



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 35064530

Date: DEC. 13, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a marketing manager, 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 classification. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding the Petitioner did not establish that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.¹ 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. 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. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the

¹ Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

framework for adjudicating national interest waiver petitions. Dhanasar states USCIS may, as matter of discretion,² grant a national interest waiver if the petitioner demonstrates that:

- 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.

Id.

II. ANALYSIS

The Petitioner proposes to establish a green marketing consulting business for which she would be its chief executive officer.

A. Member of Professions Holding an Advanced Degree

Although the Petitioner not meeting *Dhanasar's* first prong is the dispositive issue dismissing appeal, we will address the Petitioner's eligibility of for the underlying EB-2 immigrant classification. After reviewing the evidence in the record, the Petitioner has not demonstrated she is eligible for the underlying EB-2 immigrant classification as a member of the professions holding an advanced degree, and is not otherwise eligible for the requested benefit.

The Petitioner submitted evidence to qualify as advanced degree professional. In considering the Petitioner's eligibility, the Director determined the Petitioner has the foreign equivalent of a U.S. baccalaureate degree and more than five years of progressive experience in her specialty. We do not agree with the Director's determination. The Petitioner has not established that she has at least a U.S. bachelor's degree or a foreign equivalent degree.

The Petitioner submitted evidence showing she earned two degrees, the first for the title of technologist in marketing and advertising from [redacted] Colombia in 2008, and the second for the title of professional in marketing and advertising from [redacted] Colombia in 2010. In addition, the Petitioner submitted an academic evaluation stating that having reviewed the Petitioner's degrees, her academic transcripts, and the nature and duration of the academic course work, "[the Petitioner] has attained the equivalent of a Bachelor of Arts in Marketing and Advertising from an accredited institution of higher education in the United States."

The evaluation further states that the program of study for her degree for the title of professional in marketing and advertising from [redacted] "is equivalent to a Bachelor of Arts degree in the United States. However, [the Petitioner] could complete this study as an accelerated program in one and a half years owing to her completion of a Degree of Technologist in Marketing and Advertising from [redacted]. The evaluation notes that her degree from [redacted] "represents attainment of a level of education comparable to three years of university study in the United States" and her degree from [redacted]

² See *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeal in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[redacted] shows her completion of “course work requirements which are substantially similar and equivalent to those required for the completion of a four-year Bachelor’s Degree program at an accredited institution of higher education in the United States.”

Although the evaluation states the Petitioner’s foreign degree for the title of professional in marketing and advertising is the equivalent of a U.S. bachelor’s degree, the evaluation conflicts with the educational credentials for Colombia as set out by the American Association of Collegiate Registrars and Admissions Officers’ (AACRAO)³ in the Electronic Database for Global Education (EDGE). According to AACRAO, the program of study for the Petitioner’s degree for the title of professional in marketing and advertising is “comparable to [two to two and a half] years of post-secondary study in the United States.” AACRAO does not indicate that her program of study is comparable to attaining a U.S. baccalaureate degree. Because the Petitioner’s degree for title of professional in marketing and advertising is the basis for her being an advanced degree professional and the record has conflicting information about the foreign equivalency of her degree, we cannot fully assess whether the Petitioner has the foreign equivalent of a U.S. baccalaureate degree. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988).

As a result, the Petitioner has not established that she earned the claimed foreign equivalent of a U.S. baccalaureate degree. We withdraw the Director’s determination that the Petitioner is eligible to be classified as a member of the professions possessing an advanced degree.

B. National Interest Waiver

The Director determined that the Petitioner did not demonstrate meeting any of the three prongs of the Dhanasar analytical framework. We agree with the Director’s determination that the Petitioner did not demonstrate her proposed endeavor is of national importance, under the first prong of Dhanasar.⁴

For the first Dhanasar prong, the Director concluded the Petitioner did not establish her proposed endeavor’s substantial merit or national importance. *Dhanasar’s* first prong focuses on the specific endeavor that a petitioner 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 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.” Matter of Dhanasar, 26 I&N Dec. at 889.

The Petitioner proposes to establish a green marketing consulting business for which she would be its chief executive officer. The Petitioner indicates she and another individual will own the business with its operations in an economically at-risk area of [redacted] Utah. The business aims to guide small and medium-sized businesses “in adopting environmentally friendly practices” by offering “a comprehensive range of green marketing services, including recommendation and implementation of eco-friendly technologies, reuse of wastes, and recycling activities.” In addition, by providing guidance to businesses in their environmental marketing claims when promoting eco-friendly products

³ AACRAO is a nonprofit professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries. See <http://www.aacrao.org/who-we-are>.

⁴ While we may not discuss every document submitted, we have reviewed and considered each one.

and practices, the Petitioner's business would help companies attract environmentally conscious consumers, increase environmental awareness, and help economic growth. The business' goals are to "[i]ncrease the number of businesses adopting green marketing strategies in Utah by 20% in the first year" and to "[h]elp businesses reduce their environmental footprint by 15% within the first two years." She maintains that her business will influence consumer behavior, support market-based approaches to climate change, and raise climate change awareness.

Upon de novo review, we find the Petitioner's proposed endeavor to be an entrepreneur and chief executive officer for her green marketing consulting business has substantial merit. We withdraw the Director's determination to the contrary.

With respect to national importance, the Director found that the record did not show that the Petitioner's endeavor has the potential to extend beyond her business and clients to impact her field, the economy, and societal welfare more broadly at a level commensurate with national importance. The Director pointed out that the Petitioner did not demonstrate her endeavor has the claimed significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation or the regions she intends to serve which would render her endeavor nationally important under the *Dhanasar* framework. In addition, the Director found that the proposed endeavor does not have the claimed potential to impact a matter that the government has described as having national importance or is the subject of national initiatives.

On appeal, the Petitioner contends the Director based the decision on erroneous conclusions of law, policy, and fact. In addition, she claims the Director did not apply the proper standard of proof, instead imposed a standard stricter than required by statute and regulations. Stressing the amount of documentary evidence submitted, she further argues that the Director failed to consider a totality of the evidence, including her business plan, her website, letters of intent to contract, recommendation letters, an opinion letter, and industry articles and reports. Upon de novo review, we find the Petitioner did not demonstrate that her proposed endeavor satisfies the national importance element of *Dhanasar's* first prong, as discussed below.

The standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). In addition, when USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir.1992); see also *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). Here, the Director's decision reflects a reasoned consideration of the evidence. The Director acknowledged and analyzed various documents, specifically her statements, the business plan, industry reports and articles, advisory opinions, and recommendation letters, but determined overall that the quality of the evidence lacked probative value in supporting her claim that the proposed endeavor is of national importance.

Next, the Petitioner argues that her endeavor has the potential to have a broad impact on national sustainability goals, stressing they are described in detail in her business plan. She maintains the Director erred in focusing on the potential broad impact of her endeavor in the field of marketing, instead of its intended potential impact on encouraging sustainable consumer behavior, as set out in the business plan. In addition, she claims her business would extend beyond its clients more broadly through its advocacy and dedication to sustainability practices and addressing climate change.

The business plan provides an overview of the business' proposed green marketing consulting services and explains its potential economic, health, and societal welfare impacts to the nation and the local [redacted] community it intends to serve. By guiding companies in their environmental marketing claims, the business would promote sustainable business practices, including energy management efficiencies, infrastructure that reduces emissions, and more efficient supply chains. The business plan explains that her business would impact the local economically at-risk community by creating jobs, salaries, and tax revenue. In addition, the business would help its client companies save money and increase their profits, which in turn would help stimulate the development of more sustainable products and technologies. The plan further claims that the business would bolster U.S. national security and societal welfare through its promotion of climate change mitigation, promoting eco-friendly technologies for digital infrastructure security, and its stimulation of developing sustainable products and technologies leading to jobs and economic growth and stability.

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. Matter of Dhanasar, 26 I&N Dec. at 889. We noted that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." Id. In addition, "[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" as broader implications of matters at a level of national importance. Id. at 890.

Here, the business plan projects that in five years the business will hire five employees, pay over \$700,000 in salaries, and generate over \$350,000 in income tax revenue. Any basic economic activity has the potential to positively impact the economy and social welfare; however, the Petitioner has not sufficiently detailed the basis for the financial and staffing projections, or adequately explained how these projections will be realized, except that she expects an increase in demand for green marketing consulting work. The record includes an opinion letter from an accountant attesting to the projected financial viability and tax revenue of the Petitioner's proposed endeavor, calculating the business would generate over \$1.8 million in Utah and federal tax revenue over five years. The opinion, however, assumes and relies upon the correctness of the Petitioner's projected total revenue growth expectations to calculate the expected tax revenue without providing sufficient details for realizing these projections.

Moreover, the Petitioner has not offered a sufficiently direct connection between her proposed endeavor's activities and any demonstrable substantial economic impact. Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating five jobs, paying over \$700,000 in salaries, and generating over \$1.8 million in tax revenue over a five-year period rises to the level of national importance. Also, without sufficient documentary

evidence that her proposed job duties as the owner and chief executive officer of her green marketing consulting business would impact the green marketing consulting field or any other industry more broadly, rather than benefiting her business and clients, the Petitioner has not demonstrated by a preponderance of the evidence that her proposed endeavor is of national importance. Here, the Petitioner's business plan does not adequately describe her proposed green marketing consulting business' potential asserted broad impact on national sustainability practices; her field of green marketing; or the economies, societal welfare, or health of the United States, Utah, or the local community.

The Petitioner also submitted two advisory opinions to support her national importance claims. The first is from a professor of environmental economics at [redacted] Indiana, and the second opinion is from a professor of business at [redacted] in New York. In discussing the potential impact of the Petitioner's endeavor, both opinions reiterate language from the Petitioner's business plan, generally describing her business' proposed green marketing consulting services and its goals to promote sustainable business practices and clean energy. Instead of focusing on the Petitioner's specific endeavor having a prospective impact on a field or industry, the opinions mainly focus on the importance of the fields of green marketing, sustainable business practices, and clean energy; the expected increase in need for green marketing consulting professionals; and how the Petitioner's skills, knowledge, and experience would help these fields.

The opinions' general and broad statements about the prospective impact of the Petitioner's green marketing consulting business are not sufficient to demonstrate the national importance of the Petitioner's proposed endeavor. As noted above, stating that the Petitioner's work would support an important industry with an expected increase in the need for workers is not sufficient to meet the "national importance" requirement under the Dhanasar framework. Moreover, the opinions' reliance on the Petitioner's professional knowledge and experience to support the national importance of her endeavor is misplaced, and instead 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 submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988); see also *Matter of D-R*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

Next, the Petitioner argues the Director ignored objective and probatory evidence showing her endeavor aligns with U.S. government initiatives focused on sustainability and climate change. In addition, she claims her endeavor would promote advancement in the fields of science, technology, engineering, and math (STEM), a U.S. government priority that is the subject of national initiatives. To support her claims, she submitted articles, industry reports, and U.S. government source materials to show the U.S. government prioritizes sustainability practices, such as recycling, use of eco-friendly materials, and waste reduction. The reports and articles relate to government policies and priorities, including those supporting clean energy policies and jobs; a U.S. Environmental Protection Agency (EPA) report on greenhouse gas emission sources; a U.S. government sustainability plan for clean energy jobs; attracting professionals in the fields of STEM; prioritizing climate in foreign policies and national security; advancing a cleaner industrial sector to reduce emissions and reinvigorate manufacturing in the United States; environmentally friendly products recognized by the U.S. Federal Trade Commission; and the impact of climate change on national security.

Although the Petitioner has shown that supporting clean energy, sustainability, and STEM professionals are nationally important issues, she has not demonstrated the potential prospective impact of her specific endeavor of green marketing consulting on such matters. In determining national importance, the relevant question is not the importance of the field, industry, or professional in which the individual will work; instead, the focus is on the “the specific endeavor that the foreign national proposes to undertake” and the endeavor’s “potential prospective impact.” Matter of Dhanasar, 26 I&N Dec. at 889. The importance of U.S. government policy initiatives, such as White House and EPA priorities related to clean energy, sustainability, and attracting STEM professionals, is not in dispute, but their overall significance does not establish the national importance of the Petitioner’s proposed endeavor in particular. Working in or establishing a business in an important field which is the subject of national initiatives and policies is insufficient on its own to establish the national importance of the proposed endeavor. The Petitioner makes general statements about her business aligning with national initiatives which prioritize the environment and STEM professionals, but does not quantify her proposed endeavor’s expected impact on the identified areas of concern, or provide objective, probative evidence to support her contentions. See Matter of Chawathe, 25 I&N Dec. at 376.

Last, the record includes recommendation letters from the Petitioner’s colleagues to demonstrate the importance of her endeavor to environmental sustainability. However, the letters mainly attest to the Petitioner’s work experience and knowledge in her field of marketing and sales. While the letters generally mention her plans to start a green marketing business, they lack details about her endeavor and make broad assertions that her future work would offer solutions designed to help businesses adopt environmentally friendly practices. The Petitioner has not offered sufficient information and evidence based on these recommendation letters to demonstrate the prospective impact of her proposed endeavor rises to the level of national importance. Moreover, her colleagues’ assertions are not persuasive and lack credibility, as they contain similar language, and in some instances identical language, when explaining her sales and marketing skills; her sustainable marketing strategies helping her current employer, [REDACTED] and expressing the need for her proposed endeavor to help businesses adopt sustainable practices to mitigate environmental challenges and prompt new innovation.

Based on the above, the Petitioner has not demonstrated that her proposed endeavor has the potential to extend beyond her business and her future clients to impact her field, sustainable business, or any other industries, the U.S. or local economies, societal welfare, or nationally important matters more broadly at a level commensurate with national importance. Beyond general assertions, she has not demonstrated that the work she proposes to undertake as an owner and the chief executive officer of her proposed green marketing consulting business offers the claimed contributions to advancements in sustainable business practices or green marketing industries or otherwise has broader implications for these fields. The Petitioner’s statements are not sufficient to demonstrate her endeavor has the potential to provide a broad prospective impact commensurate with national importance. The Petitioner must support her assertions with relevant, probative, and credible evidence. See *id.* In addition, the potential prospective impact that the Petitioner claims depend on numerous factors, and she did not offer a sufficiently direct evidentiary tie between her green marketing consulting work and the claimed potential benefits.

The Director further determined that the Petitioner did not establish that she is well-positioned to advance the proposed endeavor under *Dhanasar's* second prong, or 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 under *Dhanasar's* third prong. Because the Petitioner does not sufficiently establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, she has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and her eligibility under the second and third *Dhanasar* prongs. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not established that she satisfies the regulatory requirements for classification as a member of the professions with an advanced degree. Furthermore, as the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established that she 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.

ORDER: The appeal is dismissed.