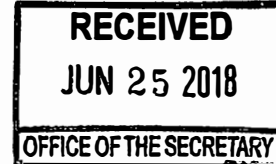


# HARD COPY

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UNITED STATES OF AMERICA  
BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION

3-18555

In the Matter of the Application of  
NEWPORT COAST SECURITIES, INC.,  
DOUGLAS A. LEONE, and  
ANDRE V. LABARBERA

For Review of Disciplinary Action Taken by  
FINRA

APPLICATION OF NEWPORT COAST  
SECURITIES, INC. FOR REVIEW OF  
FINRA DISCIPLINARY ACTION

[Re FINRA Disciplinary Proceeding  
No. 2012030564701]

[SEC Rule 420]

1 Pursuant to Rule 420(a)(i) of the Commission Rules of Practice, Applicant Newport Coast  
2 Securities, Inc. (the "Firm" or "Newport") hereby applies for review by the Commission of a final  
3 disciplinary sanction by the Financial Industry Regulatory Authority ("FINRA"). The  
4 determination of which Newport complains is the Decision of the National Adjudicatory Council  
5 ("NAC") dated May 23, 2018 (the "Decision"),<sup>1</sup> in the FINRA Office of Hearing Officers  
6 proceeding entitled *Department of Enforcement v. Newport Coast Securities, Inc., Douglas A.*  
7 *Leone and Andre V. La Barbera*, Disciplinary Proceeding No. 2012030564701.

8 Pursuant to Rule 420(c), a brief statement of the errors alleged in the determination, and the  
9 supporting reasons therefor, is as follows:

10 The NAC's finding that the expulsion of Newport offers a remedial purpose is reversible  
11 error. On August 3, 2016, Newport voluntarily filed a Uniform Request for Broker-Dealer  
12 Withdrawal ("Form BDW") to terminate its registration with the Commission, all self-regulatory  
13 organizations, and all jurisdictions. At the time of the expulsion, Newport was no longer operating  
14 as a broker-dealer, and had notified the OHO. Thus, Newport's expulsion is impermissibly  
15 punitive, and not remedial.

16 The NAC's finding that Newport's expulsion serves to protect the investing public is  
17 erroneous. Newport ceased all operations prior to the issuance of the decision by the OHO. Thus,  
18 Newport did not pose any risk to the investing public at that time nor does it now.

19 The NAC's finding that "general deterrence" is a sufficient justification for expulsion is  
20 erroneous because "general deterrence" is essentially a rationale for punishment, not for  
21 remediation.

22 The NAC's affirmation of the OHO's imposition of the sanction of expulsion on Newport  
23 is reversible error because (i) it is not supported by the evidence presented at the hearing before the  
24 Extended Hearing Panel of the OHO; (ii) the NAC failed to consider why a less severe sanction  
25 would not serve to protect investors; (iii) it exceeds the powers of the OHO and the NAC; (iv) it is  
26 inconsistent with the FINRA Sanction Guidelines; (v) it violates Section 19(e)(2) of the Securities  
27 and Exchange Act because it is excessive, oppressive, and creates an undue burden on competition  
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<sup>1</sup> To the extent necessary to preserve all rights on appeal, Newport also complains of the underlying Extended Hearing Panel Decision of the FINRA Office of Hearing Officers ("OHO"), dated October 17, 2016 (the "OHO Decision").

1 (vi) it is the result of a procedurally unfair process, in violation of 15 U.S.C. § 78o-3(b)(8), and  
2 due process; (vii) it is arbitrary and capricious; (viii) FINRA has undue influence over the NAC;  
3 and (ix) the NAC is biased against small broker-dealers, which materially and adversely affects the  
4 rights of Newport, its former registered representatives, its former employees, and the member  
5 firms that hire them.

6 The NAC's affirmation of the OHO's imposition of the sanction of expulsion on Newport  
7 is reversible error because it is part of a systemic pattern of disparate treatment that results in  
8 disproportionately harsher sanctions being visited upon small firms such as Newport, and  
9 correspondingly, disproportionately impacting representatives who work at smaller, independent  
10 member firms and the firms who hire them.

11 The NAC proceeding and the NAC's affirmation of the OHO's imposition of the sanction  
12 of expulsion on Newport is void because the NAC adjudicators are inferior officers of the United  
13 States who were not appointed in conformance with the requirements of the appointments clause  
14 (Article II, Section 2, Clause 2).

15 As noted in the Notice of Appearance and Designation of Address for Service, filed  
16 contemporaneously herewith, Newport can be served through their counsel at the following  
17 address: John W. Stenson, Winget Spadafora & Schwartzberg LLP, 1900 Avenue of the Stars,  
18 Suite 450, Los Angeles, California 90067; (310) 836-4800.

19  
20 Respectfully Submitted,

21 Dated: June 22, 2018

22 By: 

23 JOHN W. STENSON  
24 MICHAEL MAUCERI  
25 Attorneys for Applicant,  
26 Newport Coast Securities, Inc.  
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1 **CERTIFICATE OF SERVICE**

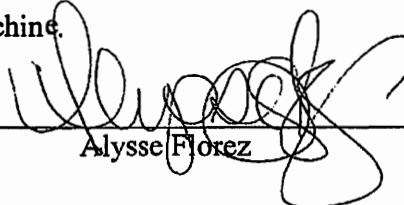
2 Pursuant to Rule 150 and Rule 151 of the Commission's Rules of Practice, I hereby certify  
3 that on **June 22, 2018**, I served true and correct copies of the foregoing documents described as  
4 **APPLICATION OF NEWPORT COAST SECURITIES, INC. FOR REVIEW OF FINRA**  
5 **DISCIPLINARY ACTION** on the following parties and persons by facsimile and by placing a  
6 true copy thereof enclosed in a sealed envelope addressed as follows:  
7

8 The Office of the Secretary  
9 **[Original and 3 copies]**  
10 U.S. Securities and Exchange Commission  
11 100 F Street, NE  
Washington, DC 20549-1090  
Facsimile: (202) 772-9324

Jennifer Brooks, Esq.  
Office of General Counsel  
FINRA  
1735 K Street, NW  
Washington, D.C. 20006-1500  
Facsimile: (202) 728-8264

12  **BY OVERNIGHT MAIL:** I caused to be delivered to an authorized express  
13 service carrier, courier, or driver, in the County of Los Angeles, a true and correct copy of the  
14 foregoing document(s) in sealed envelope(s) or package(s) designated by the express mail service  
15 carrier for delivery on the next business day to the above-named person(s) at the addresses listed  
16 above, with fees for overnight delivery paid or provided.  
17

18  **BY FACSIMILE:** I caused the above-referenced documents(s) to be transmitted  
19 to the above-named person(s) at the facsimile telephone number exhibited therewith. The  
20 facsimile machine I used complied with California Rules of Court, Rule 200 and the transmission  
21 was reported as complete and without error. Pursuant to California Rules of Court, Rule 2006 (d)  
22 I caused the machine to print a transmission record of the transmission and the transmission report  
23 was properly issued by the transmitting facsimile machine.  
24

25   
26 Alysse Florez  
27  
28