



**U.S. Citizenship
and Immigration
Services**

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

In Re: 33358404

Date: SEPT. 11, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur in the field of business consulting, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 Nebraska Service Center denied the petition, concluding 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. Our precedent decision in *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 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 that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons set forth below, we agree that the Petitioner did not demonstrate eligibility under the *Dhanasar* framework and will dismiss the appeal.

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

The Petitioner proposes to establish and manage her own business consulting company, specializing in finance and banking. According to her business plan, she will assist companies in the United States and Kazakhstan import and export products between the two countries. Her goal is to “help clients navigate the complexities of international trade, identify new market opportunities, and develop effective strategies to increase their competitiveness in global markets . . . with the ultimate objective of increasing profitability and sustainable growth.” She also aims to “assist[] women entrepreneurs from Kazakhstan in achieving financial success and independence, while serving clients and customers throughout the United States.”

The Director concluded that the Petitioner's endeavor does not have substantial merit or national importance under *Dhanasar*'s first prong. On appeal, the Petitioner generally disputes the Director's determination and asserts that it was incorrect based on the evidence in the record at the time of the decision.²

Upon de novo review, we conclude the record supports the proposed endeavor's substantial merit. The record contains sufficient documentation, including the Petitioner's business plan, articles, and other background material, to show that the endeavor falls within one or more of the areas contemplated by *Dhanasar*. As such, we will withdraw the Director's determination on this issue. Nevertheless, we agree with the Director's conclusion that the Petitioner has not demonstrated her proposed endeavor's national importance and, thus, has not shown she satisfies *Dhanasar*'s first prong.³

² The Petitioner's brief states she is providing new evidence but does not attach any documents to her appeal.

³ The Petitioner contends that the Director “overlooked” aspects of her case and did not adequately review all the evidence of record. We have fully reviewed the evidence on appeal and, as we will discuss below, conclude that it does not carry the Petitioner's burden.

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.” *Id.* 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.* 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.

Here, the Petitioner has not offered sufficient evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. In particular, she has not described how her consulting business will have a broader impact on the field beyond the individual clients she will serve. While she claims her endeavor will support economic growth through new business opportunities with Kazakhstan and job creation, she has not offered sufficient, specific evidence regarding any projected U.S. economic impact directly attributable to her future work. For example, according to her business plan, the Petitioner expects to employ 14 individuals with sales of \$1,700,000 in the first year of operation, increasing to 51 employees with sales of \$6,500,000 by the fifth year of operation. She also expects to create 105 indirect jobs and pay \$983,085 in taxes by the fifth year. However, the business plan does not adequately support these projections of job and revenue creation and does not explain in detail how its forecasts were calculated or how its projections will be realized.

Moreover, even if the projections were plausible or credible, we would still conclude that the Petitioner had not adequately demonstrated how her proposed endeavor would generate such significant economic activity that it rises to the level of “substantial positive economic effects” as contemplated by *Dhanasar*. For instance, she has not detailed how the claimed creation of 51 direct jobs and 105 indirect jobs by year five demonstrates a significant potential to employ U.S. workers or otherwise shows how her endeavor’s potential economic impacts would result in any demonstrable effect on the regional or national economy. The Petitioner has not, for example, established that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth in New York, where the company is located, let alone in the United States generally. Likewise, the Petitioner has not explained how her company’s projected revenue of \$6,500,000 in year five demonstrates “substantial positive economic effects” in an industry that, according to data in her business plan, generated \$329.9 billion in 2023 alone. While any basic economic activity has the potential to positively impact the economy, the Petitioner has not offered a sufficiently direct connection between her proposed endeavor and any demonstrable economic effects either regionally or nationally. As such, the record does not sufficiently demonstrate that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner’s proposed endeavor would have broader implications rising to the level of national importance.

The Petitioner also stresses that her endeavor will “enhanc[e] the economic ties between the United States and Kazakhstan and, therefore, aligns with “strategic national interests.” She also claims that the “strategic partnerships” facilitated by her company “are designed to promote not only economic but also cultural and technological exchanges, enhancing societal welfare, and contributing to cultural enrichment.” In support of her claim, she submitted a variety of background materials on Kazakhstan, including articles related to the United States’ diplomatic relations in the country, as well

as U.S. involvement in educational programs supporting women's economic opportunities, empowerment, and gender equality. While documents showing a proposed endeavor impacts a matter that a government entity has described as having national importance or is the subject of national initiatives may indicate that an endeavor has national importance, merely showing that a petitioner plans to work in that industry is not sufficient, in and of itself, to establish the national importance of the proposed endeavor. *See id.* at 889 (stating that the first prong's focus is on "the specific endeavor that the foreign national proposes to undertake"). The petitioner must still demonstrate the proposed endeavor's potential prospective impact in that area of national importance.

Here, the Petitioner has not demonstrated how any impact resulting from her consulting business would have such broader implications beyond her direct employees and clients that it would rise to the level of national importance. The articles and reports do not discuss the Petitioner's specific endeavor or how it, in particular, would have a broader impact on the consulting field, business industry, economy, U.S. foreign interests, or societal welfare for our nation that would rise to the level of national importance.

To the extent the Petitioner asserts that her focus on empowering women entrepreneurs in Kazakhstan aligns with U.S. foreign policy objectives promoting gender equality and economic development in regions of U.S. interest, we again note that the relevant question under *Dhanasar's* first prong is not the importance of the field, industry, or profession in which the individual will work; instead, the focus is on "the specific endeavor that the foreign national proposes to undertake." *Id.* In this case, the Petitioner has not adequately explained how her proposed endeavor, specifically, would accomplish these claimed objectives. For example, while the Petitioner generally states she will share her expertise, offer consulting services, and otherwise support women-owned businesses, she does not discuss in sufficient detail the scope of what these activities would entail or, importantly, *how* these activities would more than minimally advance U.S. foreign policy objectives in Kazakhstan. Again, simply working in an important field is insufficient to establish the national importance of the proposed endeavor.

We have also considered the Petitioner's claims that she will share her expertise with other professionals and women entrepreneurs in the United States, thus contributing to a qualified workforce, as well as promoting gender equality and women's empowerment. However, in the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we also conclude that the Petitioner has not shown how her proposed endeavor will sufficiently extend beyond the clients and individuals she teaches to affect the region or our nation more broadly at level commensurate with national importance.

We have also reviewed the expert opinion letter authored by [REDACTED] a professor at [REDACTED]. The letter provides a broad overview of the Petitioner's services, describes her role in the company, and comments on the importance of the consulting, international trade, and finance industries generally. While the professor speculates that the Petitioner's endeavor is nationally important because it will produce a number of positive benefits such as increasing trade activity, supporting the growth of the U.S. Gross Domestic Product, creating jobs, and enhancing societal welfare, he does not explain in detail how the Petitioner's future work, specifically, would accomplish these goals. For example, he asserts that the endeavor will have a national and even global impact because entrepreneurs and business owners, like the Petitioner, stimulate competition in the market

that will drive companies to innovate and improve their products and services. He claims this will ultimately lead to the expansion and growth of businesses, which can contribute to job creation and, consequently, have a positive influence on economic growth. However, the professor's observations rely more on generalizations about the results of typical business activity, rather than providing insight into how *this* particular endeavor, as opposed to the work of entrepreneurs, business owners, and consultants in general, would impact the economy, industry, or societal welfare more broadly at a level commensurate with national importance.

Likewise, the support letters written by the Petitioner's former work colleagues and professional acquaintances are insufficient to establish the national importance of the Petitioner's proposed endeavor. While the authors praise the Petitioner's personal attributes, professional skills, and achievements, they do not discuss the Petitioner's endeavor or specific impact thereof, including any potential broader implications of her work. As such, the expert opinion and other recommendation letters are of little probative value in weighing the endeavor's national importance.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Because the record does not establish the national importance of her proposed endeavor as required by *Dhanasar*'s first prong, the Petitioner has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining issues and arguments concerning whether she has established eligibility under the remaining two *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule 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 D-L-S-*, 28 I&N Dec. 568, 577 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the *Dhanasar* analytical framework's requisite first prong. We, therefore, conclude that the Petitioner has not established that she is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.