



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

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

In Re: 23042673

Date: JAN. 3, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a finance consultant, 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 EB-2 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he 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.

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. 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 discretion¹, grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

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).

- 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 Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner indicated that he intends “to provide accounting and financial services for U.S. companies and individuals” through his company, [REDACTED] [REDACTED].² He stated that he plans to offer services in tax preparation, tax planning, accounting, strategic business planning, and incorporation. The Petitioner submitted the business plan for [REDACTED] [REDACTED]. This business plan includes industry and market analyses, information about his company and its services, financial forecasts and projections, marketing strategies, a discussion of the Petitioner’s work experience, and a personnel plan. Regarding future staffing, the Petitioner’s business plan anticipates that the company “will start with three part-time counters in early 2022 and grow to three the following year. . . . [W]e will reach the end of the fifth year with 5 full-time employees.” The Petitioner did not elaborate on these projections or provide evidence supporting the need for these additional employees. In addition, while his plan offers sales projections of \$282,000 in year one, \$338,400 in year two, \$406,080 in year three, \$487,296 in year four, and \$584,755 in year five, he did not adequately explain how these sales forecasts were calculated.

The record includes information about the COVID pandemic’s effect on financial advice businesses, the value of proper tax planning for businesses, the U.S. financial services industry, STEM careers in in the financial and accounting fields, and unemployment rates for those with bachelor’s degrees and those in the financial industry. In addition, the Petitioner provided articles discussing tax planning as a part of a company’s risk management strategy, the benefit of accounting in the public sector, federal STEM education initiatives, roles and value of accounting in business, and slowed hiring among small businesses. He also submitted information about U.S. relations with Brazil, the job outlook for financial managers, a talent shortage for business-minded professionals, the COVID pandemic’s effect on the client-advisor relationship, strategies for improving STEM education, and U.S. monetary policy. The record therefore supports the Director’s determination that the Petitioner’s proposed endeavor has substantial merit.

Furthermore, the Petitioner provided recommendation letters from former employers and clients who discuss his accounting skills, knowledge, and financial activities. In addition, he presented letters from two small business in South Florida ([REDACTED] and [REDACTED]) reflecting interest in his company’s financial consulting services.³ The Petitioner’s skills, knowledge, and prior work in his field, as well as interest from potential customers, relate to the second prong of the

² The record contains documentation relating to the Petitioner’s formation of this company, including its “Articles of Incorporation” (Florida) and its Internal Revenue Service Employer Identification Number.

³ The Petitioner’s evidence also includes corporate filing records for seven South Florida companies for which he claims to have provided consulting services.

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 he proposes to undertake has national importance under *Dhanasar*’s first prong. The Petitioner also submitted a “Written Advisory Opinion” from Dr. W-W-, an accounting professor at [redacted] University, in support of his national interest waiver. Dr. W-W- contends that the Petitioner’s proposed work is of national importance due to the roles of a financial consultant, the economic value of financial consultants, the effect of COVID-19 on the finance industry, the societal impact of the finance industry, and U.S. Government legislature pertaining to the finance industry. The issue here, however, is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* at 889. The letters from Dr. W-W- and the Petitioner’s employers and clients do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that his specific proposed work as an operator of a financial consulting company offers broader implications in the fields of finance or accounting that rise to the level of national importance.

In the decision denying the petition, the Director determined that the Petitioner had not established the national importance of his proposed endeavor. The Director stated that the Petitioner had not demonstrated that his undertaking “stands to sufficiently extend beyond his own company and its clients to impact the industry or field more broadly.” The Director also indicated that the Petitioner had “not shown that benefits to the regional or national economy resulting from his proposed endeavor would reach the level of ‘substantial positive economic effects.’”

In his appeal brief, the Petitioner points to the aforementioned opinion letter from Dr. W-W- asserting that “the U.S. Accounting and corporate finance industry has experienced an accountant shortage as a result of the COVID-19 pandemic.” We are not persuaded by Dr. W-W-’s claim that the Petitioner’s proposed endeavor has national importance due to the shortage of professionals in his industry. Here, the Petitioner has not established that his proposed endeavor stands to impact or significantly reduce the claimed national shortage. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Dr. W-W- also contends that the Petitioner’s proposed endeavor will “open new opportunities for employment for U.S. citizens and encourage innovation and export. Thus, these mechanisms drive the growth of an economy, and in this case, the U.S. economy.” Dr. W-W- further states that the Petitioner’s “company will usher the arrival of foreign investors whose operations can potentially trigger and encourage the forward progression of the U.S. economy.” In addition, Dr. W-W- argues that the Petitioner’s undertaking stands to “contribute to the U.S. national income and national budget” and “will add to the growth of the U.S. economy” through attracting foreign direct investment. Moreover, he claims that the Petitioner’s proposed accounting and financial consulting work “plays a key role in evaluating and disclosing climate risk and sustainability reporting and therefore adds to how important the financial consulting position plays in response to climate change.” Furthermore, Dr. W-W- asserts that the Petitioner’s proposed endeavor will help increase government tax revenue, thus generating funding for social programs such as welfare and food stamps.

In determining national importance, the relevant question is not the importance of the field, 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.

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. While the Petitioner’s statements reflect his intention to provide valuable financial and accounting services for his company’s clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its clientele to impact the financial consulting field, the accounting and financial services industries, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Specifically, he has not shown that his company’s future staffing levels and business activity stand to provide substantial economic benefits in Florida or the United States. While the sales forecast for [REDACTED] indicates that the Petitioner’s company has growth potential, it does not demonstrate that the benefits to the regional or national economy resulting from his undertaking would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner asserts that his company “provides employment to the U.S. public,” he has not offered sufficient evidence that the area where his company operates is economically depressed, that he would employ a significant population of workers in that area, or that his endeavor would offer the region or its population a substantial economic benefit through employment levels, tax revenue, or business activity. Accordingly, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish 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. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible 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.