

# DHS Nominee Says He Followed the Law

Mayorkas Denies Impropriety While Working As Immigration Director

July 26, 2013

Two years ago U.S. immigration director Alejandro Mayorkas, now a nominee to run the Department of Homeland Security during a leadership vacuum, met with politically-connected businessman and former Democratic National Chairman Terry McAuliffe, who complained about how the agency was processing immigrants investing in his electric-car company.

That meeting is now haunting his nomination. In sometimes emotional testimony before the Senate Homeland Security Committee, Mr. Mayorkas at his confirmation hearing Thursday denied giving anyone special treatment and said he followed only the facts and the law in his dealings with Mr. McAuliffe, now a Virginia gubernatorial candidate, and his business partner at the time, Anthony Rodham, brother of former Secretary of State Hillary Clinton.

"I have never, ever in my career exercised undue influence to influence the outcome of a case," Mr. Mayorkas said. "The allegations as they are framed are unequivocally false."

President Barack Obama nominated Mr. Mayorkas, 53, to be the No. 2 official in the Department of Homeland Security and asked that he be confirmed quickly because the head of the department, Secretary Janet Napolitano, is leaving in September. If confirmed, Mr. Mayorkas would run the agency until Mr. Obama fills Ms. Napolitano's slot.

His nomination was thrown into doubt this week when Homeland Security's inspector general notified the Senate that Mr. Mayorkas was under investigation for allegations of conflicts of interest, misuse of position, mismanagement of the federal foreign investor-visa program and appearance of impropriety.

Republicans boycotted the hearing and Sen. Tom Coburn (R., Okla.) said it was "unfair and improper to all parties involved" while the investigation is under way. Homeland Security Chairman Tom Carper (D., Del.) said he went ahead with the hearing because the department needed "leadership as soon as possible."

White House Counsel Kathryn Ruemmler wrote the committee on Wednesday to say that after an FBI background check, "we have no concerns about his suitability." But a Senate Democratic aide said the nomination is unlikely to trigger a fresh confirmation showdown in the Senate, at least for now.

The investigation centers on alleged favors for Gulf Coast Funds Management, a jobs-creation center, under the federal EB-5 investor visa program. Gulf Coast raised capital for McAuliffe's GreenTech Automotive of McLean, Va. Under EB-5, a foreigner who invests at least \$500,000 in a qualified U.S. business is entitled to a green card—if the invested money puts at least 10 Americans to work.

Problems arise when the immigration agency evaluates whether a company created the jobs they

say they did. The number of jobs determines how many green cards can be handed out to foreign investors, most of whom come from China.

While the specifics are unclear, these sorts of agency evaluations appear to be the crux of Mr. Rodham and Gulf Coast's complaints. Mr. Rodham is president of Gulf Coast and emails obtained by the website [www.watchdog.org](http://www.watchdog.org) show Mr. Rodham and his attorney emailed Mr. Mayorkas directly.

Mr. Mayorkas said Gulf Coast's complaints were no different than those he fielded from individuals, firms, members of Congress and others.

While industry executives give Mr. Mayorkas credit for trying to shorten delays and cut through bureaucracy, some also said they were shocked to learn the access given to Mr. Rodham, Mr. McAuliffe and their companies.

"Did he do something criminally wrong? I doubt that very much," said Michael Gibson of [USAdvisors.org](http://USAdvisors.org), a registered adviser for foreign investors. "But it was not fair to the rest of the industry dealing with the same problems who don't have that kind of access."

Mr. Mayorkas cited his ethical upbringing by his parents, who immigrated to the U.S. with him from Cuba in 1960, and his years as federal prosecutor and U.S. attorney in Los Angeles. "I enforce the law based on the facts," Mr. Mayorkas said. "I do not put my finger on the scale of justice."

About the meeting with Mr. McAuliffe, Mr. Mayorkas said "I heard his complaints and that was the extent of the interaction."

The meeting emerged out of frustration over "the bureaucratic pace of the investment program," said Josh Schwerin, spokesman for Mr. McAuliffe's gubernatorial campaign. "Terry was among those who expressed frustration with that bureaucracy when he and some colleagues, including counsel, met with Mr. Mayorkas."

Earlier in his testimony, Mr. Mayorkas said he had changed agency policy after fielding Gulf Coast's complaints. The change had to do with foreign investors' capital investments, which need to remain at risk until the investor achieves permanent residency. "I made it right in the spirit of the laws and policies we are sworn to uphold," Mr. Mayorkas said.

Mr. Carper handed out copies of letters of recommendation at the hearing, but all were written before the investigation became public. One letter came from the U.S. Chamber of Commerce. After the hearing a chamber spokesman distanced the organization from the controversy: "It is up to the Senate as to how to best consider the nomination. We know nothing more than you do about the investigation based on news reports."

<http://online.wsj.com/article/SB10001424127887323971204578628320513942846.html>