



§§ 4.20(a)-(c), 5.3(a)(2)-(3) (2021); and additional violations by GNS directly and Won indirectly of Regulation 1.31, 17 C.F.R. § 1.31 (2021). On November 30, 2015, the Clerk of the Court issued certificates of default against Defendants Safety Capital and GNS.

## II. CONSENTS AND AGREEMENTS

To effect settlement of all charges alleged in the Complaint against Defendant Kang without a trial on the merits or any further judicial proceedings, Defendant Kang:

1. Consents to the entry of this Consent Order for Permanent Injunction, Restitution, and Other Equitable Relief Against Defendant Tae Hung Kang (a/k/a “Kevin Kang”) (“Consent Order”);
2. Consents to the entry of this Consent Order, including the findings of fact and conclusions of law in this Consent Order, which he admits;
3. Affirms that he has read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the Commission or any member, officer, agent, or representative thereof, or by any other person, to induce consent to this Consent Order;
4. Acknowledges service of the summons and Complaint;
5. Admits the jurisdiction of this Court over him and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1;
6. Admits the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the Act;
7. Admits that venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e);
8. Waives:
  - a. Any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or the rules promulgated

by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2021), relating to, or arising from, this action;

- b. Any and all claims that he may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–53, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this action;
- c. Any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing any other relief, including this Consent Order; and
- d. Any and all rights of appeal from this action;

9. Consents to the continued jurisdiction of this Court over him for the purpose of implementing and enforcing the terms and conditions of this Consent Order and for any other purpose relevant to this action, even if Defendant now or in the future resides outside the jurisdiction of this Court;

10. Agrees that he will not oppose enforcement of this Consent Order on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and hereby waive any objection based thereon;

11. Agrees that neither he nor any of his agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect his:

(a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendant shall comply with this agreement, and shall undertake all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this agreement;

12. Admits to all of the findings of fact made in this Consent Order for purposes of this proceeding;

13. Consents to the use of the findings and conclusions in this Consent Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof;

14. Does not consent, however, to the use of this Consent Order, or the findings and conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party, other than a: statutory disqualification proceeding; proceeding in bankruptcy, or receivership; or proceeding to enforce the terms of this Consent Order;

15. Agrees to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 63 of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against him, whether inside or outside the United States; and

16. Agrees that no provision of this Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against him in any other proceeding.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, permanent injunction and equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein.

**THE PARTIES AGREE AND THE COURT HEREBY FINDS:**

**A. Findings of Fact**

**The Parties to this Consent Order**

17. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1-26, and the Regulations promulgated thereunder, 17 C.F.R. pts. 1-190 (2021).

18. Defendant **Tae Hung Kang** (a/k/a “Kevin Kang”) was a resident of Queens, New York and was the President and Chief Executive Officer (“CEO”) of Safety Capital Management Inc. (“Safety Capital”) d/b/a ForexnPower during the Relevant Period in the Complaint. Defendant Tae Hung Kang has never been registered with the Commission in any capacity.

19. **Safety Capital Management, Inc.**, which did business as “ForexnPower,” was a New York corporation with its last known place of business at 216-19 Northern Blvd., Suite 2, Bayside, NY 11361. Safety Capital has never been registered with the Commission in any capacity.

20. Between October 2010 through December 2013 (the “Relevant Period”), Defendant Tae Hung Kang acted as an Associated Person (“AP”) of a Commodity Trading Advisor (“CTA”) by soliciting and accepting clients of Safety Capital d/b/a ForexnPower for managed off-exchange retail foreign currency exchange (“forex”) trading accounts.

21. These Safety Capital forex trading clients did not have assets or net worth exceeding \$10 million (or \$5 million if the individual enters into the transaction to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual). Thus, Safety Capital’s forex trading clients were not Eligible

Commercial Entities (“ECEs”) or Eligible Contract Participants (“ECPs”) as defined by Sections 1a(17) and (18) of the Act, 7 U.S.C. §§ 1a(17), (18). Safety Capital had discretionary trading authority over these retail forex trading clients.

22. Safety Capital’s retail forex trading clients had managed accounts at a Futures Commission Merchant (“FCM”) and their off-exchange forex transactions were offered to or entered into with a person that is not an ECP or ECE on a leveraged or margined basis, and the transactions did not result in actual delivery within two days or otherwise create an enforceable obligation to make/take delivery in connection with the line of business.

23. During the Relevant Period, Defendant Tae Hung Kang also acted as an AP of a Commodity Pool Operator (“CPO”) by soliciting and accepting funds from participants for a commodity pool operated by Safety Capital d/b/a ForexnPower.

24. In soliciting retail forex customers and pool participants, Defendant Tae Hung Kang used the mail, email, telephone or other instrumentalities of interstate commerce.

25. For example, on or about March 15, 2012, Defendant Tae Hung Kang solicited pool participants and retail forex customers at a ForexnPower seminar and represented that he was the CEO of the company and that the ASET automated trading signals program would, in five, years turn a \$3,000 investment into over \$900,000 in profits. The latter representation was false or misleading because no customer of Safety Capital d/b/a ForexnPower had such high proportionate returns and, in fact, the majority of its customers lost money trading forex with Safety Capital d/b/a ForexnPower.

26. On another occasion, in or around the summer of 2012, Defendant Tae Hung Kang, again representing himself as the CEO of ForexnPower, falsely stated to a customer that the company had yielded 10% profits per month and encouraged the customer to invest because



this was a “lifetime opportunity” and the customer should “not miss out.” This representation was false because no customer of Safety Capital d/b/a ForexnPower had 10% profits per month and the majority of customers actually had net losses.

27. After this customer invested, he requested a withdrawal. Tae Hung Kang told the customer that he could pay the customer back in a few weeks because the company was expecting an investment from another investor. This latter representation is consistent with a Ponzi scheme in which investors are paid with other investors’ money.

## **B. Conclusions of Law**

### **Jurisdiction and Venue**

28. Section 6c(a) of the Act, 7 U.S.C. § 13a-1, authorizes the Commission to seek injunctive and other relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act, or any rule, regulation, or order thereunder.

29. The CFTC has jurisdiction over the conduct and forex transactions at issue in this case pursuant to Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C).

30. Venue lies properly with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because Defendant Kang resided and/or transacted business in this District, several of his customers resided in this District, and certain transactions, acts, practices, and courses of business described in the Complaint occurred in this District.

### **Violations of the Act and Regulations**

31. During the Relevant Period, Safety Capital acted as both a retail forex CPO and a retail forex CTA as those terms are defined by Section 1a(11) (CPO) and (12) (CTA) of the Act, 7 U.S.C. § 1a(11), (12), and Regulation 5.1(d)(1) (forex CPO) and (e)(1) (forex CTA), 17 C.F.R. § 5.1(d)(1), (e)(1) (2021).

32. Defendant Tae Hung Kang acted as an AP of a CTA and CPO, in this case Safety Capital, as defined by Regulations 1.3, 17 C.F.R. § 1.3 (2021).

33. Safety Capital d/b/a ForexnPower customers were retail forex customers as that term is defined by Regulation 5.1(k), 17 C.F.R. § 5.1(k) (2021). Safety Capital d/b/a ForexnPower customers traded off-exchange retail forex transactions as that term is defined by Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C), and Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2021).

34. By the conduct described above, Defendant Tae Hung Kang violated 7 U.S.C. §§ 6b(a)(2)(A) and (C) and 6c(1)(A)-(B) and 17 C.F.R. § 5.2(b)(1) and (3).

#### IV. PERMANENT INJUNCTION

##### **IT IS HEREBY ORDERED THAT:**

35. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, Defendant Tae Hung Kang is permanently restrained, enjoined and prohibited from directly or indirectly:

- a. In connection with any order to make, or the making of, any contract for sale of any commodity for future delivery . . . that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—(A) to cheat or defraud or attempt to cheat or defraud the other person; . . . (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to an order or contract for or, in the case of paragraph (2), with the other person, in violation of Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A), (C); and



- b. By use of the mails or by any means or instrumentality of interstate commerce, in or in connection with any retail forex transaction: (1) to cheat or defraud or attempt to cheat or defraud any person; . . . or (3) [w]illfully to deceive or attempt to deceive any person by any means whatsoever in violation of Commission Regulation 5.2(b), 17 C.F.R. § 5.2(b) (2021); and
- c. While acting as an associated person of a commodity pool operator or a commodity trading advisor, by use of the mail or any means or instrumentality of interstate commerce, from (A) employing any device scheme, or artifice to defraud any client or participant or prospective client or participant; or (B) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant in violation of Section 40(1)(A)-(B) of the Act, 7 U.S.C. § 60(1)(A)-(B).

36. Defendant Kang is also permanently restrained, enjoined and prohibited from directly or indirectly:

- a. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40));
- b. Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2021)) for his own personal account or for any account in which he has a direct or indirect interest;
- c. Having any commodity interests traded on his behalf;
- d. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;

- e. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
- f. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2021); and/or
- g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2021)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission except as provided for in 17 C.F.R. § 4.14(a)(9).

## V. RESTITUTION

### A. Restitution

37. Defendant Tae Hung Kang shall pay restitution in the amount of eight hundred thirty-five thousand fifty-eight dollars (\$835,058.00) (“Restitution Obligation”). If the Restitution Obligation is not paid immediately, post-judgment interest shall accrue on the Restitution Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.

38. Tae Hung Kang is currently a defendant in a criminal action based on, in part, the misconduct that is at issue in this matter. *See United States v. Kang*, 18-CR-00184 (filed April 11, 2018, E.D.N.Y.). On March 30, 2021, Defendant Kang pleaded guilty to one count of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371. For any amounts paid in satisfaction of restitution ordered in the criminal action (“Criminal Restitution Obligation”) the Defendant shall receive a dollar-for-dollar credit against the Restitution Obligation. Within ten

days of any payment made in partial or full satisfaction of the Criminal Restitution Obligation, Defendant Kang shall, under a cover letter that identifies the name and docket number of this proceeding, transmit to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, copies of the form of payment in satisfaction of the Criminal Restitution Obligation.

39. To effect payment of the Restitution Obligation and the distribution of any restitution payments to customers or pool participants, the Court appoints the National Futures Association (“NFA”) as monitor (“Monitor”). The Monitor shall receive Restitution Obligation payments from Defendant made pursuant to this Consent Order and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, the NFA shall not be liable for any action or inaction arising from NFA’s appointment as Monitor, other than actions involving fraud.

40. Any payment Defendant Kang shall make in satisfaction of the Restitution Obligation under this Consent Order shall be made to the Monitor in the name “Tae Hung Kang- (CFTC v Safety Capital) Settlement Account” and such payments shall be sent by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier’s check, or bank money order, to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606 under cover letter that identifies the paying Defendant and the name and docket number of this proceeding. Defendant shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity

Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

41. The Monitor shall oversee the Restitution Obligation and shall have the discretion to determine the manner of distribution of any such funds it obtains in an equitable fashion to Safety Capital customers or pool participants identified by the Commission or may defer distribution until such time as the Monitor deems appropriate.

42. Defendant shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify customers and pool participants to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. Defendant shall execute any documents necessary to release funds that he may have in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment towards the Restitution Obligation.

43. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to customers and pool participants during the previous year. The Monitor shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

44. The amounts payable to each customer and pool participant shall not limit the ability of any customer or pool participant from proving that a greater amount is owed from Defendant or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any customer or pool participant that exist under state or common law.

45. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each Safety Capital d/b/a ForexnPower customer or pool participant who suffered a loss is explicitly made an intended third-party beneficiary of this Consent Order and may seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the restitution that has not been paid by Defendant to ensure continued compliance with any provision of this Consent Order and to hold Defendant in contempt for any violations of any provision of this Consent Order.

46. To the extent that any funds accrue to the U.S. Treasury for satisfaction of Defendant's Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above.

**B. Provisions Related to Monetary Sanctions**

47. Partial Satisfaction: Acceptance by the CFTC or the Monitor of any partial payment of Defendant's Restitution Obligation shall not be deemed a waiver of his obligation to make further payments pursuant to this Consent Order, or a waiver of the CFTC's right to seek to compel payment of any remaining balances.

**VI. MISCELLANEOUS PROVISIONS**

48. Until such time as Defendant Tae Hung Kang satisfies in full his Restitution Obligation under this Consent Order, upon the commencement by or against Defendant of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Defendant's debts, all notices to creditors required to be furnished to the Commission under Title 11 of the United States Code or other applicable law with respect to such insolvency, receivership, bankruptcy or other proceedings, shall be sent to the address below:

Secretary of the Commission  
Legal Division  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street N.W.

Washington, DC 20581

49. Notice: All notices required to be given by any provision in this Consent Order shall be sent certified mail, return receipt requested, as follows:

Notice to Commission:

Manal M. Sultan  
Deputy Director  
Commodity Futures Trading Commission  
290 Broadway, Ste. 600  
New York, NY 10007

Notice to Defendant:

Tae Hung Kang a/k/a Kevin Kang  
INMATE #90811-053  
FMC DEVENS  
FEDERAL MEDICAL CENTER  
P.O. BOX 879  
AYER, MA 01432

All such notices to the Commission shall reference the name and docket number of this action.

50. Change of Address/Phone: Until such time as Defendant satisfies in full his Restitution Obligation, as set forth in this Consent Order, Defendant shall provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten calendar days of the change.

51. Entire Agreement and Amendments: This Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

52. Invalidation: If any provision of this Consent Order or if the application of any provision or circumstance is held invalid, then the remainder of this Consent Order and the



application of the provision to any other person or circumstance shall not be affected by the holding.

53. Waiver: The failure of any party to this Consent Order or of any customer or pool participant at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or customer or pool participant at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Consent Order.

54. Waiver of Service, and Acknowledgement: Defendant waives service of this Consent Order and agrees that entry of this Consent Order by the Court and filing with the Clerk of the Court will constitute notice to the Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after this Consent Order is filed with the Clerk of Court, with an affidavit or declaration stating that Defendant has received and read a copy of this Consent Order.

55. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motion by Defendant to modify or for relief from the terms of this Consent Order.

56. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Defendant, upon any person under his authority or control, and upon any person who receives actual notice of this Consent Order, by

personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Defendant.

57. Counterparts and Facsimile Execution: This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail, or otherwise) to the other parties, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Consent Order that is delivered by any means shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Consent Order.

58. Contempt: Defendant understands that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings he may not challenge the validity of this Consent Order.

59. Agreements and Undertakings: Defendant shall comply with all of the undertakings and agreements set forth in this Consent Order.


There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this *Consent Order for Permanent Injunction, Restitution, and Other Equitable Relief Against Defendant Tae Hung Kang a/k/a Kevin Kang* forthwith and without further notice.

IT IS SO ORDERED on this 31st day of August, 2022.

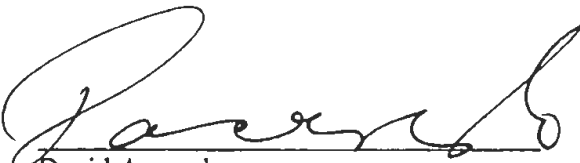
s/Raymond J. Dearie

~~RAYMOND J. DEARIE~~  
RAYMOND J. DEARIE  
UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:

  
\_\_\_\_\_  
Tae Hung Kang a/k/a Kevin Kang

Dated: 5/24/2022

  
\_\_\_\_\_  
David Acevedo

Chief Trial Attorney  
Commodity Futures Trading Commission  
290 Broadway, Suite 600  
New York, NY 10007  
646-746-9700  
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Dated: 8/24/2022