U.S. Citizenship and Immigration Services

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

In Re: 31124994

Date: MAY 14, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks second preference immigrant classification, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 a waiver of the required job offer and thus of the labor certification, would not be in the national interest. The matter is now before us on appeal. 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. Next, a petitioner must then demonstrate 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner shows:

- 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.

[1] *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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

## II. ANALYSIS

The Director determined that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree. The sole issue before us is whether the record establishes that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest.

The Director concluded in the denial that the Petitioner is well positioned to pursue his endeavor under *Dhanasar's* second prong, but also determined that the Petitioner did not satisfy the first and third prongs of the *Dhanasar* framework. For the reasons discussed below, we withdraw the Director's determination that the Petitioner has established his eligibility under *Dhanasar's* second prong. Based on our de novo review of the record, we conclude the Petitioner has not sufficiently demonstrated the substantial merit and the national importance of his proposed endeavor under the first prong and that he is well-positioned to advance it under the second prong of the *Dhanasar* analytical framework. While we may not discuss every document submitted, we have reviewed and considered each one.

The record reflects that the Petitioner is an experienced financial information technology (Fintech) professional with many years of employment experience in technical, commercial, and management roles. He has been involved in projects spanning several industries, including initiatives within the realm of digital financial services and cross-border remittances. In statements submitted with the initial filing in May 2023, the Petitioner described his intended employment as a Fintech services executive in the United States as follows:

> As a professional with expertise in digital financial services and cross-border remittances, I could contribute to the growth and development of the Fintech market in the U.S. [by] develop[ing] new and innovative solutions that meet the needs of consumers and businesses alike. By working with other industry professionals, regulators, and investors, I could help contribute to shape the future of the Fintech market in the U.S., driving innovation, efficiency, and growth in this rapidly evolving industry.

He averred that his work would benefit the United States by "providing information and platforms to help mitigate or minimize financial terrorism and money laundering, and guide transparent approach to reporting, filing and supervising financial transactions in the United States and other financial corridors, particularly Africa."

In response to a request for evidence (RFE), in which he was asked to provide a more detailed discussion of his specific proposed endeavor supported by documentary evidence, the Petitioner submitted additional narrative about his endeavor, as follows:

> As a [Fintech] service executive, with expertise in payment systems, instant payments, cross-border payments & remittances, and technology policy formation, I propose to spearhead/collaborate with others in the industry to provide transformative initiatives/endeavors focused on:

- Proposing and contributing new ways in which the U.S. can participate in international/cross-border payment systems and remittances through the infusion of innovative financial technology solutions for migrant and non-migrant communities, e.g., Direct2Bank account transfers.

- Financial inclusivity through contribution to the instant payment systems in the U.S. and expansion of financial service reach to the underserved or unbanked areas of the country through technology.

My endeavor aims to tackle some of the existing challenges in local and international financial transactions, enhance security (by fostering and consolidating the industry Anti-Money Laundering (AML) and Counter Terrorism Financing (CTF) policies), promote efficiency and inclusivity, and contribute to the establishment of the U.S. as a global leader in fintech-driven financial solutions.

When 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 "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. 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.*

In the initial filing and the RFE response, the Petitioner presented a high-level listing of diverse areas of national concern to the United States, (e.g., improving payment and remittance systems for migrant and non-migrant communities, expanding access to financial services to underserved and unbanked areas of the country, enhancing financial security to address and promote policies that support anti-money laundering and counter terrorism initiatives, and to further establish the U.S. as a global leader in fintech-driven financial solutions.) He also provided industry articles and reports about the Fintech industry, the future of digitized financial payments, and the importance of the work of Fintech professionals to the financial, information technology, and business sectors. However, without more, the Petitioner's broad statements about the various issues of concern that he *might* address and general information about the Fintech industry offer little insight into the specific endeavor that he intends to pursue in the United States.

The recommendation letters from current and former colleagues provided to the Director outline the Petitioner's past work accomplishments and vaguely assert his services would be beneficial to the United States. For instance, [redacted] discusses the Petitioner's prior achievements and work experience in his letter, and notes "[i]f given the opportunity to operate within the [t]echnology space in the U.S., I have no doubt that his wealth of experience at [] will come quickly handy." Similarly, [redacted] highlights some of the Petitioner's past successes in his letter but does not discuss any aspect of his proposed endeavor in the U.S., other than to opine "I am confident that [the Petitioner's] skills and expertise will be of great benefit to the U.S., and I strongly recommend him for a national interest waiver." While these and other letter writers appear to hold the Petitioner in high regard, the submitted letters do not substantiate the nature of the specific endeavor that the Petitioner intends to engage in or explain the substantial merit and national importance of his proposed work under the *Dhanasar's* first prong.

On appeal, the Petitioner reiterates his past achievements and experiences in the Fintech industry and acknowledges that the Director asked him in the RFE to provide "further detail as his proposed endeavor" to establish his eligibility for the national interest waver. But he did not provide a detailed description explaining *how* he will be prospectively engaged in the provision of Fintech-related services in the United States, supported by documentary evidence as requested by the Director in the RFE. The Director denied the petition, in part, because the record did not establish the substantial merit and national importance of the Petitioner's endeavor under *Dhanasar's* first prong. "Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the [petition]." 8 C.F.R. § 103.2(b)(14).

On appeal, the Petitioner notes that he provided "additional evidence of the proposed endeavor, described as the utilization of his skills and experience as a successful financial technology professional," in the RFE response and offers the same or similar general assertions previously presented to the Director about his proposed endeavor. He vaguely insists, for instance:

> Growth within the United States Fintech market would be enhanced through efforts made by [the Petitioner] within financial corridors, particularly Africa, to provide financial technology services to underserved individuals and businesses. Successful, effective, and safe expansion of United States Fintech into the rapidly developing [g]lobal [s]ector, as well as innovation and improvement in the [d]omestic [s]ector, were included in the proposed endeavor.

The Petitioner further avers on appeal that his "services will involve collaboration with other Fintech companies and professionals, [], United States regulatory agencies, [c]ongressional [c]ommittees with Fintech oversight, and business investors," However, his ambiguously stated intentions regarding the specific services he prospectively intends to provide in the United States falls short in adequately explaining *how* he will pursue his proposed endeavor. The Petitioner must resolve this ambiguity in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

We conclude that without more information about his specific proposed endeavor and how he will apply his knowledge and experience in the United States, the Petitioner has not established his proposed endeavor sufficient for us to determine that his work in the United States will have substantial merit and national importance. In determining whether an individual qualifies for a national interest waiver, we must rely on the specific proposed endeavor to determine whether it has both substantial merit and national importance under the *Dhanasar's* first prong. It is the Petitioner's burden to prove by a preponderance of evidence that it is qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.* The Petitioner has not done so here.

Additionally, to determine whether an individual qualifies for a national interest waiver, we must also rely on the specific proposed endeavor to determine whether they are well positioned to advance it under the *Dhanasar's* second prong. *Dhanasar* at 889-90. Because the Petitioner has not provided sufficient information regarding his proposed endeavor, he has not met his burden to demonstrate through the preponderance of evidence that he meets the second prong. *Chawathe*, *supra*. For the

sake of brevity, we will not discuss other deficiencies in the record regarding the Petitioner's eligibility under *Dhanasar's* second prong.

Accordingly, the Petitioner has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of his eligibility under the third *Dhanasar* prong, therefore, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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).

**ORDER:** The appeal is dismissed.