



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

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

In Re: 28424853

Date: JAN. 4, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 the Petitioner had not established 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, petitioners must demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or as an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. In addition, petitioners must show the merit of a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if:

- 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 *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).

II. ANALYSIS

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner's initial cover letter indicated:

... [The Petitioner] will help create new employment opportunities through his company [E-R-], therefore, thus, protecting his contributions to the company will certainly create employment for American citizens and residents, thus, protecting their economic interests and promoting President Trump's [Buy American Hire American] policy

....

... [E-R-] will be created as a reinsurance broker which will link the Colombian, Chilean and Peruvian markets with the U.S. underwriter market, providing tailored solutions for their mutual needs. To achieve this principle objective, [E-R-] would employ the best IT solutions available in the market, capitalize on elite insurance hubs, especially from the United States and create a fertile environment of creative proposals for its clients. The presence of [the Petitioner] as the Chief Executive Officer, well known for his abilities to solve complex problems and his exclusive business contacts-circle developed through his many years of experience, is a sine qua non condition to assure the Company's success.

In response to the Director's request for evidence (RFE), the Petitioner submitted a "Personal Statement" reflecting:

... [A] significant current challenge of the reinsurance industry is the shortage of experts trained in this area which represent only 1% of all insurance professionals in the United States. The reinsurance area demands extensive preparation in the academic and on the job. Looking back on my career, I can understand the critical variables that make up the profile of a comprehensive reinsurance professional. It is my professional commitment to contribute my knowledge and experience to educate and train new experts, not only through the job but also provide free training through the [E-R-] website for the public, recorded webinars freely available on social networks, and presentations on current and specific topics of reinsurance in educational centers.

....

... The project [E-R-] aims to reach ten full-time equivalent jobs in the first five years and contributes with ongoing \$150 thousand in federal taxes by year as part of the expansion plan and the efficient operation. My project is a way to expand the United States reinsurance business to other markets where I already know and, in this line, contribute to reinforcing the reinsurance industry in the United States for the benefit of its professionals, local and global corporations, and communities.

The Director found the Petitioner established the proposed endeavor's substantial merit but not its national importance. Regarding substantial merit, the endeavor's merits may be demonstrated in a range of

areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. On appeal, the Petitioner maintains the national importance of his proposed endeavor.

In 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 specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. However, the Petitioner repeatedly emphasized the national importance of his field rather than the national importance of his proposed endeavor of owning and operating E-R-. For instance, the Petitioner’s initial cover letter made arguments relating to “[the Petitioner’s] field has national or even global implications,” “[the Petitioner’s] field has significant potential to employ U.S. workers or has other substantial positive economic effects,” “[the Petitioner’s] Field will Broadly Enhance Societal welfare,” and “[the Petitioner’s] Field impacts a matter that a government entity has described as having national importance or is the subject of national initiatives.” Similarly, the Petitioner provided evidence regarding various topics, such as the global reinsurance market, COVID-19 and insurance, public policy and life insurance, the insurance industry, insurance regulation, cybersecurity, infrastructure investment, insurance investments, natural disaster insurance, insurance health coverage, and other range of topics. Again, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of E-R- rather than the importance of insurance, government initiatives, or the industry or field.² In *Dhanasar*, we 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.* 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. We note here the alleged shortage of an occupation does not render a proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

In addition, the Petitioner highlighted his experience, skills, and knowledge, including his “advanced degree in Mechanical Engineering (STEM [science, technology, engineering, and mathematics] field).” The Petitioner’s experience and abilities in his field 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 issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*’s first prong.

Moreover, 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. The Petitioner did not offer specific information and evidence to corroborate his assertions that the prospective impact of working as a reinsurance broker or providing reinsurance brokerage services through E-R- rises to the level of national importance. In *Dhanasar*, we determined 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, the record does not show through supporting

² The Petitioner’s arguments and evidence relate more to the substantial merit of the proposed endeavor rather than the national importance part.

documentation how his specific services with E-R- stand to sufficiently extend beyond his prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Finally, although the Petitioner provided a business plan, the Petitioner did not demonstrate how his business' claimed revenue and employment projections, even if credible or plausible, have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. While the revenue forecasts \$1.4M in year 1 to \$2.5M in year 5, the business plan does not establish the benefits to the regional or national economy would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890. Similarly, although the plan claims the business would create 7 positions in year 1 to 10 positions in year 5, the Petitioner did not show that such future staffing levels would provide substantial economic benefits to [redacted], Florida or the region or U.S. economy more broadly at a level commensurate with national importance. The Petitioner, for instance, did not demonstrate that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not establish that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.³

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude he has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

³ 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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).