



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

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

In Re: 28092830

Date: OCT. 2, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a vice president of marketing and communication, seeks employment-based second preference (EB-2) 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. *See* 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 the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she 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.

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.” Section 203(b)(2)(B)(i) of the Act. 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if the petitioner demonstrates that:

¹ *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).

- 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.

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 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 her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to her proposed endeavor, the Petitioner initially indicated that since 2019 she has been serving as the “Vice President of Marketing and Communication” for [REDACTED] a “company that provides automation solutions for apparel and related ‘soft-goods’ industries.”² She stated that her “role involves global marketing leadership for industry-leading software, automation solutions, and services. On a daily basis, I work with product management and global sales and marketing leaders, and I network with distributors in over 120 countries.” The Petitioner further explained that her work involves “highlighting the products and services [REDACTED] offers”; creating “presentations and webinars to inform companies about high tech advances to increase their production and overall growth”; “leveraging current innovations within the context of existing issues for our customers across the fashion, textile, and apparel industries”; establishing “a key set of performance indicators to provide consistent reporting based on the marketing team’s rollout of various plans”; supporting “customers to be successful in digital transformation”; and acting as company “spokesperson.”

Regarding her work during the COVID-19 pandemic, the Petitioner presented a March 2021 letter of support from K-N-, Chief Strategy and Digital Officer, [REDACTED] indicating that he and the Petitioner collaborated on their company’s Global Personal Protective Equipment (PPE) Task Force which they “created . . . in March 2020 during the onset of the global pandemic.” K-N- stated:

Our goal to create the Task Force with a triple positive impact was reached: we were able to save lives by facilitating production of PPE; save jobs by assisting our customers in retooling manufacturing; and generate business for [REDACTED]

[The Petitioner’s] role in the Global PPE Task Force was instrumental. She was key with her external and internal communications, such as with the online Resource Center we put in place for customers. She additionally supported the project organizational team by doing webinars and coordinating the communication. In particular, her work helped advance the public and national interest by safeguarding lives and jobs and helping to build and increase domestic manufacturing capacities, which she has expressed consistently as key overall career goals.

² The Form I-140 petition in this matter was filed in March 2021. In June 2021, [REDACTED] was acquired by [REDACTED] a French technology company specializing in software and cutting-room systems for industries using soft material such as leather and textiles.

In response to the Director's request for evidence (RFE), the Petitioner submitted letters of support from her supervisors at [redacted] offering additional information about her proposed endeavor. In his letter, D-H-, Chairman and Chief Executive Officer at [redacted] stated:

Since June 2021 [the Petitioner] has served as VP Marketing for the Americas and manages both [redacted] product ranges throughout Marketing and Communication. . . . Her key responsibilities include:

- Oversight, strategy, planning and execution of all marketing strategies in the Americas regions;
- Generating product demand and increasing company revenue;
- Liaising with external and internal members, including press, media, vendors, and company executives;
- Managing the [redacted] Innovation Center;
- Collaborating and maintain all relationships with associations and partners;
- Maintain a sharp and deep understanding of the technologies utilized within the textile industry, including apparel, automotive, industrial and furniture industries; and
- Continue to develop expertise in strategies for increases to on-shore production, on-demand production and domestic economic and job growth.

In his letter, L-M-, President of the Americas for [redacted] indicated that he and the Petitioner have worked together since he became her direct manager in June 2020. L-M- stated:

Following [redacted] acquisition of [redacted] I was asked to lead the America's region for the combined company, and she was selected to lead all of the region's marketing efforts. These efforts include managing a team of seven people covering all of [redacted] markets in an effort to promote our solutions and demonstrate thought leadership through a variety of means. The means include digital awareness leveraging well known systems such as [redacted] and trade show presence such as the [redacted] where [the Petitioner] and I presented to a host of furniture industry executives sharing industry trends and new product solutions. In her role, [the Petitioner] also has direct oversight of our 18,000 square foot innovation center in [redacted] which exhibits the latest in on-demand manufacturing

With regard to the Petitioner's service on her company's PPE Task Force in 2020, L-M- asserted that [redacted] provided its customers with the resources they needed to convert their traditional apparel production to PPE and that "this information was shared via a web portal" for which the Petitioner "lead the development . . . and continuously improved upon as more resources became available." L-M- further noted that [redacted] "Task Force not only helped accelerate PPE production which slowed the spread of COVID-19 and saved lives, but it also saved jobs by generating much needed revenue for [redacted] and our customers"

The record also includes information about the [redacted] Partnership, the [redacted] Collaboration, and digital end-to-end solutions for the textile industry. In addition, the Petitioner

provided articles about transformation initiatives and automation in the fashion, apparel, and furniture industries. She also submitted information regarding global PPE initiatives and PPE manufacturing and production. This information, along with the letters of support and other corroborating evidence in the record, is sufficient to demonstrate that the Petitioner's proposed endeavor has substantial merit. Accordingly, we withdraw the Director's determination on this issue.

In addition, the Petitioner provided letters of support from W-C-, C-C-, M-U-, M-H-, J-K-B-, and S-B- discussing her marketing capabilities and experience and her company projects. The Petitioner's skills, knowledge, and prior work in her field (such as serving on [REDACTED] PPE Task Force), however, 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.

In the decision denying the petition, the Director determined that the Petitioner did not meet the first, second, and third prongs of the *Dhanasar* analytical framework. Regarding *Dhanasar*'s first prong, the Director concluded that the Petitioner had not established the national importance of her proposed endeavor. The Director stated that the Petitioner had not shown that her proposed work "stands to sufficiently extend beyond an organization and its clients or the individuals [the Petitioner] would serve to impact the industry or field more broadly." The Director further indicated that the Petitioner had not demonstrated that her undertaking offers broader implications in the field, significant potential to employ U.S. workers, or other substantial positive economic effects.

In her appeal brief, the Petitioner does not directly contest the Director's conclusion that she had not demonstrated the national importance of her proposed endeavor under *Dhanasar*'s first prong. Nor does her appeal brief directly challenge the Director's determination that she had not established she is well-positioned to advance her endeavor under *Dhanasar*'s second prong. Accordingly, we deem these two issues abandoned. *See Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

Nonetheless, we will address the Petitioner's appellate arguments regarding the substantial merit of her proposed endeavor in the context of national importance as well under the first prong of *Dhanasar*. The Petitioner argues on appeal that her proposed endeavor seeks "to promote economic growth and employment in the U.S. and to increase domestic-based production through the development of cutting-edge technologies within the textile industries." She asserts that her undertaking contributes to "American based manufacturing, production and onshoring by promoting companies within the apparel, textile, furniture and fashion industries to utilize technological and digital advancements."³ The Petitioner also contends that her proposed endeavor stands "to provide for increasing global pandemic responsiveness for the textile industry within the U.S." She points to the letters from K-N- and L-M- discussing her work for [REDACTED] PPE Task Force in 2020, but this past work in her field relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign

³ While the Petitioner's job as a marketing executive includes making her customers aware of advancements in technology such as 3-dimensional software, body/contact contouring software, on-demand production software, digital factories, cloud-based technologies, digital printing solutions, made-to-measure production, and print-to-cut workflows, she has not demonstrated that her specific proposed endeavor involves conceiving or inventing such technologies. Instead, her undertaking involves promoting these existing technologies to her company's current and prospective customers.

national.” See *Dhanasar*, 26 I&N Dec. at 890. As previously explained, the issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under *Dhanasar*’s first prong.

With the appeal, the Petitioner provides additional letters of support from R-P-, Industrial Account Executive, [REDACTED] and J-G-, Vice President of Sales, [REDACTED]. R-P- discusses the Petitioner’s past projects at their company rather than explaining how her proposed endeavor is of national importance. J-G- asserts that the Petitioner’s undertaking is of national importance because advancements such as digitalization and Industry 4.0 can help the U.S. textile industry. The issue here, however, is not the importance of technological advancements in general or the industry in which she will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* at 889. The letters from R-P- and J-G-, as well as those from K-N-, D-H- and L-M-, do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner’s specific proposed work as a marketing executive offers broader implications in her industry or substantial positive economic effects for our nation that rise to the level of national importance.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* 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.

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. While the Petitioner’s statements reflect her intention to provide valuable marketing leadership services for her employer and beneficial automation solutions for its customers, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor 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, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her employer or its customer base to impact her field or the U.S. textile industry more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner’s marketing projects would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

For the aforementioned reasons, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework. 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. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the third prong outlined in *Dhanasar*.⁴ 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 she has not established she is eligible 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.

⁴ As mentioned, the Petitioner's appeal brief does not directly contest the Director's determination that she had not established she is well-positioned to advance her endeavor under *Dhanasar*'s second prong.