

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018058100701**

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

RE: Kyung Soo Kim, Respondent
Former General Securities Representative
CRD No. 5110456

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

Kim first became registered with FINRA as an Investment Company and Variable Contracts Products Representative ("IR") through an association with two former member firms on March 20, 2006. Kim was registered through an association with one of the firms until July 9, 2007 and through the other firm until December 17, 2007.

Beginning March 6, 2008, Kim was registered as an IR through an association with another member firm and on July 16, 2008, Kim also became registered through that firm as a General Securities Representative ("GSR"). Kim was registered through that firm until January 6, 2014.

From March 20, 2014 through April 10, 2018, Kim was registered as a GSR and IR through an association with member firm Merrill Lynch, Pierce, Fenner & Smith Incorporated (BD No. 7691) ("Merrill" or "the Firm"). On the Uniform Termination Notice for Securities Industry Registration (Form U5) filed by Merrill with respect to Kim, Merrill stated that the Firm discharged Kim on

March 14, 2018 for, in part, "...fail[ing] to disclose an outside business activity."

Kim is not currently associated with any FINRA member firm. However, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

Kim has no prior disciplinary history with the SEC, FINRA, any other self-regulatory organization or any state securities regulator.

OVERVIEW

In December 2017, Kim engaged in an outside business activity without providing prior written notice to his Firm. As a result, Kim violated FINRA Rules 3270 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 3270 states, in relevant part, that "[n]o registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member."

A violation of FINRA Rule 3270 is also a violation of FINRA Rule 2010. FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade.

In December 2017, Kim formed and incorporated an entity ("S Corporation"), for which he was the sole shareholder and director, to engage in cryptocurrency mining activities. Kim: (i) opened and funded a bank account for S Corporation; (ii) entered into a contract on behalf of S Corporation with another entity that was to build and operate computer hardware and software for S Corporation's cryptocurrency activities; and (iii) transferred funds from S Corporation to that entity pursuant to the contract.

Kim failed to provide written notice to Merrill of the above-described activity.

By reason of the foregoing, Kim violated FINRA Rules 3270 and 2010.

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

- a one-month suspension from association with any FINRA member firm

in any capacity; and

- a \$5,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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.

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.
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal

findings by FINRA, nor does it reflect the views of FINRA or its staff.

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 [the Firm] to submit it.

5/22/2019
Date (mm/dd/yyyy)


Respondent Kyung Soo Kim

Reviewed by:



Braden Perry
Counsel for Respondent
Kennyhertz Perry LLC
2000 Shawnee Mission Pkwy
Ste. 210
Mission Woods, KS 66205

Accepted by FINRA:

06/10/2019
Date

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



Frank M. Weber
Senior Counsel
FINRA Department of Enforcement
200 Liberty Street
New York, New York 10281
Phone: (212) 858-4324
Email: frank.weber@finra.org