UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

In the Matter of the Emergency Application of Shineco, Inc. For Review and Stay of Regulatory Action by The Nasdaq Stock Market LLC	Admin. Proc. File No. 3-22553 **SHINECO, INC.'S REPLY IN SUPPORT OF ITS APPLICATION FOR REVIEW**

Dated: January 14, 2026

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Do the most basic constitutional principles apply to Nasdaq? That is the issue raised here by the indisputable facts and chronology:

November 12, 2024	→	Shineco Reverse Stock Split
November 20, 2024	→	SEC Issued Order Instituting Proceedings (delaying decision) on Review of Nasdaq (still) Proposed Rule
November 21, 2024		Proposed Rule Public Comment Period Closed at SEC
None	→	**Notice in Rule Proposal of Intent to Apply Rule Retroactively**
January 17, 2025	→	Nasdaq Rule Became Effective Post-SEC Approval
None	→	**Nasdaq Notice to Shineco (or any issuer) of Intent to Apply Rule Retroactively**
June 16, 2025	→	Nasdaq Notified Shineco of Ex Post Facto Retroactive Application of Rule

On November 12, 2024, Shineco, Inc. ("Shineco" or "the Company") exercised its well-established, historically unchallenged right to perform a reverse stock split without sacrificing its right to a 180-day compliance period if its stock was to drop below the minimum bid price threshold. On June 16, 2025, applying a rule first having efficacy and regulatory applicability seven months after Shineco's reverse stock split, Shineco retroactively lost its right to a 180-day compliance period. This should not have happened if Nasdaq had adhered to fundamental constitutional principles and the rule of law.

On July 28, 2025, these issues came before the United States District Court for the Southern District of New York seeking injunctive relief against Nasdaq.[1] A ruling was unnecessary, because Nasdaq, likely fearing the inevitable adverse ruling, capitulated. If Nasdaq blatantly had not violated constitutional and fundamental fairness principles, then Nasdaq never would have suspended trading of and delisted Shineco's stock. Shineco now is before the Commission requesting that the Commission order Nasdaq to restore the listing and trading of Shineco's stock.

[1] A full statement of facts appears in Shineco, Inc.'s Motion for an Emergency Stay Pursuant to SEC Rule of Practice 401 filed October 17, 2025 ("Mo. Emergency Stay"), at 2-7.

In its Opposition, Nasdaq recognizes that the Commission reviews Nasdaq's decisions *de novo* but does not engage in that necessary level of review. Nasdaq dare not do so as it would require *per se* constitutional deprivation admissions. Instead, Nasdaq argues that because Shineco's stock previously dropped below the minimum bid price threshold and recovered its price according to Nasdaq's rules, the price drop below the minimum bid price now justifies the draconian punishment of delisting. Shineco relied reasonably on the long-standing and in-effect Nasdaq Listing Rule 5810(c)(3)(A)(iv) when, on November 12, 2024, Shineco effected a reverse stock split to comply with the Bid Price Rule. Now, the Commission must engage *de novo* with the actual facts underlying Nasdaq's patent injustice to Shineco, not Nasdaq's historical rewrite.

Nasdaq, in its Opposition, also advances the unsupportable position that the procedures it applied were fair and complied with due process requirements. They were neither. Shineco had the right to enact a reverse stock split without jeopardizing its right to a compliance period before the Commission's approval of Nasdaq's sought revision to the "Excessive Split Rule." Nasdaq's retroactive application of the new Excessive Split Rule stripped Shineco of that longstanding unquestionable right by now penalizing Shineco based on Nasdaq's reinterpretation of a past event. Nasdaq's actions are a perfect example of an impermissible retroactive application of a Rule subject to fair and constitutionally compliant application that the Commission now must reverse.

I. ARGUMENT

A. Nasdaq did not operate within its discretion or comply with its Rules and the Listing Agreement when it delisted Shineco.

From the first review of Shineco's listing by Nasdaq staff until the Listing Council finally denied Shineco's appeal, Nasdaq consistently failed to apply its rules fairly and indiscriminately. Nasdaq's argument that Shineco does not dispute that Nasdaq applied its discretion fairly is wrong. Opp. at 13-14. In fact, Shineco believes, had the company pressed forward with federal court

litigation, that discovery would reveal a patent bias against Asia-based and China-centric issuers. Shineco's business was on a positive business trajectory by mid-summer 2025.

Shineco demonstrated before Nasdaq Staff and the Hearing Panel that its economic position was strong and that its future was bright and therefore the Nasdaq would be outside of its discretion to delist the company. Shineco successfully secured $13.5 million in funding from investors, reflecting strong market confidence in the Company's strategic vision. Of this amount, the Company had allocated 30% (or $4.05 million) to support daily operations, ensuring stability, while dedicating the remaining 70% (or $9.45 million) to advancing Shineco's mergers and acquisitions ("M&A") initiatives designed to drive growth, profitability, and long-term shareholder value. Nasdaq_Shineco_000020.

The Company already had made substantial progress toward these objectives. In March and April 2025, Shineco completed two significant acquisitions -- a medical device manufacturer and distributor in Jiangsu Province, China, and a leading stem cell company in Singapore. These acquisitions strengthened Shineco's position in the stem cell sector. Additionally, Shineco signed an equity framework cooperation agreement with a Chinese firm specializing in mesenchymal stem cell storage and treatment services, with plans to complete a controlling acquisition by September 30, 2025. *Id*.

Shineco's M&A strategy focused on acquiring innovative companies in the cell storage and therapy sectors, aligned with emerging trends in medical aesthetics and regenerative medicine. The Company's plans targeted investments, including $3 million for Japanese exosome anti-aging technology, $2.5 million for the mesenchymal stem cell storage business, $3 million for a French fat stem cell therapy provider, and $950,000 for Southeast Asia expansion. Shineco expected these targeted investments to deliver accelerated revenue growth, projected at $13 million for exosome

technology, $6 million annually within three years for cell storage, and $13 million for fat stem cell therapy through partnerships and innovation. Nasdaq_Shineco_000021.

By diversifying its technology portfolio, Shineco reduced reliance on a single therapeutic approach, while enhancing its ability to address a broader range of medical conditions. The Company expected its acquisitions to contribute at least $84 million in top-line revenue and millions in net profit growth over the next three years, representing a substantial return on investment. Shineco's strategy positioned the Company as a leader in regenerative medicine and aesthetic therapy, committed to delivering innovation, market expansion, and sustainable value for investors. Nasdaq_Shineco_000021.

Shineco exuded confidence in its ability to sustain compliance with the Bid Price Requirement as a result of the Company's M&A strategy and initiatives outlined above. And, its Bid Price was in compliance until suspension of trading on The Nasdaq Capital Market took effect. The Company designed its focused M&A strategy, supported by new funding and strong investor confidence, to drive sustained revenue growth, profitability, and market expansion, key factors constructed to support the Company's ability to maintain compliance with all applicable requirements for continued listing on The Nasdaq Capital Market. Nasdaq_Shineco_000022.

Shineco provided to Nasdaq Staff and the Hearings Panel a detailed presentation about all of the above, including with statements directly from its executives. Nasdaq_Shineco_000081-111. The Company also provided a detailed PowerPoint presentation that discussed the numbers underlying the Company's hearing presentation and pre-hearing submissions. Nasdaq_Shineco_000063-80.

Shineco's on-the-ground business realities contradicted directly the Hearing Panel's cursory and dismissive statement that "there is no proof that this will allow the Company to

continue as a functioning operating company." Nasdaq, first through the Hearing Panel and then later through the Listing Council, erroneously deigned to make investor-level decisions about company prospects and viability. For these reasons presented, Nasdaq should not have delisted Shineco.

B. Shineco has remained in overall compliance with the Rules.

Despite Nasdaq's suggestion to the contrary, Shineco disputes that it failed to comply with Nasdaq's Rules. While it is true that Shineco's stock, in the past (prior to the November 12, 2024 stock reverse stock split), fell below the minimum bid price rule, Shineco always ensured that the Company complied with the Rules in restoring its stock above the threshold within the timeframe required by the Rules. To the extent the Rules provide for a cure period, and Shineco cured during that period, Shineco is not in breach of the Rules. E. Allan Farnsworth, *Farnsworth on Contracts,* § 8.18 (2d ed. 1998) ("Although a material breach justifies the injured party in exercising a right to self-help by suspending performance, it does not necessarily justify the injured party in exercising such a right by terminating the contract. Fairness ordinarily dictates that the party in breach be allowed a period of time—even if only a short one—to cure the breach if it can"); *Country Club Assocs. Ltd. P'ship v. F.D.I.C.*, 918 F. Supp. 429, 435 (D.D.C. 1996) (recognizing the same).

Nasdaq argues, however, that even though Shineco brought back its stock above the minimum bid threshold organically and through legally available procedures, Shineco should be considered to have breached Nasdaq's Rules. But, for the Commission to accept Nasdaq's position, then any concept of "curing" and a cure period would be meaningless. *See Wechsler v. Hunt Health Sys., Ltd*., 330 F. Supp. 2d 383, 414 (S.D.N.Y. 2004) (recognizing that a central factor in determining materiality of a breach so as to warrant termination of a contract is "the likelihood that the party failing to perform or to offer to perform will cure his failure, taking account of all

the circumstances including any reasonable assurances"). Listed companies would not be able to rely on the strictures of Nasdaq's rules, including applicable cure periods.

C. Shineco did not waive its constitutional challenge to the Excessive Split Rule.

Nasdaq contends incorrectly that Shineco waived its constitutional challenge to the Excessive Split Rule. Shineco did not. In fact, Shineco's constitutional claims are central to its arguments before the Commission. (*e.g.*, Mo. Emergency Stay, at 1-2, 9-11; Shineco Inc.'s Opening Brief in Support of Its Application for Review, Dec. 24, 2025 ("Opening Brief"), *passim*.) As required, Shineco raised its challenge before the Nasdaq Listing Council so that Nasdaq had the opportunity to review, analyze, and opine on the constitutional issues. The Listing Council ignored the constitutional claims, failing even to credit the argument. Nasdaq's entire disregard for the bona fide and real constitutional challenge cannot possibly equate with or constitute waiver by the party that raised the issues. That notion is preposterous. The Commission now reviews *de novo* the Listing Council's decision, even the constitutional issues the Listing Council ignored.

At the Hearing Panel stage, Shineco presented what Nasdaq Staff asked the Company to present – what is the company's business plan and what are the prospects for maintaining its share price. The Company did as Nasdaq Staff directed; the Commission cannot now fault Shineco for being responsive to the Hearings Panel's direction and requested focus for its decision.

The cases cited by Nasdaq are inapposite. In *In re Kielczewski*, Release No. 34-104352, 2025 WL 3537495 (S.E.C. Dec. 9, 2025), the party never raised its constitutional arguments before the SRO, FINRA in that case. In contrast, it is undisputed that Shineco did in fact raise its arguments before the SRO and that the SRO denied them. Similarly, *MFS Sec. Corp. v. SEC*, 380 F.3d 611 (2d Cir. 2004) is irrelevant here. There, the Second Circuit held that a party must exhaust its remedies before the SRO before approaching the SEC. Shineco has done exactly that. It appealed the Staff Determination to a Hearing Panel. The Company presented the information that

the Hearing Panel requested. After the Hearing Panel rejected Shineco's appeal, then the Company appealed that decision to the Listing Council.[2] The Listing Council in turn rejected Shineco's appeal. Thus, only after exhausting Nasdaq's administrative process before Nasdaq did Shineco approach the Commission. Nasdaq does not contest this fact despite its parenthetical case citation.

D. Shineco has consistently challenged Nasdaq's exercise of its discretion.

Nasdaq argues that Shineco does not challenge that the Nasdaq properly exercised its "broad discretion." Opp. at 13. This position is disingenuous and incorrect. Shineco consistently challenged Nasdaq's abusive exercise of its "broad discretion" at every possible opportunity. Shineco repeatedly briefed its concerns with Nasdaq's cursory review of the financial and business plans the Company provided to the Hearing Panel. Shineco vociferously argued in detail in its Opening Brief (Argument, Sec. B and C) that Nasdaq breached its Rules and its Listing Agreement by arbitrarily and capriciously applying its Rules. Opening Brief at 8-13.

There is no dispute that Nasdaq's Rules provide itself with "broad discretion," but that discretion is not boundless. For example, the D.C. Circuit affirmed Nasdaq's authority to delist a company after that company's core executives were convicted of a felony, despite the fact that that felony was not specific to the company itself. *Fog Cutter Cap. Grp. Inc. v. SEC*, 474 F.3d 822 (D.C. Cir. 2007). In that case, both the executives and the company had been provided due process both in the criminal proceedings and before Nasdaq. In contrast, Shineco presents no similar facts. Shineco has remained fully compliant with its reporting requirements and has been utterly transparent with investors and Nasdaq. There are no allegations of fraud or any crime committed by Shineco or its leadership. Meanwhile, Nasdaq did not provide Shineco with required due process. Most notably, by retroactively applying the Excessive Split Rule, Nasdaq reinterpreted

[2] Shineco sought to enjoin suspension of trading, immediately following which the Listing Council called the Hearing Council decision for Review and stayed suspension. Mo. Emergency Stay at 5.

past actions by the Company to penalize it now based on a Rule that did not exist when Shineco effected its reverse stock split. This is a classic violation of due process. An action that violates due process cannot be a valid exercise of discretion, no matter how broad. This is not Rule of Law; this is rule by abuse.

E. Listed companies cannot be held to proposed rules until after they are adopted.

Nasdaq's argument that Shineco knew or should have known that the Excessive Split Rule would eventually be adopted, Opp. at 15-16, collapses and makes meaningless the entire procedure for proposal and enactment of SRO rules. Nasdaq argues that listed companies must comply with proposed rules as soon as they are proposed to avoid negative effects if and when those proposed rules are adopted. This cannot be the standard. If it were the standard, then public comment and SEC review of proposed rules would have little meaning for the day-to-day decisions of listed companies, or for that matter anyone potentially impacted by any proposed rule. Additionally, listed companies would be subject to the whiplash effect created by changes to proposed rules ultimately adopted by the relevant SRO after public comment or SEC review.

Similarly, proposed rules are not always adopted (and they rarely are adopted exactly as proposed), such that listed companies would be subject to an ever-shifting and uncertain set of rules if they must account for proposed rules and treat them as effectively in-force. The history of the Excessive Split Rule demonstrates this shifting uncertainty. On August 6, 2024, Nasdaq filed with the Commission the "proposed rule change to modify the application of the minimum bid price compliance periods and the delisting appeals process for bid price non-compliance in Nasdaq Listing Rules 5810 and 5815 under certain circumstances." 89 Fed. Reg. 81,956 (Oct. 9, 2024). The proposed rule change was published in the Federal Register on August 23, 2024, with public comment set to expire on October 7, 2024. *Id.* On October 3, 2024, recognizing that the rule required further review, comment, and analysis, the Commission extended the 45-day comment

period until November 21, 2024 "so that [the Commission] has sufficient time to consider the proposed rule change and the comments received." *Id.* While the Commission ultimately approved the rule change in January 2025, 90 Fed. Reg. 8,081 (Jan. 23, 2025), there was no way for the Company to predict whether comment would be further extended, the rule would be changed, the rule would be rejected, or the rule would be approved.

Finally, if the Commission were to embrace Nasdaq's position, then listed companies would face a conflict between proposed rules and rules actually in effect, as became the case here. In November 2024, Shineco performed a reverse stock split that – under the rules then in effect – did not subject the Company to future penalties or adverse consequences. Nasdaq now argues that Shineco should not have followed Nasdaq's own rules then in effect but should have followed the proposed rules. The absurdity is Nasdaq argues here ignores that part of its own Listing Agreement that requires following Nasdaq's Rules so that the issuer can follow rule concepts instead. Nasdaq's untenable argument stated differently as a conceptual notice to its listed companies reads "Ignore Our Published Rules – Find Our Rule Proposals and Follow Those Possible New Rules." Placing companies in the position of deciding whether they are subject to rules actually in effect or whether they should follow proposed rules that have not even completed public comment or SEC review, is counter to the fundamental goal of trading regulation, *i.e.*, maintaining a stable and predictable regulatory environment. There is neither predictability nor logic to Nasdaq's argument.

F. Nasdaq's regulatory actions are state action and subject to constitutional restrictions.

Nasdaq incorrectly argues in a footnote that Nasdaq is not a state actor and therefore not subject to constitutional limits. Opp. at 16 n. 3. As with all federal statutes, the Securities Exchange Act of 1934 and its regulations cannot mandate any actions that violate the Constitution: "[G]overnmental discretion is always constrained by the Constitution." *Kinney v. Weaver*, 367

F.3d 337, 357 (5th Cir. 2004). Furthermore, "regulation [under the Exchange Act] must be done in strict subordination to constitutional and lawful safeguards of individual rights." *Archer v. SEC*, 133 F.2d 795, 803 (8th Cir. 1943); *Hughes v. SEC*, 174 F.2d 969, 975 (D.C. Cir. 1949) (same). As Nasdaq quotes earlier in its brief, "[T]here are few functions more quintessentially regulatory than suspension of trading." Opp. at 13 (quoting *Sparta Surgical Corp. v. NASD*, 159 F.3d 1209, 1214 (9th Cir. 1998), *abrogated in part on other grounds by Merrill Lynch, Pierce, Fenner & Smith Inc. v. Manning*, 578 U.S. 374 (2016)).

Where an entity is exercising the "quintessentially" government power of regulation, especially where this Commission is ultimately responsible for that regulation,[3] enforcement of these rules is state action. *Roberts v. La. Downs, Inc.*, 742 F.2d 221 (5th Cir. 1984); *Intercontinental Indus., Inc. v. Am. Stock Exch.*, 452 F.2d 935 (5th Cir. 1971); *accord Rooms v. SEC*, 444 F.3d 1208, 1214 (10th Cir. 2006) (holding that Due Process requirements apply to NASD). When a SRO acts "under the self-regulatory power conferred upon it by the 1934 Act, it is engaged in governmental action, federal in character, and the Act imposed upon it the requirement that it comply with ... Fifth Amendment due process." *Crimmins v. Am. Stock Exch., Inc.*, 346 F. Supp. 1256, 1259 (S.D.N.Y. 1972).

II. CONCLUSION

Nasdaq's suspension of trading and delisting of Shineco's stock presents three serious legal issues for the Commission's consideration. Analysis of each favors Shineco. Constitutional principles of retroactive application of not yet adopted rules should apply to Nasdaq, and Nasdaq's retroactive application of the not-yet-in-effect amended "Bid Price Rule" to Shineco was error.

[3] The Exchange Act commands that "[t]he Commission shall approve a proposed rule change of a self-regulatory organization," but only if the Commission "finds that such proposed rule change is consistent with the requirements of this chapter and the rules and regulations issued under this chapter that are applicable to such organization." 15 U.S.C. § 78s(b)(2)(C)(i).

Moreover, Nasdaq's arbitrary and capricious internal review process violated the Exchange Act's requirement for SROs to provide fair procedures in the conduct of disciplinary actions under the Exchange Act. 15 U.S.C. § 78f(b)(7). Nasdaq deprived Shineco of fair review procedures. And, Nasdaq breached its contractual obligations to Shineco. In turn, Shineco has suffered irreparably, as have Shineco's more than 20,800 shareholders.

For the foregoing reasons, and as set forth fully across Shineco's (herein incorporated for inclusiveness) briefing in this matter in its Application for Expedited Review (Oct. 17, 2025), Reply in Support of its Motion for Emergency Stay (Nov. 5, 2025), Opening Brief in Support of its Application for Review (Dec. 24, 2025), and this Reply Brief, Shineco respectfully requests that the Commission reverse Nasdaq's delisting decision and order Nasdaq to restore Shineco's listing and permit Shineco to resume trading on The Nasdaq Capital Market.

Dated: January 14, 2026

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CERTIFICATE OF SERVICE

Pursuant to SEC Rule of Practice 151(d), I hereby certify that, on January 14, 2026, I caused this Shineco, Inc.'s Reply [Brief] in Support of Its Application for Review to be served on the Nasdaq Stock Market LLC via email to:

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