



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

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

In Re: 28425290

Date: NOV. 27, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur in the field of cybersecurity, seeks second preference immigrant classification as a member of the professions holding an advanced degree, 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 that although the Petitioner qualified as an advanced degree professional, he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.¹ 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

The Petitioner proposes to provide “enterprise-grade cybersecurity solutions” to “average U.S. consumers” via his cybersecurity company, Simius Technologies, Inc.

Although the Director listed the evidence submitted in support of the proposed endeavor’s substantial merit, she did not make a determination as to whether the Petitioner met this portion of the first prong of the *Dhanasar* analysis. Turning to the national importance of the endeavor, the Director concluded that the Petitioner established that the proposed endeavor has national importance without any analysis. However, the record does not appear to support this conclusion.

¹ An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor’s degree. A United States bachelor’s degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master’s degree. 8 C.F.R. § 204.5(k)(2).

For instance, we reviewed the Petitioner's business plan, including its revenue and employment projections and note that he did not sufficiently describe the origin or basis for these projections.² Similarly, the letters of support from colleagues in the field of cybersecurity praise the Petitioner's products and services in the field, but lack persuasive detail concerning the impact of the Petitioner's proposed endeavor or how such impact would extend beyond his customers to impact the cybersecurity industry more broadly at a level commensurate with national importance.

Regarding the second prong, although we agree with the Director's determination, her reasoning is confusing. For instance, the Director incorporated her analysis of the evidence regarding the proposed endeavor's national importance within her discussion examining why the Petitioner had not established that he is well-positioned to advance the endeavor. In doing so, the Director came to conclusions that appear to conflate the evidentiary requirements for the distinct prongs within the *Dhanasar* framework. Moreover, the Director primarily refers to the Petitioner by "she/her" pronouns, but the petition and supporting evidence clearly indicate that male pronouns are appropriate. We also note that although the Petitioner submitted an August 25, 2022 "Letter of Intent for Purchase of [redacted] [redacted] from [redacted] the signature page of the contract is not signed by the Petitioner.

As to the third prong of *Dhanasar*, the Director stated the law and the relevant considerations in performing the analysis but did not discuss the evidence weighed in balancing those considerations or address the Petitioner's specific claims.

While we may agree with the Director's conclusion that the Petitioner has not established that a waiver of the required job offer would be in the national interest, an officer must fully explain the reasons for denying a petition in order to allow a petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denial to allow the respondent a meaningful opportunity to challenge the determination on appeal). Because the Director's decision did not adequately address the shortcomings and deficiencies in the evidence submitted with the petition, we will remand the matter.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

² The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376 (AAO 2010).