of GreenTech investors applied for I-526 visas. It appears that as Gulf Coast’s I-526 investor petitions began to be processed in 2012, USCIS discovered fraud and national security issues with the investor applicants.⁴⁸

⁴³ Draft opinion, USCIS Administrative Appeals Office, In Re: Gulf Coast Funds Management, “Petition for Designation as a Regional Center . . .,” at 11.

⁴⁴ USCIS Administrative Appeals Office, In Re: Gulf Coast Funds Management, “Petition for Designation as a Regional Center . . .,” Sep. 1, 2011, at 11.

⁴⁵ Attachment 12.

⁴⁶ *Id.*

⁴⁷ USCIS, Re: Virginia Center for Foreign Investment and Job Creation, LLC, “Request for Designation as a Regional Center,” Jul. 21, 2011.

⁴⁸ See attachment to letter from Senator Grassley to Secretary Napolitano, Jul. 23, 2013.

In 2013, Gulf Coast continued to reach out to address these new issues. On January 23, 2013, Gulf Coast's general counsel (a different attorney than the one who represented Gulf Coast in 2010 or 2011) e-mailed you and a USCIS career employee responsible for overseeing the EB-5 program: "Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our petitions."⁴⁹ The e-mail concluded: "We greatly appreciate your assistance."⁵⁰

On January 29, 2013, Anthony Rodham followed up with an e-mail to you and the same USCIS career employee, stating: "*We really appreciate your assistance in looking into this matter for us to move our cases along.*"⁵¹ Two minutes later, you forwarded Rodham's e-mail to your subordinate overseeing the EB-5 program, adding an "Importance: High" designation.⁵² The subordinate subsequently e-mailed other USCIS employees: "The regional center has sent several inquiries into the cases and has requested that we expedite the pending cases."⁵³

Two days later after Rodham's e-mail to you, Gulf Coast's general counsel again e-mailed you, copying Anthony Rodham. The January 31, 2013, e-mail stated: "Further to my voicemail message this evening, we would like to request a brief in-person meeting with you tomorrow to discuss emergency issues regarding Gulf Coast Funds Management and GreenTech Automotive Inc."⁵⁴

Although you had spoken with Gulf Coast's general counsel on January 23, 2013, as well as met with Terry McAuliffe and spoken with Gulf Coast's prior attorney over the phone in 2011, you responded to the general counsel: "As the Director of this Agency, I do not adjudicate cases and am not the proper audience for a telephone call or a meeting about a particular case. I will forward your e-mail to the appropriate individual in the Agency."⁵⁵

Unlike the e-mail from Anthony Rodham, which you forwarded on with high priority, your forward of this e-mail simply stated: "Please handle however you deem appropriate."⁵⁶ Your e-mail sparked an extended discussion via e-mail which you were not included on. One of the attorneys from the Office of Chief Counsel e-mailed on February 1, 2013, in response to the request:

A meeting of this type would violate the Administrative Procedures Act because we are providing this applicant an extra opportunity that is not provided for [in] our regulations related to EB-5 applications. Providing an applicant an extra opportunity outside our regulations circumvents our

⁴⁹ Attachment 13.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Attachment 14.

⁵⁵ *Id.*

⁵⁶ *Id.*

regulations. The APA requires us to provide notice and comment of the procedures we follow in our adjudications. Every time we deviate from those regulations we are violating the APA.⁵⁷

The USCIS Ethics Officer followed up with an e-mail stating:

I concur I think the APA is the driving force here, but I think it also raises an impartiality issue if we entertain pre-decisional meetings of this sort with particular applicants and petitioners. It is not a concern to have meetings with particular industries, trade groups, bar associations, etc., on systemic issues that are not case specific, so long as we are willing to meet with all.⁵⁸

This does not seem to be the policy you followed in meeting with Mr. McAuliffe in the summer of 2011.

Just two hours after the e-mails from the Office of Chief Counsel and the USCIS Ethics Officer, you were forwarded an e-mail by DHS Assistant Secretary Douglas Smith, which DHS Chief of Staff Noah Kroloff was copied on.⁵⁹ The e-mail was written by Gulf Coast's general counsel and stated: "Doug, [p]er our discussion, see details below. Please call me back . . . for any status updates. I can't emphasize enough that this is an emergency situation for the Company so we really appreciate your efforts in helping to get these cases adjudicated as soon as possible."⁶⁰

The e-mail then included a list of twelve individual investors, their WAC numbers, and the date their petition was filed, the same type of non-legal or policy information Gulf Coast's attorney had provided you directly with in the summer of 2011. Assistant Secretary Smith's e-mail forwarding this information to you implied that the two of you had spoken about the issue separately, stating: "**Ali, [h]ere is a quick summary for you.**"⁶¹ Again, you forwarded the e-mail on to your USCIS subordinates.⁶²

Up to this date, the allegations that I had heard regarding your intervention in Gulf Coast's case revolved around their amendment application, not around the visa applications of specific investors. Last week I sent the Federal Bureau of Investigation a letter which referenced Gulf Coast's I-526 application for a vice president of Huawei Technologies.⁶³ I also sent you a letter that included a March 12, 2013, e-mail to you which indicated that there was a fraud or national security hold on "all 21" of Gulf

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Attachment 15.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Attachment 1 to letter from Senator Grassley to Director Mueller, Jul. 23, 2013.

Coast/GreenTech's pending I-526 visa cases.⁶⁴ You responded to the March 12, 2013, e-mail by writing: "I need to give some thought to how I should respond to the inquiry I rec'd from the Dept about these matters, as I want to keep the FDNS [Fraud Detection and National Security directorate] concerns close hold."⁶⁵

However, I have now obtained an internal USCIS document which states: "On May 23, 2013, FDNS HQ authorized release for the hold on all Gulf Coast filings. At this time, all files are being returned to adjudication for continued processing."⁶⁶ That same day, USCIS staff e-mailed within the agency: "[T]his RC has received some press. I think USCIS should prepare for potential negative press if we approve any investors."⁶⁷

This extensive documentary record appears to be at odds with your claims that you do not involve yourself in individual cases and that the one meeting you acknowledged with Mr. McAuliffe was "the extent of the interaction."⁶⁸ In fact, it appears that you inserted yourself into the AAO process in an unusual way by reviewing and allegedly rewriting a draft AAO opinion to benefit Gulf Coast and GreenTech. At a minimum, you clearly created the impression among senior career staff that you were giving special treatment to these applicants.

Therefore, please answer the following questions:

1. How do the interactions I have outlined above square with your testimony before the Senate Committee on Homeland Security and Governmental Affairs?
2. On what date and at what location did your meeting with Terry McAuliffe take place? Please provide a list of all individuals who attended any portion of the meeting.
3. Why did you tell Gulf Coast's general counsel in January 2013 that you were not the appropriate audience for a telephone call or a meeting about a particular case, when in the summer 2011 you had at least one telephone call with Gulf Coast's attorney and a meeting with Terry McAuliffe?
4. How and why did you obtain a draft copy of the AAO decision involving Gulf Coast?
5. According to the then-Chief of AAO, he was out of the country and unaware that you were reviewing the draft decision. Why did you not consult with him about your interest in the draft decision?

⁶⁴ Attachment 3 to letter from Senator Grassley to Director Mayorkas, Jul. 24, 2013.

⁶⁵ *Id.*

⁶⁶ Attachment 17.

⁶⁷ Attachment 16.

⁶⁸ Testimony of Alejandro Mayorkas before the Senate Committee on Homeland Security and Governmental Affairs, July 25, 2013 (hereinafter HSGAC testimony), at 23.

6. Did you meet with any other AAO personnel about the draft decision? If so, please describe those meetings in detail.
7. Can you cite to any other case in which you obtained a draft AAO decision and provided edits or feedback outside the “precedent decision” process or a Senior Policy Council meeting? If so, please describe any other such cases in detail.
8. Why do you believe it is appropriate for the Director to review draft AAO decisions in certain cases involving politically-connected applicants and suggest changes outside the normal AAO process that benefit those applicants?
9. Do you agree that your actions in this case created an appearance of special treatment which undermines the integrity of the agency’s work? If not, then how do you explain why several career officials have expressed those exact concerns in internal emails and in protected disclosures to my office?

Thank you in advance for your cooperation in this matter. Please respond to these questions by August 7, 2013. Should you have any questions regarding this letter, please contact Tristan Leavitt of my staff at (202) 224-5225. I look forward to your prompt response.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

ATTACHMENT

cc: The Honorable Thomas Carper, Chairman
U.S. Senate, Committee on Homeland Security and Governmental Affairs

The Honorable Tom A. Coburn, Ranking Member
U.S. Senate, Committee on Homeland Security and Governmental Affairs

Charles K. Edwards, Deputy Inspector General
U.S. Department of Homeland Security

Attachment 1




**U.S. Citizenship
and Immigration
Services**

APR 02 2010

Memorandum

TO: USCIS Employees

FROM: Alejandro N. Mayorkas 
Director

SUBJECT: Ethics and Integrity Memorandum No. 2: Preferential Treatment

A government position is a public trust requiring an employee to act impartially in the performance of his or her duties. The "Standards of Ethical Conduct for Employees of the Executive Branch" (5 CFR 2635) regulates the conduct of Federal Government employees and prohibits preferential treatment as a form of "Misuse of Position." Subpart G of the Standards of Ethical Conduct states:

"An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations."

Purpose

This memorandum provides guidance to USCIS employees on avoiding and preventing situations that could be, or appear to be, preferential treatment. It also provides information on obtaining further guidance, and on how to report suspected misconduct.

Guidance

Each USCIS employee has the duty to act impartially in the performance of his or her official duties. Any occurrence of actual or perceived preferential treatment, e.g., treating similarly-situated applicants differently, can call into question our ability to implement our Nation's immigration laws fairly, honestly, and properly.

A USCIS employee could violate the prohibitions against preferential treatment in a number of ways, by:

- Working on, or in any way attempting to expedite or otherwise influence the processing of, an immigration application, petition, or benefit for a friend, relative, neighbor or acquaintance;
- Meeting with certain stakeholders to the exclusion of others;
- Writing contract requirements that favor one organization over another;
- Referring applicants to a particular immigration practitioner or vendor;

- Using his or her official position or title in a manner that could reasonably be construed to imply that USCIS or the Government sanctions or endorses his or her personal activities;
- Using USCIS letterhead or his or her official position or title to:
 - Provide a letter of recommendation for an individual;¹ or
 - Endorse any organization, product, service, or enterprise.

Often the appearance of preferential treatment can be as damaging to our Agency's reputation as actual preferential treatment; therefore, a USCIS employee should avoid matters (e.g., cases or applications) if his or her participation may cause a reasonable person to question the employee's impartiality. Should a question arise about whether an employee's action(s) might be seen as providing preferential treatment, the employee should discuss his or her concerns with a supervisor or USCIS Ethics Officer before acting on the matter.

Failure to adhere to the standards or the guidance set forth in this memorandum may subject the employee to disciplinary penalties, up to and including removal from employment. Such disciplinary action may be in addition to any criminal or civil action or penalty prescribed by law.

Contact Information

If you have questions related to ethical standards applicable to your position, please discuss the issue with your supervisor or contact a USCIS Ethics Officer. For further information on ethics rules please go to <http://ethics.uscis.dhs.gov>, or contact the Ethics Division at USCIS.Ethics@dhs.gov.

To report a suspected violation of ethics rules or any other allegation of misconduct, contact the Office of Security and Integrity by any of the following methods:

1. Online through the USCIS intranet at <http://osi.uscis.dhs.gov/Forms/Complaint>;
2. Fax at (202) 233-2453; or
3. Mail at the following address:

Chief, Investigations Division
Office of Security and Integrity MS 2275
U.S. Citizenship and Immigration Services
633 Third Street, NW, 3rd Floor
Washington, DC 20529-2275

Questions should be posed and reports should be made immediately upon identifying an issue or concern.

¹ USCIS employees may sign a letter of recommendation using their official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom the USCIS employee has dealt in the course of Federal employment or whom he is recommending for Federal employment.

Attachment 2

From: Senior USCIS Career Official
Sent: Friday, April 12, 2013 10:35 AM
To: USCIS Career Officials
Subject: RE: seeking deadline comment on Virginia senator's request for USCIS review

Hi USCIS Official

We absolutely gave special treatment to Green Tech at the directive of D1. D1 was working directly with the RC's atty, [REDACTED]. Additionally, I would call a wholesale rewrite of the AAO's decision by the front office special treatment. Look at the first draft in the attached email and the final version, attached. Here is a taste.

Thanks,

Senior USCIS Career Official

From: USCIS Official
Sent: Friday, April 12, 2013 9:55 AM
To: USCIS Officials
Subject: FW: seeking deadline comment on Virginia senator's request for USCIS review

From: USCIS press sec
Sent: Friday, April 12, 2013 9:53 AM
To: Mayorkas, USCIS Officials
Subject: RE: seeking deadline comment on Virginia senator's request for USCIS review

Good morning, All.

I just spoke with [REDACTED]. He is heading out of the office for the majority of the day and wanted to touch base before he was unavailable.

I relayed to him that we're trying to determine if Senator Garrett's letter arrived. He understood completely as he didn't receive it until late last night himself.

With that, we are not on deadline today with Watchdog Virginia.

In talking to [REDACTED] he did ask two additional questions that we'll need to address.

[REDACTED]

- Did Terry McAuliffe and Director Mayorkas (or others at USCIS) have any face-to-face or telephonic meetings to discuss GreenTech or the EB-5 program?
- Did USCIS expedite or provide special treatment to any EB-5 petitions associated with GreenTech or Terry McAuliffe?

Any thoughts? Should we meet to discuss?

I'll let everyone know the direction the AP (Mississippi) reporter is taking as soon as I talk to him. He's currently dealing with tornado coverage in the state.

Adding [REDACTED] and [REDACTED] to last night's thread. r [REDACTED]

[REDACTED]
Press Secretary
U.S. Citizenship and Immigration Services
Department of Homeland Security
[REDACTED]

From: USCIS press sec
Sent: Thursday, April 11, 2013 11:57 PM
To: Mayorkas, Alejandro N [REDACTED] @uscis.dhs.gov); [REDACTED]
[REDACTED] USCIS officials [REDACTED]
Subject: FW: seeking deadline comment on Virginia senator's request for USCIS review

All,

Here's the second GreenTech related email for tonight. [REDACTED] from Watchdog Virginia forwarded the following to my attention. It's from Virginia State Senator Tom Garrett. [REDACTED] would like USCIS to provide a response regarding the letter. We, of course, would only reply to acknowledge receipt of the letter (if it indeed has arrived) and ensure that we will respond directly to Senator Garrett in a timely manner.

Please note that [REDACTED] is also following up with ICE regarding what happened to the 1,271 conditional residents during the history of the EB-5 program who have been denied their request(s) to remove conditional status. He wants to know if they are still in the country or if they have departed/been deported. ICE is explaining their enforcement priorities to him, which will probably lead him to conclude the Department doesn't know if these people are or are not in the country.

Did we receive this correspondence from Senator Garrett today? Thanks.

r [REDACTED]

[REDACTED]
Press Secretary
U.S. Citizenship and Immigration Service, DHS
[REDACTED]

From: Watchdog Virginia [REDACTED]
Sent: Thursday, April 11, 2013 10:12 PM
To: USCIS press sec [REDACTED]
Subject: seeking deadline comment on Virginia senator's request for USCIS review

[REDACTED]

■

I was on the road yesterday and apologize for not getting back to you. Meantime, the attached letter landed on my desk and moved to the top of my to-do list.

Could you get a response that I can use Friday morning?

Thanks,

■

Senator Garrett Requests Federal Review

April 11, 2013

Louisa, Va-- Today, Senator Tom Garrett of Louisa sent a letter to Director Mayorkas of U.S. Citizenship and Immigration Service requesting a federal review. Please see the attached letter for further details.



Attachment 3

From: USCIS Employee
Sent: Wednesday, July 28, 2010 6:26 PM
To: USCIS Immigrant Investor Program
Cc: USCIS Employees
Subject: FW: GTA Project
Attachments: Letter to Senator Warner - GTA.pdf; Cover Letter.pdf

Hi [REDACTED]

Can you give us a status on this case, and an ETA for a decision (based on normal, non-expedite timeframes.) As [REDACTED] notes, there is no expedite request here. We just need to know what is going on with the case as they are going straight to the Director

Thanks,

[REDACTED]

From: USCIS Employee
Sent: Wednesday, July 28, 2010 3:06 PM
To: USCIS Employee
Subject: FW: GTA Project

[REDACTED]
Can you just see if CSC has received the response to the RFE and if it is currently with an officer? There is no expedite request here.

Thanks,

[REDACTED]

[REDACTED]

From: USCIS Employee
Sent: Wednesday, July 28, 2010 2:58 PM
To: USCIS Employee
Cc: USCIS Employees
Subject: FW: GTA Project

[REDACTED] – I vaguely remember responding to the Warner letter. Please just advise of the case status. I do note that even their initially rejected request was filed just 6 months ago. Considering our goal on adjudicating regional center requests is 6 months it's a little early to complain about delays.

From: Mayorkas, Alejandro N
Sent: Wednesday, July 28, 2010 2:12 PM

[REDACTED]

To: USCIS Employee [REDACTED]
Cc: USCIS Employees [REDACTED]
Subject: FW: GTA Project

[REDACTED]
Douglas Smith, the Assistant Secretary for Private Sector in DHS, just forwarded to me the attached regarding an EB-5 petition (he called me in advance a minute ago and indicated that he would be doing so) I am copying [REDACTED] and [REDACTED] so that they have visibility. I want to make sure that we are providing customer service consistent with our standards but that we are not providing any preferential treatment. Please address as appropriate.
Thanks very much. Ali

Alejandro N. Mayorkas
Director
United States Citizenship and Immigration Services

From: Smith, Douglas A [mailto:[REDACTED]@dhs.gov]
Sent: Wednesday, July 28, 2010 2:08 PM
To: Mayorkas, Alejandro N
Subject: FW: GTA Project
Importance: High

A – Thanks! Looking forward to our dinner when you get back. Have a great vacation.

From: Terry McAuliffe [mailto:[REDACTED]@wmgta.com]
Sent: Wednesday, July 28, 2010 1:31 PM
To: Smith, Douglas A
Subject: GTA Project

Doug:

It was great speaking with today. As I mentioned to you, I am the chairman of Greentech Automotive (GTA). GTA is a US-based company dedicated to developing and producing affordable, environment-friendly, and energy-efficient vehicles. We are committed to bringing "green" jobs to the U.S. GTA is partially funded by USCIS EB-5 program through Gulf Coast Funds Management (GCFM) regional center, which was initially approved in August 2008 to cover Mississippi and Louisiana. GCFM filed an Amendment Application in Jan 2010 to expand its operations to Virginia and Tennessee to support GTA's efforts.

I have been extremely frustrated by the USCIS approval process which has delayed our business plan and job creation efforts. The major delay was caused by incorrect information being given to us by USCIS officials regarding the extension process. You should be aware that Senator Warner and other Members of Congress have made inquiries on this project. I would greatly appreciate your attention to this matter as it is imperative to our country that we begin to get people back to work, especially in the manufacturing sector.

The following is GCFM's Amendment timeline:

- Aug 18, 2008: GCFM approved as Regional Center
- Jan 12, 2010: GCFM filed Amendment Application to USCIS – 1st try
- Feb 19, 2010: USCIS rejected on technical issue and GCFM refiled - 2nd try
- May 13, 2010: USCIS Request for Evidence (RFE) by Aug 3
- Jul 19, 2010: GCFM filed answers to RFE – 3rd try

Attached:

1. Apr 28, 2010: Sussex County Board of Supervisors inquiry letter to Senator Warner

2. Jul 19, 2010: GCFM cover letter to USCIS RFE

Terry

WM GreenTech Automotive Corp

Website: www.wmgt.com

Notice of Privilege/Confidentiality:

Privileged and Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer does not consent to internet email for messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of this company shall be understood as neither given nor endorsed by it.

Attachment 4

From: USCIS Employee
Sent: Thursday, August 19, 2010 11:59 AM
To: USCIS Employees
Cc: USCIS Employee
Subject: RE: Gulf Coast Funds: amendment denial
Attachments: MCFI AAO decision final 12 21 09.doc; Gulf Coast RC amd denial 8-11-10.pdf

Tracking:	Recipient	Read
	[REDACTED]	Read: 8/19/2010 12:01 PM
	[REDACTED]	Read: 8/19/2010 12:01 PM
	[REDACTED]	Read: 8/19/2010 12:00 PM

Hi [REDACTED],

I have added [REDACTED] since you are in training today.

The CSC sent me a copy of the denial after it was sent - I thought that I had forwarded it to you - sorry if I forgot to. I agree with their decision to deny the amendment. The basic issues in the case are:

1. The EB5 Regional Center statutory framework requires that the geographic focus of a regional center must be on a contiguous area. Currently Gulf Coast's (GC) approved geographic area is the State of Louisiana and the State of Mississippi. A couple of years ago GC asked SCOPS (back when we were unfortunately entertaining these types of discussions) if they could add the State of Virginia to their geographic scope. SCOPS told them that USCIS couldn't approve this request because VA is not contiguous to LA and MS.

GC has now requested to add the State of Tennessee and certain counties in the State of Virginia to their geographic area in order to "link up" LA and MS to VA. However, the economic analysis provided does not provide data for the requested area; instead it simply focuses on three select counties located in MS, TN and VA. GC has not demonstrated that they will actually focus EB-5 capital investment activities within the requested expanded region.

2. The economic analysis is flawed because it mixes national data with county-level data (compares apples to oranges), and relies on estimated production levels for the project for 2019, nine years from now. This analysis did not use "reasonable methodologies" in developing the job creation estimates and the other estimated economic impacts that will result from EB-5 capital investments through GC as required by the statutory and regulatory framework.

Recommendation: [REDACTED] should file an appeal if he feels that the CSC's decision to deny was inappropriate. If he files a brief and supporting evidence with the appeal then the CSC will review the documentation to see if it overcomes the denial of the amendment. If it doesn't then the case will be sent to the AAO will perform a de novo review.

[REDACTED] would rather try to wrangle an approval through political means by contacting the front office rather than follow established adjudicative processes.

Note that [REDACTED] is bitter because the AAO denied his MCFI proposal (attached). A quick read of that decision shows in painful detail the gamesmanship that [REDACTED] puts forth in the EB-5 Regional Center cases that he represents (for example, in the MCFI case the job creation estimates for the RC's one capital investment project exceeded the total number of unemployed within the proposed geographic area of the RC.)

[REDACTED]

Thanks,

-----Original Message-----

From: USCIS Employee
Sent: Thursday, August 19, 2010 11:01 AM
TO: USCIS Employee ; USCIS Employee
Subject: Fw: Gulf Coast Funds: amendment denial

I thought CSC was going to tell us before a decision was made?

----- Original Message -----

From: USCIS Employee
To: USCIS Employee
Cc: USCIS Employee
Sent: Thu Aug 19 10:54:47 2010
Subject: FW: Gulf Coast Funds: amendment denial

----- Please have someone take a look at this and let me know if we in any way. To be clear, there is no desire to influence the outcome; simply to understand if there is any basis for the complaint.

From: USCIS Official [mailto:]
Sent: Wednesday, August 18, 2010 11:22 AM
To: USCIS Official
Subject: FW: Gulf Coast Funds: amendment denial

From: Mayorkas, Alejandro N [mailto:]
Sent: Tuesday, August 17, 2010 7:54 PM
To: USCIS Official
Subject: Fw: Gulf Coast Funds: amendment denial

----- Original Message -----

From: Doug Smith < >
To: Mayorkas, Alejandro N
Sent: Tue Aug 17 19:52:13 2010
Subject: Fw: Gulf Coast Funds: amendment denial

█

This is what I called you about. Unless I am missing something, this is just crazy.

Doug Smith

Department of Homeland Security
(202)

----- Original Message -----

From: Terry McAuliffe <>
To: Doug Smith <>@dhs.gov>
Sent: Tue Aug 17 17:27:24 2010
Subject: FW: Gulf Coast Funds: amendment denial

-----Original Message-----

From: [mailto:Green Tech Employee]
Sent: Tuesday, August 17, 2010 2:35 PM
To: 'Terry McAuliffe'
Cc: GreenTech
Subject: FW: Gulf Coast Funds: amendment denial

This approval process becomes ridiculous.

-----Original Message-----

From: Gulf Coast Attorney
Sent: Tuesday, August 17, 2010 1:37 PM
To: GreenTech Employees
Subject: Gulf Coast Funds: amendment denial

: Attached is a copy of the CSC's decision denying your amendment request, which we just received. The decision is poorly reasoned and wrong, in my opinion. However, I suggest you do NOT appeal to the Administrative Appeals Office, as you will just lose there.

I can explain more by phone, as well as discuss your various options. Let me know when you want to have a conf. call to discuss.

This e-mail and any attachments may be confidential and may be protected by the attorney/client privilege, work product doctrine, or other nondisclosure protection. If you believe that it has been sent to you in error, you may not read, disclose, print, copy, store or disseminate the e-mail or any attachments or the information in them. Please reply to the sender that you have received the message in error. Then delete it. Thank you.



Attachment 5

From: USCIS career employee
Sent: Thursday, May 26, 2011 1:57 PM
To: USCIS employees
Cc:
Subject: FW: EB5 check

Status report please. I intend to push back somewhat on this if we can validate no failings on our part. At a minimum, our processing times should be respected and inquiries such as this should not be made unless we are ONPT.

From: USCIS Deputy Director
Sent: Thursday, May 26, 2011 1:50 PM
To: USCIS career employee
Subject: FW: EB5 check

Please see when this case was filed. We can then decide whether it's gone into a "black hole."

From: Mayorkas, Alejandro N [mailto: @dhs.gov]
Sent: Thursday, May 26, 2011 1:15 PM
To: USCIS Deputy Director
Subject: FW: EB5 check

Here is another EB-5 case about which there appears to be some concern re delays. Can you look into this? We need to continue to bring great focus with respect to this program.
Thanks very much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

From: Doug Smith [mailto: @dhs.gov]
Sent: Thursday, May 26, 2011 11:57 AM
To: Mayorkas, Alejandro N
Subject: EB5 check

A – you mind seeing if you can get any intel on this one. Seems to be in a black hole. Thanks

Petitioner: Virginia Center for Foreign Investment and Job Creation LLC
Petition Number: RCW 1111850202

Attachment 6

From: Mayorkas, Alejandro N
Sent: Friday, June 24, 2011 03:48 PM
To: USCIS Employee
Subject: RE: EB5 check

Thank you, [REDACTED]

I understand there to be two deficiencies, one with respect to the timeline for the project and the other with respect to the specific location of the automotive plant. A few questions come to mind:

- Were these deficiencies identified in response to the prior submission, or has the new submission changed so as to raise these issues for the first time?
- How can a proposal be required to identify the specific location of the plant before the proposal is approved? If I am a petitioner, I would not purchase real estate to build the plant before I knew the proposal was approved.
- Are time estimates sufficient for the timeline?

Thanks very much. I am eager to learn as much as possible about the EB-5 program because it is the source of considerable attention and, given the job creation potential, appropriate interest.

Thanks so much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services



From: USCIS Employee
Sent: Friday, June 24, 2011 3:21 PM
To: Mayorkas, Alejandro N
Subject: FW: EB5 check

Here it is

From: USCIS Employee
Sent: Friday, June 17, 2011 4:44 PM
To: USCIS Employee
Cc: USCIS Employees
Subject: RE: EB5 check

Hi [REDACTED],



FYI - The CSC issued an RFE on this case for one specific issue (after I talked the ISO off of the ledge for including a ridiculous issue given the Gulf Coast history), attached.

I am going to be on leave this next week, but will be in DC on Monday morning through Friday afternoon.

Thanks,

From: USCIS Employee
Sent: Thursday, June 09, 2011 5:07 PM
To: USCIS Employee
Subject: RE: EB5 check

Please let me know when the case is assigned for adjudication.

Thanks,

From: USCIS Employee
Sent: Thursday, June 09, 2011 3:31 PM
To: USCIS Employee
Subject: RE: EB5 check

Yes. Please expedite based on the previous filing history.

From: USCIS Employee
Sent: Thursday, June 09, 2011 3:25 PM
To: USCIS Employee
Subject: RE: EB5 check

Hi ,

This case is a re-filing in the sense that it is filed by the entity that is going to operate the VA-based factory for the Greentech Automotive plant. You may recall that we denied a succession of Gulf Coast RC amendments that sought to extend the geographic scope of that RC to Southern VA so that this VA automotive plant could be an EB-5 project for the LA/MS-based regional center. The last USCIS action in those cases was to deny a motion to reopen the Gulf Coast RC amendment denial and to certify the decision to the AAO where it remains pending.

Let me know if you want me to ask the CSC to consider expediting this case in light of this tortured history.

Thanks,

From: USCIS Employee
Sent: Tuesday, June 07, 2011 11:14 PM

To: USCIS Employee [REDACTED]
Subject: Fw: EB5 check

Hi [REDACTED] - do we know if this is a re-filed case?

From: USCIS Dep Dir [REDACTED]
Sent: Tuesday, June 07, 2011 03:49 PM
To: 'Mayorkas, Alejandro N' [REDACTED]
Subject: RE: EB5 check

Ali,

SCOPS checked the status of this case. It was filed on 4/28/11. The processing time for an I-924 is 6 months so this case is not off track or in a black hole. I don't know what the petitioner claims so if there is something else that we are not aware of please let me know.

Thanks Ali,
[REDACTED]

From: Mayorkas, Alejandro N [REDACTED]
Sent: Thursday, May 26, 2011 1:15 PM
To: USCIS Dep Dir [REDACTED]
Subject: FW: EB5 check

[REDACTED]
Here is another EB-5 case about which there appears to be some concern re delays. Can you look into this? We need to continue to bring great focus with respect to this program.
Thanks very much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[REDACTED]

From: Douglas Smith [REDACTED]
Sent: Thursday, May 26, 2011 11:57 AM
To: Mayorkas, Alejandro N
Subject: EB5 check

A - you mind seeing if you can get any intel on this one. Seems to be in a black hole. Thanks

Petitioner: Virginia Center for Foreign Investment and Job Creation LLC
Petition Number: [REDACTED]
[REDACTED]

Attachment 7

[REDACTED]

From: USCIS employee
Sent: Thursday, July 07, 2011 5:01 PM
To: USCIS employees
Cc: USCIS employees
Subject: Fw: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Importance: High

Hi CSC,

Can you provide a list of GCFM RC-associated cases that are either beyond initial review target time or have been RFE'd with responses that are over 30 days without a final case action?

Also, can you please provide a synopsis of the outstanding issues in these cases, if any?

It would be very helpful if we could have this by COB tomorrow so that Director Mayorkas can be provided with the information this week.

Thanks,

[REDACTED]

From: USCIS employee
Sent: Thursday, July 07, 2011 04:36 PM
To: USCIS employees
Cc:
Subject: FW: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

I thought we had addressed the GCFM concerns? What's the basis for the current delay?

From: Mayorkas, Alejandro N
Sent: Thursday, July 07, 2011 4:33 PM
To: USCIS employees
Subject: FW: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Please address with appropriate urgency. Thank you.

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[REDACTED]

From: Mayorkas, Alejandro N [mailto: [REDACTED]@dhs.gov]
Sent: Thursday, July 07, 2011 4:32 PM
To: Gulf Coast attorney
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

██████████
Thank you for your e-mail below, which you and I just discussed by telephone. I will follow up.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
██████████
██████████

From: Gulf Coast attorney ██████████
Sent: Thursday, July 07, 2011 4:09 PM
To: Mayorkas, Alejandro N
Cc: ██████████
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)
Importance: High

Dear Director Mayorkas,

The Regional Center notified me earlier this week that they have received word of a possible lawsuit being filed against them for the delays associated with the I-526 petitions. I had not wanted to bother you with the concerns but feel the sense of urgency has escalated and requires your attention. Today they received word that investors are requesting refunds of their funds.

Please see quotes below from their offices in China:

"Have you got any positive news after the meeting with USCIS?? When do we expect to see the next I526, we ran out of excuses already.

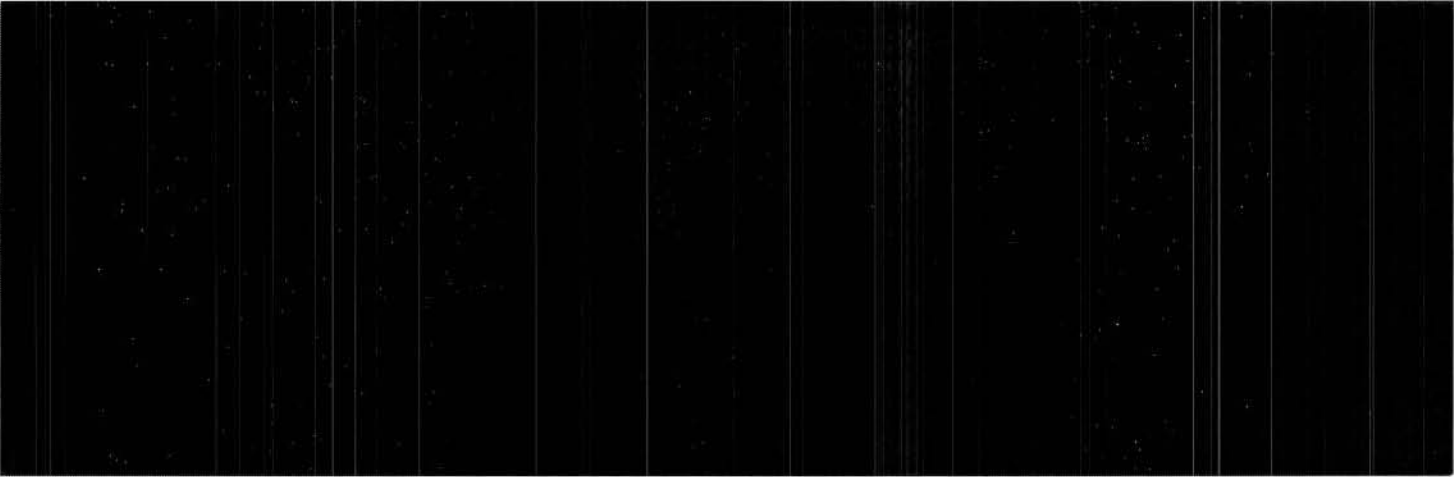
"Because of the slow issuance of the I526, we are facing many unhappy agents"

...we are facing extreme pressure fr agents and clients. I am afraid if the I-526 situation cannot ratify in the very near future, clients will WD fr the program. Since the government had made announcement the fast processing of shelve ready project, five month I-526 and one month RFEs, why can't we take affirmative action base on this?

Is there anything we can do to have the RFE's adjudicated and direction provided on the remaining cases? The first RFE response was received on February 16, 2011 by the Service. The petitions that have not received RFE's are pending as far out as one year.

The framework of the entire EB-5 program could be threatened if there is a report of unrest combined with legal action taken against the Center and the GTA project. We want to avoid this and move forward on creating jobs while making green cars in the U.S.

Thank you for your time.



From: Mayorkas, Alejandro N [mailto: [REDACTED]@dhs.gov]
Sent: Tuesday, June 28, 2011 5:30 PM
To: Gulf Coast attorney [REDACTED]
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you, [REDACTED]. We will follow up on this.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[REDACTED]

From: Gulf Coast attorney [REDACTED]
Sent: Tuesday, June 28, 2011 10:13 AM
To: Mayorkas, Alejandro N
Cc: [REDACTED]
Subject: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)
Importance: High

Dear Director Mayorkas:

I very much appreciate the opportunity to write to you today to bring my concerns to your attention. The EB-5 program is a wonderful opportunity for the United States and for foreign investors looking to invest in America. That being said when I-526 petitions are delayed indefinitely and USCIS processing times are inaccurate the investors begin to doubt the integrity of the individual investment as well as the Eb-5 program itself. GCFM is investing in the GreenTech Automotive project which is a United States automobile company committed to the advancement of clean automobile technology. GTA is developing vehicles that are energy-efficient, affordable, and built in the United States by American workers. Led by Terry McAuliffe, an international leader in politics, business, and promoting green energy, GTA was established to carry out his vision that "no green technology is truly green unless it is affordably green." Most importantly GTA is bringing jobs to the U.S. rather than sending jobs abroad.

GTA received 15 I-526 approvals on the project and during the time the issues were being addressed on the original amendment to the GCFM Regional Center, the adjudications came to an abrupt halt. Then earlier in 2011, the four investors received requests for additional evidence. Investor's counsel responded to the initial RFE and then moved to supplement each of the other pending petitions with additional information. The GCFM Regional Center worked directly with our office in responding to the remaining 3 RFEs. Once the responses were submitted, I contacted the Service to

[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

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Attachment 8

From: USCIS employee
Sent: Wednesday, July 20, 2011 12:02 PM
To: USCIS employees
Cc: USCIS employees
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

These are the ones that are being held in abeyance pending AAO's decision on a denial we certified with common issues. It is my understanding the AAO wishes to sustain the denial and that their draft decision is on Ali's desk pending review. I've copied others here in SCOPS in case there are any other updates.

From: Deputy USCIS Director
Sent: Wednesday, July 20, 2011 12:01 PM
To: USCIS official
Subject: Fw: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Heads up.

From: Mayorkas, Alejandro N
Sent: Wednesday, July 20, 2011 09:50 AM
To: Deputy USCIS Director
Subject: FW: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

From: Gulf Coast attorney
Sent: Wednesday, July 20, 2011 9:12 AM
To: Mayorkas, Alejandro N
Subject: Re: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you very much. I spoke with Terry last night and learned that we now have two investors who have requested funds to be returned (over 1.1 million dollars). In addition we are expecting a mass exodus and possible suit due to what the immigration firms in china, and our investors, perceive as some act of bad faith on GCFM/GTA's part. The current processing time still remains at 5 months according to USCIS. Our petitions have reached a year and the ones with RFEs are well over that time.

The State of Mississippi is also concerned as they know they are going to lose many jobs if this project folds. Therefore the Governor as well as Senate offices may be calling DHS this week.

These delays combined with the ongoing uncertainty dealing with the program is making the EB-5 program increasingly difficult to navigate.

Whatever you can do would be much appreciated.

Finally, Terry asked me to remind you that we have not heard back on the VA Center's certification yet. Many thanks,

[Redacted signature]

[REDACTED]

From: Mayorkas, Alejandro N [REDACTED]
To: Gulf Coast attorney [REDACTED]
Sent: Wed Jul 20 08:06:56 2011
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

[REDACTED]

Good morning. I am back in the office and am following up right away.
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[REDACTED]

From: Gulf Coast attorney [REDACTED]
Sent: Tuesday, July 19, 2011 5:04 PM
To: Mayorkas, Alejandro N
Subject: Re: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Dear Director Mayorkas,
I am just following up on these cases listed below as well as the Regional Center Request for VA.

I hope all is well.

[REDACTED]

From: Mayorkas, Alejandro N [REDACTED]
To: Gulf Coast attorney [REDACTED]
Sent: Thu Jul 07 17:03:30 2011
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you, [REDACTED]
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[REDACTED]

From: Gulf Coast attorney [REDACTED]
Sent: Thursday, July 07, 2011 4:42 PM
To: Mayorkas, Alejandro N
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you for your quick response. I am including below the updated chart that highlights the two errors I mentioned on the name and WAC.

[REDACTED]

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[REDACTED]

From: Gulf Coast attorney [REDACTED]
Sent: Thursday, July 07, 2011 4:09 PM
To: Mayorkas, Alejandro N
Cc: [REDACTED]
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)
Importance: High

Dear Director Mayorkas,

The Regional Center notified me earlier this week that they have received word of a possible lawsuit being filed against them for the delays associated with the I-526 petitions. I had not wanted to bother you with the concerns but feel the sense of urgency has escalated and requires your attention. Today they received word that investors are requesting refunds of their funds.

Please see quotes below from their offices in China:

"Have you got any positive news after the meeting with USCIS?? When do we expect to see the next I526, we ran out of excuses already.

Because of the slow issuance of the I526, we are facing many unhappy agents"

...we are facing extreme pressure fr agents and clients. I am afraid if the I-526 situation cannot ratify in the very near future, clients will WD fr the program. Since the government had made announcement the fast processing of shelve ready project, five month I-526 and one month RFEs, why can't we take affirmative action base on this?

Is there anything we can do to have the RFE's adjudicated and direction provided on the remaining cases? The first RFE response was received on February 16, 2011 by the Service. The petitions that have not received RFE's are pending as far out as one year.

The framework of the entire EB-5 program could be threatened if there is a report of unrest combined with legal action taken against the Center and the GTA project. We want to avoid this and move forward on creating jobs while making green cars in the U.S.

Thank you for your time.

[REDACTED]

[REDACTED]



From: Mayorkas, Alejandro N [mailto:]
Sent: Tuesday, June 28, 2011 5:30 PM
To: Gulf Coast attorney
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you, . We will follow up on this.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services



From: Gulf Coast attorney
Sent: Tuesday, June 28, 2011 10:13 AM
To: Mayorkas, Alejandro N
Cc:
Subject: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)
Importance: High

Dear Director Mayorkas:

I very much appreciate the opportunity to write to you today to bring my concerns to your attention. The EB-5 program is a wonderful opportunity for the United States and for foreign investors looking to invest in America. That being said when I-526 petitions are delayed indefinitely and USCIS processing times are inaccurate the investors begin to doubt the integrity of the individual investment as well as the Eb-5 program itself. GCFM is investing in the GreenTech Automotive project which is a United States automobile company committed to the advancement of clean automobile technology. GTA is developing vehicles that are energy-efficient, affordable, and built in the United States by American workers. Led by Terry McAuliffe, an international leader in politics, business, and promoting green energy, GTA was established to carry out his vision that "no green technology is truly green unless it is affordably green." Most importantly GTA is bringing jobs to the U.S. rather than sending jobs abroad.

GTA received 15 I-526 approvals on the project and during the time the issues were being addressed on the original amendment to the GCFM Regional Center, the adjudications came to an abrupt halt. Then earlier in 2011, the four investors received requests for additional evidence. Investor's counsel responded to the initial RFE and then moved to supplement each of the other pending petitions with additional information. The GCFM Regional Center worked directly with our office in responding to the remaining 3 RFEs. Once the responses were submitted, I contacted the Service to determine if they wished us to supplement the other petitions to avoid any further RFEs (aside from investor based ones) To date I have not received a response.

GCFM has petitions that will reach a one year anniversary mark on July 13, 2011. The investors are upset and threatening to withdraw their investments. Reputation is critical in this industry and our branding is being hurt as you can



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Attachment 9

From: USCIS Employee
Sent: Wednesday, July 13, 2011 10:59 AM
To: USCIS Employees
Cc:
Subject: RE: EB5 Va case, I think it's Gulf Coast?

Thanks. This is one we need to monitor and provide updates to the front office. Please let us know when we get the RFE response.

From: USCIS Employee
Sent: Wednesday, July 13, 2011 10:33 AM
To: USCIS Employee
Cc:
Subject: RE: EB5 Va case, I think it's Gulf Coast?

Hi [REDACTED].

We did issue an RFE in the case, which caused a bit of a flap for which [REDACTED] responded to the front office about (see attached). At this point we are waiting for their RFE response to the best of my knowledge.

Thanks,

From: USCIS Employee
Sent: Wednesday, July 13, 2011 10:27 AM
To: USCIS Employees
Cc:
Subject: RE: EB5 Va case, I think it's Gulf Coast?

Ok - another follow up. This time it is the VA case that arose from the GCFM case. As I recall we agreed to expedite and then there were some issues we needed resolved through an RFE.

From: USCIS Employee
Sent: Wednesday, July 13, 2011 10:15 AM
To: USCIS Employees
Subject: EB5 Va case, I think it's Gulf Coast?

[REDACTED]

Do you know where we are in the process on this case? Ali was asking.

Thanks

Attachment 10

From: USCIS Employee
Sent: Wednesday, July 20, 2011 12:02 PM
To: USCIS Employees
Cc: USCIS Employees
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

These are the ones that are being held in abeyance pending AAO's decision on a denial we certified with common issues. It is my understanding the AAO wishes to sustain the denial and that their draft decision is on Ali's desk pending review. I've copied others here in SCOPS in case there are any other updates.

From: USCIS Employee
Sent: Wednesday, July 20, 2011 12:01 PM
To: USCIS Employee
Subject: Fw: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Heads up.

From: Mayorkas, Alejandro N [mailto: [REDACTED]@dhs.gov]
Sent: Wednesday, July 20, 2011 09:50 AM
To: USCIS employees [REDACTED]
Subject: FW: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., N.W.
Washington, DC 20529
(202) [REDACTED]
[REDACTED]@dhs.gov

From: Gulf Coast attorney [mailto: [REDACTED]]
Sent: Wednesday, July 20, 2011 9:12 AM
To: Mayorkas, Alejandro N
Subject: Re: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you very much. I spoke with Terry last night and learned that we now have two investors who have requested funds to be returned (over 1.1 million dollars). In addition we are expecting a mass exodus and possible suit due to what the immigration firms in china, and our investors, perceive as some act of bad faith on GCFM/GTA's part. The current processing time still remains at 5 months according to USCIS. Our petitions have reached a year and the ones with RFEs are well over that time.

The State of Mississippi is also concerned as they know they are going to lose many jobs if this project folds. Therefore the Governor as well as Senate offices may be calling DHS this week.

These delays combined with the ongoing uncertainty dealing with the program is making the EB-5 program increasingly difficult to navigate.

Whatever you can do would be much appreciated.

Finally, Terry asked me to remind you that we have not heard back on the VA Center's certification yet. Many thanks,

[REDACTED]

From: Mayorkas, Alejandro N <[REDACTED]@dhs.gov>
To: Gulf Coast attorney [REDACTED]
Sent: Wed Jul 20 08:06:56 2011
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

[REDACTED]

Good morning. I am back in the office and am following up right away.
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., N.W.
Washington, DC 20529
(202) [REDACTED]
[REDACTED]@dhs.gov

From: Gulf Coast attorney [REDACTED]
Sent: Tuesday, July 19, 2011 5:04 PM
To: Mayorkas, Alejandro N
Subject: Re: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Dear Director Mayorkas,
I am just following up on these cases listed below as well as the Regional Center Request for VA.

I hope all is well.

[REDACTED]

From: Mayorkas, Alejandro N <[REDACTED]@dhs.gov>
To: Gulf Coast attorney [REDACTED]
Sent: Thu Jul 07 17:03:30 2011
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you, [REDACTED]
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., N.W.
Washington, DC 20529
(202) [REDACTED]
[REDACTED]@dhs.gov

From: Gulf Coast attorney [REDACTED]
Sent: Thursday, July 07, 2011 4:42 PM
To: Mayorkas, Alejandro N
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you for your quick response. I am including below the updated chart that highlights the two errors I mentioned on the name and WAC.

[REDACTED]

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., N.W.
Washington, DC 20529
(202) [REDACTED]
[REDACTED]@dhs.gov

From: Gulf Coast attorney [REDACTED]
Sent: Thursday, July 07, 2011 4:09 PM
To: Mayorkas, Alejandro N
Cc: [REDACTED]
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)
Importance: High

Dear Director Mayorkas,

The Regional Center notified me earlier this week that they have received word of a possible lawsuit being filed against them for the delays associated with the I-526 petitions. I had not wanted to bother you with the concerns but feel the sense of urgency has escalated and requires your attention. Today they received word that investors are requesting refunds of their funds.

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...we are facing extreme pressure fr agents and clients. I am afraid if the I-526 situation cannot ratify in the very near future, clients will WD fr the program. Since the government had made announcement the fast processing of shelve ready project, five month I-526 and one month RFEs, why can't we take affirmative action base on this?


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Thank you for your time.

[REDACTED]

[REDACTED]



From: Mayorkas, Alejandro N [mailto: [REDACTED]@dhs.gov]
Sent: Tuesday, June 28, 2011 5:30 PM
To: Gulf Coast attorney [REDACTED]
Subject: RE: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)

Thank you, [REDACTED]. We will follow up on this.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., N.W.
Washington, DC 20529
(202) [REDACTED]
[REDACTED]@dhs.gov


From: Gulf Coast attorney [REDACTED]
Sent: Tuesday, June 28, 2011 10:13 AM
To: Mayorkas, Alejandro N
Cc: [REDACTED]
Subject: GULF COAST FUNDS MANAGEMENT REGIONAL CENTER (GCFM)
Importance: High

Dear Director Mayorkas:

I very much appreciate the opportunity to write to you today to bring my concerns to your attention. The EB-5 program is a wonderful opportunity for the United States and for foreign investors looking to invest in America. That being said when I-526 petitions are delayed indefinitely and USCIS processing times are inaccurate the investors begin to doubt the integrity of the individual investment as well as the Eb-5 program itself. GCFM is investing in the GreenTech Automotive project which is a United States automobile company committed to the advancement of clean automobile technology. GTA is developing vehicles that are energy-efficient, affordable, and built in the United States by American workers. Led by Terry McAuliffe, an international leader in politics, business, and promoting green energy, GTA was established to carry out his vision that "no green technology is truly green unless it is affordably green." Most importantly GTA is bringing jobs to the U.S. rather than sending jobs abroad.

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Attachment 11

From: USCIS Employee [REDACTED]
Sent: Wednesday, July 20, 2011 3:49 PM
To: USCIS Employees [REDACTED]
Subject: FW: Gulf Coast EB-5 Case

Heads up. Ali will be scheduling a meeting tomorrow to discuss GCFM. AAO should explain the legal analysis in reaching their decision on the certified case, but we need to provide the context with the other filings and the Regional Center as a whole. (I would include the VA Regional Center application as well since it is related.)

From: USCIS Employee [REDACTED]
Sent: Wednesday, July 20, 2011 3:45 PM
To: Mayorkas, Alejandro N [REDACTED] USCIS Employees [REDACTED]
Cc: USCIS Employees [REDACTED]
Subject: RE: Gulf Coast EB-5 Case

Ali,
That sounds good - other than the SPC, my calendar is pretty clear. We have a number of I-526 applications that have been held awaiting the outcome of the certified decision from the AAO. I recommend we include the AAO as they most likely considered additional arguments and evidence that were presented subsequent to our certification.

From: Mayorkas, Alejandro N
Sent: Wednesday, July 20, 2011 3:23 PM
To: USCIS Employees [REDACTED]
Cc: USCIS Employees [REDACTED]
Subject: Gulf Coast EB-5 Case
Importance: High

[REDACTED]
I have been receiving inquiries about this regional center application and its status, including statements from GC atty [REDACTED] of unwarranted delays and denials. I have an AAO decision on my desk that was transmitted to me while I was away. I need to meet with you tomorrow (in person or by telephone) to understand:

- The case chronology
- What are the outstanding issues, and what are the arguments on both sides.

I am available 12-1 or 4:30 or later tomorrow. Please let me know of your availability. This is time-sensitive. Thank you very much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[REDACTED]

Attachment 12

From: USCIS Employee
Sent: Thursday, July 21, 2011 2:02 PM
To: USCIS Employees
Subject: RE: Gulf Coast EB-5 Case

Okay thanks. I am guessing this will come up.

From: USCIS Employee
Sent: Thursday, July 21, 2011 12:50 PM
To: USCIS Employees
Subject: RE: Gulf Coast EB-5 Case

Hi [REDACTED]

There are 64 I-526 cases impacted by the GCFM issues that are either being held in abeyance or have yet to reach initial review.

Thanks,

From: USCIS Employee
Sent: Thursday, July 21, 2011 9:37 AM
To: USCIS Employees
Subject: RE: Gulf Coast EB-5 Case

How many will be impacted by this decision? Thanks [REDACTED]

From: USCIS Employee
Sent: Thursday, July 21, 2011 12:31 PM
To: USCIS Employees
Subject: RE: Gulf Coast EB-5 Case

Hi [REDACTED]

Here are the answers to your questions:

Do the I-526s that are on hold have the same problems with the redemption clause and management rights cited in the denial of the RC amendment request?

Answer: Yes, the I-526 petitions have the same documentation involving impermissible redemption clauses and the lack of management rights that are required by the regulation at 8 CFR 204.6(j)(5).

If so, are those issues that we should have identified when the RC was approved, or are they the result of changes that were made subsequently and presented in the amendment request?

Answer: Yes, CSC should have identified them when the RC was approved. (Actually I identified them when I reviewed the pdf documentation at the time that the denial of the motion certification denial was being drafted.)

Do we have other concerns with the I-526s we are seeing from GCFM than the ones identified in this decision?

Answer: The only other concerns with the I-526 is a technical issue as the some of the petitions identify the ultimate job creating entity (Greentech) as the new commercial enterprise in which the alien is to make the investment instead of Gulf Coast Funds I, LLC, which is the actual new commercial enterprise. This is not a showstopper and can be clerically corrected at the CSC.

Thanks,

From: USCIS Employee
Sent: Thursday, July 21, 2011 7:51 AM
To: USCIS Employees
Subject: RE: Gulf Coast EB-5 Case

Ok, having read the decision I have a few questions. Do the I-526s that are on hold have the same problems with the redemption clause and management rights cited in the denial of the RC amendment request? If so, are those issues that we should have identified when the RC was approved, or are they the result of changes that were made subsequently and presented in the amendment request? Do we have other concerns with the I-526s we are seeing from GCFM than the ones identified in this decision?

We'll need to be prepared to answer these questions in this afternoon's meeting. It would also be good to have whatever statistics are available for GCFM, such as the number of I-526s filed, approved, denied and pending. Also, how many of those pending are being held for this AAO decision?

From: USCIS Employee
Sent: Thursday, July 21, 2011 10:13 AM
To: USCIS Employees
Subject: FW: Gulf Coast EB-5 Case

See attached. Can [redacted] and/or [redacted] participate in the 4:30 meeting today?

From: USCIS Employee
Sent: Thursday, July 21, 2011 8:19 AM
To: USCIS Employee
Cc: USCIS Employees
Subject: FW: Gulf Coast EB-5 Case

Mr. [redacted],

Sorry, here is a copy for you as well.

From: USCIS Employees
Sent: Thursday, July 21, 2011 7:46 AM
To: USCIS Employee
Cc: USCIS Employee
Subject: FW: Gulf Coast EB-5 Case

This version should be the current draft.

From: USCIS Employee
Sent: Wednesday, July 20, 2011 10:13 PM
To: USCIS
Subject: Fw: Gulf Coast EB-5 Case

From: USCIS
Sent: Wednesday, July 20, 2011 07:27 PM
To: USCIS Employee
Cc: USCIS Employee
Subject: RE: Gulf Coast EB-5 Case

Can I get a copy of the decision?
Thanks!

From: USCIS Employee
Sent: Wednesday, July 20, 2011 7:17 PM
To: USCIS Employee
Cc: USCIS Employees
Subject: Re: Gulf Coast EB-5 Case

Thanks (Adding

From: USCIS Employee
Sent: Wednesday, July 20, 2011 07:05 PM
To: USCIS Employee
Cc: USCIS Employee
Subject: RE: Gulf Coast EB-5 Case

The meeting is 4:30 PM tomorrow? will attend for the AAO.

From: USCIS Employee
Sent: Wednesday, July 20, 2011 7:01 PM
To: USCIS Employees
Subject: Fw: Gulf Coast EB-5 Case

I'm not sure who to send this to but AAO should plan to attend this and discuss the draft decision.

From: USCIS Employees
Sent: Wednesday, July 20, 2011 04:40 PM
To: Mayorkas USCIS Employees
Subject: Re: Gulf Coast EB-5 Case

Perfect.

From: Mayorkas, Alejandro N [REDACTED]
Sent: Wednesday, July 20, 2011 04:14 PM
To: USCIS Employees [REDACTED]
Cc: USCIS Employees [REDACTED]
Subject: RE: Gulf Coast EB-5 Case

Thank you, [REDACTED]. I see that you and [REDACTED] are both available. Let's plan on 4:30. [REDACTED], you can call my line directly at [REDACTED], does the AAO decision follow the recent activity with respect to the RFE and the response to it?
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[REDACTED]

From: USCIS Employee [REDACTED]
Sent: Wednesday, July 20, 2011 3:45 PM
To: Mayorkas, Alejandro N; USCIS Employee [REDACTED]
Cc: USCIS Employee [REDACTED]
Subject: RE: Gulf Coast EB-5 Case

Ali,
That sounds good - other than the SPC, my calendar is pretty clear. We have a number of I-526 applications that have been held awaiting the outcome of the certified decision from the AAO. I recommend we include the AAO as they most likely considered additional arguments and evidence that were presented subsequent to our certification.

From: Mayorkas, Alejandro N
Sent: Wednesday, July 20, 2011 3:23 PM
To: USCIS Employees [REDACTED]
Cc: USCIS Employee [REDACTED]
Subject: Gulf Coast EB-5 Case
Importance: High

[REDACTED]
I have been receiving inquiries about this regional center application and its status, including statements from GC atty [REDACTED] of unwarranted delays and denials. I have an AAO decision on my desk that was transmitted to me while I was away. I need to meet with you tomorrow (in person or by telephone) to understand:

- The case chronology
- What are the outstanding issues, and what are the arguments on both sides.

I am available 12-1 or 4:30 or later tomorrow. Please let me know of your availability. This is time-sensitive.
Thank you very much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[REDACTED]

Attachment 13

From: USCIS Employee
Sent: Friday, February 01, 2013 11:28 AM
To: USCIS Employees
Cc: USCIS Employees
Subject: FW: Gulf Coast Funds Management and GreenTech Automotive Inc.

Hi [REDACTED]

Can you please let me know if there are any security or fraud issues related to this regional center or the petitions in the attached spreadsheet. The regional center has sent several inquiries into the cases and has requested that we expedite the pending cases. Before we look into the substance of the inquiry/expedite request, please let me know if there are any issues that we should be aware of pertaining to this regional center or these cases.

Thanks |
[REDACTED]

From: Mayorkas, Alejandro N
Sent: Tuesday, January 29, 2013 3:27 PM
To: USCIS Employee
Cc: USCIS Employee
Subject: Fw: Gulf Coast Funds Management and GreenTech Automotive Inc.
Importance: High

From: anthony rodham [mailto:[REDACTED]]
Sent: Tuesday, January 29, 2013 03:25 PM Eastern Standard Time
To: alejandro.mayorkas [REDACTED] <[REDACTED]> <USCIS Employee [REDACTED]>
Subject: Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [REDACTED]:

This is to follow up on an e-mail sent to you last week by [REDACTED], the General Counsel of Gulf Coast Funds Management, Regional Center (GCFM). Yesterday, GCFM received another six (6) RFEs from USCIS requesting basically the same information as the Second RFE we received for [REDACTED] (Receipt #: WAC-[REDACTED]). (Please see updated Pending Petitions list attached for details on RFEs received).

As explained in [REDACTED]'s e-mail dated January 23, 2013 (and included below for your convenience), the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. Furthermore, we filed our response to Mr. [REDACTED]'s second RFE on December 13, 2012 and have yet to receive a response from USCIS. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times and have pursued the matter by contacting our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date.

For many months, we have been urging USCIS to issue a decision on our I-829 and I-526 cases. As we mentioned previously, USCIS's undue delay in issuing a decision in our I-829 and I-526 RFE cases continues to threaten the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and the delay is hampering our ability to bring in new EB-5 investors and the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions.

We need USCIS to issue a decision on the I-829 and RFE for [REDACTED] as soon as possible. Please note that three of the four issues raised in Mr. [REDACTED]'s RFE and the subsequent 6 RFEs we just received, were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [REDACTED] which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing." Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

We really appreciate your assistance in looking into this matter for us to move our cases along. If you need any further information, please do not hesitate to contact GCFM's General Counsel, [REDACTED] at [REDACTED]

Best regards,
Anthony Rodham

From: Gulf Coast Counsel

Sent: Wednesday, January 23, 2013 5:44 PM

To: Alejandro MayorKas & USCIS Employee

Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. MayorKas and [REDACTED]

Re: EB-5 and GTA: Inaction by USCIS on EB-5 Petitions Costing Americans Thousands of Jobs

Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our EB-5 petitions. This delay is having a detrimental impact on the ongoing operations of GreenTech Automotive, Inc. ("GTA"), and GTA's ability to create and maintain American jobs. I outline the key facts below as follows:

Parties Involved: Gulf Coast Funds Management, LLC ("GCFM") is an EB-5 Regional Center approved in 2008 by USCIS to manage EB-5 projects for the states of Louisiana and Mississippi. GCFM currently manages EB-5 investment projects in the job creating enterprise, GreenTech Automotive, Inc. ("GTA"), a Mississippi Corporation.

Background Facts About GTA: GTA is a U.S. based company dedicated to producing green, affordable hybrid and electric vehicles. GTA is building a 300,000 square foot automobile manufacturing facility in Tunica, Mississippi, an economically

depressed area in Mississippi with a 19.0% unemployment rate in desperate need of jobs. GTA's operations are expected to create up to 7,400 new high-paying green jobs in the United States by 2014 according to an independent economic analysis by Evans, Carroll & Associates Inc. GTA is currently manufacturing vehicles at a temporary facility in Horn Lake, Mississippi and will transfer its operations and jobs to the Tunica facility, when completed. The production capacity of the Tunica facility is expected to be 50,000 vehicles per year.

Chronology of EB-5 Petitions filed with USCIS and Current Issue: GTA is partially funded by EB-5 investments managed by GCFM. Since GCFM began filing I-526 petitions for the GTA project in 2009, it has established a proven track record of success with USCIS and had already received ninety-two (92) I-526 petition approvals for the GTA project on behalf of EB-5 investors. Unfortunately, we are now experiencing a significant delay in review of our I-829 and I-526 petitions by USCIS, although there are no material changes in our documentation or filings. This delay is threatening the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions. EB-5 funding to GTA is now at a virtual standstill, which will negatively impact our ongoing plant production, car manufacturing and the creation of jobs for U.S. workers. Currently \$17 million of EB-5 funding is being held in an escrow account for our investors, and cannot be released to GTA until USCIS approves our I-526 petitions. Furthermore, the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times. This office acknowledged that our cases were beyond normal processing times but did not provide us with any further information about our cases. We further pursued the matter by contacting the CIS ombudsman, and our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date, despite numerous requests.

Requested Relief: GCFM requests that the I-829 petition and I-526 petitions filed on behalf of EB-5 investors investing in the GTA project be approved as soon as possible so that GCFM may effectively market the GTA project to prospective EB-5 investors. Undue delay by USCIS in reviewing our I-829 petition has jeopardized our marketing efforts, as prospective investors are reluctant to invest in GTA without seeing our I-829 petition approval record. GCFM also requests that USCIS expedite adjudication of all I-526 petitions so that it can fund GTA's operations and job creation in Mississippi. As mentioned above, approvals are required for GTA to raise additional EB-5 funding and to access the EB-5 money already raised. Without such funds, GTA's car manufacturing operations and creation of U.S. jobs is in serious jeopardy and our ability to preserve existing jobs for GTA employees is also at stake. In addition, GCFM requests efficient review and approval of our I-924 ("exemplar") petition, which did not involve any significant changes to our current investment structure. Please see attached spreadsheet and brief explanation below for further details on our pending cases:

(1) **I-829 Petition Remains Pending for over one year:** RE: [REDACTED]; Receipt #: WAC [REDACTED].

Our I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues.

(2) **I-526 Petition Remains Pending for 10 months:** RE: [REDACTED]; Receipt #: WAC [REDACTED].

On April 27, 2012, GCFM filed an I-526 petition for the A-3 fund, with strong supporting documentation. On July 31, 2012, USCIS issued a Request for Evidence ("RFE") for this case, requesting only one more trace document, which evidenced that the funds were transferred from the Investor to the A-3 LP. Two of the items that GCFM already provided with the initial filing were requested again, in addition to one more supplemental transfer document. We immediately filed our response the next day on August 1, 2012. On December 10, 2012, we received another RFE on this case on a whole set of other issues --- and three of the four issues raised in the RFE were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. We filed our response to the second RFE on December 13, 2012. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [REDACTED], which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery")

provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

(3) Thirty (30) I-526 Petitions and an I-924 (exemplar) Petition Remain Pending with USCIS. Please see attached spreadsheet for further details.

We greatly appreciate your assistance and we look forward to receiving a decision from USCIS regarding the processing of our I-829, I-526 and I-924 cases. Please do not hesitate to contact me at [REDACTED] if you require further information.

Yours truly,

[REDACTED]

[REDACTED]

General Counsel
Gulf Coast Funds Management, LLC

[REDACTED]

Attachment 14

From: USCIS Employee [REDACTED]

Sent: Friday, February 01, 2013 8:36 AM

To: USCIS Employees [REDACTED]

Cc: USCIS Employees [REDACTED]

Subject: RE: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

I concur with [REDACTED]'s recommendation. I think the APA is the driving force here, but I think it also raises an impartiality issue if we entertain pre-decisional meetings of this sort with particular applicants and petitioners. It is not a concern to have meetings with particular industries, trade groups, bar associations, etc., on systemic issues that are not case specific, so long as we are willing to meet with all.

[REDACTED]
USCIS Ethics Officer

[REDACTED]
[USCIS Ethics Web Page](#)

From: USCIS Employee [REDACTED]

Sent: Friday, February 01, 2013 8:17 AM

To: USCIS Employees [REDACTED]

Cc: USCIS Employees [REDACTED]

Subject: Re: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

[REDACTED]: I do not know specifically the practice of FDA, or other regulatory agencies, with regard to requests of this kind. I suspect, however, that they do not accept the requests due to ethical issues as well as the requirements of the Administrative Procedures Act.

I suspect that the attorney has asked to meet with us to provide additional evidence or argument in support of his client's application. A meeting of that type would violate the Administrative Procedures Act because we are providing this applicant an opportunity that is not provided for our regulations related to EB-5 applications. Providing an applicant an extra opportunity outside our regulations circumvents our regulations. The APA requires us to provide notice and comment of the procedures we follow in our adjudication. Every time we deviate from those regulations we are violating the APA.

I think a meeting of this type is different than most requests we receive. Those requests mainly relate to process issues such as the length of time an application has been pending. Since requests of this type are not providing an applicant with an additional opportunity to address the merits of an application then there is no APA violation.

Further, the attorney represents a prohibited source and providing an additional benefit to this source raises ethical issues but I will defer to [REDACTED] on that issue.

My recommendation is to inform the requester we will not meet with him and if he wishes to provide additional evidence he must use the existing application process to do that. Let me know if you need anything else.

[REDACTED]
USCIS, Office of Chief Counsel

From: USCIS Employee [REDACTED]
Sent: Thursday, January 31, 2013 07:19 PM Eastern Standard Time
To: USCIS Employee [REDACTED]
Cc: USCIS Employee [REDACTED]
Subject: RE: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

I don't know the answer, [REDACTED], but I'm adding [REDACTED] and [REDACTED] for their guidance. Could either of you, or [REDACTED], who is already on the string, please respond directly to [REDACTED]? (Please note [REDACTED] has 2 related questions - what we recommend for this particular inquiry, and how other agencies handle analogous requests, if you know.)

Thanks,
[REDACTED]

From: USCIS Employee [REDACTED]
Sent: Thursday, January 31, 2013 6:12 PM
To: USCIS Employee [REDACTED]
Cc: USCIS Employees [REDACTED]
Subject: Re: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

I would be very interested in understanding how other agencies deal with these requests. For instance, does FDA put its decision makers up for this sort of thing on pending cases for drug approvals?

Does anyone know or know how we can find out? These requests are becoming routine and there should be some best practices we might like to follow.

From: USCIS Employee [REDACTED]
Sent: Thursday, January 31, 2013 03:07 PM
To: USCIS Employee [REDACTED]
Cc: USCIS Employees [REDACTED]
Subject: Fw: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

[REDACTED],
What is the recommended approach.

From: Mayorkas, Alejandro N
Sent: Thursday, January 31, 2013 02:57 PM
To: USCIS Employees [REDACTED]
Subject: FW: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

Please handle however you deem appropriate.
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[REDACTED]
[REDACTED]
From: Mayorkas, Alejandro N
Sent: Thursday, January 31, 2013 5:55 PM
To: Gulf Coast general counsel [REDACTED]
Cc: GT employee [REDACTED] GTA; tony rodham; a_rodham@[REDACTED]
Subject: RE: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

[REDACTED],

As the Director of this Agency, I do not adjudicate cases and am not the proper audience for a telephone call or a meeting about a particular case. I will forward your email to the appropriate individual in the Agency.

Thank you. Alejandro Mayorkas

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[REDACTED]
[REDACTED]
[REDACTED]
From: Gulf Coast general counsel [REDACTED]@gulfcoastfunds.com]
Sent: Thursday, January 31, 2013 5:50 PM
To: 'alejandromayorkas@uscis.gov'; [REDACTED]
Cc: GT employee [REDACTED] GTA; tony rodham; a_rodham@[REDACTED]
Subject: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.
Importance: High

Dear Mr. Mayorkas,

Further to my voicemail message this evening, we would like to request a brief in-person meeting with you tomorrow to discuss emergency issues regarding Gulf Coast Funds Management and GreenTech Automotive Inc. Could you please let us know your availability anytime tomorrow. We thank you for your prompt attention to this matter.

Best regards,

[REDACTED]
[REDACTED]
General Counsel
Gulf Coast Funds Management, LLC
1600 Tysons Blvd, Suite 1150
McLean, VA 22102

[REDACTED]
[REDACTED]
www.gulfcoastfunds.com

From: Gulf Coast general counsel [REDACTED]
Sent: Wednesday, January 23, 2013 5:44 PM
To: 'alejandromayorkas@uscis.gov'; [REDACTED]
Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [REDACTED]

Re: EB-5 and GTA: Inaction by USCIS on EB-5 Petitions Costing Americans Thousands of Jobs

Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our EB-5 petitions. This delay is having a detrimental impact on the ongoing operations of GreenTech Automotive, Inc. ("GTA"), and GTA's ability to create and maintain American jobs. I outline the key facts below as follows:

Parties Involved: Gulf Coast Funds Management, LLC ("GCFM") is an EB-5 Regional Center approved in 2008 by USCIS to manage EB-5 projects for the states of Louisiana and Mississippi. GCFM currently manages EB-5 investment projects in the job creating enterprise, GreenTech Automotive, Inc. ("GTA"), a Mississippi Corporation.

Background Facts About GTA: GTA is a U.S. based company dedicated to producing green, affordable hybrid and electric vehicles. GTA is building a 300,000 square foot automobile manufacturing facility in Tunica, Mississippi, an economically depressed area in Mississippi with a 19.0% unemployment rate in desperate need of jobs. GTA's operations are expected to create up to 7,400 new high-paying green jobs in the United States by 2014 according to an independent economic analysis by Evans, Carroll & Associates Inc. GTA is currently manufacturing vehicles at a temporary facility in Horn Lake, Mississippi and will transfer its operations and jobs to the Tunica facility, when completed. The production capacity of the Tunica facility is expected to be 50,000 vehicles per year.

Chronology of EB-5 Petitions filed with USCIS and Current Issue: GTA is partially funded by EB-5 investments managed by GCFM. Since GCFM began filing I-526 petitions for the GTA project in 2009, it has established a proven track record of success with USCIS and had already received ninety-two (92) I-526 petition approvals for the GTA project on behalf of EB-5 investors. Unfortunately, we are now experiencing a significant delay in review of our I-829 and I-526 petitions by USCIS, although there are no material changes in our documentation or filings. This delay is threatening the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions. EB-5 funding to GTA is now at a virtual standstill, which will negatively impact our ongoing plant production, car manufacturing and the creation of jobs for U.S. workers. Currently \$17 million of EB-5 funding is being held in an escrow account for our investors, and cannot be released to GTA until USCIS approves our I-526 petitions. Furthermore, the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times. This office acknowledged that our cases were beyond normal processing times but did not provide us with any further information about our cases. We further pursued the matter by contacting the CIS ombudsman, and our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date, despite numerous requests.

Requested Relief: GCFM requests that the I-829 petition and I-526 petitions filed on behalf of EB-5 investors investing in the GTA project be approved as soon as possible so that GCFM may effectively market the GTA project to prospective EB-5 investors. Undue delay by USCIS in reviewing our I-829 petition has jeopardized our marketing efforts, as prospective investors are reluctant to invest in GTA without seeing our I-829 petition approval record. GCFM also requests that USCIS expedite adjudication of all I-526 petitions so that it can fund GTA's operations and job creation in Mississippi. As mentioned above, approvals are required for GTA to raise additional EB-5 funding and to access the EB-5 money already raised. Without such funds, GTA's car manufacturing operations and creation of U.S. jobs is in serious jeopardy and our ability to preserve existing jobs for GTA employees is also at stake. In addition, GCFM requests efficient review and approval of our I-924 ("exemplar") petition, which did not involve any significant changes to our current investment structure. Please see attached spreadsheet and brief explanation below for further details on our pending cases:

(1) **I-829 Petition Remains Pending for over one year:** RE: [REDACTED]; Receipt #: WAC [REDACTED]. Our I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues.

(2) **I-526 Petition Remains Pending for 10 months:** RE: [REDACTED]; Receipt #: WAC [REDACTED]. On April 27, 2012, GCFM filed an I-526 petition for the A-3 fund, with strong supporting documentation. On July 31, 2012, USCIS issued a Request for Evidence ("RFE") for this case, requesting only one more trace document, which evidenced that the funds were transferred from the Investor to the A-3 LP. Two of the items that GCFM already provided with the initial filing were requested again, in addition to one more supplemental transfer document. We immediately filed our response the next day on August 1, 2012. On December 10, 2012, we received another RFE on this case on a whole set of other issues --- and three of the four issues raised in the RFE were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. We filed our response to the second RFE on December 13, 2012. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by [REDACTED] should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [REDACTED] which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also

specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

(3) **Thirty (30) I-526 Petitions and an I-924 (exemplar) Petition Remain Pending with USCIS.** Please see attached spreadsheet for further details.

We greatly appreciate your assistance and we look forward to receiving a decision from USCIS regarding the processing of our I-829, I-526 and I-924 cases. Please do not hesitate to contact me at [REDACTED] if you require further information.

Yours truly,

[REDACTED]

[REDACTED]

General Counsel

Gulf Coast Funds Management, LLC

[REDACTED]

Attachment 15

From: USCIS Employee
Sent: Friday, February 01, 2013 12:59 PM
To: USCIS Employees
Subject: RE: EMERGENCY re Gulf Coast Funds Management and GreenTech Automotive Inc.

There is a direct link, through former partnership, between Hybrid Kinetics and GreenTech Automotive. Currently HK is the focus of a CFIUS investigation and a divestment agreement is being negotiated. However, I don't think this issue has been reason for any type of hold.

From: USCIS Employee
Sent: Friday, February 01, 2013 12:10 PM
To: USCIS Employee
Subject: Fw: EMERGENCY re Gulf Coast Funds Management and GreenTech Automotive Inc.
Importance: High

I need a status report on this, please. I know this has a long and storied past, but I need to know what is currently going on.

I'm on blackberry so don't have any of my historic records.

Thanks,

From: Mayorkas, Alejandro N
Sent: Friday, February 01, 2013 08:19 AM
To: USCIS Employee
Subject: FW: EMERGENCY re Gulf Coast Funds Management and GreenTech Automotive Inc.

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

From: Smith, Douglas A [mailto: @HQ.DHS.GOV]
Sent: Friday, February 01, 2013 10:45 AM
To: Mayorkas, Alejandro N
Cc: Kroloff, Noah
Subject: Fw: EMERGENCY re Gulf Coast Funds Management and GreenTech Automotive Inc.
Importance: High

Ali. Here is a quick summary for you.

From: Gulf Coast general counsel @gulfcoastfunds.com]
Sent: Friday, February 01, 2013 10:41 AM
To: Smith, Douglas A
Subject: EMERGENCY re Gulf Coast Funds Management and GreenTech Automotive Inc.

Doug,

Per our discussion, see details below. Please call me back at for any status updates. I can't emphasize enough that this is an emergency situation for the Company so we really appreciate your efforts in helping to get these cases adjudicated as soon as possible. Case details below. Long pending cases highlighted. Thanks much, Simone

	Investor Name	Type of Petition	Date Filed	Receipt Notice Date	Receipt Number
1	[REDACTED]	I-829	[REDACTED]	[REDACTED]	WAC [REDACTED]
2	[REDACTED]	I-829	[REDACTED]	[REDACTED]	WAC [REDACTED]
3	Gulf Coast Funds Management, LLC	I-924 (Exemplar)	[REDACTED]	[REDACTED]	RCW [REDACTED]
4	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
5	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
6	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
7	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
8	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
9	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
10	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
11	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]
12	[REDACTED]	I-526	[REDACTED]	[REDACTED]	WAC [REDACTED]

[REDACTED]
General Counsel

Gulf Coast Funds Management, LLC

[REDACTED]
General Counsel

Gulf Coast Funds Management, LLC

From: GC Attorney [REDACTED]

Sent: Tuesday, January 29, 2013 10:21 AM

To: DHS Official [REDACTED]

Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Importance: High

Hello [REDACTED]

As we discussed, we received another 6 RFEs from USCIS requesting basically the same information as the first RFE we received for [REDACTED] (Receipt #: WAC [REDACTED]).

Furthermore, as you are aware, we still have an I-829 Petition that has remained pending for over one year ([REDACTED] Receipt #: WAC [REDACTED]). This I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues. Obviously, USCIS's undue delay in issuing a decision in our I-829 and I-526 RFE cases, is becoming a serious issue for us. In fact, the delay continues to threaten the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability

to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions.

We need USCIS to issue a decision on the I-829 and RFE for [REDACTED] as soon as possible. Please note that three of the four issues raised in [REDACTED] RFE and the subsequent 6 RFEs were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [REDACTED] which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

We really appreciate your assistance in looking into this matter for us and any help you can offer. If you need anything further, please do not hesitate to contact me at [REDACTED]

Thanks much,

[REDACTED]

[REDACTED]

General Counsel

Gulf Coast Funds Management, LLC

[REDACTED]

Attachment 16

From: [REDACTED] USCIS Employee
Sent: Tuesday, June 25, 2013 12:46 PM
To: [REDACTED] USCIS Employee
Subject: FW: Gulf Coast/GreenTech

[REDACTED]

Please make sure this email is uploaded to the DS record.

Thanks,
[REDACTED]

From: [REDACTED] USCIS Employee
Sent: Thursday, May 23, 2013 8:03 AM
To: [REDACTED] USCIS Employees
Cc: [REDACTED] USCIS Employee
Subject: Gulf Coast/GreenTech

[REDACTED]

CSC is clear to continue processing files associated with Gulf Coast. Let's make sure we frame the fraud related concerns with this case so they can be considered during the adjudicative process.

[REDACTED]

I have included you on this message as this RC has received some press. I think USCIS should prepare for potential negative press if we approve any investors.

[REDACTED]
[REDACTED]
[REDACTED]

HQ/FDNS

[REDACTED]

Attachment 17

<http://intelligence.house.gov/press-release/chairman-rogers-and-ranking-member-ruppersberger-warn-american-companies-doing>

Classified information exists regarding Huawei but will not be discussed in this Statement of Findings. CFDO is reviewing and completing individual Statement of Findings for all relating Huawei employees. No additional information is available at this time.

SEC Investigation on Gulf Coast Funds Management LLC and Greentech Automotive:

CFDO has cooperated in an ongoing investigation with Security and Exchange Commission (SEC) Attorney [REDACTED]

On February 7, 2013, CFDO was tasked by SCOPS/TAB to complete a batch FINCEN spreadsheet for all Gulf Coast Funds Management investors, spouses, and dependent children over age fourteen. CFDO completed the batch request and forwarded it up to Headquarters. Results of FINCEN are unknown and are believed to be pending at this time. CFDO conferred with all three Immigration Officers assigned to the EB-5 FDNS workload but all three have no knowledge of any results from FINCEN.

On April 25, 2013, CFDO communicated with [REDACTED] regarding full copies of both Form I-924 and individual investor specific Form I-526 filings. CFDO requested files, pulled out pertinent subscription and offering documents and scanned the information to [REDACTED]. CFDO spoke on numerous occasions to [REDACTED] regarding the case details and forwarded on the previous Form I-924A Statement of Findings completed by IO [REDACTED]

On May 8, 2013, CFDO received an email from [REDACTED] containing public link website URLs showing an unsigned promissory note guaranteeing returns on the Greentech Automotive investment. The following URLs were received in the SEC email:

<http://www.scribd.com/doc/139061224/Promissory-Note>

<http://www.scribd.com/doc/138699761/Offering-Memorandum-Scanned-4-29-13>

According to the SEC email, the documents were posted to a cloud site by a blogger who has written several articles about the company.

On May 16, 2013, CFDO received correspondence from SEC [REDACTED] that SEC has subpoenaed bank records for the Gulf Coast bank records. The correspondence indicates that the bank documents would be received within approximately two weeks. USCIS entered into an access agreement in order to receive and review the SEC subpoenaed documents. CFDO has not received any new information on the status of the subpoena or the sharing of the subpoenaed bank records.

On May 23, 2013, FDNS HQ authorized release for the hold on all Gulf Coast filings. At this time, all files are being returned to adjudication for continued processing.

IV. Record of Actions Taken:

A. Interviews: (telephonic or personal, if not applicable denote "N/A")

Correspondence with SEC regarding the Regional Center. CFDO also shared information with the SEC to assist on their ongoing investigation.

N/A

B. Site Checks: (if performed, if not applicable denote "N/A")

N/A

C. Types of Action Other Than Interviews or Site Checks:

V. Fraud Determination (Required):

A: Fraud Found (fraud fully verified and articulated)

B: Inconclusive (fraud possible but not fully verified and articulated—explain)

C: No Fraud Found

VI. Action:

Gulf Coast Funds Management had mixed results when running queries and system checks on the Regional Center and associated business American Immigration Center LLC. The information was inconsistent regarding the companies identified on record. The Principal Administrator is the brother to current Secretary of State and former First Lady of the United States Hillary Rodham Clinton. A query of CLEAR and Accurant found that Anthony Rodham had previous tax liens as well as judgments. A query of TECS found no records for the Principal.

CFDO has working to support an ongoing SEC investigation into the Regional Center. The SEC is looking into the Regional Center for possible security violations. SEC has issued subpoenas on the Regional Center's bank records. The SEC also informed USCIS of a publicly posted unsigned promissory note posted online which guarantees returns on the Greentech Automotive investment. Multiple articles posted online scrutinize the Regional Center and Principal for possible wrongdoings. CFDO queried FDNS DS and found a Statement of Findings on the Enterprise Greentech Automotive. The Statement of Findings included multiple discrepancies. CFDO completed a batch FINCEN request which remains pending at this time. See attached documents on the right side of the file for more information.

I-CLAIMS found (149) Form I-526s with USCIS under this Regional Centers. A large number of these filings were approved. Most common action shown in I-CLAIMS was requesting additional information for Source of Funds. Addresses reported for the company were not found to be the petitioner's location in Google Maps. Website information for the GCFM matched the information found on record.

No action required at this time. Fraud concerns at this time remain inconclusive. CFDO has completed database entries, and administrative actions. Any additional fraud concerns found should be returned to CFDO for further review and additional verification.

VII. Attachment List: (please attach additional documents behind this page, or denote "N/A")

N/A

Attachment 18

