

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20170527050 01**

**TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")**

**RE: Kyusun Kim, Respondent
CRD No. 2864085**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Kyusun Kim first associated with a FINRA member firm in March 1997. In February 2006, Kim registered with FINRA as a General Securities Representative through Independent Financial Group, LLC ("IFG"), where he remained until March 2016. At that time, Kim became associated with another FINRA member firm, where he remained until April 2017. Kim has not been registered or associated with any other FINRA member since that time.

Although Kim is not currently registered with FINRA or associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4(a) of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

Kim has no disciplinary history with FINRA, the Securities and Exchange Commission, any state securities regulator or any other self-regulatory organization.

OVERVIEW

Between 2008 and 2015, Kim made unsuitable recommendations to numerous senior customers that they concentrate their retirement assets and liquid net worth in speculative and illiquid securities, in violation of NASD Rules 2310 and 2110 and FINRA Rules 2111 and 2010. Also, Kim falsely inflated the net worth figures of several customers on their new account forms and other documents so that they appeared eligible to purchase certain speculative investments, in violation of NASD Rules 3110 and 2110 and FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Unsuitable Recommendations

FINRA Rule 2111 requires that a broker have a reasonable basis for believing that a recommended transaction or investment strategy is suitable for the customer based on the customer's investment profile, which includes, among other factors, the customer's age, financial situation and needs, investment experience, and risk tolerance. The predecessor to FINRA Rule 2111, NASD Rule 2310(a), similarly required brokers to have reasonable grounds for believing that a recommendation to a customer to purchase, sell, or exchange a security is suitable based on the facts disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs.¹

A recommendation may be unsuitable if it results in an undue concentration in a particular security or category of securities and the correspondent increased risk of loss is inconsistent with the customer's investment profile.

Between 2008 and 2015, while associated with IFG, Kim solicited numerous individuals who were retiring or had retired to liquidate their 401(k) and pension plans and invest the proceeds with him at IFG. Kim then recommended to these customers that they invest in alternative investments, such as non-traded Real-Estate Investment Trusts ("REITs") and structured notes.² Many of the customers had little or no investment experience other than their 401(k) and pension plans and had never purchased alternative investments. All of the customers had moderate or conservative investment objectives and risk tolerances.

Kim's recommendations were unsuitable for these customers because the speculative and illiquid nature of these investments were inconsistent with the

¹ NASD Rule 2310 was superseded by FINRA Rule 2111 on July 9, 2012.

² Structured products are securities derived from or based on a single security, a basket of securities, an index, a commodity, a debt issuance and/or a foreign currency. Structured products typically have two components—a note and a derivative. The note pays interest to the investor at a specified rate and interval. The derivative component establishes the payment at maturity. In Notice to Members 05-59, FINRA outlined many of the risks associated with structured products and reminded members of their obligation to ensure that such products were suitable for particular customers based on, among other factors, the customers' investment objectives.

customers' moderate or conservative investment objectives and risk tolerances. In addition, Kim's recommendations resulted in an undue concentration of the customers' retirement assets and liquid net worth in speculative and illiquid investments.

For example, Kim recommended that a 71 year-old customer with a moderate risk tolerance liquidate his 401(k) and pension in order to invest in non-traded REITs and structured notes. Based on Kim's recommendations, the customer invested 75% of his liquid net worth in these speculative and illiquid securities. Similarly, Kim recommended that a 72 year-old customer with a conservative risk tolerance liquidate her 401(k) and pension to invest in non-traded REITs and structured notes. Based on Kim's recommendations, the customer invested 50% of her liquid net worth in these speculative and illiquid securities.

In addition, Kim failed to disclose to his customers the risks associated with these products, including that the securities were speculative and illiquid. As a result of these recommendation, Kim's customers suffered substantial losses.

By virtue of the foregoing, Kim violated NASD Rules 2310 and 2110 and FINRA Rules 2111 and 2010.³

2. False Books and Records

NASD Rule 3110 and FINRA Rule 4511 require member firms to make and preserve books and records in conformity with Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-3 thereunder.⁴ Rule 17a-3(a)(17) specifically requires firms to keep accurate records of, among other things, a customer's annual income, net worth and investment objectives. Individuals who create inaccurate books and records violate NASD Rules 3110 and 2110 and FINRA Rules 4511 and 2010.

During the relevant period, IFG's procedures limited the amount of a customer's net worth that could be concentrated in alternative investments. In order to circumvent these procedures, Kim entered inaccurate and inflated net worth, liquid net worth and investment experience figures for certain customers on their new account forms and other documents.

By virtue of the foregoing, Kim violated NASD Rules 3110 and 2110 and FINRA Rules 4511 and 2010.

B. I also consent to the imposition of the following sanctions:

- A bar from association with any FINRA member in any and all capacities.

³ NASD Rule 2110 was superseded by FINRA Rule 2010 on December 15, 2008.

⁴ NASD Rule 3110 was superseded by FINRA Rule 4511 on December 5, 2011.

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating, Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, I may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

The sanctions imposed herein shall be effective on a date set by FINRA staff. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, I specifically and voluntarily waive any right to claim bias or prejudice of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

I further specifically and voluntarily waive any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

I understand that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (“ODA”), pursuant to FINRA Rule 9216;**
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and**
- C. If accepted:**
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;**
 - 2. this AWC will be made available through FINRA’s public disclosure program in accordance with FINRA Rule 8313;**
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and**
 - 4. I may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. I may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.**

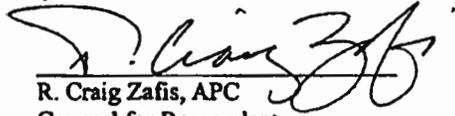
I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that

no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

5/7/18
Date


Kyusun Kim, Respondent

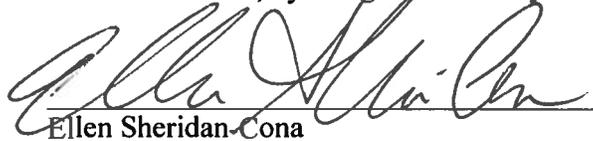
Reviewed by:


R. Craig Zafis, APC
Counsel for Respondent
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Accepted by FINRA:

4/26/18
Date

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read "Ellen Sheridan-Cona", written over a horizontal line.

Ellen Sheridan-Cona
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