



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

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

In Re: 29127157

Date: FEB. 01, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur in the financial consulting field, 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. The Director determined that the Petitioner qualifies for EB-2 classification as an advanced degree professional, but concluded that she did not establish that a discretionary waiver of the job offer requirement 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 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 discretion<sup>1</sup>, grant a national interest waiver if the petitioner demonstrates that:

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<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.

## II. ANALYSIS

The Director determined that the Petitioner qualifies for the underlying EB-2 classification as member of the professions holding an advanced degree and the record supports that determination. Therefore, the remaining issue is whether the Petitioner has established eligibility for a national interest waiver under the *Dhanasar* framework.

The Director determined that the Petitioner established her proposed endeavor has substantial merit, but did not demonstrate the endeavor's national importance, that she is well positioned to advance it, and that, on balance, it would be beneficial to the United States to waive the job offer requirement. On appeal, the Petitioner asserts that the Director failed to apply the standards set forth in *Dhanasar* and relevant USCIS policy guidance to the facts presented and erred by denying the petition. She maintains that she meets all three prongs set forth in *Dhanasar* and otherwise established that a discretionary waiver of the job offer requirement would be in the national interest.

For the reasons provided below, we agree with the Director's determination that the Petitioner did not establish the national importance of her proposed endeavor and is therefore ineligible for the requested national interest waiver. While we do not discuss each piece of evidence, we have reviewed and considered each one.

### A. The Proposed Endeavor

The record reflects that the Petitioner has the foreign equivalent of a bachelor's degree in communications. She completed postgraduate studies in business administration and has accrued approximately 20 years of post-baccalaureate experience in banking, financial services, marketing, business strategy, and communications in Brazil.

She proposes to establish and serve as chief executive officer of her own Florida-based consulting company [REDACTED]. The Petitioner submitted a business plan with the following company description:

[The company's] U.S. market activities will entail providing financial technology consulting services centered around decentralized finance and digital transformation. In that regard, [the company] will monitor the development of decentralized investments and aid [small- and medium enterprises or SMEs] and entrepreneurs in maximizing the benefits associated with the financial practice. With an emphasis on facilitating fiscal trade between U.S. Latin American and Caribbean entities, the Company's high-level consulting services will be based upon educating clients on proper investment practices and market standing within other countries. The Company will provide expert analysis of macroeconomic conditions, weighing both the potential opportunities and risks at hand.

## B. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor 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. The Petitioner provided government and industry reports and media articles regarding the financial technology industry, the need for financial advisors to remain up to date on cryptocurrencies and associated regulations and risks, the transformative potential of decentralized finance products and services, and their potential impact on small and medium-sized businesses. The Petitioner's business plan also provides an overview of the financial planning industry in the United States and highlights the importance of entrepreneurs and small businesses in the U.S. economy. This evidence supports the Director's determination that the Petitioner's proposed endeavor to provide financial consulting services to small and medium sized businesses has substantial merit.

However, the Director determined that the Petitioner did not establish the national importance of her proposed endeavor. Specifically, the Director found insufficient evidence that the Petitioner's consulting business would offer a region and its population a substantial economic benefit through job creation, employment levels, business activity, trade or related tax revenue that rises to the level of national importance contemplated by *Dhanasar*. Further, the Director determined the Petitioner did not establish her proposed work would contribute to advancements in her field or that it would otherwise have implications that would extend beyond her own business and its clients to impact the broader field or industry. On appeal, the Petitioner contends that the Director applied an overly strict standard in evaluating national importance and did not consider all relevant factors outlined in *Dhanasar*.

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. Whether a proposed endeavor has national importance depends on its "potential prospective impact." Endeavors with national or global implications within a particular field - such as those introducing improved manufacturing processes or medical advances - may have national importance. *Id.* Further "[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. USCIS looks beyond geographic scope when evaluating potential impact. *Id.* We will consider factors such as whether there is evidence that a proposed endeavor has the potential to broadly enhance societal welfare or whether it impacts a matter that a government entity has described as having national importance or is the subject of national initiatives.

The Petitioner maintains that her proposed financial consulting business will have direct benefits for the U.S. economy based on its projected sales revenue, tax contributions, and its direct and indirect creation of jobs. The Petitioner's business plan includes five-year financial projections, indicating that by year five the company will have 12 employees, pay \$678,503 in payroll expenses, generate \$968,124 in revenue, and pay \$140,247 in taxes. However, the record does not contain supporting documents or sufficient explanation to demonstrate the basis for the business plan's financial and staffing projections or adequately explain how these projections will be realized. For example, we note that the business plan indicates that the company intends to open five locations in Florida, New Jersey, and California within five years, but the financial projections do not account for increased rent or office

expenses consistent with this expansion plan. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Chawathe*, 25 I&N Dec. at 376.

The Petitioner's business plan also addresses indirect job creation, utilizing two different methods of calculation. First, the plan applies the Regional Input-Output Modeling System (RIMS II) multipliers for the "Business Support Services Industry" in Florida to project "a final-demand impact in employment equivalent to 296 jobs in Year 5" based on its projected employment of 12 workers. The business plan also cites to national job multipliers published by the Economic Policy Institute (EPI) and concludes that "the total indirect jobs to be generated by the Company would reach 14 over the same period." The Petitioner did not address or explain the significant discrepancy between the EPI and RIMS II figures concerning indirect job creation. Regardless, even if all projections and calculations in the business plan were adequately explained and supported, the record does not establish that the business plan's financial and staffing projections are substantial enough to demonstrate national importance through job creation, revenue, and other economic benefits.

On appeal, the Petitioner states that "the national importance of her work is not exclusively in the concrete number of employees, tributes [*sic*] or revenue achieved." She maintains that her endeavor will not only generate revenue for her company and its clients but will "prompt economic development that [will] enhance and improve the functionality and monetary output of the nation's economy." These claims mirror her earlier assertions that by providing financial advice to entrepreneurs, small and medium businesses, she will "play an important part in the betterment of the entire backbone of the U.S. economy."

The record supports that small and medium-sized businesses are important to the U.S. economy and that the Petitioner's proposed financial consulting services would have the potential to improve the financial performance of the individual clients that contract her firm. However, the burden is on the Petitioner to establish that the economic effects of her proposed endeavor are "substantial." She did not provide specific plans, projections or calculations in support of her broad claims regarding the potential indirect economic effects of her proposed endeavor. Nor did she otherwise provide an evidentiary basis to demonstrate that her work will, for example, "improve the functionality and monetary output of the nation's economy." While any business activity has the potential to positively impact the economy, the record does not demonstrate how the Petitioner's financial consulting firm could generate such significant economic activity that it would rise to the level of "substantial positive economic effects." *Dhanasar*, 26 I&N Dec. at 890.

We have also considered whether the Petitioner's proposed endeavor will have broader implications in her field or industry. We determined in *Dhanasar* 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. 26 I&N Dec. at 893. However, we concluded that endeavors with national (or even global) implications within a particular field - such as those introducing improved manufacturing processes or medical advances - may have national importance. *Id.* at 889. The Petitioner's business plan and supporting articles discuss the benefits and risks associated with decentralized finance platforms and solutions, the innovative nature of these solutions compared to traditional financial transactions, and the anticipated worldwide growth of the decentralized finance industry. According to the Petitioner's business plan, her firm "will leverage its services in facilitation of the novel practice and, as such, lead the way in terms of innovating the U.S. financial transaction market as a whole." The business plan further states

that the Petitioner “will not only attempt to introduce this innovative practice into the U.S. financial market, but also aid other market entities in understanding the benefits that can stem from its utilization.”

The record does not support the business plan’s statements that the Petitioner’s firm would be “introducing” decentralized finance solutions to the U.S. market or leading the advancement of innovations in this field. In fact, the business plan cites to statistics indicating that the United States is “currently the leading market when it comes to decentralized investments with this growing trend expected to continue.” The Petitioner demonstrated she has the expertise needed to advise clients on the risks and opportunities of decentralized financial transactions, and that there is some market demand for financial advisors with her skills and experience. Further, the record supports that she intends to transfer her knowledge by educating her clients and training her future employees. However, like the petitioner in *Dhanasar*, the Petitioner has not established how these activities would have broader implications in her field that reach beyond her clients and employees. The record does not establish, for example, that she has personally contributed to innovations or advancements that have been influential in the field or support her claim that her firm will be leading this field. The Petitioner has not otherwise shown that the consulting activities carried out by her firm would have implications for the broader financial consulting industry or the U.S. financial transactions market.

The Petitioner has also asserted that the services offered by her proposed consulting business will have an impact on matters that are the subject of national initiatives by the U.S. government. The Petitioner’s business plan highlights the Biden Administration’s March 29, 2022, Executive Order on Ensuring Responsible Development of Digital Assets, which provided directives to federal agencies to address the rise in digital assets in the global financial system. USCIS will consider evidence demonstrating how a specific proposed endeavor impacts a matter that a government entity has described as having national importance or a matter that is the subject of national initiatives. Again, in determining national importance, the relevant question is not the importance of the industry 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. Therefore, pursuing employment or operating a business in an area that is adjacent to or aligned with the subject of national initiatives is not sufficient, in and of itself, to establish the national importance of a specific endeavor. Here, the Petitioner has not sufficiently explained the potential prospective impact or broader potential implications of her specific endeavor on the referenced digital assets initiatives.

The Petitioner has similarly claimed that her proposed endeavor would be of national importance in promoting U.S. competitiveness in STEM fields, and specifically in the financial technology area. USCIS recognizes the importance of progress in STEM fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies, or other STEM areas important to U.S. competitiveness or national security. We may find that a STEM area is important to competitiveness or security in a variety of circumstances, for example, when the evidence in the record demonstrates that an endeavor will help the United States remain ahead of strategic competitors or current and potential adversaries, or relates to a field, including those that are research and development-intensive industries, where appropriate activity and investment, both early and later in the development cycle, may contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), <https://www.uscis.gov/policy-manual>.

With respect to the first prong of the *Dhanasar* framework, we acknowledge that many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests, but also have sufficiently broad potential implications to demonstrate national importance. The Petitioner's proposed firm, as described in the record, would not be engaged in research and advancement of STEM technologies and the Petitioner herself does not hold an advanced STEM degree. While the Petitioner indicates that her consulting firm will assist small and medium businesses understand and pursue decentralized finance opportunities made possible by advancements in the financial technology field, she does not sufficiently articulate how her work as a financial advisor would contribute to the United States maintaining technology leadership in this area. For these reasons, the Petitioner did not demonstrate the national importance of her proposed endeavor based on its indirect connection to a STEM field.

Finally, to illustrate the potential impact of her proposed endeavor, the Petitioner points to her academic and professional qualifications and her past employment experience in business, communications, marketing and finance. We reviewed her statements and several reference letters from her employers and business contacts. The authors of the letters praise the Petitioner's expertise, professionalism, personal attributes, and past achievements. However, they do not discuss her specific proposed endeavor or speak to the potential broader implications of her work. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*. Furthermore, we note that the Petitioner's knowledge, skills, education, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." 26 I&N Dec at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of her proposed endeavor.

For the reasons discussed, the record does not demonstrate the Petitioner's proposed endeavor will have a potential prospective impact consistent with national importance. Accordingly, the Petitioner has not established that her proposed endeavor meets the first prong of the *Dhanasar* framework.

Because the identified reason for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues 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).

### III. CONCLUSION

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