



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

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

In Re: 28962955

Date: NOV. 29, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, who describes himself as a professional in the fields of economics and finance management, seeks employment-based second preference (EB-2) immigrant 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner qualifies for a national interest waiver. 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 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.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement “in the national interest.” *Id.* While neither the statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver

petitions. *Dhanasar* states that USCIS may, as matter of discretion,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.<sup>2</sup>

## II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The record supports that conclusion. The remaining issue for consideration on appeal 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, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Dhanasar*, 26 I&N Dec. at 889.

The Petitioner intends to operate a consultancy company in the United Staes. A cover letter initially included with his petition provides the following:

[The Petitioner] is an experienced professional in the fields of economics and financial management. His proposed endeavor in the United States is to draw from his many years of experience in this area by working as a consultant, guiding the strategic, financial, and operational management activities of U.S. small- and medium-sized businesses.

In response to a request for evidence (RFE), the Petitioner provided a statement in which he further clarified his endeavor (quoted as written):

My proposed endeavor is to build on my extensive experience in the fields of economics and financial management to develop quantum models applied to valuation and structuring, using appropriate methodologies in order to advise small and medium sized enterprises in the US in financial matters, operational risk management, construction of corporate governance, specifically those that require appropriate structuring to allow sustainable, secure, and strategic growth, in order to generate economic stability and a positive impact on the community and sectors where they operate.

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<sup>1</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).

<sup>2</sup> See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

The Director determined that, although the proposed endeavor has substantial merit, the Petitioner did not establish that the proposed endeavor has national importance. On appeal, the Petitioner submits a brief in which he reiterates his experience<sup>3</sup> and reasserts his eligibility for a national interest waiver based on the evidence of record. While the evidence of record—including letters of support from previous business colleagues—demonstrates the Petitioner’s accomplished record in various positions, the fact that a central tenant of his proposed endeavor is a lone business venture—a consultancy firm—must be considered when evaluating whether it rises to the level of national importance.

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 “the specific endeavor that the foreign national proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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. Further, to evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of the Petitioner’s work.

In his appeal brief, the Petitioner references several previously submitted articles and reports as evidence of the national importance of his endeavor to advise businesses on financial matters to promote growth and job creation and to positively impact the economy. These articles and reports discuss the importance of small businesses to the U.S. and global economies, the reasons that small businesses fail, an upward trend in small business applications, and the influx of federal funding to assist small businesses in their recovery following the recent global pandemic. While these documents provide insight into the role of small businesses in the economy and the challenges they face as they strive to succeed, they do not serve as evidence to show how the Petitioner would provide consultancy services to small- and medium-sized businesses at a scale that would have a national impact. The Petitioner also provided in response to the RFE a statement in which he discusses U.S. policies that support and promote economic development and barriers to success for startup and spin-off companies; the Petitioner emphasizes the importance of corporate governance and investment management to business growth and stability and explains how he will use his knowledge in the field of finance to advise companies on how to increase their value. The Petitioner’s statement includes the following (quoted as written):

With my knowledge in this area and the proper direction, it will allow for adequate structural and sustainable growth, performing the correct management that allows for the achievement of strategic goals, which will result in greater stability and labor growth generating a huge impact on the economy and society of the United States, in various sectors in which it is developed permanently and sustainably.

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<sup>3</sup> We would consider the Petitioner’s experience in evaluating his eligibility under the second *Dhanasar* prong. We note that letters of recommendation, while demonstrative of the Petitioner’s career success in the field of finance, do not speak to the national importance of the Petitioner’s specific endeavor to operate a consultancy business in the United States.

I am sure that based on the arguments presented and the wide range of companies that currently present the aforementioned needs and challenges, in which my knowledge and experience can be used or required in different ways, achieving support for companies so that they can achieve their goals and face their strategic challenges that allow them to grow, generating positive employment rates. This would have a positive impact on society and contribute to the community, my contribution could also generate a professional knowledge transmission to those who require it and who, with the appropriate training and education, will develop dynamic and sustainable growth.

While the evidence of record (including several letters of recommendation lauding the Petitioner's talents and professionalism) indicates that the Petitioner has extensive experience and a firm understanding of financial management in the business sector, as well as knowledge of the effects of businesses on economies, the record does not include a plan or other indication of how the Petitioner will operate a consultancy company that will impact businesses or the economy at the level of national importance contemplated under the first prong of the *Dhanasar* framework. Further, 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. The Petitioner's intent to transmit his knowledge to his clients is not considered an activity that will have a broad impact on the economy.

The Petitioner has not demonstrated that the endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the nation. *Id.* 890. He has not provided data or studies establishing that the location of his proposed endeavor is in an economically depressed area or how his business would impact the region or the regions in which his clients operate. He has not provided evidence of similar successful business models or other comparable examples to demonstrate the potential broader implications of his proposal. Absent probative evidence to show the realistic potential of the Petitioner's company to operate at all, it is not evident that the company will generate revenue to create jobs, to expand, or to otherwise notably impact the economy in a location in which it intends to operate.<sup>4</sup> The Petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 at 376. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's pursuits as a consultant for businesses would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* 890.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *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 alternative issues on appeal where an applicant is otherwise ineligible).

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<sup>4</sup> The location of the Petitioner's intended company is another element of his proposed endeavor that is not described in the record.

### III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

**ORDER:** The appeal is dismissed.