



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

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

In Re: 28536954

Date: May 15, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a sales director, 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 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 while the record did establish that the proposed endeavor was of substantial merit, the Petitioner did not demonstrate that the endeavor was nationally important, that the Petitioner was well-positioned to advance the proposed endeavor, or that it would be beneficial to the United States to waive the requirements of a job offer and labor certification. 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

An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree.

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 discretion,<sup>1</sup> 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.

## 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, following a *de novo* review, we agree with the Director that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

### A. Substantial Merit and National Importance

The first prong, 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 such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

Regarding her claim of eligibility under *Dhanasar*’s first prong, the Petitioner wrote in her professional plan and statement that her proposed endeavor is to work as a sales director, “direct[ing] an organization’s sales teams” by setting goals, analyzing data, and developing training programs for organizations’ sales representatives.

As a preliminary matter, the Petitioner asserts on appeal that in denying the petition, the Director “imposed novel substantive and evidentiary requirements.” An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v). Although the Petitioner asserts that she has provided evidence sufficient to demonstrate her eligibility for a national interest waiver, she does not specify, as required, how the Director erred or what factors in the decision were erroneous.

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 Dhanasar*, 26 I&N Dec. 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.

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<sup>1</sup> *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).

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 argues on appeal that her proposed work is national in scope because it “generate[s] substantial ripple effects upon key business activities on behalf of the United States,” and is a “vital aspect of U.S. sales operations and productivity.”

Though the Petitioner has acted as a contractor for the [redacted] company since 2007, the record does not clarify if she intends to continue working with them.<sup>2</sup> The professional plan and statement submitted in response to the request for evidence (RFE) states that she intends to continue working in the U.S. as a sales director “in the field of Business.” She elaborates that she intends to “help fill the many available positions in the United States” and that her skills will “enable the growth of the American companies that I will work for.” The Petitioner has not explained logistically how she would act as a “sales director” for multiple companies simultaneously. Anyone seeking this waiver must identify “the specific endeavor” that they propose to undertake. *Id.* at 889; *see generally* 6 USCIS Policy Manual F.5(D)(1), <https://www.uscis.gov/policymanual> (“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.”).

The evidence presented also does not demonstrate that the endeavor as proposed rises the level of national importance. 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. 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. 26 I&N Dec. at 893.

Here, the Petitioner has not described how her employment as a sales director will have a broader impact on the field of U.S. business. The appeal brief argues that her specific endeavor “will have multiple positive effects on the U.S. marketplace, thus enhancing business operations on behalf of the nation, and contributing to a streamlined economic landscape.” However, these generalized statements focus on the sales field and do not explain how the specific endeavor’s impact will extend beyond her partner companies to the broader business sphere. The record presented does not provide sufficient support for her arguments either.<sup>3</sup> The Petitioner submitted articles discussing many U.S. and international business-related topics. Nevertheless, these reports do not address the Petitioner’s specific proposed endeavor or how it would have broad implications in the business field in a way that implicates national importance.<sup>4</sup>

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<sup>2</sup> The Petitioner submitted letter from [redacted] the Commercial Manager of [redacted] [redacted], indicating that the company has an interest in the Petitioner selling their products. However, the letter is dated July 20, 2022, after the date of the petition’s filing. A petitioner must meet all the eligibility requirements of the petition at the time of filing. 8 C.F.R. § 103.2(b)(1), (12).

<sup>3</sup> While we may not discuss every document submitted, we have reviewed and considered each one.

<sup>4</sup> The Petitioner additionally submitted letters from co-workers, in which the authors attest to the Petitioner’s acumen and capabilities, and evidence of her awards and recognitions from her work with [redacted]. However, the Petitioner does not explain how this evidence is relevant to national importance it points to the Petitioner’s past accomplishments, not the specific endeavor’s potential impact in the field of business.

The Petitioner also provided a letter from Dr. [REDACTED] a professor in business management at [REDACTED]. As a matter of discretion, we may use opinion statements submitted by a petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here the advisory opinion is of little probative value as Dr. [REDACTED] evaluation of national interest primarily discusses the Brazilian market economy, U.S. investment there, and how companies doing business in Brazil would benefit from someone with the Petitioner's skills. From this information he makes the sweeping conclusory finding that the Petitioner's specific endeavor is nationally important. Yet, he neglects to explain how the proposed endeavor impacts the business field beyond the individual corporations the Petitioner would partner with or how her endeavor would have an economic impact on par with national importance. *See Dhanasar*, 26 I&N Dec. at 889 (noting that the focus of prong one is not the importance of the field, industry, or profession but the specific endeavor the noncitizen proposes to undertake). From the evidence provided, the Petitioner has not established that her proposed endeavor will have a national impact on the U.S. business field.

Furthermore, the Petitioner has not demonstrated that her endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, may have national importance. *Dhanasar*, 26 I&N Dec. at 890. Here, however, the Petitioner has not presented sufficient evidence to show that her work will have a positive economic effect on par with national importance. The appeal brief states that the Petitioner's endeavor is nationally important because it will "generate substantial ripple effects upon key business activities" and is a "vital aspect of U.S. sales operations and productivity." Nevertheless, the appeal brief does not then cite to any evidence to support these blanket statements. Additionally, the supporting record does not provide any documentation regarding projected U.S. economic impact attributable to her future work. As discussed above, the evidence presented by the Petitioner, namely the articles, letters, and recognitions from [REDACTED] do not address how the specific endeavor in the U.S. will have a significant positive economic impact. Rather the articles discuss the business field at large, and the letters and recognition speak mainly to the Petitioner's skills and past achievements. Thus, the record does not show that benefits to the regional or national economy resulting from the Petitioner's work as a sales director would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. 26 I&N Dec. at 890.

In the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we find that the record does not establish that her proposed endeavor will sufficiently extend beyond her partner companies to affect the region or nation more broadly. 26 I&N Dec. at 893. She has also not shown 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. Accordingly, we find that the record does not demonstrate national importance of the Petitioner's 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.

As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating 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, we find 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.