



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

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

In Re: 28839090

Date: NOV. 16, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a business and financial manager, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. 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, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial

merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

## II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

Initially, the Petitioner described the endeavor as a plan “to permanently settle his business in the United States and grow and expand his business activities in other segments and [he] plans to invest and dedicate himself fully to hiring American workers as his company continues to grow.” The Petitioner described his business as “a turn-key franchise location of . . . a national chain of one-stop mobile and digital device repair shops.” The Petitioner further asserted that he owns and operates a second company “engaged in the real estate industry [that] buys distressed properties, remodel[s], and immediately sell[s] renovated properties in Florida.”

The Petitioner also submitted a copy of a business plan for that real estate company, dated April 2021, before the date on which he filed the Form I-140, Immigrant Petition for Alien Workers. The business plan indicates that the company “is currently in the process of screening for a suitable office space to establish its headquarters in [REDACTED] FL.” The business plan also states that the Petitioner “will serve as the [c]ompany’s [f]inancial [m]anager and [s]enior [r]eal [e]state [c]onsultant” and that he will “hire a [m]arketing [a]ssistant, as well as [c]ustomer [r]elationship [a]ssistants, a [p]roject [s]upervisor, a [m]aintenance and [c]leaning [a]ssistant, and a [p]roperty [m]anager reaching a total of eight employees by the end of Year 5.” The Business plan also estimates payroll expenses “from \$85,000 in Year 1, to \$275,921 in Year 5.” We note that payroll expenses of \$275,921 divided among eight employees is an average annual wage of approximately \$35,000.

Likewise, the Petitioner submitted a copy of a business plan for the “turn-key franchise location of . . . a national chain of one-stop mobile and digital device repair shops,” dated April 2021. The business plan indicates that the franchise location employs “three full time and one part time positions, including [the Petitioner] as manager,” and the Petitioner’s franchise operation “plans to open two additional locations in its third and fifth years of operations, respectively . . . and employ 10 full and part time employees.” More specifically, the business plan indicates that the Petitioner will work as the “CEO” for the first five years of operations, employing two “sales/repair” workers in the first year, increasing to four total “sales/repair” workers in the fifth year, and one “part time/weekend” worker in the first year, increasing to three “part time/weekend” workers in the fifth year of operations. The

business plan indicates the franchise operation will employ two “managers” by the fifth year. The business plan also states that the average annual wage would be \$31,830 for the Petitioner, \$31,224 for the managers, \$25,464 for the “sales/repair” workers, and \$10,610 for the “part time/weekend” workers. Although the business plan establishes that the first franchise location operated by the Petitioner is located near [REDACTED] Florida, it does not elaborate on the potential locations of the two other locations.

In response to the Director’s notice of intent to deny (NOID), the Petitioner described his proposed endeavor as a plan “to work in the United States as a [f]inancial [m]anager in the [r]eal [e]state industry, to champion financial and economic welfare through highly specialized assistance and consultation with U.S. companies.” The Petitioner elaborated that he “will focus on off-the-market residential property owners across the U.S. with financial issues such as the inability to pay their mortgage and those who are facing foreclosure.” The Petitioner’s company will “negotiate[] terms with owners or mortgage lenders, [then] the property will be mortgaged, remodeled, and sold on the real estate market.” The Petitioner also resubmitted a copy of his real estate company’s business plan, dated April 2021. In response to the NOID, the Petitioner no longer referenced his “turn-key franchise location of . . . a national chain of one-stop mobile and digital device repair shops.” Therefore, the Petitioner appears to have abandoned this aspect of his proposed endeavor before the Director’s decision.

The Director acknowledged that the record contains “evidence that business and financial managers are important in general and that [the Petitioner’s] talent and skills will no doubt provide high quality service to [his] business and clients.” However, the Director concluded that the record does not establish the proposed endeavor “has national importance to the United States,” referencing the *Dhanasar* framework. *See Dhanasar*, 26 I&N Dec. at 888-91. The Director found that “[t]he benefit provided by a single business and financial manager appears to be too attenuated to have national importance.” The Director further concluded that the record does not satisfy the second and third *Dhanasar* prongs, although the Director acknowledged that the first *Dhanasar*’s requirement of a proposed endeavor’s substantial merit “has been met.” *See id.*

On appeal, the Petitioner repeats information already in the record regarding his Florida-based real estate company. He also references various publications regarding the real estate industry in general, and opinion letters and letters of recommendation in the record. The Petitioner also addresses the “turn-key franchise location of . . . a national chain of one-stop mobile and digital device repair shops” that he appeared to have abandoned in response to the Director’s NOID. However, the Petitioner does not clarify how owning and operating a digital device repair shop relates to the proposed “endeavor since 2021 focusing on a vital economic sector, the real estate industry.”

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

The various publications regarding the real estate industry in general do not establish how the “specific endeavor that the [noncitizen] proposes to undertake” may have “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” or other broader implications, such as “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *See id.* Instead, they address the industry, field, or profession in which the Petitioner will work, which, as noted above, are inapposite. *See id.* Because the publications regarding the real estate industry in general do not address the Petitioner, the specific endeavor he proposes to undertake, and how the endeavor may have national importance, they are immaterial to determining whether the proposed endeavor has national importance. *See id.*

Similarly, the opinion letters referenced—and quoted verbatim—by the Petitioner on appeal do not establish how the “specific endeavor that the [noncitizen] proposes to undertake” may have national importance, as required by the first *Dhanasar* prong. *See id.* Instead, the opinion letters focus on the industry, field, or profession in which the Petitioner will work, rather than the specific endeavor the Petitioner proposes to undertake and how it may have “national or even global implications within a particular field” or other broader implications. *See id.* Because the opinion letters do not address how the specific endeavor the Petitioner proposes to undertake may have national importance, they are immaterial to determining whether the proposed endeavor has national importance. *See id.*

Although the Petitioner asserts on appeal that two letters of recommendation, submitted in response to the Director’s NOID, are evidence that the proposed endeavor “plays a pivotal role in tackling the shortage of affordable housing and providing low-income and underserved communities with habitable dwellings,” the record does not substantiate those claims. The Petitioner quotes one opinion letter that states his “financial operations aim at recovering uninhabitable dwellings, rehabilitating them, and reintroducing them into the market, thus creating homes for the benefit of the final users”; therefore, his “endeavor will greatly benefit our citizens, especially those in marginalized communities.” The other opinion letter, quoted by the Petitioner, asserts, “I am sure that in the future [the Petitioner] will be able to . . . rehabilitate a property and put it back on the market . . . on a larger scale and for the social benefit of the local communities.” However, the Petitioner described his endeavor as “focus[ing] on off-the-market residential property owners across the U.S. with financial issues such as the inability to pay their mortgage and those who are facing foreclosure, . . . [negotiating] terms with owners or mortgage lenders, [then] the property will be mortgaged, remodeled, and sold on the real estate market.” The record does not clarify how the endeavor of remodeling and reselling real estate for which existing homeowners already are unable to pay will make that real estate more affordable, particularly for “low-income and underserved communities” and, thus, “tackling the shortage of affordable housing.” Without more details, such as trends in the market values of the properties in question before and after the Petitioner’s real estate company remodels them and, thus, intuitively increases their resale cost, the record does not substantiate the opinion letters’ generalized assertions that the proposed endeavor will play a “role in tackling the shortage of affordable housing and providing low-income and underserved communities with habitable dwellings,” pivotal or otherwise.

Even to the extent that the proposed endeavor of displacing homeowners from properties in foreclosure, remodeling those properties, and reselling those properties to other buyers may increase, rather than decrease, the availability of affordable housing, as asserted, the opinion letters do not

elaborate on how the proposed endeavor may have “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” or broader implications, such as “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

The proposed endeavor of acquiring real estate that its existing owners cannot afford, remodeling those properties, and reselling the properties may benefit the financial and real estate companies involved in that process and their clients. However, the record does not establish how the proposed endeavor will have “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” or broader implications, such as “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90. The record does not establish how the endeavor’s approach to acquiring real estate property, remodeling the property, and reselling it, differs from other operations that do the same, such that the proposed endeavor may have the type of improved manufacturing processes that may have national or even global implications within the particular field of real estate. In turn, although the record establishes that the Petitioner’s real estate company will employ eight workers (including the Petitioner) in the vicinity of [REDACTED] Florida, with an average wage of approximately \$35,000, the record does not elaborate on how employing eight individuals in those primarily clerical and customer service roles at that income level rises to the level of broader implications, such as significant potential to employ U.S. or substantial positive economic effects, contemplated by *Dhanasar*. *See id.*

We acknowledge that, despite appearing to abandon the digital device repair shop aspect of the proposed endeavor in response to the Director’s NOID, the Petitioner reasserts on appeal that owning and operating that franchise location, with two more potential locations, are part of his overall proposed endeavor. However, similar to the real estate acquisition, remodeling, and reselling endeavor, the record does not establish that how the Petitioner’s digital device repair shop franchise operation may have national importance. The record does not establish how employing seven (including the Petitioner) full-time and three part-time digital device repair workers in the vicinity of [REDACTED] Florida, with an average annual wage between approximately \$10,000 and \$30,000 rises to the level of broader implications, such as significant potential to employ U.S. or substantial positive economic effects, contemplated by *Dhanasar*. *See id.* In turn, the record does not establish how the franchise operation’s approach to repairing digital devices differs from other operations that do the same, such that the proposed endeavor may have the type of “improved manufacturing processes or medical advances” that may have national or even global implications within the particular field of electronic engineering and repair. We note that, although we address the unrelated real estate remodeling and digital device repair aspects of the proposed endeavor separately for coherence, we have considered the record in its entirety; however, it does not establish how the disparate aspects of the proposed endeavor, in the aggregate, may have national importance. *See id.*

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*,

26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.