U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37343779

Date: MAR. 18, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a certified public accountant, 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 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 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 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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner intends to operate a financial consulting firm based in Texas to advise businesses, educational institutions, and community organizations on compliance, audits, financial strategy, and risk management. She states she will "empower small businesses with the knowledge, skills, and strategies they need to navigate through the ever-evolving world of business with confidence and success." The Director determined the Petitioner established the substantial merit, but not the 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.

The Petitioner submits evidence regarding the importance and occupational outlook of the fields of accounting and auditing, including articles on what auditors, accountants, and financial consultants do, the shortage of certified public accountants in the United States, and how accountants contribute to the public interest. She includes information on international financial reporting standards, the importance of corporate compliance strategy, the financial services industry in the United States, the U.S. job market, revenues of the Petitioner's former employer, and the importance of small and medium businesses in the American economy. However, the matter here is not whether accounting, auditing, or financial services are nationally important. The Petitioner must demonstrate the national importance of her specific, proposed endeavor of operating a financial consulting firm in Texas to provide advice to businesses, educational institutions, and community organizations about compliance, audits, financial strategy, and risk management.[2]

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.

The Petitioner emphasizes her more than nine years of experience as an accountant, including employment with one of the four biggest accounting firms in the United States, and points to her related training certificates, academic awards, and recognition from colleagues. Further, the Petitioner

[2] The Petitioner's arguments and evidence relate to the substantial merit aspect of the proposed endeavor rather than the national importance part.

references an expert opinion letter from a professor of accounting at [redacted] University who found the Petitioner's proposed endeavor has national importance. The letter emphasizes that the Petitioner is "a highly skilled public accountant with approximately 10 years of experience in financial auditing," and contends that her expertise in compliance and financial strategy "is essential for maintaining the integrity and stability of financial operations within businesses." However, the Petitioner's knowledge, skills, and abilities 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 she proposes to undertake has national importance under *Dhanasar's* first prong. The expert opinion letter also states that the Petitioner's proposed endeavor will benefit the United States "by fostering a culture of financial responsibility and integrity across businesses" and that her plans "align with key U.S. initiatives aimed at promoting economic growth, workforce development, and global competitiveness." But the letter does not sufficiently show the potential impact of the Petitioner's particular services to businesses through her financial consulting firm based in Texas.

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 her business 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. On appeal, the Petitioner argues that unlike a teacher, who only has localized impacts, her proposed endeavor can "affect numerous businesses across various industries" with a broad impact on financial stability, compliance, and efficiency of small and medium businesses, which make up a large portion of the U.S. economy. However, the record does not show through supporting documentation how her endeavor sufficiently extends beyond her prospective clients and employees to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

Finally, while she provided a business plan for the proposed company, the Petitioner did not present sufficient supporting evidence to corroborate the assertions and figures. She did not demonstrate how her business plan's claimed revenue and employment projections, even if credible or plausible, have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. The Petitioner asserts that her proposed endeavor will create jobs and will help boost economic growth in the United States by helping businesses remain compliant with applicable regulations, preventing cybersecurity incidents through risk assessment and auditing, promoting growth and competition among businesses, encouraging investor confidence, enhancing business efficiency, and promoting environmental sustainability. She intends to begin by targeting potential clients in her geographic area and eventually expand to other urban centers. The business plan forecasts net profits of between $161,500 and $290,500 in year one and rising to between $322,809 and $551,511 in year five. But the Petitioner did not establish the significance of this data to show that the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Similarly, the business plan claims the creation of one full-time and two part-time jobs in years one, growing to ten full-time, five part-time, and five contracting jobs in year five with a total estimated salary budget over five years of $1,589,130. But the Petitioner did not demonstrate the relevance of these numbers and show that such future staffing levels would provide substantial economic benefits to the region in which she intends to operate or the U.S. economy more broadly at a level commensurate with national importance. The Petitioner, for instance, did not

establish 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 demonstrate that, beyond the limited benefits provided to its prospective clients and 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. We need not reach, and therefore reserve, the issue of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*. *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, she has not demonstrated that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.