

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND**

IN THE MATTER OF: *

JUNG TAE KIM * No. 2017-1079
a/k/a CHUNG TAE LEE *
a/k/a EDWARD X. KIM *

Respondent. *

* * * * *

SUMMARY ORDER TO CEASE AND DESIST

WHEREAS, the Maryland Securities Commissioner (the “Securities Commissioner”), pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Md. Ann. Code, Corps. & Ass’ns (2014 Repl. Vol. & Supp. 2017) (the “Securities Act”), initiated an investigation into the securities related activities of Respondent Jung Tae Kim a/k/a Chung Tae Lee a/k/a Edward X. Kim (“Respondent” or “Kim”); and

WHEREAS, on the basis of that investigation the Securities Commissioner has found that grounds exist to determine that Respondent violated the Securities Act by engaging in acts or practices constituting violations of sections 11-301, 11-302, 11-306, and 11-401 of the Securities Act; and

WHEREAS, the Commissioner has reason to believe that Respondent may be engaged in continuing violations of the Securities Act; and

WHEREAS, the Commissioner has determined that immediate action against the Respondent is in the public interest;

NOW, THEREFORE, pursuant to section 11-701.1 of the Securities Act, it is hereby

ORDERED, that Respondent and anyone under his direction, control, or employment immediately cease and desist from violations of sections 11-301, 11-302, 11-306, and 11-401 of the Securities Act pending a hearing in this matter or until such time as the Commissioner modifies or rescinds this Order; and it is further

ORDERED, that Respondent show cause why he should not be barred permanently from engaging in the securities and investment advisory business in Maryland, and why a monetary penalty should not be entered against him; and it is further

ORDERED, that Respondent show cause why a final order should not be entered against him, ordering him to cease and desist from further violations of sections 11-301, 11-302, 11-306, 11-401, and 11-402 of the Securities Act.

Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act.

The Commissioner alleges the following as a basis for this Order:

I.
JURISDICTION

1. The Securities Commissioner has jurisdiction in this proceeding pursuant to sections 11-701.1 and 11-801 of the Securities Act.

II.
RESPONDENT

2. Respondent Jung Tae Kim a/k/a Chung Tae Lee resides in Bethesda, Maryland and on information and belief conducted business from his residence.

III.
STATEMENT OF FACTS

3. Kim never has been registered with the Maryland Securities Division (the “Division”) as a broker-dealer, agent, investment adviser or investment adviser representative.

4. Beginning in 2013, Kim held himself out as an investment adviser to at least two Maryland investors.

5. Kim claimed to these investors that he graduated from New York University and Columbia University and previously worked at JPMorgan in New York City trading securities, advising others of the value of securities and to the advisability of investing in, purchasing, or selling securities.

6. Kim also told these investors he had a “top level stock broker license.”

7. Kim guaranteed that he could get these investors a 20 percent return by managing their funds. At the time, the investors’ annual return was eight (8) percent. Kim guaranteed he could do better, and the investors would not lose money.

8. Beginning in 2014, at least two Maryland investors agreed to have Kim manage their investments.

9. Kim suggested that Charles Schwab (“Schwab”) was a good broker, leading the investors to establish separate Individual Retirement Accounts (“IRA”) and one joint account with Schwab.

10. The investors granted Kim complete access to these accounts to purchase and sell securities.

11. The investors initially funded their Schwab accounts with a total of \$376,843.10 during April and May of 2014, which included the transfer of \$63,843.10 from the investors’ other IRAs.

12. Over the course of their relationship with Kim, the investors also transferred an additional \$73,000 – a total of \$449,843.10 – for Kim to manage.

13. Between May 23, 2014 and July 24, 2017, through these investors' accounts, Kim made a total of 285 purchases and sales of various equities, bond funds, and equity funds with the investors' money.

14. The investors were not involved in trading through their Schwab account.

15. Kim never disclosed to the investors how he would invest their money, asked the investors about their risk tolerance or investment objectives, or disclosed to them how he would manage their funds.

16. In the process of purchasing and selling securities, Kim gradually diverted funds from the investors' Schwab accounts to his personal checking account with Capital One.

17. When the investors eventually learned of the transfers, Kim represented to the investors that he had transferred the money for tax purposes.

18. Kim did not transfer the money for tax purposes. Instead, Kim spent the investors' money on personal expenses including credit card debt, trips to Europe (including Denmark, Germany, Great Britain, Hungary, the Netherlands, and Ireland), diamonds, hotels, resorts, restaurants, video games, gym memberships, and a variety of consumer retail purchases and miscellaneous living expenses such as gas and groceries.

19. Kim diverted a total of \$461,102.60 of the investors' funds between July 31, 2014 and August 1, 2017 and spent all of this money on personal expenses or converted it to cash.

20. As a result of Kim's actions, as of December 31, 2017, the investors have only \$55,479.10 remaining in their Schwab accounts.

21. On November 9, 2017, Kim transferred \$14,315.58 to his Capital One checking account from the Charles Schwab account of a third, separate investor. Kim also spent this investor's money on personal expenses.

22. As of January 12, 2018, Kim had only \$107.29 in his Capital One checking account after spending \$475,418.18 in investor funds on personal expenses.

COUNT I
**(Investment Adviser and Investment Adviser Representative Registration Violations;
Section 11-401)**

WHEREAS, section 11-101(i) of the Securities Act defines “investment adviser” to mean a person who, for compensation engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities; or provides or offers to provide, directly or indirectly, financial and investment counseling or advice, on a group or individual basis; or holds out as an investment adviser in any way; and

WHEREAS, section 11-101(j) of the Securities Act defines “investment advisor representative” to mean any partner, officer, director of (or a person occupying a similar status or performing similar functions) or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who: makes any recommendations or otherwise renders investment advice to clients; represents an investment adviser in rendering investment adviser services; manages accounts or portfolios of clients; determines which recommendation or investment advice should be given with respect to a particular client account; solicits, offers or negotiates for the sale of or sells investment advisory services; directly supervises employees who perform any of the foregoing; or holds out as an investment adviser; and

WHEREAS, section 11-401 of the Securities Act makes it unlawful for any person to transact business in this State as an investment adviser or investment adviser representative unless that person is registered as such; and

WHEREAS, Respondent Kim has transacted business as an investment adviser or investment adviser representative, and is not otherwise exempt, by managing investment accounts,

by advising investors regarding securities, and by providing financial and investment counseling to investors on both a group and individual basis while he was not registered with the Division as an investment adviser or investment adviser representative, in violation of section 11-401 of the Securities Act;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondent Kim cease and desist from acting as an investment adviser or investment adviser representative in or from Maryland, pending a hearing in this matter or until such time as the Securities Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act; and

IT IS FURTHER **ORDERED** that Respondent Kim show cause why a final order should not be issued against him that orders Kim to cease and desist from further violation of the section 11-401 investment adviser and investment adviser representative registration provisions, assesses Kim the statutory penalty of \$5,000 for each violation of the section 11-401 investment adviser and/or investment adviser registration provisions, permanently bars Kim from the securities and investment advisory business in Maryland, and orders any other sanction or combination of sanctions against Kim as permitted under section 11-701.1.

COUNT II
(Broker-Dealer and Agent Registration Violations; Section 11-401)

WHEREAS, section 11-101(c) of the Securities Act defines “broker-dealer” to mean a person engaged in the business of effecting transactions in securities for the account of others or for his own account; and

WHEREAS, section 11-101(b) of the Securities Act defines “agent” as an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect the purchase or sale of securities; and

WHEREAS, section 11-401 of the Securities Act makes it unlawful for any person to transact business in this State as a broker-dealer or agent unless the person is registered as such; and

WHEREAS, Respondent Kim has transacted business as a broker-dealer or agent in this State by effecting securities transactions while he was not registered with the Division as a broker-dealer or agent, in violation of section 11-401 of the Securities Act;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondent Kim cease and desist from acting as a broker-dealer or agent in or from Maryland, pending a hearing in this matter or until such time as the Securities Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act; and

IT IS FURTHER **ORDERED** that Respondent Kim show cause why a final order should not be issued against him that orders Kim to cease and desist from further violation of the section 11-401 broker-dealer or agent registration provisions, assesses Kim the statutory penalty of \$5,000 for each violation of the section 11-401 broker-dealer and agent registration provisions, permanently bars Kim from the securities and investment advisory business in Maryland, and orders any other sanction or combination of sanctions against Kim as permitted under section 11-701.1.

COUNT III
**(Employment of Unregistered Agent and Investment Adviser Representative,
Section 11-402)**

WHEREAS, section 11-402 of the Securities Act prohibits a broker-dealer or an investment adviser from employing or associating with an agent or investment adviser representative, respectively, unless the individual is registered; and

WHEREAS, Respondent Kim, acting as a broker-dealer and/or investment adviser, employed himself as an agent and/or investment adviser representative without registering as such;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondent Kim cease and desist from the employment of unregistered agents or investment adviser representatives in or from Maryland, pending a hearing in this matter or until such time as the Securities Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act; and

IT IS FURTHER **ORDERED** that Respondent Kim show cause why a final order should not be issued against him that orders Kim to cease and desist from engaging in activities in further violation of section 11-402, assesses Kim the statutory penalty of \$5,000 for each violation of section 11-402, permanently bars Kim from the securities and investment advisory business in Maryland and orders any other sanction or combination of sanctions against Kim as permitted under section 11-701.1.

COUNT IV
(Fraud in Connection with the Offer or Sale of Securities, Section 11-301)

WHEREAS, section 11-301 of the Securities Act makes it unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly to:

- (1) Employ any device, scheme, or artifice to defraud;
- (2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (3) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person; and

WHEREAS, Respondent Kim employed a device, scheme, or artifice to defraud by diverting investors' funds for his own personal uses and by purchasing and selling securities

through investors' accounts as an unregistered investment adviser, investment adviser representative, broker-dealer and agent; and

WHEREAS, Respondent Kim made untrue statements of material fact including but not limited to claims regarding his background, the return he would obtain for investors, and the tax benefits of transferring investor funds to Kim's personal checking account; and

WHEREAS, Respondent Kim omitted to state material facts, including but not limited to facts about his expenditure of investor funds on personal expenses and his lack of registration as an investment adviser, investment adviser representative, broker-dealer, or agent ; and

WHEREAS, by guaranteeing a return on investment and subsequently trading securities, liquidating portfolios, and diverting the proceeds to personal use, Respondent Kim engaged in activities that operated as a fraud or deceit on investors; and

WHEREAS, Respondent Kim engaged in a misappropriation of investor monies;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondent Kim cease and desist from engaging in fraud in connection with the offer, sale, or purchase of any security, directly or indirectly, in or from Maryland, pending a hearing in this matter or until such time as the Securities Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act; and

IT IS FURTHER **ORDERED**, that Respondent Kim show cause why a final order should not be issued against him that orders Kim to cease and desist from engaging in the offer and sale of securities in violation of the anti-fraud provisions of section 11-301 of the Securities Act, assesses Kim the statutory penalty of \$5,000 for each violation, permanently bars Kim from engaging in the securities and investment advisory business in Maryland and orders any other sanction or combination of sanctions against Kim as permitted under section 11-701.1.

COUNT V

(Fraud in Investment Advisory Activities; Section 11-302 and COMAR 02.02.05.03)

WHEREAS, section 11-302 of the Securities Act makes it unlawful for any person who acts as an investment adviser or representative under section 11-101(i) or (j) of the Securities Act to:

- (1) Employ any device, scheme, or artifice to defraud;
- (2) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on the other person;
- (3) Engage in dishonest or unethical practices as the Commissioner may define by rule; or
- (4) Knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

WHEREAS, Code of Maryland Regulations (“COMAR”) 02.02.05.03B sets forth various prohibited practices, including .03B(15), and provides that an investment adviser is a fiduciary and has a duty to act primarily for the benefit of its clients; and

WHEREAS, COMAR 02.02.05.03B(15) prohibits an investment adviser from taking an action, directly or indirectly, with respect to those securities, instruments, or funds in which a client has any beneficial interest, when the investment adviser has custody or possession of the securities or funds when the investment adviser’s action is subject to and does not comply with the safekeeping requirements of 17 CFR Section 275.206(4)-2 (SEC Rule 206(4)-2 Custody or Possession of Funds or Securities of Clients); and

WHEREAS, COMAR 02.02.05.03C makes it a dishonest and unethical practice for any investment adviser to fail to disclose to any client or prospective client all material facts with respect to the financial condition of an adviser who has custody of client funds or securities, if the

financial condition of the adviser is reasonably likely to impair the ability of the adviser to meet contractual commitments to the client; and

WHEREAS, Kim employed a device, scheme, or artifice to defraud by guaranteeing a return on investment and subsequently trading securities, liquidating investment portfolios, and diverting the proceeds to personal use; and

WHEREAS, Kim made untrue statements of material fact including but not limited to claims regarding the guaranteed rate of return he would obtain and the transfer of funds to his personal account for tax purposes; and

WHEREAS, Kim failed to disclose material facts, including but not limited to facts concerning Kim's lack of registration as an investment adviser, investment adviser representative, broker-dealer, or agent, and his use of investors' funds; and

WHEREAS, Kim failed to disclose material information about the profitability of the securities transactions he recommended and conducted; and

WHEREAS, Kim engaged in misappropriations of investor monies; and

WHEREAS, Kim had custody of client funds and failed to comply with applicable safekeeping rules; and

WHEREAS, Kim breached his fiduciary duty as an investment adviser to act in the best interests of clients;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondent Kim cease and desist from engaging in investment advisory activities in violation of section 11-302 of the Securities Act and the prohibited practices set forth in COMAR 02.02.05.03B, pending a hearing in this matter or until such time as the Securities Commissioner modifies or rescinds this Order. Willful

violation of this Order could result in criminal penalties under section 11-705 of the Securities Act; and

IT IS FURTHER **ORDERED** that Respondent Kim show cause why a final order should not be issued against him that orders him to cease and desist from engaging in activities in further violation of section 11-302's investment advisory anti-fraud provisions and the prohibited practices set forth in COMAR 02.02.05.03B, assesses Kim the statutory penalty of \$5,000 for each violation of section 11-302, permanently bars Kim from the securities and investment advisory business in Maryland and orders any other sanction or combination of sanctions against Kim as permitted under section 11-701.1.

COUNT VI
(Dishonest or Unethical Practices; Section 11-306)

WHEREAS, section 11-306 of the Securities Act makes it unlawful for any person who engages in the business of effecting transactions in securities for the account of others or for the person's own account or who acts as a broker-dealer or agent from engaging in dishonest or unethical practices in the securities or investment advisory business; and

WHEREAS, Respondent Kim engaged in the business of effecting transactions in securities for the account of others and acted as a broker-dealer or agent by purchasing and selling at least 285 securities for investors' accounts; and

WHEREAS, Respondent Kim engaged in dishonest or unethical practices in the securities or investment advisory business by, among other things, guaranteeing investors a rate of return he did not provide, diverting investor funds to his personal checking account, falsely claiming the diversion of funds was for tax purposes, and misappropriating investor funds for personal expenses;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondent Kim cease and desist from engaging in investment advisory activities in violation of section 11-306 of the Securities Act, pending a hearing in this matter or until such time as the Securities Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act; and

IT IS FURTHER **ORDERED** that Respondent Kim show cause why a final order should not be issued against him that orders him to cease and desist from engaging in activities in further violation of section 11-306 of the Securities Act, assesses Kim the statutory penalty of \$5,000 for each violation of section 11-306, and permanently bars Kim from the securities and investment advisory business in Maryland and orders any other sanction or combination of sanctions against Kim as permitted under section 11-701.1.

**REQUIREMENT OF ANSWER AND
NOTICE OF OPPORTUNITY FOR HEARING**

IT IS FURTHER **ORDERED**, pursuant to section 11-701.1 of the Securities Act and COMAR 02.02.06.06, that Respondent shall file with the Securities Commissioner a written Answer to this Order within fifteen days of service of the Order. The Answer shall admit or deny each factual allegation in the Order and shall set forth affirmative defenses, if any. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.

The Answer also shall indicate whether the Respondent requests a hearing. A hearing to determine whether the Order should be vacated, modified, or entered as final will be scheduled in this matter if one is requested in writing. Failure by Respondent to file a request for a hearing in this matter within fifteen days of receipt of the Order shall be deemed a waiver by Respondent of the right to such a hearing.

Failure to file an Answer, including a request for a hearing, shall result in entry of a final order:

- (a) Directing Respondent to permanently cease and desist from violation of the Securities Act; and
- (b) Imposing a monetary penalty of up to \$5,000 for each violation of the Securities Act; and
- (c) Barring Respondent from engaging in the securities or investment advisory business in Maryland for or on behalf of others, or from acting as principal or consultant in any entity so engaged.

DATE OF THIS ORDER:

February 28, 2018

SO ORDERED:

**Commissioner's Signature on File
w/Original Document**

Melanie Senter Lubin
Securities Commissioner