



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

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

In Re: 27855563

Date: SEP. 13, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur in the field of insurance brokerage, seeks employment-based second preference (EB-2) immigrant 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 Nebraska Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for a national interest waiver. 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. Section 203(b)(2)(B)(i) of the Act.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." *Id.* 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 USCIS may, as matter of discretion,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

---

<sup>1</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).

- 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.<sup>2</sup>

## II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The record supports that conclusion. The remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The record includes a business plan in which the Petitioner describes his endeavor to operate an insurance brokerage company in  Florida. The business plan states the following:

THE COMPANY will be specialized in the commercialization of different types of insurance products and services throughout the American territory, both for individuals and for legal entities. THE COMPANY will have strong and clear differentials capable of making it stand out from other players in the market and establish itself quickly and effectively in the United States.... [The Petitioner] intends, with the creation of THE COMPANY and its sustainable and scalable growth, to contribute to the strengthening of the American economy and generate more direct and indirect jobs for American workers, making THE COMPANY in the United State' national interest.

Although the Director determined that the Petitioner's proposed endeavor has substantial merit, the Director concluded that the record did not establish that the endeavor is of national importance. On appeal, the Petitioner asserts that USCIS "erroneously denied" the petition and "imposed novel substantive and evidentiary requirements beyond those set forth in the regulations." The Petitioner, however, does not specify how the Director erred or what factors in the decision were erroneous.<sup>3</sup> The Petitioner also contends, without further explanation, that the Director applied a stricter standard of proof than that of preponderance of the evidence<sup>4</sup> and disregarded the evidence submitted. The Petitioner provides a brief that emphasizes the Petitioner's qualifications as an entrepreneur and asserts that the evidence of record establishes the national importance of the proposed endeavor. On appeal, the Petitioner states the following:

Overall, the Appellant's direct knowledge of the business and insurance brokerage industry will benefit any U.S. companies and individuals that need qualified professionals who possess expertise in financial market products, insurance, administration, accounting, financial controls, planning development, negotiation, credit management consulting, recover of credit companies, ability to form strategic

---

<sup>2</sup> See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

<sup>3</sup> An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. See 8 C.F.R. § 103.3(a)(1)(v).

<sup>4</sup> See *INS v. Cardoza-Foncesca*, 480 U.S. 421, 431 (1987) (discussing "more likely than not" as a greater than 50% chance of an occurrence taking place).

partnerships. His knowledge and connections have assured his success in the steady and strong company operations flow, which he plans to continue to infuse in the U.S.

Through his wide range of distinctive industry roles, the Appellant has broadly impacted business management and insurance brokerage. More so, as demonstrated by the submitted Industry Reports and Articles, the Appellant's proposed endeavor is unquestionably of national importance, given the significant impact of the role that business development and sales professionals play in every type of business. These articles demonstrate the national importance of the Appellant's proposed endeavor, explicitly due to its economic implications—which very much affect nationwide activities and business productivity.

For the reasons provided below, we agree with the Director that the Petitioner has not demonstrated the national importance of the proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Dhanasar*, 26 I&N Dec. at 889.

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 “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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. Further, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of his work. 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.

The record includes evidence to support the Petitioner's assertion that he has experience in the insurance industry and as entrepreneur in Brazil. Letters of support from former colleagues and business associates speak to his talents and accomplishments in his various business ventures. We note that the Petitioner's experience is not relevant to the first part of the *Dhanasar* framework, but to the second—whether the Petitioner is well positioned to advance the proposed endeavor. Neither the letters nor any other evidence within the record provides insight into how the Petitioner's endeavor to build an insurance consultancy company in [REDACTED] Florida, will positively impact the region or the industry beyond any clients to which his singular business will provide consultancy services.

The record also contains articles and industry reports discussing immigration, entrepreneurship, finance, and shortages among certain business professionals. While the Petitioner previously asserted

and now reiterates on appeal the significance of this material in establishing the national importance of his endeavor, we examine the endeavor itself to evaluate its broader impact. The business plan emphasizes that benefits his company will provide include “strengthening of Insurance Brokers & Agencies in US and Finance and Insurance in the US, two of the industries driving the US economy....” General assertions about his company’s potential impact are not supported in the record by corroborating evidence of the plausibility of those assertions, and a lack of detail concerning his intentions makes it difficult to discern how the Petitioner’s endeavor differs from that of other entrepreneurs in the field who operate independent consultancy firms in the United States; the Petitioner has not shown how his own business will impact the economy or the industry at a level commensurate with national importance. We note that, although the business plan references potential investments into the company, the record does not include any documentation to substantiate that reference. And as the Director’s decision noted, the growth, revenue, and hiring projections provided in the business plan are not accompanied by an explanation of the sources used for those calculations. The Petitioner’s unsupported statements are insufficient to meet his burden of proof. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The evidence of record does not demonstrate that the endeavor realistically has significant potential to employ U.S. workers or otherwise offer substantial positive economic benefits for the United States. The Petitioner has not demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); *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).

### III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

**ORDER:** The appeal is dismissed.