



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

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

In Re: 26934395

Date: MAY 18, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an insurance sales manager, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 the Petitioner had not established eligibility for the underlying immigrant classification and for 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 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. In addition, a petitioner must show they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if the petitioner shows:

- 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.

¹ 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).

II. ANALYSIS

As it relates to the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner's initial cover letter indicated:

In the U.S., [the Petitioner] endeavors to work as an Insurance Sales Advisor via her own company, [REDACTED] where she will apply her fifteen (15) years of knowledge and experience as a Sales Manager – 10 of which were within the Insurance field – to assist companies in ensuring that millions of Americans can obtain quality life, property, and health insurance.

Further, the Petitioner's letter stated:

Based on my 15 years of experience in the market, acting strategically within the sales area, I opened my own company called [REDACTED] through which I will provide services including Insurance Advisory and Management

. . . .

[REDACTED] clientele is not a limited group of designated companies. The company's services are made available and promoted to benefit all American business organizations and institutions in need, regardless of geographic location or industry type. I am confident that I will contribute in a significant manner towards the growth of the North American market. I will dedicate myself to provide consultancy to companies, proposing solutions that can generate results and impact the national scene as I did in my previous projects.

In response to the Director's notice of intent to deny, the Petitioner submitted a business plan for [REDACTED] claiming:

Guided by [the Petitioner], [REDACTED] Insurance Consulting will offer a diversified portfolio of insurance consulting services in-person as well as online. Through the Company, [the Petitioner] will recruit and train insurance agents, as well as provide consultancy services to insurance companies. [The Petitioner's] main objective is to train people who have not had an opportunity for professional development as well as insurance agents who do not have experience. In doing so, [the Petitioner] will make a significant contribution to communities across the U.S.

. . .

As an expert in her field, [the Petitioner] will provide clients with personalized advice to make sure they acquire the right mindset in improving their insurance policy sales and business operations. Having extensive hands-on experience in insurance policy sales, the Company will be able to prepare insurance agents and companies for the job market, as

opposed to getting an insurance agent license through a preparatory course for the national exam. Going through a prep course and getting a license does not provide insurance agents with any preparation to sell insurance, but rather focuses on theoretical content. [] Insurance Consulting will prepare these insurance professionals through an individualized mentoring program that will address marketing, sales, persuasion, and negotiation techniques. This approach will help them in increasing their personal or company sales, generate profit, and grow their business operations.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains the national importance of her proposed endeavor of operating [] and points to an opinion letter from [] who asserted that the endeavor "has significant national and global impact, considerable potential to employ U.S. workers, and has other substantial positive economic effects." For the reasons discussed below, we agree with the Director that the Petitioner has not sufficiently shown the national importance aspect of her proposed endeavor.

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 record contains documentation relating to insurance agents, the occupational outlook for insurance agents, and information about the insurance industry. In addition, [] letter discussed "some of the contributions of the Insurance Industry to individuals, businesses, and the nation as a whole." Here, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of owning and operating an insurance consulting company rather than the importance of the insurance industry or insurance agents. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n 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. Besides providing a conclusory opinion, [] did not explain or articulate how the Petitioner's specific, proposed endeavor will have national importance; instead, [] focused on the overall insurance industry, the economic aspect of insurance, national initiatives, and individual and societal welfare.

In addition, the Petitioner, as well as [] and other reference letters contained in the record, stress the Petitioner's "knowledge and experience." The Petitioner's experience and abilities in her field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar*'s first prong.

Moreover, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. Although the business plan indicates the company will specialize in recruiting and training new and experienced insurance agents, the plan makes no specific, credible projections as to the number of new and experienced agents it expects to recruit and train. 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. *Id.* at 893. Even though the Petitioner asserts that her company “will help create a qualified workforce, thereby contributing to fulfilling U.S. industry needs,” the record does not show through supporting documentation how her company stands to sufficiently extend beyond her prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show her initial proposed endeavor offers substantial positive economic effects for our nation. The business plan does not reflect that her company’s future business activities and staffing levels stand to provide substantial economic benefits to specific regions or to the United States. While the net profit forecasts range between \$16,860 to \$107,658 from years 1 to 5, they do not indicate the benefits to the regional or national economy resulting from the company’s profits would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. Similarly, although the business plan claims the company would create 27 jobs by year 5, the Petitioner did not demonstrate that such future staffing levels would provide substantial economic benefits to the [] Florida or U.S. economy more broadly at a level commensurate with national importance. The Petitioner, for instance, did not establish that the [] Florida area is economically depressed or that the company would utilize a significant population of workers in the area. Although the Petitioner claims that “while hiring 27 employees within 5 years may not seem significant, it can substantially impact job creation and economic growth,” the Petitioner does not point to evidence or substantiate her assertion showing how the hiring of 27 employees would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not establish that, beyond the benefits provided to its clients and employees, the Petitioner’s proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

Because the documentation in the record does not establish 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. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. We also reserve a determination on the Petitioner’s eligibility for the underlying immigrant classification, as either a member of the professions holding an advanced degree or as an individual of exceptional ability.²

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not demonstrated eligibility 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.

² See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “courts and agencies are not required to make findings on issues in 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).