



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

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

In Re: 31639919

Date: JUL. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a financial and business management consulting business owner, seeks second preference 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 she 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. 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.

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 discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *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).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id.

II. ANALYSIS

The Director determined that the Petitioner qualifies for underlying EB-2 classification as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Petitioner indicated that the main mission of her proposed endeavor as an entrepreneur in business management and administration “is to help other companies achieve success in their expansion journeys, providing support and specialized knowledge at all stages of the process.” She plans to expand her current company, C-B- LLC,² registered in the state of Florida, to offer “consulting, advisory and specialized training in business management, business expansion and internationalization of Brazilian and American brands.” The Petitioner asserted that her “proposed endeavor is based on a real business that solidifies [her] as an entrepreneur in the U.S. leading the expansion of [C-B- LLC] through consulting, advisory and specialized training in business management, business expansion and internationalization of Brazilian and American brands.” She indicated that each of the five services developed by C-B- LLC—economic feasibility study, bilateral business expansion formatting in Brazil and U.S., educational portal, formatting the franchise network, and empowering mentoring— “play[] a fundamental role in promoting substantial impacts at a national level in the U.S. by facilitating the international expansion of companies.”

In addition, the Petitioner stated that her proposed endeavor is of national importance as it will have “national or even global implications within a particular field; significant potential to employ U.S. workers or other substantial positive economic effects, particularly in an economically depressed area; [an impact to] broadly enhance welfare; and impact [on] a matter that [a] government entity has described as having national importance or is the subject of national importance.” She then noted that the general aspects of the national importance of her proposed endeavor include her work in developing solutions to environmental challenges; reduction of production costs; compliance with labor and environmental regulations; promoting sustainable practices in supply chains; and proposals for investment intentions, contracting services, and business partnerships from American companies.

The Director reviewed the totality of the evidence in the record, including the Petitioner’s statements, business plan, letter of interest for investment, letters from satisfied clients, letters of recommendation, and education and credential information.³ The Petitioner’s business plan included market analyses, business strategies, a marketing plan, an operational plan, a financial plan, an analysis on benefits of

² We use initials to protect the privacy of individuals.

³ This is a non-exhaustive list of evidence the Petitioner submitted in the record. While we may not discuss every document submitted, we have reviewed and considered each one.

the venture for the U.S., and specifically indicated that the company “was founded and already operates in management and administration and will expand its services by offering consulting, advisory and training specialized in business management and expansion, and brands internationalization between Brazil and the U.S.” With respect to staffing, the business plan identified 10 employees required to operate the proposed endeavor —the Petitioner as the owner performing financial consulting duties, an administrative assistant, a market research analyst and marketing specialist, a management analyst, two accountants and auditors, three regulatory affairs specialists, and a business intelligence analyst. It further indicated that it would hire 6 employees in the first year and add one additional employee each year until reaching 10 total employees in year five. With respect to revenue, the business plan offered gross revenue projections of \$633,600 in year one, \$823,680 in year two, \$1,108,800 in year three, \$1,436,160 in year four, and \$1,805,760 in year five.

The Director determined that 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 generally asserts that the record includes sufficient evidence to show the national importance of her proposed endeavor. The Petitioner reiterates information found in the business plan pertaining to the innovative method of her management system, the impacts on the field of small business, the positive business impacts for areas of economic depression, expected employability, and tax collection. First, the Petitioner indicates that her proposed endeavor’s “innovative consulting and management method . . . consists of using strategic consulting and management through [its] own management system, using the labor of its partners” and will include an educational portal offering training to ensure that company teams are prepared to face new scenarios and challenges. Second, the Petitioner references an article⁴ discussing the number, size, age, and importance of small businesses in the U.S. and contends that her proposed endeavor will focus on providing consulting and business management for those small businesses and will significantly reach small companies contributing to the national economy. She also references another article discussing the impact of immigrant entrepreneurs in the U.S. and contends that “as a small business, [her] proposed endeavor will also play a key role in the U.S. economy, contributing significantly to the local economy[’s] growth, as [she] will act to create jobs, innovate with cutting-edge technology in the market, and impact the local community where [she] will operate, and where [those] businesses [she] will help [] also perform their projects.” Third, the Petitioner discusses the unemployment rates in the U.S., particularly in the state of Florida, and indicates that her proposed endeavor “has had a positive impact and is poised to bring substantial economic benefits to the state of Florida” by offering direct and indirect jobs for Americans over the next five years, as explained in the business plan, in addition to promoting local industry production, income generation, and taxes. She also highlights that her proposed endeavor’s operations will bring benefits to areas of economic depression, in terms of high unemployment rates and low-income distribution, in the state of Florida specifically. Fourth, the Petitioner outlines calculations for determining the number of indirect jobs created for every employee hired by her company and indicates that 2.076 indirect jobs are created for every one employee at her proposed endeavor. As such, she calculates that for the 10 company employees hired in year five, her

⁴ We note that the Petitioner references several articles and studies in her appeal brief and provides citations within. However, she has not provided copies of the articles and studies referenced for the record.

proposed endeavor would create at least 20.76 indirect jobs in the United States, plus those created by suppliers supporting her proposed endeavor. She then concludes that based on those results, her proposed endeavor will generate significant economic and social impacts for the U.S. Finally, the Petitioner discusses tax collection in the U.S. and the projections of payroll and income taxes paid by her company over the next five years, from \$57,975 in year one to \$316,506 in year five. She concludes that because the revenue projections over the first five years of the proposed endeavor are upward and consistent, as outlined in the business plan, it proves positive tax collection for the U.S. economy, especially considering that her company is also part of a robust production chain.

Upon de novo review, we agree with the Director that the Petitioner's endeavor has substantial merit but does not satisfy the national importance element of *Dhanasar*'s first prong. If the Petitioner does not meet the first prong, the evidence is dispositive in finding the Petitioner ineligible for the national interest waiver, and we need not address the second and third prongs. *See id.* (requiring that petitioners establish all three prongs in order to establish eligibility).

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 "the specific endeavor that the foreign national proposes to undertake." *See 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.* 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.

The Petitioner maintains on appeal that her proposed work as an entrepreneur in financial and business management consulting is of national importance to the United States. Her business plan boasts that the proposed endeavor "will have a positive impact and bring substantial economic benefits to the state of Florida" while also playing a "relevant, strategic, and nationally important role in terms of economic and social development" in the U.S. It indicates that the proposed endeavor will increase U.S. exports, create jobs in the U.S., attract Brazilian investments to the U.S., transmit knowledge and technology between Brazil and the U.S., strengthen economic relations between Brazil and the U.S., and increase tax revenue for the U.S.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of her work. Although the Petitioner's statements reflect her intention to provide valuable financial and business management consulting services for her clients, 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 the Petitioner's proposed endeavor stands to sufficiently extend beyond her clientele to impact the field of small businesses, the financial consulting or business management consulting industries, or cross-border business initiatives more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the U.S. Specifically, she has not shown that her company's future staffing levels, business activity, associated tax revenue, and cross-border financial initiatives stand to provide substantial economic benefits in Florida or the U.S. While the projected revenues outlined in the business plan indicate that her company has growth potential, it does not demonstrate that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner asserts that her company will hire U.S. employees, she has not offered sufficient evidence that the area where C-B- LLC operates 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. Moreover, while the Petitioner contends that her proposed endeavor will create cross-border financial initiatives between Brazil and the U.S., she has not shown that the prospective impact of the consulting services performed by her company represents a significant share of the financial or business management consulting industry. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.