



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

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

In Re: 27442409

Date: AUG. 1, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur in the field of finance, 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 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 did not apply the proper standard of proof in his case, instead imposing a stricter standard, and erroneously applied the law to his detriment.

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).

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>2</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

The Petitioner proposed to work in the United States as an entrepreneur in the field of finance. He holds a bachelor’s degree in business administration from [REDACTED]. He has worked as the managing partner of [REDACTED] a company that provides financial and strategic advisory services, since 2016. He worked as an executive director and a partner of [REDACTED] a real estate investment company, from 2013 to 2018. He worked as the director and a partner of [REDACTED], a company that provides advisory and asset management services, from 2010 to 2013. He worked as the senior vice president, the managing director, and a portfolio manager of [REDACTED] from 2007 to 2010. The Director determined that the Petitioner is eligible for the EB-2 classification as a member of the professions holding an advanced degree based on his combined education and experience, and we agree.

The remaining issue on appeal is whether the Petitioner is eligible or otherwise merits a waiver of that classification’s job offer requirement. We conclude that he is not. While we may not address each piece of evidence individually, we have reviewed and considered each one.

The Director determined that the Petitioner’s proposed endeavor has both substantial merit and national importance. But the Director determined that the Petitioner has not established that he is well positioned to advance the proposed endeavor 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.

On appeal, the Petitioner contends that the Director did not apply the proper standard of proof in this case, instead imposing a stricter standard, and erroneously applied the law to his detriment.

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<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> 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).

Except where a different standard is specified by law, a petitioner must prove eligibility for the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Under the preponderance of the evidence standard, the evidence must demonstrate that the petitioner's claim is "probably true." *Id.* at 376. We will examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. In this case, we have reviewed each piece of evidence, both individually and within the context of the totality of the evidence, and conclude that the Petitioner has not established by a preponderance of the evidence the national importance of his proposed endeavor for the reasons we will discuss below.

The Petitioner indicated that he intends to work in the United States as a financial consultant, financial structurer, and an entrepreneur in the field of finance.<sup>3</sup> The Petitioner further asserted he will help individuals organize their finance and learn how to budget and invest through his company, [REDACTED] by providing budget and investment courses and training to individuals.<sup>4</sup> The Petitioner also stated that he will help companies optimize their capital structure, raise funds, restructure, and reduce debt through his company by performing detailed financial analysis and financial models and creating financial strategies for companies.<sup>5</sup>

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.* Here, we agree with the Director that the Petitioner's proposed endeavor to work as an entrepreneur in the field of finance to help individuals organize their finance and learn how to budget and invest and help companies optimize their capital structure, raise funds, restructure, and reduce debt 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 contended that his proposed endeavor is national in scope and his professional activities relate to a matter of national importance and impact because they generate substantial ripple effects upon key commercial and business activities on behalf of the United States, serving the business development and business functions of U.S. companies.<sup>6</sup> He asserted that he will serve individuals and small business companies by providing financial training and advisory services as a business

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<sup>3</sup> See the Petitioner's professional plan and statement, at 1, dated June 28, 2022.

<sup>4</sup> See *id.* at 1-2.

<sup>5</sup> See *id.*

<sup>6</sup> See the Petitioner's brief in response to a request for evidence (RFE), dated October 11, 2022.

administrator.<sup>7</sup> He also asserted that his company will impact the financial training and advisory industry in the United States with a total wages payment of \$1.5 million by the fourth year of operation, generating 10 jobs in underutilized areas, improving the wages and working conditions for U.S. workers, and helping the local community bring investments to the region.<sup>8</sup> He further asserted that he would implement a mentoring program for underprivileged youth from the local community in California.<sup>9</sup> The Petitioner also asserted that he would educate Americans on the importance of business and finance through his financial advisory and training company.<sup>10</sup>

With regard to the Petitioner's assertions that he plans to provide budget and investment courses and training to individuals, implement a mentoring program for underprivileged youth, and educate Americans on the importance of business and finance through his financial advisory and training company, the record does not show that this undertaking has broader implications for his field, as opposed to being limited to those who participate in his training sessions or mentoring program. While the Petitioner's plans to provide training services and mentoring program have merit, the record does not sufficiently demonstrate that his instructional or mentoring activities offer benefits that extend beyond his trainees, students, or mentees to impact the field of finance or the financial training and advisory industry more broadly. Likewise, 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. *Dhanasar*, 26 I&N Dec. at 893.

The Petitioner submitted articles, which discuss the important role that business development professionals play in every type of business. He contended that these articles demonstrate the national importance of his proposed endeavor due to its economic implications, which affect nationwide activities and business productivity.<sup>11</sup> The Petitioner also submitted articles, which indicate that business development and sales professionals are key to companies' financial stability. He contended that he would create value for U.S. organizations by providing objective advice regarding optimization of business processes and implementing effective business development, sales, and marketing techniques.<sup>12</sup> In addition, the Petitioner submitted articles, which discuss the contribution of immigrants to human and physical capital formation, entrepreneurship, and innovation, the contribution of foreign entrepreneurs to the U.S. economy, and the critical role immigrant entrepreneurs play in America's small business environment. He contended that he is an essential component of the U.S. economic market; he represents American business values; his work will translate into profitable business; his work incentivizes national economic patterns; and his proposed endeavor represents American interests.<sup>13</sup> The Petitioner submitted articles, which discuss the importance of small businesses in the U.S. economy. He contended that he can advise corporations about business development, sales expansion, and effective market strategies and initiatives.<sup>14</sup>

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

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

<sup>9</sup> See *id.*

<sup>10</sup> See *id.*

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.*

While the industry reports and articles support the importance of business development and sales professionals, entrepreneurship, and small businesses in the U.S. economy, 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. Here, the Petitioner must demonstrate by a preponderance of the evidence that the specific endeavor that he proposed to undertake - establishing a financial advisory and training company - is of national importance.

While we acknowledge the Petitioner's claims, he has not provided sufficient evidence to substantiate them. For example, he has not provided sufficient documentary evidence that his proposed endeavor as an entrepreneur in the field of finance would impact the field of finance or the financial training and advisory industry more broadly rather than benefiting his own company and its clients. The record does not contain sufficient information and evidence to explain how his job duties to provide budget and investment courses and training to individuals and perform detailed financial analysis and financial models and create financial strategies for companies will have broader implications within a particular field. Without sufficient documentary evidence of their broader impact, the Petitioner's proposed employment does not meet the national importance element of the first prong of the *Dhanasar* framework.

As for the economic value and job creation that the Petitioner asserts his company will offer, the business plan of the Petitioner's company includes projections of establishing three business units in California and Florida, offering 11 business consulting services for companies and 5,150 online financial courses and 862 onsite financial courses for individuals, \$1.5 million in total wages payments, hiring 10 employees, and \$6.5 million in total revenue by the fourth year of operation. However, the business plan does not provide sufficient details of the basis for these projections or adequately explain how this revenue and staffing targets will be realized. Moreover, even if all the projections in the business plan were realized, the record lacks sufficient evidence demonstrating that the Petitioner's business will have an impact on the field of finance, the financial training and advisory industry, or the U.S. economy at a level commensurate with national importance.

Furthermore, the Petitioner has not offered sufficient evidence that his company will employ a significant population of workers in an economically depressed area or that his 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 his company's 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 his proposed endeavor rises to the level of national importance. Accordingly, the record does not sufficiently demonstrate the Petitioner's proposed endeavor is of national importance.

On appeal, the Petitioner contends that he is well positioned to advance the proposed endeavor and that, on balance, it would be beneficiary to the United States to waive the requirements of a job offer and thus of a labor certification. However, because the documentation in the record does not establish by a preponderance of the evidence 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. Therefore, further analysis of his 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>15</sup>

### III. CONCLUSION

Although the Petitioner has shown that he is a member of the professions holding an advanced degree and that his proposed endeavor to work in the United States as an entrepreneur in the field of finance has substantial merit, he has not shown by a preponderance of the evidence that his proposed endeavor has national importance. Accordingly, the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.

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<sup>15</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).