U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37188712

Date: MARCH 12, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 record 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then 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 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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director determined the Petitioner qualified for EB-2 classification as an advanced degree professional because he submitted evidence of his bachelor's degree in economic sciences and over five years of progressive experience in his specialty. We agree. The only issue on appeal is whether the Petitioner qualifies for a waiver of the job offer requirement in the national interest.

In his Definitive Statement, the Petitioner describes his proposed endeavor as developing a private equity, hedge fund, and financial planning advice firm in Florida that will provide private equity capital, financial planning advice, business plan production, and financial assessment and consulting.

A. 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. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that his proposed endeavor would extend beyond his company's clients to impact his field more broadly in a manner commensurate with national importance

On appeal, the Petitioner asserts his company "has the potential to significantly contribute to the U.S. economy through job creation and economic impact." The Petitioner discusses the role of financial managers, but does not cite any evidence to support his claim. The Petitioner's business plan projects his company will employ 11 people the first year, increasing to 50 people in the fifth year. The record does not show that the employment of up to 50 people, even in an economically depressed area, is significantly high in the financial industry as the business plan states that in 2022 the industry generated 206,000 jobs. The Petitioner also claims his company will impact the national economy by offering economic convenience and agility, promoting growth and expansion and driving change with innovation, and stimulating the domestic job market. Again, the Petitioner does not cite any evidence to support this claim. The business plan projects net income for the company of $51,458 the first year, increasing to $1,160,170 in the fifth year, but does not indicate this income would have a substantial positive economic impact in an industry the business plan states is worth $57.2 billion dollars.

On appeal, the Petitioner also asserts the Director did not give due regard to his recommendation letters. The Petitioner submitted letters from employers and colleagues. While they attest to the Petitioner's skills and experience, they do not establish the national importance of his proposed

endeavor. For example, M-C-F- praises the Petitioner's past work and describes him as "a unique professional who will only add value to the United States." A-L- commends the Petitioner's past work and attests to the Petitioner's "knowledge of finance, treasury, compliance, and corporate governance." F-B-M- praises the Petitioner's work at [redacted] and describes him as a "professional of intrinsic merit in the financial and real estate sectors." A-L-F- praises the Petitioner for his "professionalism and high-level of expertise in real estate asset management, corporate governance, and financial controllership." Although they attest to the Petitioner's skills and accomplishments, M-C-F-, A-L-, F-B-M- and A-L-F- do not discuss his proposed endeavor.

S-K-, A-K-, F-R-, and M-H- similarly praise the Petitioner's talents and past work, but do not discuss his proposed endeavor. J-S- states he is working with the Petitioner to develop an unspecified business platform, but does not indicate if the platform is part of the Petitioner's proposed endeavor. The Petitioner also submitted a letter from V-L-, Associate Professor of Marketing at [redacted] expressing his opinion that the Petitioner qualifies for a national interest waiver. V-L- discusses financial management services and the Brazilian economy and concludes that U.S. companies doing business in Latin America would benefit from the Petitioner's expertise and skills. V-L- does not discuss any specific aspects of the Petitioner's proposed endeavor that demonstrate its national importance.

The Petitioner also claims the Director did not give due regard to industry reports and articles which demonstrate the national importance of his proposed endeavor. The Petitioner submitted articles and reports on the financial industry including financial management and managers, finance jobs, financial planning, management consulting, dynamic finance, digital disruption and the future of finance, chief economists outlook, budget and economic outlook for 2022 to 2032, 2022 trends for chief financial officers (CFOs), the financial services industry, top risks for financial institutions, immigrant entrepreneurs, documented dreamers, banks facing talent shortage, global shortage of skilled finance professionals, the global talent crunch, financial and business services labor deficit, the finance workforce, and finance professionals offering powerful defense against cybersecurity threats. These articles and reports do not support the Petitioner's claim, as none of them discuss the Petitioner's proposed endeavor. Our assessment of national importance does not focus on the importance of a field or occupation in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

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, the Petitioner has not established that his proposed endeavor would sufficiently extend beyond his company's clients to impact his field more broadly at a level commensurate with national importance.

Although the Petitioner's business plan indicates his company will provide private equity capital, financial planning advice, business plan production, and financial assessment and consulting, the record does not indicate that any of these services are unique, innovative or otherwise have national or even global implications in the financial industry. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

In sum, the relevant evidence does not establish that the Petitioner's company has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. Consequently, the Petitioner does not meet the first *Dhanasar* prong.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and he does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of 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

The Petitioner has not established the national importance of his proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, he has not demonstrated that he is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.