No. _____

In The
Supreme Court of the United States

MANORANJAN RAO,

Applicant,

v.

SECURITIES AND EXCHANGE COMMISSION AND
VANESSA ANN COUNTRYMAN, SECRETARY,

Respondents.

APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

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To the Honorable John G. Roberts, Jr., Chief Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the District of Columbia:

Pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant Manoranjan Rao respectfully requests that the time to file his Petition for Writ of Certiorari be extended by 60 days, up to and including June 28, 2024. The Court of Appeals issued its judgment on December 5, 2023 (Appendix A) and entered an order denying Mr. Rao's petition for rehearing en banc on January 29, 2024 (Appendix B). Absent an extension of time, the Applicant's Petition for Writ of Certiorari would be due on April 29, 2024. If the extension is granted, the Petition would be due June 28, 2024. Applicant is filing this Application more than ten days before the current deadline. *See* S. Ct. R. 13.5. Deputy Solicitor General Malcolm Stewart informed undersigned counsel that respondents do not object to Applicant's proposed extension.

This Court would have jurisdiction over the judgment in this case under 28 U.S.C. 1254(1).

Background

Applicant is not an attorney. Applicant proceeded pro se in contesting the matter before the United States Securities and Exchange Commission ("SEC") and litigating the matter below before the Court of Appeals. Applicant then retained undersigned counsel on March 20, 2024, to prepare and file a Petition for Writ of Certiorari. Undersigned counsel currently is reviewing the record and filings in the Court of Appeals to prepare the Petition for Writ of Certiorari. While undersigned

counsel reserves the right to supplement its articulation of the question presented, based on the review thus far, it appears that this case presents important questions regarding due process, the required disclosures under the rules and regulations relevant to whistleblower awards promulgated by the SEC, and the appropriate division of authority between the SEC and the federal courts.

In November 2016, Applicant submitted a whistleblower tip to the SEC regarding improper accounting practices by General Electric Company ("GE"). In December 2016, Applicant communicated with SEC officials by phone and email to provide supplemental information related to his whistleblower tip. For example, in a phone call with an SEC accountant in December 2016, Applicant provided information about GE's practice of selling invoices internally to GE Capital, a subsidiary of GE. As Applicant informed the SEC accountant, this practice allowed GE to recognize increased revenues from contracts in its financial accounting even though the actual revenues were not immediately recoverable under those contracts.

In November 2017, the SEC opened an investigation into GE, which resulted in a settlement between the SEC and GE in December 2020, whereunder GE agreed to pay the SEC a civil penalty of $200 million. According to the final order memorializing the settlement, one of the violations identified by the SEC was GE's improper practice of selling invoices internally to GE Capital to artificially boost publicly reported cash flow and mislead investors. This practice, which the SEC

dubbed "deferred monetization," is one of the issues about which Applicant informed the SEC in December 2016.

Despite Applicant's provision of this tip, the SEC denied his whistleblower application in November 2022. The SEC claimed that it did not take any action against GE based upon the information Applicant provided; therefore, Applicant did not qualify for a whistleblower award. The SEC further asserted that it opened the investigation against GE based on information provided by a different whistleblower.

To support his application for a whistleblower award, Applicant worked to gather evidence corroborating his account of his whistleblower activities. In both his original application for a whistleblower award and in subsequent communications with the SEC regarding his application, Applicant requested records to which he was entitled under the SEC's own rules and regulations. Specifically, Applicant requested the recording and/or notes related to the telephone conversation he had with the SEC accountant in December 2016, during which Applicant provided some of the most salient information pertaining to the investigation and successful enforcement action against GE. The SEC ignored his initial request for these records and summarily dismissed subsequent requests by declaring that the SEC had provided Applicant with everything he was owed under the rules and regulations. To date, the SEC has never specifically addressed Applicant's assertion that the records related to the December 2016 phone call contain evidence underpinning his application for a whistleblower award.

The SEC's denial of Applicant's request for records related to the December 2016 phone call has precluded Applicant from obtaining critical evidence to corroborate Applicant's assertion that he is owed a whistleblower award. More importantly, the SEC's summary denial without any substantive explanation addressing the records related to the phone call raises important questions about who should decide such matters; whether the SEC's rules and regulations regarding discovery and the appellate process were appropriate in the first instance; and whether the requirement imposed by the relevant law the Applicant appeal the agency's decision to the circuit court of appeals (rather than the district court in the first instance to obtain discovery) denies him a meaningful opportunity to challenge the SEC's decision to deny highly relevant records and/or to develop the evidentiary record. In sum, this matter raises important questions regarding the SEC's compliance with agency rules and regulations, including providing discovery to whistleblowers, and federal courts' deferral to agency interpretations of statutes and due process.

Reasons For Granting an Extension of Time

Applicant is not an attorney, but has, up to this point, litigated this entire matter on a pro se basis. The Court of Appeals denied rehearing en banc in this matter on January 29, 2024. Since that time, Applicant sought counsel for the purposes of filing his Petition for Writ of Certiorari. On March 20, 2024, Applicant retained undersigned counsel's law firm for the purposes of preparing and filing his Petition for Writ of Certiorari, just 31 days before the April 29, 2024 deadline. As

such, undersigned counsel has not been involved with the case until very recently and will need additional time to review the relevant record and applicable law, and to prepare the petition. This is especially challenging here, where the pro se, non-attorney Applicant litigated the matter until now, and where the Applicant lives overseas (in India), making communication with counsel more challenging.

In addition to these factors, the attorneys handling this matter have multiple obligations that would make it difficult to complete the petition by the current deadline. These obligations include multiple motions hearing, an opposition to a major motion, and absences from the office that were planned prior to being retained, including for a family member's surgery.

Conclusion

Applicant respectfully requests that the time to file his Petition for Writ of Certiorari in the above-captioned matter be extended 60 days to and including June 28, 2024.

Dated this 5th day of April, 2024.

Respectfully submitted,

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