



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

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

In Re: 27490008

Date: AUG. 24, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial analyst, seeks second preference immigrant classification as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 immigrant 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 had not established eligibility for the underlying EB-2 classification as an individual of exceptional ability. In addition, the Director concluded that the Petitioner did not establish eligibility 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.

Once a petitioner first demonstrates qualification for the underlying EB-2 visa classification, they must then demonstrate they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if the petitioner shows:

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 Petitioner initially filed the national interest waiver application asserting that the Petitioner qualifies for the EB-2 classification as an individual of exceptional ability. However, in response to the Director's request for evidence (RFE), the Petitioner claimed that he also meets the qualification as a member of the professions holding an advanced degree.

In the decision, the Director did not address whether the Petitioner qualifies for second-preference classification as a member of the professions holding an advanced degree but only concluded that the Petitioner does not qualify as an individual of exceptional ability.² See section 203(b)(2) of the Act. Because we nevertheless find that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest, we reserve our opinion regarding whether the Petitioner satisfies second-preference eligibility criteria. See *id.*; see also *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”); *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).

On appeal, the Petitioner reasserts that he meets the eligibility for the national interest waiver and offers documents previously submitted in response to the Director's RFE. The Petitioner also claims that the Director's conclusion on the Petitioner's eligibility for the national interest waiver was inaccurate as it was based on documentation related to an applicant who works in the field of aviation, not related to the Petitioner's endeavor as a financial analyst.

We note that the Director's reference to the “field of aeronautics” or “mechanical aeronautics” originated from the Petitioner's initial letter dated August 1, 2022, which included some pages that belonged to another petitioner who works as an aircraft maintenance mechanic. While the Director referred twice to “aeronautics” in analyzing the *Dhanasar*'s first prong, we determine that these references were not material to the Director's ultimate conclusion regarding the Petitioner's eligibility for the national interest waiver and the Director correctly evaluated the Petitioner's proposed endeavor as a financial specialist. Hence, we will proceed with de novo review without considering the identified pages belonging to another petitioner in the record.

Upon examination of the record including the Petitioner's academic credentials, resume, professional plan, letters of recommendation, expert opinion letters, certifications, and employment letters, we agree with the Director that the Petitioner did not satisfy *Dhanasar*'s first prong, as discussed below. The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake.

² While the Director found that the Petitioner met at least three of the six criteria at 8 C.F.R. § 204.5(k)(3)(ii), the record did not show in its totality that he had a degree of expertise significantly above that ordinarily encountered in the field.

In his professional plan from July 2022, the Petitioner stated that he intends to “perform as a Financial Analyst” and “implement [his] refined set of skills in the most modern strategies and techniques of Financial Analysis in order to stimulate exponential growth to organizations and companies located in the United States.” The Petitioner further explained that he will “help companies from different sectors to improve their internal processes and achieve their goals more effectively, especially in the current economic and social scenario in which businesses are still trying to recover from the impacts caused by the COVID-19 pandemic” and his proposed endeavor is to “offer [his] vast experience in i) financial management, ii) financial planning, and iii) market expansion, specifically focusing on the automobilist industry providing financial solutions so people, entrepreneurs, micro-entrepreneurs, people with special needs, and/or those who need to invest in their businesses can start their journeys.”

The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner refers to the U.S. Bureau of Labor Statistics and other industry reports to demonstrate that the financial analyst profession provides important benefits to the United States and the finance industry is expected to grow. As the Petitioner’s endeavor involves business and financial management, the record sufficiently demonstrates substantial merit of the proposed endeavor.

However, the evidence does not establish that the Petitioner’s endeavor meets the national importance element under the first prong of *Dhanasar*. To evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” and “broader implications” of the proposed endeavor showing that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field.” *Id.* at 889. On the contrary, the Petitioner claims on appeal that we should evaluate the prospective impact of his endeavor based on his past achievements and experience. The Petitioner’s knowledge, skills, education, and experience are considerations under *Dhanasar*’s second prong, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under *Dhanasar*’s first prong.

The Petitioner’s resume, certifications, and recommendation letters all address his past accomplishments as a financial specialist impacting his workplace and do not address national importance of his endeavor’s “potential prospective impact.” For instance, a letter from the Petitioner’s former supervisor indicates that the Petitioner “had a remarkable performance providing financial consulting to the auto dealers” and “managed to achieve results beyond expectation, thus contributing to the satisfaction of the commercial partners.” Another recommendation letter states that the Petitioner “is a unique professional, known by his peers, fellow competitors, . . . and an inspiration for his experience and training in the recovery of commercial results, leadership and people management, business consulting, and financial planning of large companies.” While the recommendation letters indicate the high regard for the Petitioner and his work, they do not discuss the Petitioner’s proposed endeavor or specific impact of his endeavor.

One colleague highlights an example of how the Petitioner successfully assisted a company called [REDACTED] during its transition phase by implementing techniques to optimize resources, investing in cost-effective machinery, analyzing employee payroll, and optimizing the payment process. 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. We acknowledge that the Petitioner provided valuable financial services to his employers in the past, but the Petitioner has not shown that his proposed endeavor extends beyond the companies or clients that he will serve.

In addition, the evidence does not demonstrate that the Petitioner's proposed endeavor will substantially benefit the field of financial services, as contemplated by *Dhanasar*: "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* Although the Petitioner claims that he has "unique set of skills" or "modern strategies and techniques of Financial Analysis," the proposed activities in his professional plan entail typical work of a financial analyst, such as financial planning, market analysis, managing assets and investments, monitoring customer's portfolio, performing quantitative research, and providing sound investment advice to generate long term returns for clients. The Petitioner claims that his proposed endeavor's results "are widely spread to others in the field" and his specific services are "deeply differ from the ones generally provided by ordinary Financial Specialists" but the record does not support these assertions.

The Petitioner submitted two expert opinion letters, one from [redacted] an assistant professor of finance at [redacted] University's [redacted] school of Business, and [redacted] a professor of finance at [redacted] University. These opinion letters do not provide any corroborating details to show that the Petitioner's skills or methodologies differ from or improve upon those already available and in use in the United States. They merely reiterate the Petitioner's experience and abilities as a financial specialist and make general conclusory remarks about the proposed endeavor's prospective impact. For example, [redacted] states that the Petitioner's endeavor "has significant potential to generate tax revenue, strengthen U.S. companies, contributing to their growth and profits, and transfer his knowledge and skills to U.S. workers" but does not provide any persuasive details as to how he will accomplish such results.

Furthermore, [redacted] states that the Petitioner's background in Brazil "will vastly contribute to the trade sector" as the U.S. officially designated Brazil as a major non-NATO ally in 2019 and conclude that "the proposed endeavor impacts a matter that a government entity has described as having national importance or is the subject of national initiatives." However, the Petitioner has not submitted that he plans to specifically contribute to any trading between Brazil and the United States. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* Here, the advisory opinions are of little probative value as they do not meaningfully address the details of the proposed endeavor.

The Petitioner contends that the rising demand and growing importance of the finance industry and profession, as well as the automobile market demonstrate national importance of his endeavor. Although we acknowledge that the Petitioner's work as a financial analyst is valuable and assisting businesses and clients to be financially successfully has substantial merit, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. In determining national importance, the relevant question is not the importance of the industry or

profession in which the individual will work; as previously stated, we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* at 889.

In *Dhanasar*, we also noted 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.

The Petitioner contends that by providing financial services to businesses and assisting companies to increase their profits, his endeavor “is a major economic contributor.” Yet the Petitioner does not offer specific evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work. While any basic economic activity has the potential to positively impact the economy, the record does not demonstrate how working for a company or companies as an individual financial analyst³ generates such significant economic activity that rises to the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.*

While individual employer or clients may benefit from the endeavor, the Petitioner does not offer sufficient evidence for how this individual benefit rises to the level of national importance or will impact the field more broadly. Accordingly, we find that the Petitioner has not established that his 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 Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. As noted above, we also reserve our opinion regarding whether the record establishes the Petitioner is eligible for second-preference classification. *See id.*

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.

³ The Petitioner submitted a job offer letter for a financial planner position from [redacted] company in Florida and a LinkedIn email offer for another financial planner position at [redacted]