



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

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

In Re: 29225811

Date: DEC. 12, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, describing himself as a business and financial analyst, seeks 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. The Director concluded the Petitioner qualified as an advanced degree professional, but further determined that he did not demonstrate his 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.

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 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 Petitioner, a native and citizen of Brazil, stated in support of the petition that he planned on continuing his career as a business and financial analyst in the United States. More specifically, the Petitioner indicated he would launch and develop his own business, P-E-, LLC, dedicated to “providing financial and investment advisory services to individuals and companies that want to invest and do business in the United States” or abroad. Likewise, the Petitioner explained that the new company would provide financial planning, investment, tax, bookkeeping, and accounting advice. He further described the strategy of his new business as follows:

With the creation of the Investment Easy Project – the center of the company’s advisory work – [the Petitioner] will combine the work and effort of other units, in order to make financial movements and investments of individual customers and companies, as rational and taxable as possible, in order to maximize yields. Through this project, the company intends to aggregate the international approach to all the branches of its work; that is, to advise domestic persona and companies in their investment activities, here and abroad, as well as foreign individuals and companies in their intention to invest in the United States. Another important issue to be considered in compliance, complying with the legal rules and ethical aspects for money invested in the U.S. financial market by well establishing its origin and destiny. Under the Easy Investment Project, the company also intends to invest in the financial education field, providing training and capacity building in finance and investment matters, with an emphasis on various aspects of American, and other, financial and tax policies; it will offer these initiatives to both individuals and companies.

The Petitioner also indicated that his proposed new company would contribute to tax revenue, generate jobs for U.S. workers, help increase the flow of money into the United States on a national level, and positively impact U.S. gross domestic product (GDP). He further stated that his proposed endeavor would drive foreign direct investment “in terms of international companies and foreign investors looking to expand their wealth” in the United States. The Petitioner emphasized that he would “structure the financial procedures and market forecasting initiatives of U.S. companies, thus streamlining their business objectives via a strict adaptation to volatile economic patterns.”

The Petitioner also submitted several industry reports and articles highlighting the importance of the U.S. financial market and industry, the prevalence of foreign direct investment (FDI) in the U.S. economy, and the impact of the Brazilian export and import market on the U.S. economy. In addition, the Petitioner provided several support letters from former colleagues discussing his skills and experience in finance and the Brazilian stock market, indicating that he would make an excellent addition to any company in the United States. Similarly, the Petitioner submitted an expert opinion from [REDACTED], a Professor of Business Management at the [REDACTED], [REDACTED], outlining the Petitioner’s skills and experience and opining that his expertise

in the business environment and regulatory landscape of Brazil is of national importance to U.S. companies planning on doing business in Brazil. Lastly, the Petitioner provided a business plan related his proposed company projecting that it would generate 20 U.S. jobs and approximately \$6.8 million in revenue during its first five years of operation.

The Director later issued a request for evidence (RFE) concluding the Petitioner had established that his proposed endeavor had substantial merit. However, the Director indicated the Petitioner did not demonstrate that his proposed endeavor would have national importance. The Director stated the Petitioner did not provide sufficient detail and supporting evidence regarding how he would achieve his proposed objectives and to demonstrate that his proposed endeavor would have national or even global implications within the field or industry. The Director further determined the Petitioner did not establish that his proposed endeavor would have significant potential to employ U.S. workers or offer substantial economic benefits for the United States. As such, the Director requested that the Petitioner submit additional evidence to establish the endeavor's potential prospective impact, such as documentation to substantiate how it would have national or global implications in the field, have significant potential to employ U.S. workers or have other substantial economic effects, broadly enhance societal welfare or cultural or artistic enrichment, or impact a matter that a government entity has described as having national importance.

In response, the Petitioner stated that his professional activities would “generate substantial ripple effects upon key commercial and business activities on behalf of the United States...serving the financial management and business functions of U.S. companies.” He indicated that his proposed endeavor would contribute “to a revenue-enhanced business ecosystem, and an enriched, productivity centered economy.” The Petitioner asserted that his proposed endeavor would have national and international implications by offering “economic convenience and agility through finance,” create both direct and indirect employment opportunities for U.S. workers, drive competitive advantage for U.S. companies wishing to expand and internationalize their operations, and contribute to tax revenue and GDP.

In addition, the Petitioner emphasized his more than 16 years of progressive experience in the financial services market and asserted that his proposed company, P-E- LLC, and its “Investment Easy” philosophy would “improve wages and working conditions for U.S. workers in small business HubZone areas. He further highlighted several submitted industry reports and articles, contending they supported the significance of the U.S. financial market and the contributions of financial professionals like the Petitioner, resulting in “steep economic solutions for whole market players, such as stock exchange operations, foreign direct investments, and the U.S. economy.” The Petitioner noted his “solid experience” and knowledge, indicating he would use it “to develop and implement innovative business models that create new economic value.” The Petitioner also provided a handful of additional support letters from colleagues, emphasizing his prior work on finance projects and his expertise.

As discussed, the Director concluded the Petitioner established that his proposed endeavor had substantial merit. However, the Director concluded the Petitioner did not establish the national importance of his proposed endeavor. The Director stated that the Petitioner relied on generalized assertions based off the provided reports and articles and did not demonstrate that his proposed endeavor would extend sufficiently beyond his clientele and impact the financial industry on a level

commensurate with national importance. The Director also determined that the Petitioner did not adequately demonstrate that his proposed company would create 20 U.S. jobs as asserted and staff workers in economically depressed areas.

On appeal, the Petitioner contends, contrary to the Director's conclusions, that his proposed company providing "specialized financial and investment advisory services," both in the United States and abroad, would promote economic growth, facilitate international investment, foster global financial stability, and contribute to job creation and positive economic effects. The Petitioner asserts that the submitted evidence demonstrates his "commitment, expertise, and understanding of the financial industry and its potential impact," as well as the company's "intention to reserve profits for further investments, business expansion, and technological advancements" to "potentially have a wider impact."

The Petitioner also emphasizes that his proposed endeavor is "unquestionably of national importance, given the significant impact of the role that...business development professionals play in every type of business," asserting that no other department or business function has a greater impact on company's cash flow. The Petitioner further points to the positive impact immigrants, particularly immigrant entrepreneurs, have on the U.S. economy, noting several articles he provided on the record that discuss their 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." *Matter of 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. 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.

First, on appeal and throughout the record, the Petitioner emphasizes his skills and experience in financial services, for instance emphasizing his "solid experience" and knowledge and indicating that he would use it "to develop and implement innovative business models that create new economic value." The Petitioner also provided over ten support letters from colleagues, emphasizing his prior work on finance projects and expertise. For instance, one stated that the Petitioner's "unique skills and methods in his field are a solid indication that he will serve the U.S. national interest." In contrast, none of these support letters discuss the potential prospective impact of the Petitioner's specifically proposed endeavor. In addition, the Petitioner provided an expert opinion from [redacted], from the [redacted], outlining the Petitioner's skills and experience and opining that his expertise in the business environment and regulatory landscape of Brazil would be of national importance to U.S. companies. However, the Petitioner's experience and knowledge in and of itself is not relevant to demonstrating the national importance of his proposed endeavor but is only probative to whether he is well positioned to advance the endeavor under the second prong of *Dhanasar*. See *Matter of Dhanasar*, 26 I&N Dec. at 892-93. Therefore, we do not find the Petitioner's emphasis on his skills and experience relevant in establishing the national importance of his proposed endeavor.

The Petitioner also submitted generic and unsupported assertions regarding the potential prospective impact of his proposed endeavor. The Petitioner asserted that the driving force behind his company would “the creation of the Investment Easy Project,” but he did not sufficiently explain this business strategy. The Petitioner vaguely stated that his proposed “Easy Investment Project” would “combine the work and effort of other units, in order to make financial movements and investments of individual customers and companies,” a generic statement that could apply to almost any financial situation within any company or industry. The Petitioner noted that he would advise investors on compliance but did not clarify on what “legal rules and ethical aspects” his company would provide advice. Likewise, the Petitioner asserted his company would provide “training and capacity building in finance and investment matters, with an emphasis on various aspects of American, and other, financial and tax policies,” yet these proposed trainings and focus of these initiatives is left unexplained and ambiguous. Further, the Petitioner emphasized that his professional services would generate FDI, and that he would implement “financial procedures” and forecasting initiatives,” “streamline business objectives,” and apply “strict adaptation to volatile economic patterns.” However, in each case, the Petitioner did not sufficiently describe or document how his company would generate FDI, what procedures and initiatives he would implement, business objectives he would streamline, or strict adaptations he would apply. In fact, the Petitioner did not discuss what clients he would work with or target, only vaguely indicating it could be any U.S. or foreign company engaged in the U.S. financial marketplace. The Petitioner has not supported his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Similarly, the Petitioner asserted that his company’s services would lead to “substantial ripple effects upon key commercial and business activities,” contribute “to a revenue-enhanced business ecosystem, and an enriched, productivity centered economy,” and offer “economic convenience and agility through finance.” The Petitioner also stated that his company would “develop and implement innovative business models that create new economic value.” However, again, the ripple effects, key commercial and business activities, revenue enhanced business eco-systems, innovative business models, and new economic values are left unexplained and unsubstantiated. On appeal, the Petitioner also points to “specialized financial and investment advisory services,” that will promote economic growth, international investment, global financial stability, job creation, and positive economic effects. The Petitioner further asserts that his company intends to “reserve profits for further investments, business expansion, and technological advancements” to “potentially have a wider impact.” Yet again, the Petitioner does not sufficiently describe in detail the nature of the financial and investment services his company would provide, the international investment they would generate, global financial stability it would promote, business expansion it will seek out, or technological advancements it would implement. Without sufficient detail, it is not clear how the Petitioner’s proposed financial business would have a potential prospective impact on a national level in an industry the Petitioner states accounted for 7.4% of the U.S. gross domestic product, or \$1.5 trillion, in 2018. *Id.*

As noted by the Director, the Petitioner also submitted vague business plans that did not sufficiently establish its proposed financial and hiring projections. For instance, the basis of the Petitioner’s proposed business plan was to provide financial services in a wide variety of potential fields, including financial planning, investment, tax, bookkeeping, and accounting advice, to any U.S. or foreign company seeking to invest in the U.S. marketplace, leaving its potential impact uncertain. As discussed, the Petitioner stated that the central feature of his company’s business plan was the

“Investment Easy Project,” which as discussed was left insufficiently explained. In fact, the Petitioner acknowledged in his business plan that the finance and accounting field was largely dominated by a handful of large firms, such as [REDACTED]. However, in apparent contradiction, he did not explain and document how his business plans would have a national impact on this major U.S. industry. As discussed, the Director also concluded that the Petitioner did not explain how his projected 20 employees within the first five years would come from economically depressed areas as claimed, and he does not address this conclusion by the Director on appeal. In sum, the Petitioner’s business plan does not demonstrate that his proposed endeavor would, more likely than not, have significant potential to employ U.S. workers or generate other substantial positive economic effects. *Id.*

On appeal, the Petitioner points to submitted industry reports and articles discussing a wide variety of general topics, including the financial services industry, FDI, GDP, and the aggregate impact business development employees, entrepreneurs, and immigrants have on the U.S. economy. However, while new businesses, entrepreneurs, and immigrants may contribute to the economy in some way, including to the overall U.S. GDP and perhaps to FDI, it does not follow that all new businesses that generate revenue and investment, and who employ U.S. citizens, have a potential prospective impact on a national level. For instance, the Petitioner noted that total FDI flows in the United States reached \$253.6 billion in 2018, and given this, it is not clear how his proposed business projecting to earn \$8.6 million in revenue during its first five years (even if these revenue projections were sufficiently supported, which they are not) would have a national impact on things such as overall U.S. FDI and GDP. The generic reports and articles provided by the Petitioner do little to corroborate that his proposed endeavor would have a potential prospective impact on a national level. *Id.*

The Petitioner has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed financial consulting business would rise 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. *Matter of Dhanasar*, 26 I&N Dec. at 893. As noted by the Director, the record does not show that the Petitioner’s proposed endeavor stands to sufficiently extend beyond his proposed clientele, even if such clientele were sufficiently identified and documented. As such, the Petitioner has not demonstrated that his proposed endeavor would have a broad influence commensurate with national importance.

Because the documentation in the record does not establish the national importance of his 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, we decline to reach and hereby reserve the Petitioner’s arguments with respect to the second and third prong outlined in *Dhanasar*. 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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.