23-6835

IN THE
SUPREME COURT OF THE UNITED STATES

R. Allen Stanford,
Petitioner

v.

Ralph S. Janvey, et al,
Respondents

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR REHEARING

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PETITION FOR REHEARING

I. The First Amendment right to redress of grievance, and the Fifth Amendment right to due process of law, requires, at the very least, that the decision below be vacated.

II. Because the Court of Appeals dismissed this case prior to any review on the merits, and in particular, without addressing the violation of ***Daimler AG v. Bauman,*** 571 U.S. 117, 127 (2014), the gross abuses of statutory interpretive authority under ***Chevron USA, Inc. v. Natural Resources Defense Council***, 467 U.S. 837 (1984), and violations of the District Courts territorially-limited Article III jurisdiction, as presented in the Writ of Certiorari, the decision below should be vacated.

III. Because this case involves the SEC's reliance on "Chevron Deference", and ***Chevron USA, Inc. v. Natural Resources Defense Council***, 467 U.S. 837 (1984) and the longstanding "flexibility" it has provided in certain circumstances in the realm of statutory interpretation is currently being reviewed by the Court for its Constitutional compliances, in ***Loper Bright Enterprises, et al v. Gina Raimondo, Secretary of Commerce, et al,*** 143 S.Ct 2429 (2023) and ***Relentless, Inc. et al v. Department of Commerce, et al.*** 144 S.Ct. 325 (2023), this case deserves to be considered and disposed of with that fact in mind.

TABLE OF AUTHORITIES

CASES

CONSTITUTION

PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner R. Allen Stanford respectfully petitions for rehearing of this Court's order denying certiorari on April 22, 2024. For the reasons set forth below, this petition is justified by "intervening circumstances of a

substantial or controlling effect". Specifically, the Petitioner submits that because his petition presented substantial arguments showing the Securities and Exchange Commission's clear and certain and controlling reliance on the **"Chevron Doctrine"** in ***Chevron USA, Inc. v. Natural Resources Defense Council***, 467 U.S. 837 (1984), and this Chevron case is currently being reconsidered by the Court for it Constitutional compliance in ***Loper Bright Enterprises, et al, v. Gina Raimondo, Secretary of Commerce, et al*** 143 S.Ct. 2429 (2023) and ***Relentless, Inc. et al v. Dept. of Commerce, et al,*** 144 S.Ct. 325 (2023), rehearing is warranted.

Rehearing is further warranted because while the Petitioner requested (to Justice Alito) that his petition be **"held in abeyance"** pending a decision in these two consolidated and controlling cases, it does not appear that there was any ruling on this important motion, or that his request (in 23-A401) was joined with his Writ of Certiorari (in 23-6835) and factored into the decision-making process during the April 19, 2024 Conference.

ARGUMENT

I.

The First Amendment right to redress of grievance, and the Fifth Amendment right to due process of law requires, at the very least, that the decision below be vacated.

On interlocutory motion filed in the Fifth Circuit by the Respondent (Equity Receiver), and immediately after the Petitioner paid the $505.00 filing fee, and prior to any review on the merits, the Court of Appeals dismissed the Petitioner's record-supported challenges to the SEC's interpretations and applications of the federal securities and venue statutes, and the divestment of the District Court's

Article III jurisdiction. This dismissal violated the First Amendment and Fifth Amendment, and if left uncorrected opens the door to widespread abuses of Constitutional rights and protections.

II.

Because the Court of Appeals dismissed this case prior to any review on the merits, and in particular without addressing the record-supported violation of *Daimler AG v. Bauman*, 571 U.S. 117, 127 (2014), and the gross abuses of statutory interpretive authority allowed by *Chevron USA, Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984), and violation of the District Court's territorially-limited Article III jurisdiction, as presented in the Writ of Certiorari, the decision below should be vacated.

In the clearest of terms, the Petitioner's record-supported arguments presenting the SEC's 'improper forum manipulation' under the federal venue laws, and the "considered at home paradigm forum" for "general jurisdiction" as announced in ***Daimler AG v. Bauman***, 571 U.S. 117, 127 (2014) are straightforward, clearly articulated, and irrefutable. And yet once again, just as he has in every of the Petitioner's prior challenges over the past 15 years, the Respondent has sidestepped and avoided these issues like a landmine; sidestepped the SEC's factually indisputable circumvention of the federal venue laws, sidestepped the factually indisputable 'ultra vires' divestment of the District Court's Article III jurisdiction, sidestepped the District Court's rewriting of the context clause in 15 U.S.C. 78c(a)(10) defining when and only when a Certificate of Deposit becomes a "security", strategically inserting a 'context-removing' ellipsis and isolating the term 'Certificate of Deposit' from its legislatively-established qualifiers; and overarching all, sidestepped the obligation of the Fifth Circuit Court of Appeals to satisfy itself not only of its own jurisdiction, but also that of the District Court; instead dismissing the Petitioner's appeal containing venue and jurisdictional

claims on interlocutory motion immediately upon payment of the $505.00 filing fee, and prior to any review . See, e.g. ***Bender v. Williamsport Area School Dist.*** 475 U.S. 534, 541 (1986) ("[E]very federal appellate court has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review".)

III.

Because this case involves the Securities and Exchange Commission's reliance on "Chevron Deference", and *Chevron USA, Inc. v. Natural Resources Defense Council,* 467 U.S. 837 (1984) and the longstanding flexibility it provided in certain circumstances in the realm of statutory interpretation is currently being reviewed by the Court for its Constitutional compliance, in *Loper Bright Enterprise, et al v. Gina Raimondo, Secretary of Commerce, et al,* 143 S.Ct. 2429 (2023) and *Relentless, Inc. et al v. Department of Commerce, et al,* 144 S.Ct. 325 (2023), this case deserves to be considered, and disposed of, with this fact in mind.

Although the term **"Chevron Deference"** under ***Chevron USA, Inc. v. Natural Resources Defense Council,*** 467 U.S. 837 (1984) may not have actually been uttered by the SEC in the context of their 'improper forum manipulation', this blatant violation of the federal venue statutes, and the holding in ***Daimler AG v. Bauman,*** 571 U.S. 117, 127 (2014), and may not actually have been uttered by the SEC or the District Court in the context of defining a "security" under 15 U.S.C. 78c(a)(10), in light of the legislatively-written and intended text of the federal securities and venue statutes, and the clear and certain requirements for "general jurisdiction" as set forth in ***Daimler AG v. Bauman***, 571 U.S. 117, 127 (2014), all of which were misinterpreted and misapplied in this case, there is no other logical conclusion to be drawn; these misinterpretations and misapplications of the unambiguous text of these federal statutes and judicial holdings, simply cannot

otherwise be read and reconciled with the legislatively-established contexts, and judicially established terms. Viewed through any prism, this broad-sweeping level of executive agency statutory "deference" both disrespects the Constitution's 'Separation of Powers' and effectively nullifies the doctrine of judicial review established in ***Marbury v. Madison, 5 U.S. 137 (1803).***

As Justice Neil Gorsuch wrote in "A Republic If You Can Keep It", (2019) ... ("Under Chevron, the court must defer to an executive agency's decision about the law's meaning. A court must do so even when the agency's decision is influenced by politics, and even if the agency later changes its position in response to a new election or other political pressure."

"Other Political Pressure"

Further support for the argument that the 'Chevron Doctrine' infected this case, and therefore all Stanford-related cases, is found in ***Securities and Exchange Commission v. Securities Investor Protection Corporation,*** 758 F.3d 357 (D.C. Cir. 2014), a Stanford-related case where, under political pressure from Senator David Vitter, the SEC brought a lawsuit against the SIPC demanding that it compensate the Stanford clients who had lost their deposits in the Certificates of Deposit (CD) sold by Stanford International Bank, Ltd in Antigua'; losses that occurred when the SEC stepped in and filed its February 16, 2009 civil enforcement complaint against the Petitioner R. Allen Stanford, and certain of the financial services companies bearing his name; affiliates of the parent Stanford Financial Group, (including the SEC-regulated Stanford Group Company) which the SEC had even acknowledged in its civil enforcement complaint was headquartered and "at home" in Houston, Texas, in the Southern District of Texas.

The suit filed by the SEC centered on the statutory definition of a covered "customer" of SIPC in 15 U.S.C. 78ggg(b); which required that the member (Stanford Group Company) have "held or acquired" the client's cash for the purpose of purchasing a CD sold by Stanford International Bank, in Antigua.

Because the unambiguous text of the statute clearly excluded SGC as a covered customer, as SGC never "held or acquired" a clients cash for the purpose of purchasing a Certificate of Deposit from Stanford International Bank, Ltd in Antigua, the SEC argued..."At a minimum, the Commission's interpretation of SIPA's [Securities Investor Protection Act] 'customer' definition to allow for 'some flexibility in certain circumstances' such as those here, is reasonable and warrants deference under Chevron.

The D.C. Circuit Court, however, disagreed and declined the invitation to further abuse the **'Chevron Doctrine'**. Instead, the Court adopted the wisdom of the numerous former SEC Commissioners and legal scholars in securities law who had joined in amicus curiae briefings to urge the Court not to accept the SEC's "extraordinarily broad overreach".

In response, the SEC, concerned about presenting Justice Scalia with a perfect opportunity to act on his change of position on the **'Chevron Doctrine'** - from initial champion to harshest critic - accepted the Court's decision and did not seek further review.

Accordingly, it only logically follows that the SEC's reliance on **'Chevron Deference'** in the statutory interpretation of a "customer' under 15 U.S.C. 78ggg(b), in this related case, clearly suggests, and at a minimum renders undeniably plausible, its similar reliance in the modification of the definition of a "security" under 15 U.S.C. 78c(a)(10) here.

As in the SEC's clear and certain "gerrymandering" of the venue statutes, and the holding in ***Daimler AG v. Bauman***, 571 U.S. 117, 127 (2014) setting forth the "at home" paradigm forum for general jurisdiction, there simply is no other reasonable explanation of the "security" statutes misinterpretation and misapplication; where the CDs sold by Stanford International Bank, Ltd. in Antigua were cash-for-cash "debt assets" not covered under 15 U.S.C. 78c(a)(10)'s very specific contexts; that is, the CDs sold by Stanford International Bank, Ltd, in Antigua, were never "pledged for", the 'purchase or sale' of a covered security listed on a national exchange, and no client was ever "afforded privilege" on a Stanford CD purchased by some other Stanford client. See, Securities Exchange Act, Section 10(b) and Rule 10b-5 (15 U.S.C. 78j(b), and 17 CFR 240.10b-5

For fifteen years the Stanford International Bank, Ltd. (CD) depositors have believed in a fantastic fiction, told a tale about a massive fraud that never was, and been assured that the Securities and Exchange Commission and its court-appointed Equity Receiver (the Respondent) were acting in concert to protect their interests, doing that which they deemed necessary to recover their losses; that the process of recovery of the CD losses would be extraordinarily complex and time-consuming. Meanwhile, as these innocent investors have patiently waited, and been fed an occasional diet of crumbs (mere pennies on their dollars), the Respondent and his "team of professionals" have been enjoying a feast - furthering their own interests in the attorney enrichment plan.

The facts are, as anyone examining the official court records will see, here, just as he has for the past fifteen years, the Respondent, like a mesmerizing magician practiced in the art of deception, continues his well-rehearsed and well-rewarded performance; carries on the legerdemain necessary to protect his monthly millions in attorney fees (exceeding $1 billion), and necessary to shield himself from the

would-be flood of 'gross malfeasance' lawsuits stemming from his (well-recorded) jurisdictional malfeasance; lawless and unauthorized *'ultra vires'* actions that for the past fifteen years he has managed to conceal under endless layers of equity receivership complexity - all of which has been rubber-stamped by courts with their own interests to protect.

And now here, in the Supreme Court, after initially "waiving" his right to respond to the Petitioner's assertions of, inter alia, the SEC's **'Chevron Deference'** abuse, he devotes the entirety of his Opposition not to the merits, but rather to his 15 years-long continuation of an effort to avoid meaningful judicial review. Beyond the *ad hominem* rhetoric and his references to the Petitioner's criminal conviction (a wrongful prosecution that currently is being re-challenged under new law), he continues his pattern of evasiveness, and provides no answer to the Questions Presented in the Writ of Certiorari.

As a result of this type of diversionary rhetoric, and evasion, fifteen years later, these exceptionally important securities, improper forum manipulation, and divestiture of Article III jurisdiction issues remain unaddressed; matters that could easily have been put to rest many years ago with the citing to a directly responsive judgment on the merits. But instead, because no such judgment exists, after countless meritorious challenges filed by R. Allen Stanford over the past fifteen years these matters remain judgment-free and unanswered...the products of injustice.

At bottom, and no matter the Respondent's years of dismissive and diversionary rhetoric, this internationally important case is about the SEC's statutory misinterpretations and misapplications - and thousands of innocent Stanford investors who lost billions of dollars in the SEC's panic in the wake of the epic and agency-embarrassing Madoff debacle; a whatever-it-takes desperation to restore public confidence in its regulatory and oversight responsibilities; even if it meant

destroying a global financial services company established during the Great Depression (Stanford Financial Group) and, in the process, targeting and vilifying a Stanford Financial Group affiliate (Stanford International Bank, Ltd), one that in its 25 years of operation had never defaulted on a single CD contract, and had never received a customer complaint of any kind; record-supported facts that reveal unprecedented abuses on the parts of the Respondent (Equity Receiver), the Securities and Exchange Commission, and the Courts below; knowing and willful misinterpretations and misapplications of the federal securities and venue statutes, that went far beyond the "reasonable flexibility in certain circumstances" allowed by the 'Chevron Doctrine', and that defy all bedrock principles of statutory interpretation; ***Bittner v. United States***, 143 S.Ct. 713 (2023 (J. Gorsuch) ("Statutes imposing penalties are to be construed strictly against the government.")

In equal measure, this case is about a clear and certain (record-supported) violation of a District Court's territorially-limited Article III jurisdiction, and denials of Constitutional guarantees and protections under the First and Fifth Amendments to the U.S. Constitution; the right to redress of grievance, and right to due process of law.

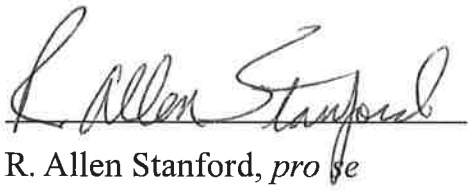
CONCLUSION

Because, at a minimum, the record-supported facts of this case confirm a violation of the District Court's territorially-limited Article III jurisdiction, as established by Congress in 28 U.S.C. 124(a), the SEC's improper forum manipulation of the federal securities and venue laws, and a shock-the-conscience abuse of the Chevron Doctrine, the Writ of Certiorari should be granted.

CERTIFICATE OF GOOD FAITH

The Petitioner R. Allen Stanford hereby certifies that this Petition For Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court, and is presented in good faith and not for delay.

Respectfully submitted,



R. Allen Stanford, *pro se*

Petitioner

CERTIFICATE OF SERVICE

I, Robert Allen Stanford, *pro se*, do hereby swear under penalty of perjury, 28 U.S.C. 1746, that on this 24th day of April 2024, I served a copy of this Petition for Writ of Certiorari, by U.S. Mail, on the:

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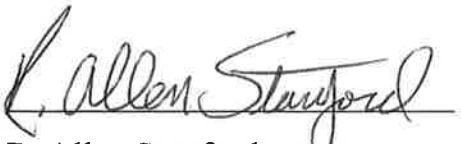

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