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REGISTRATION & DISCLOSURE

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

JAMES BYONGMIN YIM
(CRD No. 3137645),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 20060063365-01

HEARING OFFICER — _____

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From on or about February 9, 2005, through on or about May 19, 2006, James Byongmin Yim submitted eleven (11) separate transfer requests on behalf of five (5) different customers of his FINRA member firm to effectuate the transmittal of approximately \$1,328,000 from the customers' accounts without their prior knowledge, authorization or consent.
2. In the course of investigating the purpose of the transfers, staff sent five (5) separate requests to Yim pursuant to NASD Procedural Rule 8210. Yim, however, failed to provide any information in response to those five requests.

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JURISDICTION

3. James Byongmin Yim first entered the securities industry as an associated person of FINRA member firm Morgan Stanley DW, Inc. (CRD No. 7556) on or about September 14, 1998. Yim registered with the firm as a General Securities Representative (GS) on or about November 25, 1998.
4. Morgan Stanley discharged Yim on or about May 20, 2004, for "refusal to follow management instruction concerning a job related matter."
5. On or about June 9, 2004, Yim registered as a GS with FINRA member firm SunAmerica Securities, Inc. (CRD No. 20068), a firm that was part of the AIG Advisor Group.
6. On or about October 31, 2005, Yim, in his capacity as a GS, was transferred from SunAmerica to FINRA member firm AIG Financial Advisors, Inc. (CRD No. 133763) as part of a mass transfer.
7. On or about June 5, 2006, AIG filed a Uniform Termination Notice for Securities Industry Registration (Form U5) with FINRA, notifying FINRA that Yim had voluntarily terminated his registration with the firm.
8. On or about February 6, 2007, AIG filed an amended Form U5 with FINRA, disclosing that AIG had received notice from the State of Nevada that felony charges had been filed against Yim regarding the issues contained in the First Cause of Action.
9. FINRA retains jurisdiction over Yim through February 5, 2009, pursuant to Article V, Section 4 of its By-Laws.

FIRST CAUSE OF ACTION
UNAUTHORIZED TRANSFERS OF CUSTOMER FUNDS
(VIOLATION OF NASD CONDUCT RULE 2110)

10. The Department realleges and incorporates by reference paragraphs 3 through 9 above.

TRANSFER NUMBER ONE

11. On or about February 9, 2005, Yim submitted a wire request to AIG, purportedly signed by AIG customer SYK, requesting \$50,000 be removed from his AIG account and wired to a title company's bank account at Nevada State Bank.

12. The request was made without SYK's knowledge, authorization or consent.

13. AIG processed the request.

TRANSFER NUMBER TWO

14. On or about April 1, 2005, Yim submitted a request to AIG, purportedly signed by AIG customer JL, requesting \$50,000 be removed from the AIG account of JL and SL and a check issued to a Bank of America account.

15. The request was made without JL and SL's knowledge, authorization or consent.

16. AIG processed the request.

TRANSFER NUMBER THREE

17. On or about May 13, 2005, Yim submitted a request, purportedly signed by AIG customer WR, to AIG requesting \$50,000 be removed from his AIG account and transferred to the AIG account of JL and SL.

18. The request was made without WR's knowledge, authorization or consent.

19. AIG processed the request.

TRANSFER NUMBER FOUR

20. On or about May 13, 2005, Yim submitted a request, also purportedly signed by WR, to AIG requesting \$50,000 be removed from his AIG account and transferred to the AIG account of SYK.

21. The request was made without WR's knowledge, authorization or consent.

22. AIG processed the request.

TRANSFER NUMBER FIVE

23. On or about April 18, 2006, Yim submitted a wire request, purportedly signed by AIG clients MC and PC, to AIG requesting \$14,000 be removed from their AIG account and wired to their outside bank account.

24. The request was made without MC and PC's knowledge, authorization or consent.

25. AIG processed the request.

TRANSFER NUMBER SIX

26. On or about April 26, 2006, Yim submitted a request, purportedly signed by WR, to AIG requesting \$214,000 be removed from his AIG account and transferred to the AIG account of MC and PC.

27. The request was made without WR's knowledge, authorization or consent.

28. AIG processed the request.

TRANSFER NUMBER SEVEN

29. On or about April 27, 2006, Yim submitted a request, purportedly signed by AIG clients RJ and MJ, to AIG requesting \$100,000 be removed from their AIG account and transferred to the AIG account of MC and PC.
30. The request was made without RJ and MJ's knowledge, authorization or consent.
31. AIG processed the request.

TRANSFER NUMBER EIGHT

32. On or about April 28, 2006, Yim submitted a wire request, purportedly signed by AIG clients MC and PC, to AIG requesting \$300,000 be removed from their AIG account and wired to their outside bank account.
33. The request was made without MC and PC's knowledge, authorization or consent.
34. AIG processed the request.

TRANSFER NUMBER NINE

35. On or about May 17, 2006, Yim submitted a request, purportedly signed by AIG clients RJ and MJ, to AIG requesting \$150,000 be removed from their AIG account and transferred to the AIG account of MC and PC.
36. The request was made without RJ and MJ's knowledge, authorization or consent.
37. AIG processed the request.

TRANSFER NUMBER TEN

38. On or about May 18, 2006, Yim submitted a request, purportedly signed by WR, to AIG requesting \$100,000 be removed from his AIG account and transferred to the AIG account of MC and PC.
39. The request was made without WR's knowledge, authorization or consent.
40. AIG processed the request.

TRANSFER NUMBER ELEVEN

41. On or about May 19, 2006, Yim submitted a wire request, purportedly signed by AIG clients MC and PC, to AIG requesting \$250,000 be removed from their AIG account and wired to their outside bank account.
42. The request was made without MC and PC's knowledge, authorization or consent.
43. AIG processed the request.
44. The foregoing conduct constitutes separate and distinct violations of NASD Conduct Rule 2110 by Respondent Yim.

SECOND CAUSE OF ACTION

**FAILURE TO RESPOND TO NASD STAFF'S REQUESTS FOR INFORMATION
(VIOLATION OF NASD PROCEDURAL RULE 8210 AND CONDUCT RULE 2110)**

45. The Department realleges and incorporates by reference paragraphs 3 through 9 above.
46. In or about August 2006, FINRA initiated an investigation concerning Yim's unauthorized transfers of AIG customers' funds.
47. Yim's last known residential address, as reflected in the FINRA Central Registration Depository, is [REDACTED] (the CRD Address).

FIRST REQUEST FOR INFORMATION

48. On November 1, 2006, FINRA staff sent a request for information letter to Yim, pursuant to NASD Procedural Rule 8210, which related to the subject matter of the FINRA investigation. Specifically, staff was attempting to determine the purpose and parties involved in the transfer requests that Yim submitted to AIG, discussed above in Paragraphs 11 through 43. The request was sent by U.S. Postal Service first class mail and certified mail, return receipt requested, to the CRD Address. The first request letter required a response no later than November 15, 2006.
49. The U.S. Postal Service did not return the envelope sent to the CRD Address via first class mail. The U.S. Postal Service returned the return receipt sent to the CRD Address via certified mail signed by Summi Yim.
50. No response to the staff's first request was received from Yim.

SECOND REQUEST FOR INFORMATION

51. On November 29, 2006, FINRA staff sent a second request for information letter to Yim, pursuant to Rule 8210, which related to the subject matter of the FINRA investigation. The request was sent by U.S. Postal Service first class mail and certified mail, return receipt requested, to the CRD Address. The second request letter required a response no later than December 13, 2006.
52. The U.S. Postal Service did not return the envelope sent to the CRD Address by first class mail. The U.S. Postal Service returned the envelope sent to the CRD Address by certified mail, marked "Unclaimed."
53. No response to the staff's second request was received from Yim.

THIRD REQUEST FOR INFORMATION

54. On January 26, 2007, FINRA staff sent a third request for information letter to Yim, pursuant to Rule 8210, which related to the subject matter of the FINRA investigation. The request was sent by U.S. Postal Service first class mail and certified mail, return receipt requested, to the CRD Address. The second request letter required a response no later than February 9, 2007.
55. The U.S. Postal Service did not return the envelope sent to the CRD Address by first class mail. The U.S. Postal Service returned the return receipt sent to the CRD Address by certified mail signed by Summi Yim.
56. No response to the staff's third request was received from Yim.

FIRST REQUEST FOR ON-THE-RECORD INTERVIEW

57. On March 6, 2007, FINRA staff sent a letter to Yim at his CRD Address, pursuant to Rule 8210, requesting that he appear for an on-the-record (OTR) interview at 10:00 a.m. on Thursday, March 29, 2007, at FINRA's San Francisco, California, office. The purpose of the OTR interview was to have Yim provide information, under oath or affirmation administered by a court reporter, with respect staff's investigation of his unauthorized transfers of funds from AIG customers' accounts.
58. The request was sent via U.S. Postal Service first class mail and certified mail, return receipt requested. The U.S. Postal Service did not return the envelope sent to the CRD Address via first class mail. The U.S. Postal Service returned the return receipt sent to the CRD Address via certified mail signed by Summi Yim.
59. On March 29, 2007, Yim failed to appear at FINRA's San Francisco office at the appointed time to provide the necessary information.

SECOND REQUEST FOR ON-THE-RECORD INTERVIEW

60. On April 2, 2007, FINRA staff sent a letter to Yim at his CRD Address, pursuant to Rule 8210, requesting that he appear for an on-the-record (OTR) interview at 10:00 a.m. on Thursday, April 26, 2007, at FINRA's San Francisco, California, office. The purpose of the OTR interview was to have Yim provide information, under oath or affirmation administered by a court reporter, with respect to the staff's investigation of his unauthorized transfers of funds from AIG customers' accounts.
61. The request was sent via U.S. Postal Service first class mail and certified mail, return receipt requested. The U.S. Postal Service did not return the envelope sent to the CRD Address via first class mail. The U.S. Postal Service returned the return receipt sent to the CRD Address via certified mail signed by Chong Yim.
62. On April 26, 2007, Yim failed to appear at FINRA's San Francisco office at the appointed time to provide the necessary information.
63. To date, FINRA has not received any response to the foregoing requests for information.
64. Such acts, practices and conduct constitute separate and distinct violations of NASD Procedural Rule 8210. Such conduct is also inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Yim.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.

- B. Order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: January 24, 2008


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