



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

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

In Re: 28102055

Date: AUG. 31, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial consultant, seeks classification as a member of the professions holding an advanced degree. *See* 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. The Director did not determine whether the Petitioner qualifies for classification as an individual of exceptional ability or, in the alternative, as a member of the professions holding an advanced degree. However, the Director concluded 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). *Dhanasar* states that, after a petitioner has established

eligibility for EB-2 classification, USCIS may, as a 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. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

As noted above, the Director did not address whether the Petitioner qualifies for second-preference classification either as an individual of exceptional ability or as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Act. However, because we nevertheless find that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest, we reserve our opinion regarding whether the Petitioner satisfies second-preference eligibility criteria. *See id.*; *see also 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"); *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).

Initially, the Petitioner described the endeavor as a plan "to continue delivering her expertise in [f]inancial and [c]redit [m]anagement [c]onsulting through her employment at [REDACTED] [REDACTED]. The Petitioner further stated that, through her endeavor, she would:

be able to implement efficient business and finance strategies to assist overextended credit users eliminate high interest rate credit card debt; enhance [her employer's] clients' financial stability; and effectively assess their debts, budget, and credit so they can identify the best way to get out of debt in their respective situations.

In response to the Director's request for evidence (RFE), the Petitioner reiterated her job duties as a financial consultant employed by [REDACTED]. She also asserted that her endeavor—continuing to work as a financial consultant employed by [REDACTED] [REDACTED]—"has national importance because I can help make people every day to improve their lives and educate the population to access the many credit options while also improving the economy of the U.S."

The Director provided directly conflicting statements regarding whether the proposed endeavor has substantial merit. On page 2 of 4, the Director asserted, "The [P]etitioner has established that her endeavor has substantial merit." However, on page 3 of 4, the Director concluded, "The documentary evidence submitted does not support the [P]etitioner's statements that the proposed endeavor has substantial merit in an area such as business, entrepreneurialism, science, technology, culture, health,

education, the arts, or social sciences. Therefore, the [P]etitioner has not established that the proposed endeavor is of substantial merit.”

We need not determine whether the proposed endeavor has substantial merit because, regardless, the Director also concluded, “the [P]etitioner has not established that the proposed endeavor is of national importance,” also required by the first *Dhanasar* prong. See *Dhanasar*, 26 I&N Dec. at 888-91; see also *Bagamashad*, 429 U.S. at 25; see also *Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. More specifically, the Director observed that the “various news article[s]” the Petitioner submitted are “not relevant to establish national importance.” The Director further concluded that the record did not satisfy the second and third *Dhanasar* prongs. See *Dhanasar*, 26 I&N Dec. at 888-91.

On appeal, the Petitioner asserts that the generalized articles about the finance industry in the record addressed by the Director “collectively underscores the importance of [the Petitioner’s] role by highlighting the critical contributions of her proposed endeavor to society and the national economy.” The Petitioner also quotes many entire paragraphs from opinion letters written by [REDACTED] an assistant professor of accounting at the University [REDACTED] and by [REDACTED] an associate professor of finance at [REDACTED] University, that she submitted in response to the Director’s RFE, which she asserts establish her proposed endeavor has 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.

We first note that the Petitioner’s focus on generalized articles about the finance industry on appeal is misplaced. The Petitioner asserts on appeal, “While the articles may not directly mention [the Petitioner’s] work, they highlight the importance and significance of the industry and field in which she operates.” However, as noted above, the importance of the industry, field, or profession in which an individual will work is not the relevant question for determining national importance; rather, the relevant focus is on the “specific endeavor that the [noncitizen] proposes to undertake.” See *id.* at 889. Because the generalized articles about the finance industry in the record do not address the Petitioner and her proposed endeavor, they do not establish how the specific endeavor she proposes to undertake may have national importance, as required by the first *Dhanasar* prong. See *id.*

In turn, although the opinion letters from [REDACTED] purport to discuss the Petitioner, they instead provide generalizations about the finance industry, consumer credit, the roles of financial consultants, and similar topics that do not focus on the “specific endeavor that the [noncitizen] proposed to undertake.” See *id.* Moreover, even to the extent that the opinion letters mention the Petitioner rather than merely providing generalizations about industries and occupational duties, they do not explain how the specific endeavor may 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.

On the contrary, the Petitioner’s description of the proposed endeavor emphasizes its benefit to her employer and its clients, stating that it will “enhance [her employer’s] clients’ financial stability; and effectively assess [her employer’s clients’] debts, budget, and credit so [her employer’s clients] can identify the best way to get out of debt in their respective situations.” Although providing financial consulting services to the Petitioner’s employer’s clients will benefit her employer and its clients, the record does not establish 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 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.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the record establishes that the proposed endeavor has substantial merit, also required by the first *Dhanasar* prong, and whether the record satisfies the second or third *Dhanasar* prong. *See Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. As noted above, we also reserve our opinion regarding whether the record establishes the Petitioner is eligible for second-preference classification. *See id.*

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.