

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2019064935601**

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

RE: Sun Hyung Kim (Respondent)  
General Securities Representative  
CRD No. 2053243

Pursuant to FINRA Rule 9216, Respondent Sun Hyung Kim (Kim) submits 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 Respondent alleging violations based on the same factual findings described in this AWC.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondent hereby accepts and consents, 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**

Kim first became registered with a FINRA member as a General Securities Representative (GSR) in April 1990. From that time to 2015, Kim was registered as a GSR with numerous other FINRA members. In March 2015, Kim became registered with FINRA member Kayan Securities, Inc. (Kayan) as a GSR. Kim is currently registered with FINRA as a GSR through Kayan.

Respondent does not have any relevant disciplinary history.

**OVERVIEW**

Between June 1, 2018 and June 19, 2019 (Relevant Period), Kim effected 162 unauthorized transactions in the brokerage accounts of one Kayan customer. In response to a FINRA Rule 8210 Request, Kim falsely stated that he had received authorization from the customer for these transactions. Kim also caused Kayan to maintain inaccurate books and records by inaccurately describing the transaction orders for the customer as “unsolicited.”

## **FACTS AND VIOLATIVE CONDUCT**

This matter originated from a referral to FINRA from the Securities and Exchange Commission.

### **1. Unauthorized Trading**

FINRA Rule 2010 requires each FINRA member and its associated persons to observe high standards of commercial honor and just and equitable principles of trade. A registered representative's execution of unauthorized trades in a customer's account violates FINRA Rule 2010.

During the Relevant Period, Kim effected 162 unauthorized transactions in the brokerage accounts of a customer. Kim also did not obtain approval from the customer before executing the 162 transactions. Therefore, Kim violated FINRA Rule 2010.

### **2. Providing False and Misleading Responses to FINRA Rule 8210 Request**

FINRA Rule 8210 requires persons subject to FINRA's jurisdiction to provide information in connection with FINRA investigations. Providing false or misleading information to FINRA in response to a Rule 8210 request violates both Rule 8210 and FINRA Rule 2010.

During the course of its investigation, FINRA asked Kim, pursuant to FINRA Rule 8210, whether the customer authorized the 162 transactions at issue. In response, Kim twice stated that the customer provided authorization using the KakaoTalk mobile telephone application. However, FINRA obtained the KakaoTalk records showing that the customer did not provide Kim with this authorization. Kim's response was, accordingly, false. Therefore, Kim violated FINRA Rules 8210 and 2010.

### **3. Causing a Firm to Maintain Inaccurate Books and Records**

FINRA Rule 4511 provides that each member firm "shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Exchange Act Rule 17a-3 requires firms to make a record of "each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted." This record "shall show the terms and conditions of the order or instructions," which includes whether the order was solicited or unsolicited. An associated person who mismarks an order causes his member firm to create an inaccurate record in violation of FINRA Rules 4511 and 2010.

During the Relevant Period, Kim mismarked 162 trades in the accounts of the customer as "unsolicited," causing Kayan to have inaccurate books and records. Therefore, Kim violated FINRA Rule 4511 and 2010.

B. Respondent also consents to the imposition of the following sanctions:

- a bar from associating with any FINRA member in all capacities.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, he 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 in this AWC shall be effective on a date set by FINRA. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

## II.

### **WAIVER OF PROCEDURAL RIGHTS**

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against him;
- 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, Respondent specifically and voluntarily waives any right to claim bias or prejudgment 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 its acceptance or rejection.

Respondent further specifically and voluntarily waives 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**

Respondent understands 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 Respondent; and
- C. If accepted:
  - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
  - 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 its subject matter in accordance with FINRA Rule 8313; and
  - 4. Respondent 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. Respondent 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 Respondent's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent understands and acknowledges that FINRA does not represent or advise him and Respondent cannot rely on FINRA for legal advice. Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

April 24, 2021

\_\_\_\_\_  
Date

Sun Hyung Kim

Sun Hyung Kim  
Respondent

Accepted by FINRA:

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

April 26, 2021

\_\_\_\_\_  
Date

John T. Sheehan

John T. Sheehan  
Principal Counsel  
FINRA  
Department of Enforcement  
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