



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

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

In Re: 29847547

Date: FEB. 15, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an international financial advisor, 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 initially indicated he will advise clients on financial investments, assets, and wealth portfolios management, and attract foreign direct investors to allocate capital that will substantially enhance cross-border activities in the U.S. economy. In response to the Director's request for evidence, the Petitioner further stated he will capitalize on his knowledge of global international products, regulatory frameworks in Mexico and the United States, and the financial activities that may impact the wealth of his clients. As an international financial advisor, he stated will manage every aspect of his client's financial life, from retirement planning to estate planning to savings and investing. The Petitioner further indicated he currently manages over \$200 million of assets for his clients.

In the decision denying the petition, the Director determined that the Petitioner had not established neither the substantial merit nor the national importance of his proposed endeavor. The Director stated that the Petitioner did not demonstrate that his undertaking will have a broader impact on the field outside of his prospective company and/or clients. The Director also indicated that the Petitioner had not shown his proposed work has broader implications in the field, significant potential to employ U.S. workers, or other substantial positive economic effects.

On appeal, the Petitioner states the Director's comments were misplaced and shortsighted when he stated that the Petitioner's talent will be a trickle-down effect as long as the company he is employed with and/or advising is successful, and states that the response to the request for evidence sufficiently established why the proposed endeavor is of substantial merit and of national interest. In addition, on appeal, the Petitioner generally reiterates the previously claimed economic impacts of his proposed business, and the benefits of his profession and his qualifications, but does not provide any new evidence or arguments which overcome the Director's determination.

Regarding the substantial merit of the proposed endeavor, the record includes documentation with cited sources of how the U.S. financial service industry is fundamental to the U.S. economy, including the role of a strong financial services sector, the role of financial advisors, and cross border financial planning. Since international financial advisors work with clients to create customized plans and provide sound financial recommendations to help achieve financial confidence for clients and/or companies, they are beneficial in assisting customers and companies with financial securities and the economy. The proposed endeavor has substantial merit.

Regarding national importance, the Petitioner reiterates on appeal his proposed work is of national importance because his occupation of international financial advisor and the financial services industry in which he works stand to broadly enhance society welfare, offer significant potential to employ U.S.

workers, provide substantial positive economic effects, have national or even global implications in the field, and impact national initiatives. The issue here, however, is not the national 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 record does not include adequate corroborating evidence to show that the Petitioner’s specific proposed work in financial management offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance. 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 management services for his 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. Although the Petitioner contends that the fact that he manages investments in the amount of \$200 million in the United States cannot be “understated nor overlooked”, the Petitioner did not provide any documentation or information regarding these investments to show that they do in fact make an impact in the financial management field. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his clientele to impact the financial management field, the financial services industry, or the U.S. economy more broadly at a level commensurate with national importance.

On appeal, the Petitioner also contends the proposed endeavor has national importance because it has national and global implications as it promotes cross border investments in the United States. Regarding the cross-border business transactions, the record does not adequately explain how the financial services the Petitioner proposed to provide would influence foreign companies or investors to invest in the United States or U.S. companies to conduct cross-border activities abroad at a level implicating national importance. While the Petitioner links foreign direct investment with job creation in general and also links cross-border activities to job creation in the United States, the record does not establish by a preponderance of the evidence that any foreign direct investment in the United States or any cross-border activities to be procured as a result of the Petitioner’s proposed endeavor would create jobs on a magnitude, which could elevate his proposed endeavor to a level of 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. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner’s financial management projects would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework.

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. Consequently, the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, and the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reason for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's 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

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.

ORDER: The appeal is dismissed.