



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

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

In Re: 31458057

Date: JUL. 3, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 the Petitioner established she is an advanced degree professional but did not establish that a waiver of the required job offer, and thus that the labor certification, would be in the national interest.¹ The matter is now before us on appeal pursuant to 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.² 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest."

¹ We agree with the Director's determination that the Petitioner is eligible for EB-2 classification as an advanced degree professional.

² Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

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 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as a matter of discretion,³ 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.

Id. at 889.

II. ANALYSIS

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake and its “potential prospective impact.” *Id.* at 889. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. The term “endeavor” is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), <https://www.uscis.gov/policy-manual>. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. *Id.* As such, we will first identify the Petitioner’s endeavor as shown in the record. Then, we will evaluate the Petitioner’s evidence in support of the endeavor’s substantial merit and national importance.

The Petitioner seeks to establish a consulting firm where she will work as an “HR Corporate Wellbeing Consultant,” and serve as her firm’s “Chief Executive Officer” and “Lead Consultant.” The goal of the firm is “promoting physical and mental health in the United States by developing, planning, leading, and implementing plans and programs to improve well-being and quality of life,” and “enhance[ing] personal resources to manage stress and at the same time stimulat[ing] health habits for the benefit of [U.S.] companies, employees, and the general economy.”⁴ In response to the Director’s request for evidence (RFE), the Petitioner submits a personal plan where she describes her educational and professional development, her endeavor, and the impacts she asserts will flow from it.⁵ Of

³ *See 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 is discretionary in nature).

⁴ In her response to the Director’s request for evidence (RFE), the Petitioner states her endeavor is to serve as a “Master Consultant in Human Management and Business Well-Being.” Based on the description of the services she will provide, her endeavor remains unchanged, even though the title of her position appears slightly different. In general, a few errors or minor discrepancies are not reason to question the credibility of a foreign national or an employer seeking immigration benefits. *See Spencer Enters. Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir. 2003). As such, we will address the substance of her endeavor, rather than merely focus on this discrepancy.

⁵ While we may not mention each submitted document, we have reviewed each one.

particular concern to her are the wellness needs of healthcare workers, because it is “closely linked with the quality of their services and the health outcomes of their patients.”

The Director determined the Petitioner’s endeavor does not have substantial merit however no analysis was provided to explain why the Director reached that conclusion. Based on the evidence of record, and the Petitioner’s description of her endeavor as found in her personal plan, we withdraw that determination and conclude her endeavor is of substantial merit. Because the endeavor has substantial merit, we turn to whether the proposed endeavor is of national importance, as contemplated by *Dhanasar*.

On appeal, the Petitioner submits a personal statement describing her professional career as a psychologist and her education, as well as the “Coaching methodologies” she has learned in the wellness and nutrition fields. She explains that she has used her skills, knowledge, and experience to help “transform and improve the lives of people in organizations and in this way make companies more productive.” She contends she knows and understands “human behavior” and the role humans play within organizations and that her proposed endeavor is a “natural evolution of the efforts” she has engaged in thus far.

The Petitioner continues to assert that her proposed endeavor will enhance societal welfare and cultural enrichment and in her role as an “HR Corporate Wellbeing Consultant” she will promote positive results affecting a company’s employees, and long-term profit. Through her work, she will promote mental health in the corporate workspace and improve the physical and behavioral health of employees. She asserts that doing so will force corporate environments to evolve and change their cultures to retain talent and will also benefit corporations by reducing their health care costs. She provides multiple statistics and reports that describe the increasing rate of depression particularly during and in response to the coronavirus pandemic and believes her endeavor can have a positive influence to reverse this trend. We acknowledge her effort, and that her proposed endeavor may have a positive influence on the people she may provide services to, however she has not submitted sufficient, independent, and objective evidence to establish her burden or support her assertions. *Matter of Chawathe*, 25 I&N Dec. at 375-76 (standing for the proposition that assertions must be supported with relevant, credible, and probative evidence). Furthermore, while these assertions speak to the substantial merit of her endeavor, they do not establish its national importance. In determining whether the proposed endeavor has 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.” *Dhanasar*, 26 I&N Dec. at 889.

As contemplated by *Dhanasar*, we examined the record to determine if there is sufficient evidence to conclude the Petitioner’s “undertaking may have national importance . . . because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* at 893. Here, the Petitioner asserts her endeavor includes providing her unique methodologies, and consulting services specifically tailored for proper well-being and work life balance. To support this assertion, she provides a personal plan, reference letters, an expert opinion letter, and numerous publications and industry reports. Some of these documents discuss her past professional accomplishments, while others indicate they are interested in contracting her services when she becomes a permanent resident and opens her consulting firm. However, her professional achievements and letters of interest from potential customers are generally

considered under *Dhanasar*'s second prong, where we consider if the individual is well positioned to achieve his endeavor. *Id.* at 890. For example, in a reference letter and her personal plan, she explains how as a "Personnel Evaluation Coordinator" in the Colombian military's [redacted] she handled all necessary feedback from executives and employees, and adjusted her services to meet their needs. She also explains that in that role, she implemented technological tools and the application of the "SGHC human management system" to process employee compensation criteria in relation to their future goals. Thus, while we acknowledge the Petitioner's prior work has garnered positive references and may have had a positive impact on her former employer's operations and their staff, she has not submitted evidence to establish that her approach differs from or will improve upon the human resource and corporate wellness methods already available and in use in the United States. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

An expert opinion letter from a professor at [redacted] provides general background information to explain how the Petitioner's proposed endeavor may be considered of national importance. For instance, the professor describes how the baby boomer generation's retirement is going to lead to shortages of high skilled workers and how she will help fill a role in a high skilled position. He supports her assertions that "[b]y providing tailored solutions, she can significantly impact businesses' operational efficiency, staff retention, and overall profitability, thereby contributing to the national economy and competitiveness" and provides that "[h]er focus on corporate well-being extends to the healthcare sector, where her expertise in stress management and work-life balance can benefit healthcare professionals facing high-stress work environments." He contends that the benefits of her services to healthcare providers will ultimately benefit patient care and the overall healthcare system, which renders her endeavor of national importance. He describes how "her methodologies can aid in talent development, improving customer satisfaction, and driving growth," which can have significant national implications by enhancing U.S. competitiveness in these industries on a global scale. And he supports her contention that her "methods" promote health and well-being to combat chronic disease through management, and awareness of preventative health measures which address staff burnout. He also asserts her endeavor will promote job creation and have substantial positive economic effects throughout multiple industries including education, sports and entertainment, professional and financial services, because she will tailor her services to meet the needs of these industries. Finally, he asserts her endeavor aligns with U.S. government initiatives to promote public health, workplace conditions, workforce development, and education. We have considered the professor's opinion and conclude that while the opinion supports the substantial merit of the Petitioner's endeavor, it is insufficient to establish its national importance because it is entirely based on the Petitioner's own description of her proposed endeavor and therefore does not serve as a sufficiently independent analysis of her endeavor's impacts. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (standing for the proposition that we may, in our discretion, use opinion statements submitted by a petitioner as advisory but, where an opinion is not in accord with other information or is questionable, we are not required to accept or may give less weight to that opinion); *see also Matter of Chawathe*, 25 I&N Dec. at 375-76. Here, the opinion lacks objectivity when discussing the impacts of the Petitioner's endeavor on the field of healthcare and corporate culture. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

We also explained in *Dhanasar* 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 . . . may well be understood to have national importance." *Id.* at 890. We acknowledge that the

Petitioner's personal plan cites to sources that establish the importance of: the U.S.'s healthcare industry; mental health in the workplace; corporate wellness; immigrant entrepreneurship; the United States' shrinking workforce due to the baby boomer generation's age; mental health; and other topics related to health and wellness and American competitiveness. While these areas are undoubtedly important, she has not established that her proposed endeavor will specifically impact the economy at a level commensurate with national importance. *Matter of Chawathe*, 25 I&N Dec. at 376. Furthermore, we acknowledge that her personal plan explains she will hire an administrative assistant, and trainers to help spread her methodology and train others. However, the impact of these hires is not sufficiently broad to rise to the level of national importance. *Id.* For example, in *Dhanasar*, we determined that while proposed classroom teaching activities in STEM may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance. *Id.* at 893. Similarly, here, while the services the Petitioner offers to her clients may be highly beneficial to them, this is not indicative of a broader impact on the field of corporate wellness or healthcare in general. In sum, we agree with the Director that the Petitioner has not shown that the implications of her endeavor go beyond any individual client she provides consulting services to or the employees she will hire to be commensurate with a level of national importance.

B. *Dhanasar*'s Second and Third Prongs

As the Petitioner has not established the national importance of her proposed endeavor, we decline to reach and hereby reserve her arguments regarding her eligibility under the second and third *Dhanasar* prongs.⁶ See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting 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, 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.

⁶ We acknowledge that in their second prong analysis, the Director erroneously referred to the field of accounting stating "[t]he self-petitioner did not sufficiently explain or establish how his [sic] education, experience, certificates, and awards, compared to the overall education of others working as accountants [sic], where it is reasonable to conclude that continuing education and training is a typical part of the profession." We withdraw this sentence due to its obvious irrelevance, however, because the Petitioner has not established her eligibility under prong one of the *Dhanasar* framework, we decline to remand the matter for further consideration of the evidence submitted under prong two.