



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

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

In Re: 31032170

Date: MAY 28, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur in the restaurant industry, seeks employment-based second preference (EB-2) immigrant classification as 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 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 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.<sup>1</sup> 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." 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

---

<sup>1</sup> 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.

Immigration Services (USCIS) may, as a matter of discretion,<sup>2</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.

*Id.* at 889.

## II. ANALYSIS

### A. EB-2 Classification

The Petitioner asserts his eligibility for EB-2 classification based on his degree, which was determined to be the equivalent to a bachelor's degree in business administration, which he earned in 2006, plus over five years of professional experience. The Director concluded the Petitioner qualifies as a member of the professions holding an advanced degree, and thus qualifies for EB-2 classification. We agree.

### B. 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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. 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. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), <https://www.uscis.gov/policy-manual>. 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 asserts that he will serve as the chief executive officer and general and operations manager of his own business, a Brazilian restaurant called [REDACTED] (the Company), located in the [REDACTED], Florida area, where there is a large and growing Brazilian population. His endeavor also includes working as a business manager and consultant for other restaurants or companies that need his technical knowledge and expertise to increase profits, minimize costs, and eliminate waste without losing their standards for quality and service. According to his initial business plan, the purpose of the Company is to “create a chain of Brazilian restaurants in Florida, in the next ten years, with at least five units across [REDACTED] among other cities.” He asserts he has investors and

---

<sup>2</sup> *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).

locations already scouted out for his restaurants. He intends partner with [redacted] a Brazilian company, to achieve his objectives. As the endeavor's merit may be demonstrated in a range of areas, as described above, we agree with the Director that the endeavor has substantial merit. *Id.* However, as discussed below, the Petitioner has not established that his proposed endeavor is of national importance.

The Petitioner's request for evidence (RFE) response asserts that his endeavor is of national importance because "[t]he restaurant industry is a major economic driver in the United States, generating over \$800 billion in revenue each year and employing over 15 million people." He further maintains that the endeavor "plays a significant role in various aspects of society, such as job creation, economic growth, cultural diversity, and public health" by for example, promoting local agriculture and food suppliers, serving as a hub for cultural exchange and social integration, serving healthy and nutritious foods, as well as supporting community engagement and charity events, fundraisers, partnerships with local organizations, which provide positive benefits to communities. His RFE response also highlights studies related to the economic impact of restaurant entrepreneurship, which claims that for every restaurant an average of 10 jobs are created and \$1 million in revenue per year. He also highlights a University of Miami paper supporting the idea that restaurant entrepreneurship positively impacts cultural diversity in Florida.

His RFE response also includes a second personal statement and a second business plan. The former document highlights his career and work experience, as a business administrator and consultant to a restaurant called [redacted]. He asserts and provides a letter from [redacted] owner explaining how his resourcefulness and determination helped the restaurant overcome the COVID-19 pandemic's challenges, and helped the restaurant stay in business during that difficult time. He also highlights his involvement, alongside other entrepreneurs, in the launch of [redacted] a gourmet burger restaurant. He explains that the burger restaurant led to the creation of eight new jobs, and partnerships with four food suppliers. The Petitioner's second business plan also explains that for each of its five restaurants, the proposed endeavor will create the following positions: restaurant manager, head chef, two cooks, kitchen helper, hostess, bartender, and three waiters. In addition, he will serve as chief executive officer for all five restaurants.

On appeal, the Petitioner submits a brief reiterating the same assertions he advanced in his RFE response to explain the national importance of his endeavor and the impacts he believes his endeavor will have on the restaurant industry, as well as the local and regional economy and community; he does not provide any additional evidence. We acknowledge the Petitioner's foregoing arguments and applaud his commitment to employ his entrepreneurial drive to the restaurant industry in the United States. However, assertions without more are insufficient to conclude that an endeavor is of national importance. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) (noting that "statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). We further note that the letter he provided from the co-owner of [redacted] does not substantiate his assertion that his work for them created eight jobs. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (standing for the proposition that any inconsistencies in a petitioner's evidence may lead to reevaluation of the remaining evidence offered in support of the visa petition.)

The Petitioner's reliance on industry reports and articles concerning topics such as the importance of immigrant entrepreneurship to economic growth and American competitiveness is misplaced because

while the information provides a context for some of his assertions related to the role that entrepreneurs play in our economy, and the importance of economic progress, they do not *specifically* discuss the Petitioner's proposed endeavor or explain how his endeavor would have broader implications. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Further, merely working in an important industry or having an important profession is insufficient to establish the national importance of the proposed endeavor, as we explained in *Dhanasar*. *Id.* at 889. 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 specific endeavor that the foreign national proposes to undertake." *Id.*

The Petitioner submitted substantial evidence relevant to our analysis under *Dhanasar*'s second prong, where we consider whether he is well-positioned to advance the proposed endeavor, however, this evidence does not relate to our analysis of the endeavor's national importance. For example, he highlights his more than 22 years of experience as a business administrator and entrepreneur running various businesses (such as car dealerships, beverage distributors, restaurants, among others), as well as in civil service positions. However, his work experience does not render his proposed endeavor nationally important under *Dhanasar*'s first prong. *Id.* at 890. Likewise, the investor and recommendation letters he submits show that he is a businessperson with a professional network that holds him in high regard (as well as his father, who according to these letters was a well-known businessperson in Brazil), however, these letters would be similarly relevant to *Dhanasar*'s second, not first, prong. *Id.*

A tenured associate professor of business administration and marketing from [REDACTED] provides an opinion letter in which he asserts the Petitioner's endeavor is of "substantial national importance." However, this opinion is not sufficient to meet his burden because it is wholly based on a review of the Petitioner's curriculum vitae, academic credentials, and professional certifications, and does not appear to include any review of the Petitioner's business plan or proposed endeavor. As such, although the professor asserts that the endeavor has national implications in the field, the opinion is of limited probative value because it does not incorporate consideration of the actual endeavor the Petitioner proposes to undertake. *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 in any way 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 (standing for the proposition that a petitioner must support their assertions with relevant, probative, and credible evidence).

As contemplated by *Dhanasar*, we examine 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 has not submitted any evidence supporting the assertion that his methods of operating or managing restaurants differ from or will improve upon the methods already available and in use in the United States.

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. Here, we acknowledge that

the Petitioner projects that by its fifth year of operation, his endeavor will generate approximately 53 hires and have \$287,458 in payroll tax, \$541,238 in net income tax, and \$828,697 in total taxes. His plan also estimates the economic impact of his endeavor, as determined by the Regional Input-Output Modeling System (RIMS II),<sup>3</sup> to be 86 direct jobs, earnings of \$3,528,840, and payroll of \$1,916,390 by its fifth year. The Petitioner's plan appears to contain conflicting information regarding the economic impacts of his proposed endeavor, yet he does not attempt to resolve or explain them, thus, these projections appear vague. *See Matter of Ho*, 19 I&N Dec. at 591-92. Furthermore, his plan does not sufficiently detail the basis for either of these revenue or job creation projections, nor does it adequately explain how the projections will be realized other than stating that the five restaurants must be fully operating to achieve these results. *See Matter of Chawathe*, 25 I&N Dec. at 376. As such, without more, he has not established that his endeavor will have substantial positive economic effects at a level commensurate with national importance.

In sum, we agree with the Director's conclusion that the Petitioner has not established that his proposed endeavor stands to sufficiently extend beyond his organization and customers to impact the restaurant industry or U.S. economy more broadly at a level commensurate with national importance. Nor has he shown that the work he proposes to undertake offers original innovations that contribute to advancements or otherwise has broader implications for his field. Furthermore, the Petitioner has not demonstrated that his specific endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without credible evidence regarding any projected U.S. economic impact or job creation directly attributable to his work, the Petitioner has not established that benefits to the regional or national economy resulting from his endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

### C. *Dhanasar*'s Second and Third Prongs

As the Petitioner has not established the national importance of his proposed endeavor, we decline to reach and hereby reserve the Petitioner's arguments regarding his eligibility under the second and third prongs. *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

The Petitioner has not established the national importance of his proposed endeavor, and consequently that a waiver of the job offer and labor certification process, in the exercise of our discretion, is in the national interest.

**ORDER:** The appeal is dismissed.

---

<sup>3</sup> Public source information shows that RIMS II multipliers were developed by the U.S. Bureau of Economic Analysis to help economists analyze the potential impacts of economic activities on regional economies. *See* <https://guides.library.upenn.edu/RIMSIIdata>.