



September 24, 2013

VIA FACSIMILE AND CERTIFIED MAIL

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2347 Rayburn House Office Building
Washington, D.C. 20515
Facsimile: (202) 225-3303

Dear Chairman Issa:

On behalf of Cause of Action, a non-profit, nonpartisan government accountability organization, I am writing to express our concerns about GreenTech Automotive, Inc. (GreenTech), a Mississippi-based automobile manufacturer that has extracted millions of dollars in government loans and tax incentives but failed to create the thousands of jobs promised in exchange.

As you may be aware, the U.S. Securities and Exchange Commission is currently investigating GreenTech regarding its conduct in soliciting foreign investors through the EB-5 visa program.¹ In addition, the U.S. Department of Homeland Security (DHS) is examining whether GreenTech benefitted from special treatment by Andrew Mayorkas, the Director of the U.S. Citizenship and Immigration Services (USCIS) and President Obama's nominee to be DHS's Deputy Director.²

During the course of our own six-month investigation, we obtained records evidencing a variety of troubling conduct by GreenTech. For example, in an e-mail to Mississippi's then-Governor Haley Barbour, GreenTech Chairman Terry McAuliffe cited the efforts of Mississippi's two U.S. Senators to pressure Mayorkas to fast-track EB-5 visa applications for GreenTech's benefit. Additionally, GreenTech informed prospective investors that, incredibly, the company would manufacture one million cars within only three to five years of the start of

¹ Tom Hamburger and Ben Pershing, *Car Company with Ties to Terry McAuliffe is Under SEC Investigation*, WASH. POST, Aug. 2, 2013, http://www.washingtonpost.com/politics/company-with-ties-to-terry-mcauliffe-is-under-sec-investigation/2013/08/02/da483b36-f956-11e2-b018-5b8251f0c56e_story.html?wpisrc=al_lclpolitics.

² Fredrick Kunkle and Tom Hamburger, *McAuliffe's Business Partners Under Scrutiny amid Federal Inquiry into GreenTech*, WASH. POST, Aug. 24, 2013, http://articles.washingtonpost.com/2013-08-24/local/41442795_1_mayorkas-gulf-coast-funds-management-wang.

production—which is more than 10% of the entire U.S. automobile industry’s annual output. Moreover, it appears that GreenTech has violated USCIS regulations in every one of its four rounds of private financing by impermissibly structuring each EB-5 investment as “risk-free.”

We are also concerned that the EB-5 program, and Terry McAuliffe’s efforts to expedite visa application approval, may evidence the extent to which the program can be abused for the purposes of financing local, state or federal elections. Enclosed is a document Cause of Action obtained which appears to be a fundraising solicitation from Charles Wang, a Chinese citizen and CEO of GreenTech, for purposes of securing contributions to Terry McAuliffe’s gubernatorial campaign. Mr. Wang contributed \$500.00 directly to Terry McAuliffe’s campaign on December 31, 2012.³ Because the law concerning foreign campaign contributions makes an exception for those foreign nationals who have obtained a green card, there is an incentive to any local, state or federal candidate to secure visas for foreign nationals who can then lawfully make campaign contributions back to the candidate. Given the evidence, included in the enclosed report, of Mr. McAuliffe’s pressuring political officials to fast-track the visas of GreenTech investors, reasonable belief may exist that Mr. McAuliffe and other similarly-situated political candidates may look to the EB-5 program as a mechanism for increasing their campaign contributions. As the *Washington Post* reported on September 21, eight career employees at DHS have stated “top managers have given [GreenTech] and other politically connected applicants special treatment.”⁴

If Mr. McAuliffe intended to secure visas for investors who would then contribute to his campaign, then the pressure to have DHS employees fast-track visas might constitute threats or commands of Federal Government employees to engage in political activity, therefore violating federal law.⁵ Moreover, 18 U.S.C. § 1346 defines “scheme or artifice to defraud” in the federal fraud statute, 18 U.S.C. § 1341, as including “a scheme or artifice to deprive another of the intangible right of honest services.” In *United States v. D’Alessio*,⁶ the federal district court for the District of New Jersey extended the Supreme Court’s reasoning in *McNally v. United States*⁷ to conclude that 18 U.S.C. § 1346 applies to candidates for public office. Therefore, a political candidate’s use of the EB-5 visa program for purposes of securing campaign contributions may involve a breach of the fiduciary duty of honest services owed by a public official to the body politic. Finally, under 18 U.S.C. § 371, “[i]f two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any

³ See CAUSE OF ACTION, *GreenTech Automotive: A Venture Capitalized by Cronyism* 23-24 & n. 113 (2013) (enclosed).

⁴ Tom Hamburger & Peter Wallsten, *GreenTech fits pattern of investment that has made big profits for Terry McAuliffe*, WASH. POST, (Sept. 21, 2013), available at http://www.washingtonpost.com/politics/greentech-formula-has-made-big-profits-for-mcauliffe/2013/09/21/3c6e332c-2136-11e3-b73c-aab60bf735d0_print.html.

⁵ See 18 U.S.C. § 610 (“It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322 (1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both”).

⁶ 822 F. Supp. 1134 (D.N.J. 1993).

⁷ 483 U.S. 350, 363 (1987).

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manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.”

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. In light of our findings, which are set forth in detail in the enclosed report, we ask the Committee to investigate GreenTech’s activities.

We would welcome an opportunity discuss the issues raised in the enclosed report in further detail with members of Committee staff. If you have any questions, please do not hesitate to contact me by phone at 202-499-4232 or by email at Daniel.Epstein@CauseOfAction.org. Thank you for your time and consideration.

Sincerely,



DANIEL EPSTEIN
EXECUTIVE DIRECTOR

Encl. *GreenTech Automotive: A Venture Capitalized by Cronyism*, Cause of Action

Encl. *E-mail*, Charles Wang to Lao Wen (Dec. 31, 2012).

Encl. English translation of e-mail, Charles Wang to Lao Wen.

Encl. Charles Wang’s L-1A visa petition approval and related records.

cc: Representative Elijah Cummings, Ranking Member, U.S. House of Representatives
Committee on Oversight and Government Reform

Senator Patrick Leahy, Chairman, U.S. Senate Committee on the Judiciary

Senator Charles Grassley, Ranking Member, U.S. Senate Committee on the Judiciary

Senator Tom Carper, Chairman, U.S. Senate Committee on Homeland Security and
Governmental Affairs

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

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

Mary Jo White, Chair, U.S. Securities and Exchange Commission

George Canellos, Co-Director, Division of Enforcement, U.S. Securities and Exchange
Commission

Andrew Ceresney, Co-Director, Division of Enforcement, U.S. Securities and Exchange
Commission