



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

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

In Re: 29047110

Date: DEC. 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a business developer, 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 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 although the Petitioner established his eligibility for EB-2 classification as a member of the professions holding an advanced degree, he did not demonstrate 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. 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, under section 203(b)(2) of the Act. Next, a petitioner 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. 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,<sup>1</sup> grant a national interest waiver if the petitioner shows:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

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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).

- On balance, waiving the job offer requirement would benefit the United States.<sup>2</sup>

## II. ANALYSIS

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree.<sup>3</sup> Therefore, the sole issue to be addressed is whether the Petitioner has established that a discretionary waiver of the job offer requirement, and thus of a labor certification, would be in the national interest.

In denying the petition, the Director addressed all three prongs of the *Dhanasar* analytical framework, and concluded that the Petitioner did not demonstrate that he meets any of those prongs. On appeal, the Petitioner maintains that the evidence was sufficient to demonstrate that he meets all three prongs under the *Dhanasar* framework and otherwise warrants a national interest waiver as a matter of discretion. For the reasons discussed below, we agree with the Director's conclusion that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

### A. Proposed Endeavor

At the time of filing, the Petitioner provided a personal statement detailing his "Plan for Future Activities in the United States," in which he indicated that he intends to continue to work as a business developer managing companies' business and financial operations. The Petitioner further describes his proposed endeavor as follows:

Through my endeavor, I would be responsible for planning, directing, and coordinating the operations and financial activities of public or private sector organizations. My duties and responsibilities would include formulating policies, managing daily operations, and managing accounting and investing activities for the entire company. My proposed endeavor perfectly matches my career experiences, as I have been in charge of companies' financial, marketing and sales, business development, channel management, and strategic/planning and project management operations . . . . I intend to do the same for U.S. companies that I work for.

....

My work can also lead to helping U.S. companies expand abroad, including South America, where I possess broad knowledge in the markets.

....

To advance my proposed endeavor in the U.S., I have already been reaching out to several contacts I have in the U.S. market. One of these contacts is at  . . . .

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

<sup>3</sup> The record establishes that the Petitioner holds the foreign equivalent of a bachelor's degree from an institution of higher education in the United States, and that he has at least five years of progressive, post-baccalaureate experience in his specialty. See 8 C.F.R. § 204.5(k)(3).

The number of immigrants in the country is growing and its Headquarters have identified the need to invest a larger structure to serve this community, helping immigrants in the U.S. become financially and physically secure. I have been in talks with [redacted] to help build this department, and advise on risk management and foreign investments. Through this department, it is expected to provide at least 20 U.S. jobs initially, with the projections to increase significantly over time.

....

[A]nother way in which I can advance my endeavor in the U.S. is opening a business development consulting firm, where I can provide a wide array of U.S. companies with business expansion advice, simultaneously.

....

The Petitioner's initial submission included a letter from an "International Business Specialist" at [redacted], Florida, showing the company offered him the position of financial representative.<sup>4</sup>

In response to the Director's request for evidence, the Petitioner submitted a copy of an updated personal statement,<sup>5</sup> which emphasizes that his role as business developer is to create new business opportunities for client companies "by identifying new customers, creating partnerships, and identifying new revenue streams."

## B. Substantial Merit and National Importance

To satisfy the first prong under the *Dhanasar* analytical framework, the Petitioner must demonstrate that his proposed endeavor has both substantial merit and national importance. This prong of the *Dhanasar* framework focuses on the specific endeavor 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 Director concluded that the Petitioner established that his proposed endeavor has substantial merit but determined he did not meet his burden to establish the national importance of the endeavor.

Specifically, the Director determined that the Petitioner had not shown how his proposed endeavor would have broader implications within his field that would reach beyond clients utilizing his services, or that it would broadly enhance societal welfare. In this regard, the Director observed that claims that the proposed endeavor would help U.S. companies expand within the country and to Latin American markets, and help foreign companies expand to the United States did not appear to extend

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<sup>4</sup> As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer. However, we will consider information about his desired position at [redacted] to illustrate the capacity in which he intends to work in order to determine whether his proposed endeavor meets the requirements of the *Dhanasar* framework.

<sup>5</sup> We note that the copy of the Petitioner's updated personal statement before us appears to be missing information; with the exception of the first page, all of its pages begin in the middle of sentences that do not continue from the previous page.

beyond his “prospective employer or self-owned company . . . to demonstrate the national importance of his endeavor.” The Director further observed that the record did not demonstrate that the proposed endeavor has significant potential to employ U.S. workers, would impact an economically depressed area, or would have benefits to the regional or national economy that would reach the level of “substantial economic effects” contemplated by *Dhanasar*. *Id.* at 890.

On appeal, the Petitioner maintains that the Director did not give due regard to his initial and updated professional plan and statement and industry reports and articles demonstrating the national importance of his proposed endeavor. For the reasons provided below, we agree with the Director’s determination that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.<sup>6</sup>

When determining national importance, the relevant question is not the importance of the industry, sector, or profession in which the individual will work; instead, we focus on “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 have considered evidence related to the Petitioner’s proposed activities for prospective employers in the business and financial services field, as a financial representative of [REDACTED], and as a business development and financial consultant. The Petitioner has not shown how the business development and financial services he intends to provide would have broader implications in the business development or financial services field. The Petitioner maintains on appeal that his work as a business developer “is increasing FDI [foreign direct investment], and foreign trade, which will result in an increase in employment for U.S. workers” and “will have a prospective impact and rise to the level of national importance, as contemplated by *Dhanasar*.” However, these statements are not supported by financial projections.

The record lacks evidence that the proposed endeavor’s future staffing levels and business activity would provide substantial economic benefits in Florida or in the United States, or that it otherwise has broader national implications within the field. Without this evidence, we cannot evaluate the proposed endeavor’s impact on job creation or its overall economic impact. As such, the Petitioner has not supported a claim that his proposed endeavor is likely to, for example, introduce innovations that may have broader implications in the financial services or business development field. Although the proposed endeavor may benefit the client companies that engage the Petitioner’s services, the record does not sufficiently show that such benefits, either individually or cumulatively, 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. *Id.* at 893. The record does not provide adequate support for a determination that his specific proposed endeavor will have such a wide-reaching impact.

We also stated in *Dhanasar* 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

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<sup>6</sup> While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

instance, may well be understood to have national importance.” *Id.* at 890. Here, the Petitioner has not offered sufficient evidence identifying the area where his company will operate; that it is economically depressed; that his company would employ a significant population of workers in that area; or that his endeavor would offer the region or its population a substantial economic benefit through employment levels or business activity.

Further, the Petitioner provided copies of articles and reports from business, industry, and government publications discussing the economic benefits of international trade, trade with Latin America, and foreign direct investment in the United States. Here, the Director concluded that the submitted articles and government reports establish the Petitioner’s endeavor has substantial merit. In determining national importance, however, the relevant question is not the importance of the industry 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. The Petitioner must still demonstrate the potential prospective impact of his specific proposed endeavor.

Moreover, in his personal statements and appellate brief, the Petitioner emphasized his professional experience in the field. The record also contains recommendation letters from his former employers in Brazil and Angola. While important, the Petitioner’s expertise acquired through his academic and professional career primarily relates to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* The issue here is whether the specific endeavor the Petitioner proposes to undertake has national importance under *Dhanasar*’s first prong. A determination regarding the claimed national importance of a specific proposed endeavor cannot be inferred based on the Petitioner’s past accomplishments, just as it cannot be inferred based on general claims about the importance of a given field or industry.

Finally, we acknowledge that the Petitioner provided an expert opinion letter from a professor of management at the [redacted] who addresses his eligibility for a national interest waiver under the three prongs of the *Dhanasar* framework. Much of the letter discusses the Petitioner’s work experience in business development. The professor concludes that the Petitioner’s work “as a business developer is an endeavor of merit and national importance, given its significance to the current economic operations and future innovations of American firms.” However, the author does not indicate how the Petitioner’s business plan supports a determination that the proposed endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, or how it has national implications within field.

We observe that USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int’l*, 19 I&N Dec. 791, 795 (Comm’r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national’s eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter lacked relevance and probative value with respect to the national importance of the Petitioner’s proposed endeavor.

In light of the above conclusions, the Petitioner has not met his burden of proof to establish that he meets the first prong of the *Dhanasar* national interest framework. Because the Petitioner has not established his proposed endeavor has national importance, he is not eligible for a national interest waiver under the *Dhanasar* analytical framework. Although the Director also concluded that the Petitioner had not established his eligibility under the second and third prongs of the *Dhanasar* framework, detailed discussion of the remaining prongs cannot change the outcome of this appeal. Therefore, we reserve those issues and will dismiss the appeal as a matter of discretion.<sup>7</sup>

### 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. 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.

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<sup>7</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “courts and agencies are not required to make findings on issues in 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).