



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 28020738

Date: AUG. 15, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a mentor in career development and a training consultant, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding the Petitioner had not established eligibility for the underlying immigrant classification as an individual of exceptional ability and for a waiver of the required job offer, and thus of the labor certification, would be in the national interest.<sup>1</sup> The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

## I. LAW

To establish eligibility for a national interest waiver, petitioners must demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. In addition, petitioners must show the merit of a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>2</sup>, grant a national interest waiver if:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

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<sup>1</sup> The Petitioner did not claim eligibility as a member of the professions holding an advanced degree.

<sup>2</sup> See also *Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

## II. ANALYSIS

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner stated that she “intend[ed] to advance [her] career as a Mentor in Career Development and Training Consultant, developing business identities and promoting professional development that will improve the beauty field and substantially increase the economy of the United States.” In addition, the Petitioner presented a business plan to provide mentoring and consulting services “to help beauty salon owners and professionals of beauty reach high levels on their business and careers.”

In response to the Director’s request for evidence, the Petitioner indicated:

I intend to advance my career by starting and operating a company to provide Consultancy and Management Advice to Beauty Salon owners and other companies in the beauty and aesthetic services industry, assisting in making important decisions, improving points such as employee motivation, strategic planning, financial life, resource allocation, internal routines, among others.

The Petitioner also offered a revised business plan reflecting that the “company’s mission, when providing the intended services, is to add value to companies in the beauty and aesthetic services industry, in order to promote their growth and develop the business, reaching more and more people and providing them with well-being when caring of your appearance.”

The Director determined the Petitioner demonstrated the proposed endeavor’s substantial merit but not its national importance. On appeal, the Petitioner maintains:

. . . I intend to advance my career undertaking and operating a company to provide Consultancy and Advisory in Management to Beauty Salon owners and other companies in the beauty and aesthetic services industry, assisting in making important decisions, improving points such as employee motivation, strategic planning, financial life, resource allocation, internal routines, among others.

In addition, my venture will also contribute very positively to the generation of jobs since I will need to hire qualified professionals to give me the necessary support to develop the proposed activity and develop my consulting project in several places within the American territory.

In addition, I will train and qualify other professionals in the area of beauty and cosmetology who wish to deepen their knowledge to develop themselves even more in their field, adding innovative techniques, which will certainly directly collaborate for the development and qualification of the sector, in addition to adding professional value to the worker, enabling the inclusion and boosting of the labor market and the growth of the occupational perspective in the beauty industry.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on “the specific endeavor that the foreign national proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. Although she argues the importance, benefits, and economic impact of the beauty industry, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of her consulting, advising, and mentoring company to beauty salons rather than the importance of the overall beauty field or industry.<sup>3</sup> In *Dhanasar*, we noted that “we look for broader implications” of the proposed endeavor and that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field.” *Id.* We also stated that “[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890. We note here the Petitioner’s claim of a professional shortage in the beauty industry does not render her proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

In addition, the Petitioner emphasizes her experience as “a Hairdresser for over 20 years.” However, the Petitioner’s knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar*’s first prong.

Moreover, to evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of her work. The Petitioner did not offer specific information and evidence to corroborate her assertions that the prospective impact of her beauty consulting company rises to the level of national importance. In *Dhanasar*, we determined that the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, the record does not show through supporting documentation how her beauty and aesthetic advising company stands to sufficiently extend beyond its prospective clients or companies, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not demonstrate how her business plan’s claimed revenue and employment projections, even if credible, have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Although the revenue forecasts range from approximately from \$1.037M in year 1 to \$1.183M in year 5, the business plan does not establish that the benefits to the regional or national economy would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.<sup>4</sup> Similarly, although the business plan claims only two positions needed to operate the company, the Petitioner did not demonstrate that such future staffing levels would provide substantial economic benefits to an unidentified regional or U.S. economy more broadly at a level commensurate with national importance.<sup>5</sup> The Petitioner, for instance, did not show that such employment figures would utilize a significant population of workers

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<sup>3</sup> The Petitioner’s arguments and associated evidence relate more to the substantial merit aspect of the proposed endeavor rather than the national importance part.

<sup>4</sup> In fact the business the plan does not identify the location of the business.

<sup>5</sup> The business plan’s positions include an “Accountant” and “Secretary.”

in the area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not establish that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. We also reserve a determination on the Petitioner's eligibility for the underlying immigrant classification as an individual of exceptional ability.<sup>6</sup>

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.

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<sup>6</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).