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## United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

August 9, 2013

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

Dear Director Mayorkas:

I am still awaiting responses to several of the letters I have sent you regarding the EB-5 program and your role with respect to individual cases. I have now written you on July 18, 2013; July 23, 2013; July 24, 2013; and July 31, 2013. Each of those letters posed important questions about the EB-5 program and your involvement. However, you have failed to respond to any of the questions I have sent you.

On July 25, 2013, you sent me a short, broadly-worded letter which stated that you had not used your position to benefit any particular party or individual. Thus, on July 31, 2013, I wrote you again, detailing e-mails whistleblowers provided to my office regarding your contacts with Gulf Coast and GreenTech—contacts which were far more extensive than you indicated in your testimony to the Committee on Homeland Security and Governmental Affairs.

I requested that you respond by August 7, 2013. However, not only did you not respond, your office has not requested an extension of time, offered an explanation as to why you did not respond by the requested date, or provided any estimate of when a response might be forthcoming.

I continue to receive detailed allegations from whistleblowers within USCIS regarding your involvement in individual cases. For example, whistleblowers have said that in the summer of 2011, while USCIS's Administrative Appeals Office (AAO) was drafting its opinion regarding Gulf Coast's amendment application, you went beyond merely monitoring or influencing the process, seeking to personally take control of the opinion. In a meeting of USCIS employees, including AAO staff, you allegedly said: "Give it to me, I'll write the f---ing thing myself."

Whistleblowers have also provided me with contemporaneous e-mails between USCIS employees referring to this extraordinary level of involvement by you and your staff. For example, on August 16, 2011, one career employee e-mailed a colleague regarding USCIS management's involvement in individual cases: "I already sent a message . . . saying we really cannot continue like this with the constant front office

drills on these cases. I guess in some regard I am preaching to the choir because he is equally frustrated.”<sup>1</sup> According to the former Chief of the AAO, the “front office” refers to the offices of the Director, the Deputy Director, and the Chief of Staff of USCIS.

The recipient of the August 16, 2011, e-mail responded:

AAO delivered an updated draft of the GCFM to [the Deputy Director of USCIS] a week or so ago. . . . AAO had discovered some add'l dirt on GCFM and . . . the decision was probably not going to play out as Ali had hoped ***given his political pressure to overturn the previous draft.*** . . . We simply cannot approve based upon politics instead of eligibility under the law.<sup>2</sup>

The author of the first e-mail responded: “[T]his is the darn AAO decision that Ali wanted to rewrite. Got it[.]”<sup>3</sup>

Thus, in addition the other questions I have posed in my prior letters, please explain how this additional evidence is consistent with your claim that your involvement was limited to one meeting with Terry McAuliffe where you merely listened to his complaints. Additionally, please provide an estimated date on which you intend to reply to my previous letters. I would appreciate a comprehensive reply no later than August 20, 2013.

Should you have any questions, 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

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<sup>1</sup> Attachment.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

**Attachment**

**From:** USCIS employee  
**Sent:** Tuesday, August 16, 2011 10:32 AM  
**To:** USCIS employees  
**Subject:** RE: Following up

Will do.

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**From:** USCIS employee  
**Sent:** Tuesday, August 16, 2011 10:11 AM  
**To:** USCIS employees  
**Subject:** RE: Following up

They need to get this done ASAP because these messages from [REDACTED] worry me.

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**From:** USCIS employee  
**Sent:** Tuesday, August 16, 2011 10:09 AM  
**To:** USCIS employees  
**Cc:**  
**Subject:** RE: Following up

I suppose that we can, but what would be the reason that we would cite to? I spoke with [REDACTED] this morning, the have an officer who was a tax attorney looking at the case now. [REDACTED] is supposed to me meeting with [REDACTED] later on today to find out what the deal was. It would be great if we could issue the AAO decision rather than slugging this out petition by petition....

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**From:** USCIS employee  
**Sent:** Tuesday, August 16, 2011 8:56 AM  
**To:** USCIS employees  
**Cc:**  
**Subject:** Re: Following up

[REDACTED] wants to know if we have notified the applicants that their cases are on hold. And if not, can we do that?

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**From:** USCIS employee  
**Sent:** Tuesday, August 16, 2011 08:31 AM  
**To:** USCIS employees  
**Subject:** RE: Following up

Okay sorry I am lame... this is the darn AAO decision that Ali wanted to rewrite. Got it

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**From:** USCIS employee [REDACTED]  
**Sent:** Tuesday, August 16, 2011 8:29 AM  
**To:** USCIS employees [REDACTED]  
**Subject:** RE: Following up

[REDACTED]

They are incorrect in stating that there are no crossover issues. As far as I know, AAO delivered an updated draft of the GCFM to [REDACTED] a week or so ago. [REDACTED] told me that offline so please don't give [REDACTED] up. [REDACTED] also told me that AAO had discovered some add'l dirt on GCFM and that the decision was probably not going to play out as Ali had hoped given his political pressure to overturn the previous draft. The add'l dirt had something to do with \$\$ changing hands in a non-EB-5 compliant way but [REDACTED] did not get into specifics

Will it suffice to say that we disagree that there are no crossover issues and inquire about the status of the GCFM decision? As you know we do not hold cases lightly and we are striving to make consistent, quality decisions. If there are new aspects of this situation that we are unaware of, and unresolved material issues that we are aware of, then we are setting ourselves up for a fall by pushing to approve these cases. We simply cannot approve based upon politics instead of eligibility under the law.

Thanks,

[REDACTED]

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**From:** USCIS employee [REDACTED]  
**Sent:** Tuesday, August 16, 2011 7:19 AM  
**To:** USCIS employees [REDACTED]  
**Subject:** FW: Following up

I am confused... I wanted to reread this on a my computer and not bb. But it appears they are saying these cases are not necessarily associated with the AAO case? We really need to understand what the issue is and what if any crossover issues there are.

I already sent a message to [REDACTED] saying we really cannot continue like this with the constant front office drills on these cases. I guess in some regard I am preaching to the choir because he is equally frustrated. I am just not sure how we get control of this stuff.

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**From:** USCIS Dep Dir [REDACTED]  
**Sent:** Monday, August 15, 2011 5:53 PM  
**To:** USCIS employees [REDACTED]  
**Subject:** RE: Following up

[REDACTED],

Are all of these cases waiting on the AAO Gulf Coast decision?

Thanks

[REDACTED]

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**From:** USCIS employee [REDACTED]  
**Sent:** Monday, August 15, 2011 3:30 PM

**To:** USCIS Dep Dir

**Subject:** FW: Following up

Hi [REDACTED]

I think the attorney was inquiring about I-526s, not the case that they had with the AAO previously. The attorney sent in a whole list of receipt numbers. Should I send this to SCOPS, or to Customer Service? Should I tell ask them to keep you and Ali in the loop, or just tell them to respond directly to the attorney?

Thanks, [REDACTED]

**From:** Gulf Coast attorney

**Sent:** Monday, August 15, 2011 12:41 PM

**To:** USCIS employee

**Subject:** FW: Following up

Dear [REDACTED],

Thanks so much for getting back to me. My query is about the following cases that having been pending with USCIS for an extended period of time. Four of them have RFEs that were responded to months ago. These cases are not with the AAO but rather with the USCIS. Apparently there is another case (an amendment for Regional Center extension) that was denied and was certified to the AAO that my client had filed several years ago.. We are no longer interested in pursuing that case and have already had our RC approved by the Service. There are apparently crossover issues according to the USCIS that were to be worked out that affected these cases. Some of them have been pending almost 15 months and my client has several investors that are requesting withdrawals. It may be easier to speak over the phone. Let me know if that is necessary.

[illegible]







I hope all is well with you. I just wanted to check on the status of the Gulf cases and RFEs. We are in the process of returning funds to the initial investors who have requested to be pulled out of the project due to the delays. Any news on your end would be great as I need to call Terry back to update him.

Thanks so much.

[REDACTED]

[REDACTED]

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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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