U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38950563

Date: SEP. 25, 2025

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, 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 the Petitioner qualified for EB-2 classification, but that 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 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for 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 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

and Immigration Services (USCIS) may, as a matter of discretion,[2] 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
- On balance, waiving the job offer requirement would benefit the United States.

Id. at 889.

II. ANALYSIS

The Petitioner proposes to be the owner, chief executive officer, and computer systems and information technology (IT) manager of a limited liability company (LLC) with the aim of providing "high quality and reliable custom" IT services at a fair price to small and medium-sized businesses, government entities, and nonprofit organizations. The focus of the LLC (to be located in [redacted] Florida) is to help customers grow while securing their IT systems against cyber threats with the aim of optimizing their operations and giving them a competitive edge in the domestic and global economy.[3]

A. EB-2 Classification and *Dhanasar*'s First Prong

SCOPS determined the Petitioner established his eligibility for EB-2 classification as an advanced degree professional as defined by the Act. We agree. As such, the only issue on appeal is whether the Petitioner has established he merits a discretionary waiver of the job offer, and labor certification requirement, in the national interest. Thus, we will apply *Matter of Dhanasar's* three-pronged framework and USCIS policy to evaluate his proposed endeavor.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. Here, the Petitioner proposes to provide IT consulting services to other businesses through his LLC, which as described in his proposal, involves conducting an "in-depth assessment to comprehend the unique demands and objectives of the client's business, [create an] IT roadmap" to address those needs, and then ensure maintenance, coupled with comprehensive training modules for the customer's workforce. As an endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education, we agree with SCOPS that the proposed endeavor has substantial merit.

Next, we must consider whether the proposed endeavor is of national importance, as contemplated by *Dhanasar*. In determining national importance, *Dhanasar* explains that the relevant question is not the importance of the industry or profession in which the individual will work; instead, we must focus on "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26

[2] *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).

[3] While we will not discuss all aspects of the Petitioner's business plan or every document submitted with this petition, we have reviewed each one for relevance, probative value and credibility, consistent with the precedent decision in *Matter of Chawathe*, 25 I&N Dec. 369.

I&N Dec. at 889. In *Dhanasar*, we further explained that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance . . ., 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.* 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 . . . have national importance." *Id.* at 890. For entrepreneurial endeavors, USCIS policy requires us to consider factors such as the endeavor's potential for revenue growth, revenue generation, and job creation. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual ("Specific Evidentiary Considerations for Entrepreneurs"). To establish an entrepreneurial endeavor is of national importance, relevant evidence may include that the proposed endeavor has exhibited growth in terms of revenue generation and/or created jobs in the United States, as well as a petitioner's contributions to such growth. *Id.* This evidence coupled with other evidence, such as the location of the entity in an economically depressed area that has benefited or will benefit from jobs created by the entity could also be probative of national importance. *Id.* Thus, here, the Petitioner must demonstrate the national importance of his proposed endeavor rather than the national importance of the field of IT consulting, IT services, or the importance of entrepreneurialism, or small businesses in general.

SCOPS determined the proposed endeavor was not of national importance because the evidence establishes the importance of the industry and occupation rather than the importance of the Petitioner's "specific proposed endeavor"[4] and there is insufficient evidence to support the Petitioner's plan to hire, train, and support a workforce. Overall, SCOPS found that the Petitioner's evidence did not establish that the benefits of the LLC's services would extend beyond the LLC's employees or customers or have broader implications within the Petitioner's field. The Petitioner characterizes the evidence provided as sufficient to establish his endeavor is of national importance; however, upon de novo review, we agree with SCOPS that the evidence does not meet the standard set forth in applicable law and policy for the following reasons.

First, the Petitioner has not established that his proposed endeavor's impact will extend beyond his LLC's clients and customers to be considered of national importance as contemplated by *Dhanasar*. The Petitioner asserts that his endeavor will help ensure the U.S.'s national security by implementing cybersecurity technology for its clients. To support his assertion, the Petitioner provides industry reports and articles that describe the U.S. government's efforts, including legislation, aimed at ensuring our cybersecurity. We acknowledge that cybersecurity, particularly as it relates to critical systems like banking, healthcare, and government is of national importance; however the evidence is insufficient to establish that the LLC's services will have national or even global implications within the field of cybersecurity ,to be deemed of national importance as contemplated by *Dhanasar*. *See Matter of Dhanasar*, 26 I&N Dec. at 893. Moreover, the Petitioner's emphasis on the importance of the fields of cybersecurity, IT, entrepreneurialism, and small businesses is misplaced because, as we explained in *Dhanasar*, even if a petitioner is engaged in important activities (such as university level teaching) within a field that is of national importance (STEM), the endeavor would not necessarily rise to the level of national importance unless it is shown the endeavor has a broader impact on the field. *Id.*

[4] We acknowledge SCOPS incorrectly referred to the Petitioner's endeavor as working as an "aircraft mechanic and technician." However, because this is a typo and SCOPS otherwise referenced and quoted extensively from the portion of the Petitioner's business plan that describes his endeavor, the typo does not affect the ultimate outcome of this appeal.

Similarly, we have considered the Petitioner's assertions that his endeavor will help ensure U.S. global competitiveness in a critical STEM area. USCIS policy recognizes that many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests but also have sufficiently broad potential implications to demonstrate national importance. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual, ("Specific Evidentiary Consideration for Persons with Advanced Degrees in [STEM] fields"). In this case, the record does not suggest that the Petitioner intends to advance STEM technologies and research. While the Petitioner intends to offer IT services to businesses, nonprofit organizations, and government entities the Petitioner has not established how the LLC would affect the U.S.' global competitiveness in STEM or our national security, more broadly, at a level consistent with national importance. *Matter of Dhanasar*, 26 I&N Dec. at 893.

In his business plan, the Petitioner emphasizes that the field of IT consulting is growing due to cloud computing and data analytics, and that the industry's revenue is currently growing at a rate of 2.0% to $665.9 billion by 2023, and that in the future the field is expected to grow by 4.0%. The plan also states that by 2028 (the LLC's fifth year of operation), the industry revenue will reach $741.8 billion. The Petitioner also points out that due to the growth of reliance on IT and cloud computing and data analytics, businesses, governments and other entities that rely on these technologies are becoming more vulnerable to cyberthreats. While this information emphasizes the importance of his field, it is not, alone, sufficient to establish that his specific endeavor is of national importance. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (standing for the proposition that to determine whether a petitioner has met their burden under the preponderance standard, we consider the quality, relevance, probative value, and credibility of the evidence). Moreover, we acknowledge that a portion of the endeavor includes professional training, the creation of "comprehensive training modules for the client's workforce" and the general goal to use the endeavor to spread information, expertise and knowledge in the IT field. We further acknowledge the Petitioner's assertion that the United States has an IT skills gap in "cloud integration, cybersecurity, and digital transformation," as documented in many of the reports, articles, and government communiques that he has provided. These assertions help establish, in part, that the endeavor is of substantial merit, however the Petitioner has not explained how this transfer of knowledge, through his specific endeavor, will sufficiently extend beyond his potential clients and customers to impact the U.S. economy, U.S. competitiveness or the IT field, more broadly. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

Second, the Petitioner's evidence is insufficient to support his assertion that his approach to information technology is of such innovation that his endeavor is of national importance. On appeal, the Petitioner asserts that SCOPS overlooked the fact that the proposed endeavor will help small businesses and he urges us to consider that according to the Small Business Administration, 99.9% of all U.S. businesses are small businesses and that 64% of new jobs are created by small businesses. As noted above, when considering the national importance of a proposed endeavor, USCIS policy guidance for entrepreneurs requires us to consider factors such as the endeavor's potential for revenue growth, revenue generation, and job creation. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual ("Specific Evidentiary Considerations for Entrepreneurs"). We have considered the Petitioner's assertion that his proposed endeavor is "scalable," however he has not adequately described or explained what would set his company apart from other small businesses

in the IT field, such that its impact on the field of IT or IT consulting, more broadly, could be deemed of national importance.[5] *See Matter of Chawathe*, 25 I&N Dec. 375-76; *see also Matter of Dhanasar*, 26 I&N Dec. at 889 (explaining that an endeavor may be of national importance if it leads to national or global implications within a particular field, such as those resulting from certain improved processes such as medical advances or improved manufacturing processes.)

Third, 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 will have the following economic impacts:

- Creation of seventeen direct jobs and between 50 and 71 indirect jobs by its fifth year of operations, as well as hiring of cleaners, accountants, and an attorney.
- Investment of $1,184,640 in employee payroll within the next five years.
- Payment of $901,342 in payroll (and other) taxes to the U.S. government within the next five years.
- Gross sales of $1,950,000 with a net profit of $262,611 by its fifth year of operation.
- The profitability and growth of other businesses who use the LLC's services, which will influence overall gross domestic product and contribute to the strengthening of the stock market so that small businesses will continue to grow.

To support his projected employment numbers, the Petitioner used the Economic Policy Institute's (EPI) employment multipliers formula and the Bureau of Economic Analysis' Regional Input-Output Modeling Systems (RIMS II) data which is a regional economic output tool to calculate the effect of job creation in a region. On appeal, the Petitioner asserts that this data is credible evidence of the endeavor's broader economic benefits because it is used by other government agencies. However, the EPI multiplier formula uses broader categories of industries (i.e. construction, mining, management of companies, etc.) to project job creation, thus, the EPI multiplier formula's data is not sufficiently tailored to the Petitioner's proposed endeavor to persuasively support the job creation projections noted above. *Matter of Chaw*athe, 25 I&N Dec. at 375-76. Similarly, the RIMS II analysis anticipates the creation of at least 50 indirect jobs based on a multiplier of anticipated sales. This analysis relies on various assumptions, including those made by the Petitioner, leaving the prospective impact of his proposed business uncertain. The business plan does not provide a sufficient basis for the LLC's forecasts, nor are the numbers corroborated by probative evidence sufficient to demonstrate it is more likely than not that the LLC will have substantial positive economic effects contemplated in *Dhanasar*. *Id.* Moreover, the Petitioner did not provide any evidence that his entrepreneurial endeavor will be located within an economically depressed area.[6] As such, without sufficient evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the Petitioner has not satisfied his burden to establish that the benefits to the U.S. regional or national economy resulting

[5] A review of the Petitioner's evidence of his prior work projects belie his assertion that his endeavor would be innovative in his field. For example, his "Implementation of the LGPD – General Data Projection Law" project shows he used widely available technologies; none appear to be proprietary or "innovative" in his field.

[6] On the contrary, the Petitioner's LLC will be located in [redacted] which he claims is a "hotbed of activity in industry subsets which ranges from powerful supercomputers and high-bandwidth connections" and where there are more than "1,700 information and communication technology companies, which accounts for 20,000 professionals that have an average wages of $78,928."

from his entrepreneurial pursuit would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*.

Fourth, the Petitioner submits evidence that is relevant to our analysis of the second *Dhanasar* prong, which relates to whether he is well-positioned to advance his proposed endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 890 (stating that the second prong shifts the focus to the alien and considers factors such as "the [alien]'s education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.") However, as explained in *Dhanasar*, the Petitioner's personal attributes and past professional experiences are not the focus of our analysis of whether the endeavor is of national importance as required by *Dhanasar's* first prong.

Lastly, on appeal, the Petitioner submits a brief to assert that SCOPS did not properly consider his petition and that he qualifies for a national interest waiver. Specifically, the Petitioner asserts that the national interest waiver does not require a "measurable present-day impact" especially if you consider "cybersecurity workforce development, small business enablement, or STEM infrastructure." However, for the reasons stated above, we agree with SCOPS that the Petitioner has not satisfied his burden of establishing his proposed endeavor is of national importance.

B. *Dhanasar*'s Second and Third Prongs

SCOPS determined the Petitioner did not establish his eligibility under *Dhanasar's* second or third prongs. The second and third prongs of *Dhanasar* relate to whether the Petitioner is well-positioned to advance his proposed endeavor; and whether, on balance, waiving the job offer requirement would benefit the United States. However, because he has not met the first prong, we decline to reach and hereby reserve the Petitioner's arguments regarding his eligibility under these additional prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (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, we conclude that he has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

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.