



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 29048707

Date: DEC. 20, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial consultant, 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). 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, concluding that the record did not establish that the Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for 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 USCIS may, as matter

of discretion¹, grant a national interest waiver if the petitioner demonstrates that:

- 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 record reflects that determination.

However, the Director found the record did not establish that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. The Director found that while the Petitioner demonstrated the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance, as required by the first prong of the Dhanasar analytical framework. The Director also found that although the Petitioner established that he is well positioned to advance the proposed endeavor under Dhanasar's second prong, he did not establish that on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under Dhanasar's third prong. Upon de novo review, we agree with the Director's determination that the Petitioner did not demonstrate that a waiver of the labor certification would be in the national interest.²

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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 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." *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner proposes to be self-employed in the United States working as an independent financial consultant to startup businesses, small and medium-sized companies, and entrepreneurs. His financial consultant plan indicates that his financial management and capital investment advice will enable businesses to improve their internal management processes, their profitability, their long-term sustainability, and their competitiveness and growth in the United States and in international markets. The plan states that he "intends to provide well-targeted and effective services . . . with the goal of automating and increasing the efficiency of financial management processes, accelerating growth and ensuring the labor-saving and cost-effective use of their companies' resources, consequently leading to the increase in revenues and return on investments." (emphasis omitted). The Petitioner further states that his work will "support advancements in [his] field by helping . . . companies respond to economic and market pressure and by working with their upper management teams to find new niche markets, new domestic and international investment opportunities and improve their companies'

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).

² While we may not discuss every document submitted, we have reviewed and considered each one.

financial management and business efficiency.” We agree with the Director that the Petitioner’s proposed endeavor has substantial merit.

Even though the Petitioner’s proposed endeavor has substantial merit, the Director found that the record did not demonstrate the Petitioner’s “proposed endeavor stands to sufficiently extend beyond his consultancy services and his clientele to impact his field more broadly at a level commensurate with national importance.” The Director also found that the record did not support the Petitioner’s claims that his proposed endeavor has the “significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation, particularly in an economically depressed area.”

The Petitioner argues on appeal that the Director’s decision “contains instances of a misunderstanding and misapplication of law that go beyond harmless error and reach the levels of abuse of discretion.” The Petitioner argues the Director “did not contemplate or discuss the totality of the evidence submitted for proving the national importance of the Petitioner’s proposed endeavor.” The Petitioner stresses that the totality of the evidence included with the initial petition and with his reply to the request for evidence “clearly provides ample evidence in the form of both testimonial and objective documentary evidence to establish the national importance of the proposed endeavor from both an economic and social welfare standpoint.” The Petitioner points to industry and government reports arguing they demonstrate the importance of financial consultants to “the financial health of an organization,” particularly to small and medium-sized businesses. He further argues that he met his standard of proof by providing sufficient evidence demonstrating by a preponderance of the evidence that his proposed endeavor is of national importance. Upon de novo review, we find the record does not demonstrate that the Petitioner’s proposed endeavor satisfies the national importance element of *Dhanasar*’s first prong, as discussed below.

The Petitioner stresses on appeal that the Director erred in not considering the totality of the evidence in the issuance of the request for evidence notice and the denial decision. He argues the request for evidence notice provided a limited assessment of the initially submitted evidence and failed to clearly identify the evidence’s deficiencies and to provide guidance for rectifying any concerns with the submitted documentation. We disagree with the Petitioner’s claims relating to the deficiencies of the Director’s request for evidence and denial decision.

Contrary to the Petitioner’s arguments, the notice provided a sufficient analysis of the initially submitted evidence and apprised the Petitioner of the deficiencies of the evidence and how it did not sufficiently show the national importance of his proposed endeavor. The notice further explained the evidence needed to establish its national importance. Also, the Director’s decision properly analyzed the Petitioner’s documentation and weighed the evidence to evaluate the Petitioner’s eligibility by a preponderance of the evidence. The standard of proof in this proceeding is preponderance of the evidence, meaning that a petitioner must show that what is claimed is “more likely than not” or “probably” true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm’r 1989).

To evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of his work. Matter of Dhanasar, 26 I&N Dec. at 889. The record does not demonstrate that the Petitioner’s proposed endeavor will substantially benefit the field of financial consulting, 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. As pointed out by the Director, the evidence does not suggest that the Petitioner’s financial consultant work would impact the financial consulting field more broadly.

The record includes the Petitioner’s statements and his financial consultant plan describing his proposed work and its potential economic benefits to show its national importance. The plan indicates that his financial consulting work would promote and enhance the sustainable development of businesses “based on three pillars - economic, social, and environmental while obeying with the principles of corporate social responsibility towards the wider community.” (emphasis omitted). The Petitioner’s plan describes the economic impact of the COVID-19 pandemic on small and medium-sized businesses and the U.S. economy, contending that his “knowledge will support the efforts of the U.S. economy to get back on track.” His work would help “businesses to increase their solvency and productivity, cost efficiency, boost revenue generation potential, increase profit margins, create new jobs, mitigate risks and combat growing uncertainty.” The plan also stresses the Petitioner’s professional credentials, experience, and achievements to show his work would help the corporate sustainability of U.S. businesses; enrich a field with a shortage of industry professionals; and support U.S. government economic initiatives, including economic recovery after the COVID-19 pandemic, entrepreneurialism, and strengthening small and medium-sized businesses. The plan also provides an analysis of the financial planning industry in the United States, including the Petitioner’s target market in the [REDACTED], Florida area. The plan describes the average revenue for financial advisors in [REDACTED], Florida area, and briefly describes the Petitioner’s intent to work in economically underserved business communities in the [REDACTED] Florida area.

However, the Petitioner has not provided corroborating evidence to support his claims that his financial consulting activities stand to provide substantial economic benefits to Florida, its underserved business communities, or the United States. The Petitioner’s claims that his financial consulting will benefit the U.S. economy has not been established through independent and objective evidence. The Petitioner’s statements are not sufficient to demonstrate his endeavor has the potential to provide economic benefits. The Petitioner must support his assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376.

While the Petitioner expresses his desire to contribute to the United States and the economic growth of small and medium-sized businesses, he has not established with specific, probative evidence that his endeavor will have broader implications in his field, will have significant potential to employ U.S. workers, or will have other substantial positive economic effects in Florida, its economically underserved business communities, or the United States. Also, without sufficient documentary evidence that his proposed job duties as an independent financial consultant to small and medium-sized businesses in the [REDACTED] Florida area would impact the financial consulting industry more broadly, rather than benefiting the Petitioner and his proposed clients, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

The Petitioner argues on appeal that the national importance of his proposed endeavor is evidenced in industry reports and articles. The reports and articles relate to improving access to finance for small and medium-sized businesses through credit reporting, secured lending, and insolvency practices; reasons businesses close; an analysis of small businesses; U.S. government jobs plan; risk management of businesses; the business philosophy of [redacted]; industries with job growth; global shortage of skilled financial professionals; business opportunity areas for [redacted], Florida; U.S. government small business administration trade and export promotion programs; employment profile for personal financial advisors; and the importance of financial managers to businesses.

We recognize the importance of the financial consulting industry, its related careers, and the economic support of small and medium-sized businesses; however, merely working as a financial consultant for small and medium-sized businesses is insufficient to establish the national importance of the proposed endeavor. Instead, we focus on the “the specific endeavor that the foreign national proposes to undertake.” See *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we 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. The industry reports and articles submitted do not discuss any of the Petitioner’s claimed economic impacts specifically attributable to the Petitioner’s financial consulting work.

The Petitioner’s statements and financial consulting plan stress his professional credentials, knowledge, and achievements to show the importance of his proposed financial consulting work to the economic growth of his prospective business clients and the United States. The record includes recommendation letters from the Petitioner’s professional colleagues and previous clients. The letters mainly discuss the Petitioner’s work experience, his knowledge of financial management and consulting, and his professionalism working with them. The letters convey his financial consulting expertise and the importance of his work to specific projects which helped his employers and clients overcome financial challenges and improve financial processes leading to the growth of their businesses. However, these documents relate to the second prong of the *Dhanasar* framework. See *id.* We acknowledge that the Petitioner provided valuable financial consulting work for his employers and clients in the past. However, as indicated by the Director, the Petitioner has not offered sufficient information and evidence based on these recommendation letters to demonstrate the prospective impact of his proposed endeavor will rise to the level of national importance, rather than only impacting his prospective clients. The letters do not demonstrate that the Petitioner’s work will have national or global implications in the field of financial consulting.

The Petitioner does not demonstrate that his proposed endeavor extends beyond his financial consulting work and his future clients to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance. Beyond general assertions, he has not demonstrated that the work he proposes to undertake as an independent financial consultant offers original innovations that contribute to advancements in the financial consulting industry or otherwise has broader implications for his field. The economic benefits that the Petitioner claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed financial consulting work and the claimed results.

Because the documentation in the record does not sufficiently establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision, he has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding his eligibility under the second and third prongs. 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 record does not establish that the Petitioner has met the requisite first prong of the Dhanasar analytical framework, we find that the Petitioner is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.