

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2011030219601**

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

RE: Daniel Kim, Respondent  
(CRD No. 5372539)

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 a General Securities Representative ("GSR") through member firm Goldman Sachs & Co. (BD No. 361) ("Goldman") on September 1, 2008. On November 22, 2011, Goldman filed a Uniform Termination Notice for Securities Industry Registration (Form U5) disclosing that Kim resigned from the firm on November 12, 2011. Kim is not currently registered through or associated with a member firm.

Kim remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

**RELEVANT DISCIPLINARY HISTORY**

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

## **OVERVIEW**

Kim engaged in an undisclosed outside business activity while associated with Goldman. He did not provide prior written notice to Goldman that he was appointed to the Board of Managers for an entity in which he had invested and also entered into an Advisor Agreement to provide services to that entity for which he received compensation.

## **FACTS AND VIOLATIVE CONDUCT**

While Kim was registered with FINRA through an association with Goldman, he engaged in an outside business activity without providing prior written notice of such activity to Goldman. From approximately August 2011 until at least the termination of his registration through Goldman on November 22, 2011, Kim was a member of the Board of Managers of a private company ("BF LLC") in which he had made an investment. On August 1, 2011, Kim entered into an Advisor Agreement which stated that he was to provide various services to BF LLC. Pursuant to the Advisor Agreement, Kim received compensation in the form of BF LLC stock. When Kim completed Goldman's Annual Compliance Certification on September 6, 2011, he did not disclose his involvement with BF LLC in response to a question that asked Kim to confirm and update disclosures regarding "private investments and outside interests." Kim did not inform Goldman of his relationship with BF LLC.

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

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

- A suspension from associating with any member firm in any and all capacities for a period of one month; and
- A \$5,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the one month suspension noted above, 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 sanctions imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

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).

## **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 prejudgment of the General Counsel, 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

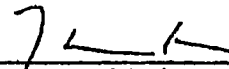
C. If accepted:

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 response to public inquiries about my disciplinary record;
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.

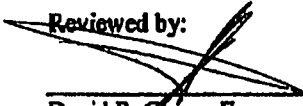
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute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

10/17/2013  
Date (mm/dd/yyyy)

  
Respondent Daniel Kim  
(CRD No. 5372539)

Reviewed by:

  
David R. Chase, Esq.  
Counsel for Respondent

Accepted by FINRA:

November 13, 2013  
Date

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



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