



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

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

In Re: 24230086

Date: JAN. 10, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur, 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 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.

While we conduct de novo review on appeal, *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a remand is warranted in this case because the Director's decision is insufficient for review. As presently constituted, the record does not establish whether the proposed endeavor has both substantial merit and national importance. *See Matter of Dhanasar*, 26 I&N Dec. 884 at 889-90 (AAO 2016). Specifically, although the Director's decision addresses the second and third *Dhanasar* prongs, it does not address the first *Dhanasar* prong. We note that, in an underlying request for evidence (RFE), the Director advised the Petitioner that the record—at that time—did not satisfy the first *Dhanasar* prong; however, the Director did not address the evidence submitted in response to the RFE as applied to the first *Dhanasar* prong in the decision.

Accordingly, the matter will be remanded to the Director to determine if the record establishes whether the proposed endeavor has both substantial merit and national importance, and to enter a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issue. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.