



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

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

In Re: 30114757

Date: FEB. 28, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an individual of exceptional ability, 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 Texas Service Center denied the petition, concluding that the Petitioner had not established eligibility as an individual of exceptional ability and 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.

If a petitioner demonstrates eligibility for the underlying EB-2 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 discretion¹, 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.

¹ See also *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

The Petitioner proposes to work in the United States as a financial manager, specializing in financial planning and analysis. The Petitioner states that she will apply her “more than 17 years of accumulated experience to provide consulting services for a U.S. financial company in financial planning and analysis to help businesses across the United States to maximize corporate profit” and “provide differentiated services that achieve financial health of an organization.” Her endeavor includes “overseeing financial planning & analysis (FP&A) functions, making recommendations on mergers and acquisitions, obtaining funding, working with department heads to analyze financial data and craft budgets, and attesting to the accuracy of reports and consulting with boards of directors and the CEO of strategy.” Additionally, she states she plans to support decisions related to tax laws and regulations that are specific to the organization or industry she plans to work for and “analyzing data and advising senior managers on ways to maximize profit.”

The first prong of the *Dhanasar* framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas, including business and entrepreneurialism. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

The Director concluded that the Petitioner’s proposed endeavor does not have substantial merit or national importance. However, evidence in the record establishes that the Petitioner’s proposed endeavor has substantial merit and we withdraw the Director’s determination to the contrary.

Turning to the national importance of her endeavor, the Petitioner contends that USCIS did not consider how it “will have broader implications on the business and financial fields, positively impact an economically depressed area and to help business across the United States to maximize corporate profit.” The Petitioner references her professional plan and relies, in large part, on her education and her over 17 years of experience in the financial management industry. However, the Petitioner’s expertise and record of success in previous positions are considerations under *Dhanasar*’s second prong, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of her proposed work.

Although the Petitioner’s professional plan reflects her intention to provide consulting services to financial companies, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her 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 that the record does not show that the Petitioner’s proposed endeavor stands to sufficiently extend beyond her future customers and/or employer(s) to impact the financial management industry more broadly at a level commensurate with national importance.

Regarding the articles about the importance of the financial management industry and the Petitioner’s emphasis on the importance of supporting small businesses, when determining national importance, the relevant question is not the importance of the industry, sector, or profession in which the individual will work. Instead, we focus on “the specific endeavor that the foreign national proposes to undertake.” *Id.* 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.*

In addition, the Petitioner has not demonstrated that her proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the nation. Specifically, she has not shown that her financial management services stand to provide substantial economic benefits to the United States. The professional plan does not demonstrate that the benefits to the regional or national economy resulting from the Petitioner’s endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner asserts that her proposed “endeavor will positively impact an economically depressed area” and “has a significant impact to employ U.S. workers,” she has not provided evidence to establish that the area in which the company will operate is economically depressed, that she would employ a significant population of workers in that area, or that her endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or tax revenue. The Petitioner’s unsupported statements are insufficient to meet her burden of proof. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Regarding the Petitioner’s letters of recommendation, the authors praise the Petitioner’s abilities and the personal attributes that make her an asset to the workplace. While they evidence the high regard the Petitioner’s former employers and co-workers have for her and her work, they do not offer persuasive detail concerning the impact of her proposed endeavor or how such impact would extend beyond her customers and/or employer. As such, the letters are not probative of the Petitioner’s eligibility under the first prong of *Dhanasar*.

Because the Petitioner has not established 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, as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments regarding the two remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976). We also reserve a determination on the Petitioner’s eligibility for the underlying immigrant classification.²

ORDER: The appeal is dismissed.

² Although we will not address this issue further, we note that the Director stated that the Petitioner satisfied at least three of the initial evidentiary criteria (official academic record, 10 years of full-time experience, and license or certification requirement), but did not proceed with a final merits analysis and concluded that she is an individual of exceptional ability. We note, however, that the Petitioner did not submit official transcripts and some of the letters only demonstrate part-time employment (25 hours per week at [redacted] and 12 hours per week at [redacted]). The Petitioner should address this in any future filings.