U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37421974

Date: JUN. 20, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, an entrepreneur operating a trucking and financial consulting business, 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).

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner is an advanced degree professional, he did not establish 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 the beneficiary's 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 the beneficiary's eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." *Id.*

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,[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 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).

- 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.

II. ANALYSIS

SCOPS denied the petition, concluding that although the Petitioner is eligible for EB-2 classification as an advanced degree professional, he did not establish that a waiver of the job offer, and labor certification requirement, is in the national interest. According to his business plan, the Petitioner works as the financial manager, accountant and CEO of a trucking and financial consulting company (the Company), which he has co-owned and operated since January 2021. The Company also has a chief operating officer and by its fifth year of operation, the Petitioner states that it intends to hire 23 dispatchers, three safety managers, 10 accountants, and 90 contracted drivers. SCOPS concluded that while the Petitioner showed the substantial merit of his proposed endeavor, he did not demonstrate its national importance to meet *Dhanasar's* prong one requirements for a national interest waiver.

A. First *Dhanasar* Prong: Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *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. *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.*

The Petitioner states that the proposed endeavor is to "revolutionize" load shipping services for brokers and individuals nationwide and enhance efficiency and reliability in the trucking industry to ensure dependable cargo transportation. As stated above, the Petitioner currently holds the position of CEO, financial manager and accountant for the Company and carries out the following duties: implements financial strategies; enhances budgeting procedures; leads a team of 30 employees; promotes "innovative productivity and accountability;" cultivates "robust relationships" with stakeholders such as clients, suppliers, and regulatory bodies; ensures strict adherence to industry regulations, safety protocols, and optimal practices; and provides financial management services to other trucking businesses to ensure their financial viability.

We agree with SCOPS that the proposed endeavor has substantial merit. However, for the reasons discussed below, the Petitioner has not satisfied their burden of establishing the endeavor's national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. "We look for broader implications" of the proposed endeavor and look at whether "[a]n undertaking may have national importance for example, 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 889. *Dhanasar* also states 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.

For entrepreneurial endeavors, in determining an endeavor's national importance, we also consider additional factors such as revenue growth, revenue generation, and job creation in our analysis. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual ("Specific Evidentiary Considerations for Entrepreneurs"). Evidence showing that an entity has exhibited growth in terms of revenue generation, jobs created in the United States, or both, and a petitioner's contribution to such growth will be considered probative. *Id.* This evidence may also support the fact that the proposed endeavor has national importance if coupled with other evidence, such as the location of the current entity in an economically depressed area that has benefited or will benefit from jobs created by the entity. *Id.*

In concluding that the Petitioner did not establish his proposed endeavor is of national importance, SCOPS determined that the endeavor's impact did not "sufficiently extend beyond [the Company] and its clients to impact the industry or field more broadly." SCOPS considered the Petitioner's evidence showing that his trucking company employed 30 workers and determined that "these are low-paying and part-time jobs which do not appear to make a positive economic impact in [redacted] Ohio." SCOPS further determined that the Petitioner did not satisfy his burden to establish that [redacted], Ohio is an economically depressed area where "30 new jobs would represent a significant potential to employ U.S. workers and offer substantial positive economic effects to the region or nation." As to the Petitioner's assertion that his financial services help trucking companies stay in business, SCOPS was not persuaded that the services offered "bring substantial positive economic impacts to an economically depressed area." Overall, SCOPS determined that the evidence was insufficient to establish that the proposed endeavor would have substantial positive economic effects in an economically depressed area, broader implications within the trucking or financial management field, significant potential to employ U.S. workers, broadly enhance societal welfare, or broadly enhance cultural or artistic enrichment, as contemplated by *Dhanasar*.

On appeal, the Petitioner asserts SCOPS erred in determining the proposed endeavor is not of national importance and asserts the 30 jobs created by his company were arbitrarily dismissed by SCOPS as "low-paying, part-time" jobs. The Petitioner emphasizes that because these workers pay taxes, and act as consumers within the local economy, the 30 jobs are stimulating local economic activity, and should not be arbitrarily dismissed. Moreover, the Petitioner asserts that because his endeavor is located in Ohio and Illinois, his endeavor is in a "distressed area" as determined by the Distressed Communities Index (DCI). The Petitioner further asserts the national importance of his proposed endeavor is tied to his Company's financial services aimed at educating truck drivers on financial literacy, which is an area of national importance and concern that government initiatives aim to address. Finally, the Petitioner asserts that trucking is a nationally important industry because it is vital to our nation's supply chain resilience, which was tested during the COVID-19 pandemic, and

because his endeavor aims to improve the industry's efficiency, it is of national importance. The Petitioner also provides a letter from the founder and CEO of a consulting and management company in the trucking industry, which describes a "partnership" with the Company and details the Petitioner's commitment to safety in the trucking industry.

Upon de novo review of the record, we agree with SCOPS that the Petitioner has not established the national importance of his proposed endeavor as contemplated under the *Dhanasar* framework by a preponderance of the evidence, for the reasons discussed below.

First, the Petitioner has not established that his proposed endeavor's impact will extend beyond his clients and customers to be considered of national importance as contemplated by *Dhanasar*. At the outset, we acknowledge the Petitioner's evidence explaining the general importance of a stable trucking industry, financial literacy for truck drivers, and the field of financial management. However, as SCOPS noted, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead USCIS must focus on the "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. Thus, contrary to the Petitioner's assertion, merely working in an important industry or field does not establish the national importance of the proposed endeavor. For instance, in *Dhanasar*, we highlighted that while the field of STEM education may be of national importance, the duties of a STEM teacher in a classroom would not necessarily be of national importance because the impact that would flow from the teacher's activities would not sufficiently extend beyond the students sitting in their classroom. *Matter of Dhanasar*, 26 I&N Dec. at 893 (stating "[w]hile STEM teaching has substantial merit in relation to U.S. educational interests, the record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of STEM education more broadly.") Likewise, here, the record does not establish that the Company's impact would extend beyond its clients and customers, such that it would have an impact on the trucking or financial literacy fields more broadly.

Similarly, the Petitioner submits a letter of recommendation from the founder and CEO of a consulting agency that "manages over 100,000 trucks and provides consulting services to more than 500 trucking companies nationwide." This letter generally describes the Company's focus on safety and compliance and the Petitioner's financial management skills. However, this letter does not sufficiently demonstrate that the Petitioner's proposed endeavor will have a broader impact on the trucking or financial management industry at a level commensurate with national importance. Instead, the letter primarily focuses on the Petitioner's past work experience and accomplishments. While the letter writer commends the Company's work and commitment to safety, it is insufficient to establish that the Petitioner's proposed future endeavor is of national importance. Again, in determining national importance, we focus on the specific endeavor that the Petitioner proposes to undertake. *Id.* at 889. The Petitioner has not established that the Company's operations will have a sufficiently broad impact on safety standards in the trucking field, as a whole, such that the endeavor could be considered of national importance.

Next, the Petitioner has not sufficiently established that his proposed endeavor has the significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation in terms of revenue growth, revenue generation or job creation. The Petitioner asserts his endeavor is of national importance because he was able to turn $100,000 (of which he was responsible

for 50%) investment in the Company into a multimillion-dollar enterprise and create 30 jobs.[2] He also provides copies of his agreements with several companies, letters of recommendation, as well as letters of interest from companies expressing a desire to collaborate with him. The letters of recommendation generally describe the Petitioner's knowledge, abilities and skills, which are factors relevant to our evaluation of *Dhanasar's* second prong, when we shift the focus from the proposed endeavor to consider whether the foreign national is well-positioned to advance their endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 890. Some of the letters describe the professional financial consulting services that the Company provided and offer praise for the Petitioner's financial acumen, which is information that is relevant to *Dhanasar*'s second prong, but that is not relevant to our determination of whether the endeavor is of national importance. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Moreover, none of the letters describe the on-going use of the Company's services and therefore cannot serve as a basis for the Company's assertions that it will generate revenue, grow revenue, or create jobs.[3] *Id.*

We acknowledge the contracts the Petitioner has provided to establish the Company has provided trucking services to various entities. However, these contracts fail to establish substantial positive economic effects such that his endeavor could be considered of national importance, as contemplated by *Dhanasar*. For example, the Petitioner provided copies of a "Motor Carrier Transportation Agreement" showing that the Company contracted with multiple entities (collectively referred to as "Broker"); a "Broker Carrier AGREEMENT," with a different entity located in [redacted], Indiana; an "e-Agreement Table of Content" with another entity; and a "Trailer Interchange Agreement." The Petitioner asserts that these agreements cover the full terms of the Company's agreements with the contracting entities including rates, payment terms, liability, insurance requirements, and dispute resolution procedures, and therefore establish that the Company generates revenue and creates jobs. However, none of agreements include complete compensation, rates of pay, or payment terms such that these agreements could establish that the Company generates revenue and creates jobs, as the Petitioner asserts.[4]

In *Dhanasar*, we determined that a proposed endeavor could be of national importance if it will lead to "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *See Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner asserts that the economic "ripple effects" of the Company's proposed and actual hiring meets this standard. The Company has hired a number of contract workers; however, this evidence is not sufficiently persuasive to establish the endeavor's national importance for the following reasons. First, the limited economic impact of these contracted workers is not indicative of the "substantial positive economic effects" contemplated in *Dhanasar*. According to Form 1099-Nonemployee Compensation (NEC) tax information provided for these workers, the recipients live or are located in

[2] The Petitioner did not provide a valuation of the Company to establish that it is a multimillion-dollar enterprise; as such this assertion is unverified. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

[3] We acknowledge that the letter provided by [redacted] states that they intend to collaborate with the Company but that their "collaboration has not yet commenced." In addition, no other details about the potential partnership or investment are provided in the letter such that it would demonstrate his endeavor will create jobs, generate revenue, or lead to revenue growth. Additionally, the letter alludes to a third entity ("our clients"), however no details are provided to explain who these "clients" are or what services (trucking or financial consulting) the Company would provide them.

[4] We acknowledge the Broker Carrier Agreement contains an Exhibit A "Schedule of Rates;" however, this document references a "Rate Confirmation Sheet" which was not provided.

the states of Florida, North Carolina, Louisiana, Iowa, Pennsylvania, Alabama, Tennessee, and Texas. Therefore, contrary to the Petitioner's assertion that his endeavor will have a positive economic impact on distressed communities in Ohio and Illinois, these workers do not appear to be living in or spending their earnings in Ohio or Illinois. In addition, the Petitioner did not provide any evidence to establish that the communities where these workers live or where these companies are located are distressed communities. *Matter of Chawathe*, 25 I&N Dec. at 375-76. As to the Petitioner's assertion that the economic effects of hiring these workers is "substantial," we agree with SCOPS that hiring a limited number of contracted or part-time workers is not sufficient, without more, to be considered of national importance, as contemplated by *Dhanasar*. Likewise, while we have considered the information provided in the distressed communities index (DCI), the zip code where the Company is located is considered "comfortable," which is the second-highest rating (out of five possibilities) evaluating distressed communities.[5] Lastly, while the 1099-NECs indicate payments were made to individuals and entities, the record does not contain sufficient evidence detailing what the workers were paid to do, and whether the work relates to the proposed endeavor. For example, we do not know if the recipients are truck drivers referenced in the submitted agreements, brokers, accountants, dispatchers, safety managers, or performing another job. Thus, for all these reasons, the evidence is insufficient to establish the endeavor will have the "significant potential to employ U.S. workers or . . . [have] other substantial positive economic effects, particularly in an economically depressed area" as contemplated by *Dhanasar*. *See Matter of Dhanasar*, 26 I&N Dec. at 889-890.

Upon de novo review, we conclude that SCOPS properly evaluated the evidence in determining the Petitioner did not establish, by a preponderance of the evidence, that his proposed endeavor has national importance.

B. Second and Third Prongs of the *Dhanasar* framework

Because a petitioner must establish that they meet all three prongs of the *Dhanasar* framework to obtain a national interest waiver, if even one of the prongs is not established, a petitioner is ineligible for this waiver. Accordingly, because the Petitioner has not established eligibility under prong one, we decline to reach and hereby reserve the Petitioner's arguments regarding the second and third *Dhanasar* prongs. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that a discretionary waiver of the job offer is in the national interest.

ORDER: The appeal is dismissed.

[5] The DCI designates zip codes as Distressed, At Risk, Mid-Tier, Comfortable, or Prosperous to indicate whether a community has deep disparities in economic well-being and considers factors such as the education level of individuals who live there, the poverty rate, income levels, among other factors. *See generally* https://eig.org/distressed-communities/?regions%5B0%5D=