



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

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

In Re: 26965494

Date: JULY 19, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability 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 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. On appeal, the Petitioner contends that the Director's decision contains numerous erroneous conclusions of both law and facts.

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.

“Advanced degree” means any U.S. academic or professional degree or a foreign equivalent degree above that of baccalaureate. 8 C.F.R. § 204.5(k)(2). A U.S. baccalaureate degree or a foreign equivalent degree followed by five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. *Id.*

“Profession” means one of the occupations listed in section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32),<sup>1</sup> as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. 8 C.F.R. § 204.5(k)(2).

“Exceptional ability” in the sciences, arts, or business means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. *See* 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).<sup>2</sup> Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. We will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having a degree of expertise significantly above that ordinarily encountered in the field.<sup>3</sup>

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>4</sup>, 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

### A. EB-2 Visa Classification

As indicated above, the 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.

The Petitioner claims that the Director acknowledged that she qualifies as an advanced degree professional. However, a review of the record of proceeding reveals that the Director did not determine whether the Petitioner has demonstrated eligibility for EB-2 visa classification either as an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Here, since the evidence in the record does not establish by a preponderance of the evidence that the

---

<sup>1</sup> Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

<sup>2</sup> If these types of evidence do not readily apply to the individual’s occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

<sup>3</sup> USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of individuals of exceptional ability. *See generally* 6 *USCIS Policy Manual* F.5(B)(2), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5>.

<sup>4</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).

Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion for the reasons we will discuss below, there is no requirement to reach the issue of the Petitioner's categorical eligibility for EB-2 visa classification today, and we will reserve this issue for future consideration should the need arise.<sup>5</sup>

## B. National Interest Waiver

The Petitioner proposed to provide services as a financial manager in the United States.<sup>6</sup> She asserted that she would develop and manage financial plans to support companies in growing their businesses, meeting their commercial targets, gaining more customers, and generating revenue.<sup>7</sup> The Petitioner further asserted that she would optimize companies' resources, increase company revenue, and create job opportunities, contributing to the U.S. economy.<sup>8</sup> The Petitioner also asserted that she would implement innovative and efficient strategies and make high performance in the business sector by managing budget and office and preparing and analyzing key performance indicator reports, which measure the performance of individuals, projects, and departments, helping companies in the elaboration of strategies and objectives.<sup>9</sup>

The Director did not determine whether the Petitioner's proposed endeavor has substantial merit or whether the Petitioner is well positioned to advance the proposed endeavor. The Director only determined that the Petitioner has not submitted sufficient evidence to demonstrate that her proposed endeavor is of national importance and 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.

At the time of filing her petition, the Petitioner submitted her resume, diplomas, transcripts, course or training completion certificates, evidence of membership in associations, letters from an accountant, professional plan, an expert opinion letter from a professor, industry reports and articles, and support letters from her former supervisor, former colleagues, and former professor. In response to a request for evidence, the Petitioner submitted her updated resume, updated professional plan, letters from her current and former employers, her federal income tax return for 2021, an expert opinion letter from a professor, employment contracts, and a job offer letter from her current employer. On appeal, the Petitioner does not submit new evidence to address the deficiencies noted in the Director's decision. While we may not address each piece of evidence individually, we have reviewed and considered each one.

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* For example, endeavors related to research, pure science, and the furtherance of human knowledge may qualify. *Id.* In this

---

<sup>5</sup> 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 alternate issues on appeal where an applicant is otherwise ineligible).

<sup>6</sup> See the Petitioner's professional plan, at 2, dated August 2022.

<sup>7</sup> See *id.* at 4.

<sup>8</sup> See *id.*

<sup>9</sup> See *id.* at 4-7.

case, we determine that the Petitioner's proposed endeavor to provide services as a financial manager in the United States to support companies in growing their businesses, optimizing their resources, increasing their revenue, creating jobs, and contributing to the U.S. economy has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. An 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.* We look for broader implications. *Id.* An 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 her work has palpable broader implications because its results are widely disseminated to other professionals in the finance market. The Petitioner further contends that USCIS may consider information about petitioners' current or prospective positions to illustrate the capacity in which they intend to work to determine whether the proposed endeavor meets the requirements of the first prong of the *Dhanasar* framework. The Petitioner then provides her employment history from 2006 to present, indicating that she has worked for various companies as a salesperson, a receptionist, an administrative assistant, or an executive secretary since 2006. The Petitioner states that at her current position as an administrative assistant with [REDACTED] since October 2021, she assists vice presidents in their daily routines, prepare reports about production and activities, prepares presentations, draft contracts and letters, plans events, lunches, and other functions, send interoffice communications, and order supplies.

The Petitioner's current job responsibilities show that she performs various administrative functions as an administrative assistant for her current employer, but these duties do not illustrate how her proposed endeavor to provide services as a financial manager will have broader implications within a particular field or how the results of her work will be disseminated to other professionals in the finance market. In addition, the Petitioner's lengthy employment history as a salesperson, a receptionist, an administrative assistance, or an executive secretary for various companies may support that she is well positioned to advance the proposed endeavor under the second prong of the *Dhanasar* framework, but it does not support that her proposed endeavor is of national importance.

In addition, the Petitioner contends that the positive impacts of her proposed endeavor are significant because they relate to an area of national importance – finance. The Petitioner asserts that finance is an essential aspect for U.S. individuals and organizations, and, therefore, she will be vital for the U.S. business growth. The Petitioner further contends that her proposal will impact the finance field because she will innovate the way financial services are provided and foster U.S. small businesses, which are the backbone of the U.S. economy, lead the way in innovations, and reflect the diversity of the U.S. population. The Petitioner also contends that her proposal will implement modern and refined techniques in finance, influencing the field.

While we acknowledge the importance of the finance field and small businesses in the U.S. economy, 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 specific endeavor that the foreign national proposes to undertake. *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner must

demonstrate by a preponderance of the evidence that the specific endeavor that she proposed to undertake – providing services as a financial manager - is of national importance. Here, the Petitioner has not provided sufficient documentary evidence that her proposed endeavor as a financial manager would impact the finance field more broadly rather than benefiting her employer or clients. Without sufficient documentary evidence of its broader impact, the Petitioner's proposed employment does not meet the national importance element of the first prong of the *Dhanasar* framework.

In addition, while the Petitioner claims that she will innovate the way financial services are provided, foster small businesses, and implement modern and refined techniques in finance to influence the field, she has not provided further details regarding how she will innovate the way financial services are provided or how her financial services will foster small businesses. Also, she has not identified what the modern and refined techniques in finance are and explained how she will implement the techniques to influence the finance field. Lack of detailed information and the Petitioner's general conclusionary assertions without supporting documentation impede our ability to determine whether the proposed endeavor is of national importance. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (holding that statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in immigration proceedings); see also *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990) (stating that USCIS need not accept primarily conclusionary assertions).

As for the economic value and job creation that the Petitioner asserts her proposed endeavor will offer, the Petitioner claims that her endeavor will lead to business improvement by helping U.S. businesses identify their weaknesses and take necessary measures for improvement; that her endeavor will impact cross-border transactions, which has the potential to significantly impact the U.S. economy; that she will facilitate capital accumulation throughout the nation by serving foreign companies and investors who will invest in the United States; and that she will provide financial services to companies conducting cross-border activities in Brazil because she is well versed in the Brazilian market. The Petitioner claims that her proposal has significant potential to maintain U.S. workforce production at a fast pace, which will translate into economic benefits for U.S. companies, the increase in productivity, competitiveness, generation of revenue, creation of U.S. jobs, and impacting the nation in several layers of the society.

Regarding the cross-border business transactions, the record does not adequately explain how the financial services the Petitioner proposed to provide would influence foreign companies or investors to invest in the United States or U.S. companies to conduct cross-border activities in Brazil at a level implicating national importance. While the Petitioner links foreign direct investment with job creation in general and also links cross-border activities in Brazil to job creation in the United States, the record does not establish by a preponderance of the evidence that any foreign direct investment in the United States or any cross-border activities in Brazil to be procured as a result of the Petitioner's proposed endeavor would create jobs on a magnitude, which could elevate her proposed endeavor to a level of national importance.

While we acknowledge the Petitioner's aspirations, she has not offered sufficient evidence to establish that her financial services will enable her employer or clients to employ a significant population of workers in an economically depressed area or that her endeavor would offer a particular U.S. region or its population a substantial economic benefit through employment levels or business activity. Nor

has the Petitioner demonstrated that any increase in her employer's or clients' revenue stands to substantially affect economic activity regionally or nationally. The Petitioner has not otherwise provided sufficient information and evidence to demonstrate the prospective impact of her proposed endeavor rises to the level of national importance. Accordingly, the record does not sufficiently demonstrate that the Petitioner's proposed endeavor is of national importance.

Because the documentation in the record does not establish by a preponderance of the evidence the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Therefore, further analysis of her eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose. We will reserve these issues for future consideration should the need arise.<sup>10</sup>

### III. CONCLUSION

Although the Petitioner has shown that her proposed endeavor to provide services as a financial manager in the United States has substantial merit, she has not shown by a preponderance of the evidence that her proposed endeavor is of national importance. Accordingly, the Petitioner has not established by a preponderance of the evidence that she 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.

---

<sup>10</sup> 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 alternate issues on appeal where an applicant is otherwise ineligible).