U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40764788

Date: JAN. 14, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an alien 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).

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish eligibility for the underlying immigrant classification and for 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, petitioners must demonstrate that they merit 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 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 petitioners demonstrate:

- 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 job offer requirement would benefit the United States.

Id.

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is 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. At initial filing, the Petitioner's cover letter indicated:

> [redacted] is ready to provide specialized consulting services to entities in the U.S. real estate sector in order to strengthen their business operations. The company targets a wide range of clients, including real estate companies, developers, property management companies, HOAs and service providers. By offering expert guidance [redacted] aims to help these participants navigate the complexities of the real estate market, especially addressing challenges such as fluctuating interest rates and other significant macroeconomic factors that influence market trends and profitability.
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> The real estate market, an integral part of the American economy, is subject to the influence of broader economic conditions, such as GDP growth, employment rates and consumer confidence. The consulting services provided by [redacted] will aim to improve the commercial performance and efficiency of real estate operators. This effort is particularly crucial in the context of anticipated economic growth, coupled with a possible reduction in revenues due to rising interest rates. By leveraging [the Petitioner's] experience, the company seeks to equip real estate operators with strategies to improve profitability without increasing their fixed and variable costs, even as they face a market sensitive to macroeconomic changes.
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> [redacted] services are positioned to support the American economy by helping the real estate sector remain robust and adaptable amid economic changes. By promoting operational efficiency and resilience in the sector, the company's support can lead to sustained growth and competitiveness in the real estate market. These efforts can contribute to broader economic stability by increasing job creation, promoting investment opportunities and facilitating the continued development of residential and commercial real estate. Through its consulting services, [redacted] aims not only to uplift its clients, but also to contribute positively to the economic landscape of the United States.

On appeal, the Petitioner maintains that '[redacted] aims to continue his work in the field of Real Estate development and construction to improve access to affordable housing, create jobs, and serve underserved populations across the United States."

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. SCOPS determined the Petitioner established the substantial merit aspect, but not national importance, of the 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. Although the Petitioner references and provided documentation relating to "Government Programs and Supportive Research," such as the housing market, economic impact of immigration, poverty, housing credits, and mortgage taxes and credits, the matter here is not the importance of any of these issues. Rather, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of providing consulting services to entities in the U.S. real estate sector through [redacted]. 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.

Moreover, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the work. *Id.* at 889. Here, the Petitioner did not demonstrate how his company would largely influence the field and rise 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. Similarly, the record does not show through supporting documentation how the Petitioner's particular endeavor sufficiently extends beyond its prospective clients or the limited individuals who may elect to use its services, to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

In addition, the Petitioner references his "relevant professional experience." However, the Petitioner's knowledge, skills, and experience 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 that he proposes to undertake has national importance under *Dhanasar's* first prong.

Further, the record includes an expert opinion letter from S-K-, professor of accounting, who opined that the Petitioner's proposed endeavor has national importance. However, while the letter claims that the Petitioner's proposed endeavor "aligns with long-standing national priorities and current federal initiatives focused on housing access, job creation, and economic development," the letter does not explain or argue how the Petitioner's business would have broader implications for our country rather than limited effects to the service area. Moreover, the letter addresses more of the substantial merit aspect of the proposed endeavor rather than how it will have a broader impact in the field, more akin to the national importance part. *See Dhanasar*, 26 I&N Dec. at 893.

Finally, the Petitioner asserts that his business plan reflects "direct creation of 18 jobs over five years, with a remarkable potential to generate 142 indirect jobs" and "projections indicate a generation of approximately $461,484 in federal and state taxes and $519,915 in payroll taxes in the first five years of operation." The Petitioner, however, did not support the record to corroborate any of his economic assertions in the business plan. Further, the Petitioner did not demonstrate how his business plan's revenue projections, even if credible or plausible, offers substantial positive economic effects for our nation. Although the business plan forecasts revenue, the Petitioner did not establish the significance of the data to show how the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Moreover, the

Petitioner did not show that the company's projected staffing levels would provide substantial economic benefits to the Florida area or to the 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 show that, beyond the limited benefits provided to his clients or 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 the 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 the Petitioner's qualification under the second and third prongs outlined in *Dhanasar*, as well a determination of his eligibility for the underlying immigrant classification, would serve no meaningful purpose. Accordingly, we reserve these specific issues.[2]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner 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.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.

[2] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).