



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

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

In Re: 24567805

Date: FEB. 1, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a chief financial officer, seeks classification as a member of the professions holding an advanced degree. 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, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established 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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).<sup>1</sup> *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as a

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<sup>1</sup> In announcing this new framework, we vacated our prior precedent decision, *Matter of New York State Dep't of Transp.*, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998) (*NYSDOT*).

matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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.

The second prong shifts the focus from the proposed endeavor to the noncitizen. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual's education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.

The third prong requires the petitioner to demonstrate 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. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the noncitizen's qualifications or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the noncitizen's contributions; and whether the national interest in the noncitizen's contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, indicate 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.<sup>2</sup>

## II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

Initially, the Petitioner described the endeavor as a plan to "replicate the success he has had, helping companies succeed and expand" and "to employ his own business and finance expertise to make his own U.S. company[] a big success." In response to the Director's request for evidence (RFE), the Petitioner asserted that the financial consulting company that he founded in the United States before filing the Form I-140, Immigrant Petition for Alien Workers, will provide "reliable financial advice, allowing US citizens and businesses to grow and make better financial decisions." The Petitioner further asserted that his financial consulting company will generate "direct and indirect jobs and contribut[e] to the country by ensuring due compliance with financial obligations with the state and

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

support[] the training of new professionals in accounting and finance given my experience.” The Petitioner also submitted a business plan for his financial consulting company, which in relevant part indicated that he planned to employ himself as chief financial officer and four financial analysts in the first year of operation, increasing to 23 financial analysts, plus the Petitioner, in the fifth year of operation. The business plan describes the Petitioner’s financial consulting company as “Florida-based” but it does not specify where the Petitioner intended to provide financial consulting services and where he intended to employ financial analysts. The business plan also states that employing 24 workers in the professional, scientific, and technical services in Florida will “[g]enerate a final-demand impact in employment, equivalent to 416 jobs in Year 5,” according to a RIMS II calculation.

The Director found that the record does not establish that the proposed endeavor has national importance because the Petitioner “has not demonstrated that the specific endeavor that he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation.” The Director noted that the record does not contain “relevant, probative and credible evidence to establish that the area where [the Petitioner] plans to conduct businesses is economically depressed, that he would employ a significant population of workers in such an area, or that his endeavor would offer those regions or their population a substantial economic benefit through employment levels.”

On appeal, the Petitioner reasserts that his business plan, letters of recommendation, generalized articles and reports, and opinion letters establish that the proposed endeavor of operating a financial consulting services company will have national importance.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

The record establishes that the proposed endeavor will benefit the Petitioner, as chief financial officer of his own company, and his company’s clients; however, the record does not establish that the proposed endeavor will have substantial positive economic effects that would show national importance, as contemplated by *Dhanasar*. Although the Petitioner’s financial consulting company’s business plan states that the company is “Florida-based,” it does not establish where he intends to employ 23 financial analysts. The business plan identifies companies located in Florida and California for whom the company has provided financial services, but it does not elaborate on whether the financial analysts worked on-site at the client’s locations or elsewhere. Furthermore, we note that publicly available information provided by the Florida Department of State indicates that the principal and mailing addresses of the Petitioner’s financial consulting company match his residential address provided on the Form I-140, but the record does not clarify whether the Petitioner intends to employ 23 financial analysts working in his residence.

Similarly, the business plan does not elaborate on the 416 indirect jobs a RIMS II calculation anticipates his financial consulting company will create, such as the types of jobs those would be and where they would be created. Without more detailed, credible evidence of the types of jobs that would be created and where the jobs would be located, the record does not establish that employing 23 financial analysts, in addition to the Petitioner employing himself, and indirectly creating 416 unspecified jobs at unspecified locations would show the type of substantial positive economic effects, and whether the effects would be particularly in an economically depressed area, contemplated by the first *Dhanasar* prong. *See id.* at 889-90.

Next, the letters of support referenced on appeal by the Petitioner do not establish that the proposed endeavor has national importance. Two of the letters of recommendation are from clients of the Petitioner's financial consulting company. The letters opine that their business relationship "will give a positive boost to the business" and "result in a greater generation of income for the [c]ompany, with the consequent impacts that this means; such as the contribution to the economic growth of the United States, increased payments of Federal and State taxes, increased capacity to hire new workers with social impact in the communities," respectively. The letters of recommendation from the Petitioner's clients address the interest of potential customers, users, investors, or other relevant entities or individuals as contemplated by the second *Dhanasar* prong; however, other than generally stating that the proposed endeavor will improve their own income, they do not elaborate about substantial positive economic effects and where those effects would occur, contemplated by the first *Dhanasar* prong. *See id.* at 888-91. The other letter of recommendation referenced on appeal is from the Petitioner's former supervisor between 2008 and 2010. The Petitioner's former supervisor discusses the Petitioner's performance for his former employer during that time; however, he does not address the proposed endeavor and how it may have national importance. *See id.* at 889-90.

The Petitioner's reliance on generalized articles and reports is misplaced. As noted above, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *Id.* at 889. Specifically, the Petitioner references an article published in 2018 titled "Over 30 Popular STEM (& STEAM) Careers and 10 Unusual Ones, a 2012 report from the President's Council of Advisors on Science and Technology, and a 2017 press release about a Presidential memo "to increase access to STEM and computer science education." Neither the article, the report, nor the press release discuss the Petitioner's proposed endeavor and how it may have national importance. *See id.*

The Petitioner submitted two opinion letters in response to the RFE; however, they do not establish that the proposed endeavor will have national importance. The opinion letters from an associate professor of finance at [redacted] University and a professor of finance at [redacted] University repeat information provided in the Petitioner's business plan, summarize information about financial consulting in general, and assert that "the proposed endeavor will work in an area with substantial merit and national importance." However, as addressed above, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *Id.* at 889. The opinion letters do not discuss how the proposed endeavor will have "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or broader

implications, such as “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

We note that, on appeal, the Petitioner asserts that he “submitted an approximate of a three hundred (300) pages of documentation establishing a preponderance of the evidence (more likely than not) which was then summarily dismissed by the officer without providing a real analysis or reason.” However, the Petitioner does not elaborate on how that evidence relates to the first *Dhanasar* prong and, furthermore, how it establishes that the proposed endeavor will have substantial positive economic effects, particularly in an economically depressed area, contemplated by the first *Dhanasar* prong. *See id.* at 889-90.

In summation, the Petitioner has not established that the 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 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 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.