



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

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

In Re: 29546934

Date: FEB. 1, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an accountant, 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 record does not establish 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. 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 eligibility 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 United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

If a petitioner demonstrates eligibility for the underlying classification, 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,¹ 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.

II. ANALYSIS

The Petitioner claimed eligibility for the EB-2 classification as both a member of the professions holding an advanced degree and as an individual of exceptional ability. The Director did not conclude whether the Petitioner established her eligibility for the underlying classification in their decision. We will therefore first analyze the Petitioner’s eligibility for EB-2 classification.

A. EB-2 Classification

The Petitioner provided a credentials evaluation report prepared by GEO Credential Services, dated May 2022. The record also contains the Petitioner’s bachelor’s degree in accounting sciences from a Brazilian university, which she received in August 2014 and her academic transcript towards completion of this degree. In addition, she provides a certificate for completion of an auditing and forensic accounting course in July 2015, the academic transcripts for this course, and letters from her former employers attesting to her full-time employment as: a senior accountant and tax coordinator from August 2020 to June 2021; a senior accountant from April 2018 to July 2020; an accounting assistant from October 2017 to April 2018; an accountant from June 2014 and February 2017. On the basis of this documentation, the credentials evaluation report determined she holds the equivalent of a U.S. master’s degree in accounting.

As such, she has established her eligibility for EB-2 classification,² and the remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

B. National Importance of the Petitioner’s Endeavor

The Petitioner’s proposed endeavor is to:

[] assist individuals and companies of all sizes, opening companies in municipal, state, and federal agencies. I will also prepare contracts, bookkeeping, tax, calculation of taxes, and preparation of financial reports. Thus, I will play a key role in U.S. tax and accounting companies, ensuring that transactions are accurately recorded and that the company meets its tax and accounting obligations. . . . I will . . . benefit companies in

¹ See *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).

² Because the Petitioner has established her eligibility for EB-2 classification as an advanced degree professional, we do not need to consider the evidence she provided to establish the alternative, that she is an accountant of exceptional ability under the criteria set forth in 8 C.F.R. § 204.5(k)(3)(ii). 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).

the cargo transport sector, applying my tax and accounting experience acquired in Brazil and the United States. Thus, I will assist companies in compliance with U.S. legislation in the following accounting and tax processes: Financial Accounting[;] Cost Accounting[;] Tax Accounting[;] Management Accounting[;] Management Accounting[;] Internal Control[;] Asset Management[;] Audit and Regulatory Compliance[;].

Her professional plan contends that her endeavor is of national importance because she will use her “outstanding professional performance [to] exponentially impact the Tax Accounting field.” She asserts her experience will lead to the following specific impacts on the field: protect the market value of companies; enhance profitability of U.S. companies; enhance the quality of life of U.S. citizens and their families; enhance the overall performance of the accounting field; and promote overall business growth. She describes how her “unusual abilities as an Accountant . . . will generate economic growth and contribute towards the advance and optimization of the U.S. market” and “bring innovation to the field by impacting the areas of Accounting And [sic] Tax Services, Tax Planning, and Mentoring & Lecture . . .,” which she asserts is in the national interest of the country.

The Director concluded that although the Petitioner established the substantial merit of her proposed endeavor, she did not demonstrate her endeavor’s national importance because there was insufficient evidence to find her endeavor would have: broader implications on a national or global scale within her field; have significant potential to employ U.S. workers; have substantial positive economic effects, particularly in an economically depressed area; or broadly enhance societal welfare or cultural or artistic enrichment.

On appeal, the Petitioner submits a brief requesting de novo review of her petition, and cites to her response to the Director’s request for evidence (RFE) to support her contention that her proposed endeavor is of national importance. Her RFE response included her resume, a personal statement outlining her professional plan, an expert opinion letter dated April 28, 2023, professional reference letters, and several offers of employment to work in the United States. The Petitioner asserts that her endeavor will broadly enhance societal welfare and cultural enrichment because accountants of exceptional ability, like her, give their clients (including governments, businesses, and non-profit institutions), accurate financial information and analysis to make informed decisions, which helps in the allocation of resources, and enables them to operate efficiently, which is beneficial to society as a whole. She further asserts that society is benefitted by her endeavor because accounting promotes transparency and accountability, which increases the trustworthiness of organizations. Moreover, she contends that when businesses do not have proper accounting services, there is a societal cost because bankruptcies cause collective social damage. She asserts that the health of a business causes ripple effects for the other businesses that engage with that business, and that her services will help her employers strengthen their financial position, plan for the future, and make informed decisions, which will lead to increased profitability, investor confidence, and job creation, which in turn will lead to economic growth, reduction of poverty, increase in social mobility, broadly enhancing societal welfare.

The Petitioner next asserts that her endeavor has the significant potential to employ U.S. workers and will create substantial positive economic effects. She contends that because the accounting industry employs millions of people, including accountants, bookkeepers, auditors, and other related

professions, her endeavor is crucial to the U.S. economy. Furthermore, she asserts the accounting industry generates tax revenues for the government, which helps fund social programs, infrastructure projects, and other initiatives. Additionally, she asserts her endeavor promotes cultural enrichment because it promotes diversity and inclusivity in the workplace by embracing and valuing differences in culture, ethnicity, and gender which will promote a more welcoming environment for the employees who work at the businesses she will assist. This, she asserts, will result in greater societal cohesion and understanding to the benefit of society as a whole. Moreover, she asserts the national importance of her endeavor is supported by U.S. government initiatives related to tax reform, specifically those aimed at increasing the global minimum tax, reducing tax fraud and tax evasion, and strengthening enforcement measures. She also cites to the Financial Accounting Standards Board, which is developing and revising accounting standards, and the Securities and Exchange Commission, which is working to improve the regulatory framework for accounting and auditing, to support her assertion that her endeavor is of national importance because it would promote transparency and accountability.

We agree with the Director that these factors establish the substantial merit of her endeavor, however they do not reach the level of broader national or global impact that is required to find an endeavor has national importance. For example, in *Dhanasar*, we determined that a STEM teacher's proposed endeavor had substantial merit, but that the record did not establish his teaching activities would impact the field of education more broadly. *Dhanasar*, 26 I&N Dec. at 893. Similarly, while the Petitioner's endeavor could prospectively enhance the financial well-being of her employers or clients, she has not provided specific evidence to show how her endeavor will affect her field broadly enough to be considered of national importance. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

The expert opinion provided by [REDACTED], assistant professor of accounting at [REDACTED], devotes a section to analysis of how the Petitioner's endeavor meets *Dhanasar's* prong one. The opinion relies on evidence from IBISWorld, a market research company, that finds the accounting services industry in the United States accounts for \$144.5 billion, while the tax preparation industry is \$11.3 billion, and that both fields are expected to grow. The opinion cites evidence that the need for accountants is expected to grow six percent by 2031. The opinion also points to efforts by the Biden-Harris administration to facilitate international business, which it opines the Petitioner's endeavor is closely aligned with because she intends to "serve foreign companies and investors who need help navigating the U.S. tax and business systems." The opinion also emphasizes how talent shortages in the accounting field, which has made it very difficult for tax departments to fill open positions, leading to an overall negative impact on corporate profits, supports finding that her endeavor is of national importance. However, the opinion fails to explain with sufficient specificity or detail how her endeavor would alleviate these concerns by, for example, developing more talent in her field. Furthermore, when 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." *Dhanasar*, 26 I&N Dec. at 890.

The Petitioner has not provided any other objective support for her assertions. Her assertions related to the ripple effects of her endeavor on job creation, increased tax revenue, increased financial investments, and its overall prospective economic, social, and cultural impacts are not sufficiently supported in the record. Furthermore, there is insufficient evidence to determine that the benefits she claims would stem from her endeavor on the U.S. economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. It is a petitioner's burden to

establish eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. The Petitioner has not done so here.

We acknowledge the Petitioner's evidence of prospective job offers by U.S.-based recruiters in her industry, however the demand for her services and future job offers are not evidence to support the national importance of her endeavor. And, while we acknowledge that her endeavor, if carried out as described, may provide her employers with professionally competent accounting and tax services, it is unclear how this would prospectively impact the field in a broader sense as required under *Dhanasar*. For example, the letters provided by [redacted] outline how her performance as an "Accountant/Bookkeeper/Tax Preparer/Tax Planning" had a positive impact on the company because she helped them with various accounting processes and her work was "impressive" and "skillful." However, this information does not explain how her endeavor will enhance the field more broadly. In general, the Petitioner's past work experience, recommendation letters, credentials, and past accomplishments as a forensic and tax accountant would be relevant to our analysis under the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national," but they are insufficient to establish the national importance of her endeavor under *Dhanasar*'s prong one.

Finally, and as stated above, we are not persuaded by the Petitioner's assertion that the proposed endeavor has national importance due to the shortage of professionals in her field. First, without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work, the Petitioner has not established that benefits to the regional or national economy resulting from her endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Second, the U.S. Department of Labor directly addresses labor shortages through the labor certification process. Therefore, a shortage of professionals in her field is insufficient, by itself, to establish the national importance of her endeavor.

For all these reasons, the Petitioner has not documented that the particular work she proposes to undertake offers original innovations that contribute to advancements in forensic accounting or tax planning or otherwise has broader implications for her field. Because she has not sufficiently established the national importance of her proposed endeavor as required by *Dhanasar*'s first prong, the Petitioner has not demonstrated eligibility for a national interest waiver as a matter of discretion.³

The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

³ Because the identified basis for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding her eligibility under the second and third prongs of *Dhanasar*'s analytical framework. See *INS v. Bagamasbad*, 429 U.S. at 25; 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 the applicant did not otherwise meet their burden of proof).