



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

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

In Re: 28423766

Date: SEP. 25, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial and investment specialist, seeks classification under the employment-based, second-preference (EB-2) immigrant visa category as a member of the professions holding an “advanced degree” and requests a waiver of the category’s job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse a job offer - and thus the requirement for certification from the U.S. Department of Labor - if he demonstrates that a waiver would be “in the national interest.” *Id.*

The Acting Director of the Texas Service Center denied the petition. The Director found the Petitioner qualified for the requested immigrant visa category as an advanced degree professional and agreed that his proposed U.S. endeavor has “substantial merit.” But the Director concluded that he did not demonstrate that:

- the undertaking has “national importance;”
- he is “well-positioned” to advance the endeavor; or
- a waiver of U.S.-worker protections would, on balance, benefit the country.

On appeal, the Petitioner contends that the Director misread applicable case law.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he has not established that his proposed endeavor has national importance. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for national interest waivers, petitioners must first demonstrate their qualifications for the requested EB-2 immigrant visa category - either as advanced degree professionals or noncitizens with “exceptional ability” in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. To protect the jobs of U.S. workers, this visa category generally requires

prospective employers to seek noncitizens' services and obtain DOL certifications to permanently employ the beneficiaries in the country. Section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). To avoid these job offer/labor certification requirements, petitioners must demonstrate that waivers of the U.S.-worker protections are in the national interest. Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term "national interest." So, we have established a framework for adjudicating these waiver requests. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). If otherwise qualified as advanced degree professionals or noncitizens of exceptional ability, petitioners may merit discretionary waivers of the job-offer/labor certification requirements if they establish that:

- their proposed U.S. work has "substantial merit" and "national importance;"
- they are "well positioned" to advance their intended endeavors; and
- on balance, waivers of the job-offer/labor certification requirements would benefit the United States.

Id.

II. ANALYSIS

The Petitioner, a Colombian native and citizen, received a bachelor of business administration degree and a master's degree in finance in his home country. He has worked in the financial analysis and investment field for more than 10 years, holding positions as a junior commercial advisor, stockbroker, and investment specialist. Most recently, he has worked as an independent trader and financial consultant. In the United States, he seeks to establish his own business, providing financial and investment consulting services to small and medium-sized businesses.

A. Advanced Degree Professional

The record indicates that the Petitioner's Colombian *magister en finanzas* equates to a U.S. master's degree in finance. We therefore agree with the Director that the Petitioner qualifies for the requested immigrant visa category as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2) (defining the term "advanced degree" to include "any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate").

B. Substantial Merit

A proposed endeavor may have substantial merit if it has the potential to create a significant economic impact or if it relates to research, pure science, or the furtherance of human knowledge. *Matter of Dhanasar*, 26 I&N Dec. at 889. The record shows that the Petitioner's proposed financial and investment advice could improve U.S. financial literacy and spur the growth of small businesses, which create a majority of new jobs in the country. We therefore agree with the Director that the Petitioner's proposed endeavor has substantial merit.

C. National Importance

Whether a proposed undertaking has national importance depends on its “potential prospective impact.” *Matter of Dhanasar*, 26 I&N Dec. at 889. Endeavors with national or global implications within a particular field - such as those introducing improved manufacturing processes or medical advances - may have national importance. *Id.* But USCIS also looks beyond geographical scope when evaluating potential impact. *Id.* Thus, “[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.

The Director found insufficient evidence that the Petitioner’s consulting business would impact a region or the country at a nationally important level or that his work “would have broader implications for the financial management field.” On appeal, the Petitioner contends that his undertaking has national importance because it would: employ U.S. workers; affect matters the U.S. government considers to be nationally important; and enhance societal welfare.

1. Employment of U.S. Workers

As proof that his endeavor would employ U.S. workers, the Petitioner quotes the following part of an expert opinion letter from a U.S. finance professor:

The U.S. financial services industry is worth about \$4.85 trillion. This is the industry’s revenue as of 2021, and it contributes \$1.5 trillion to the U.S.’s total Gross Domestic Product (GDP), which ends up accounting for 7.4% of the total GDP. Leadership in this large, high-growth sector translates into substantial economic activity and direct and indirect job creation in the United States.

The letter focuses on the U.S. financial services industry. But, when determining a proposal’s national importance, USCIS must concentrate on “the specific endeavor that the foreign national proposes to undertake.” *Matter of Dhanasar*, 26 I&N Dec. at 889. Thus, the letter’s recitation of statistics about the national financial services industry does not demonstrate that the Petitioner’s specific endeavor would create U.S. jobs.

The Petitioner further quotes the expert opinion letter as saying:

[The Petitioner] will use his experience to help companies improve financial operations and achieve better profitability levels, therefore generating revenues within the country and creating employment opportunities. Growth supported by these companies will pay dividends for all U.S. citizens by increasing tax revenues to the federal and state governments and increasing the funds available to spend on hospitals, schools, roads, and other essential services.

We are unable to locate this claimed quotation in the expert opinion letter. But, assuming the expert said it, it would not sufficiently demonstrate that the Petitioner’s endeavor would employ U.S. workers. The quotation focuses more on his particular proposed undertaking than the prior extract. But the record lacks specifics about the Petitioner’s plan. In response to the Director’s request for

additional evidence, the Petitioner submitted a business plan. But the plan does not indicate the business's proposed scope, such as its projected number of employees or clients, or its projected revenues. Without such information, the record does not demonstrate that his or his clients' businesses have the potential to employ a nationally significant amount of U.S. workers.

2. Impact on Matters Described by Government Entities as Nationally Important

The Petitioner also contends that his undertaking would affect matters that the U.S. government considers to be nationally important. Specifically, he asserts that the country faces a "financial literacy crisis" and that, to combat it, financial advisors must educate their clients about money matters and monetary practices. He cites the U.S. government's initiatives to prioritize financial literacy and support small businesses. The Petitioner states his "proposed endeavor is specifically [intended] to devise and formulate plans that will assist small business in improving efficiency and financial literacy which will produce greater profits and result in the expansion of small businesses."

As previously indicated, we agree that the Petitioner's proposed endeavor has substantial merit. But, again, we must focus on the potential impact of his specific endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner has not provided sufficient evidence to demonstrate that his specific business would have enough impact to significantly combat the nation's financial literacy crisis and support small businesses. When determining national importance, it is not enough to be a small part of a solution. A petitioner must demonstrate that their particular undertaking would have national or global implications, or the potential to provide substantial economic benefits. *Id.* at 889-90.

3. Enhancement of Societal Welfare

Finally, the Petitioner states that his financial knowledge will not merely benefit his business and clients. He contends that his endeavor would more broadly enhance U.S. societal welfare. He states: "The dissemination of financial literacy is exponential and functions like a web - constantly expanding to more and more individuals and businesses." Also, the Petitioner contends that the United States faces a shortage of financial professionals as a growing percentage of Americans reach retirement age in need of monetary advice.

We acknowledge the need for financial advisory services in the United States. But the Petitioner has not submitted sufficient evidence detailing the scope of his particular proposed business. Thus, he has not demonstrated that his specific endeavor would improve societal welfare on a nationally significant level. In sum, he has not established that his undertaking has national importance.

Our conclusion that the Petitioner has not demonstrated the national importance of his proposed endeavor resolves this appeal. We therefore decline to reach and hereby reserve his appellate arguments regarding his positioning to advance the undertaking and the benefits to the country of waiving U.S.-worker protections in his case. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions); *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 did not otherwise qualify for relief).

ORDER: The appeal is dismissed.