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Former State Pension Director Sued For Steering Brokerage Business In Exchange For Gifts

<p>WHAT HAPPENED?</p>	<p>The SEC has recently begun enforcement proceedings against Navnoor Kang, the former Director of Fixed Income for the New York State Common Retirement Fund (the “Fund”).</p> <p>The SEC alleges that Kang directed \$2 billion worth of public pension trades to two registered representatives of broker-dealers in exchange for a variety of benefits. Since the two brokers were not initially approved for use in trading on behalf of the Fund, Kang directed trades through an approved broker to these two brokers. Kang later engineered the approval of the two brokers by including them in a request for a group of brokers to be approved.</p> <p>This “pay-to-play” arrangement resulted in the registered representatives receiving millions of dollars in trading commissions while Kang solicited \$180,000 worth of cash, drugs, prostitutes, jewelry, VIP entertainment, personal expenses and travel. Kang falsely certified to the Fund that he had not received any gifts greater than \$1,000 in value.</p> <p>Kang was also prohibited from receiving any consideration from any party other than the Office of the State Comptroller in connection with a transaction involving the Fund.</p>
<p>WHAT ARE THE LEGAL RAMIFICATIONS?</p>	<p>Kang breached his fiduciary duty by engaging in self-dealing and failing to disclose his receipt of benefits in connection with the securities transactions that the registered representatives executed on behalf of the Fund. These actions violated Section 10(b) of the Exchange Act and Section 17(a) of the Securities Act.</p> <p>The Commission is thus seeking to enjoin the defendants from engaging in any courses of business alleged in the filing and that the defendants pay disgorgement, prejudgment interest, and civil penalties. The U.S. Attorney’s Office has also announced parallel criminal charges.</p>
<p>WHAT DOES THIS MEAN FOR ME?</p>	<p>Though this assertion of fraud is based off the defendants’ conduct, the Commission has demonstrated that it will utilize a broad definition of the fiduciary role. This can in turn lead to greater legal implications for advisors. Firms should be reviewing commissions paid to brokers for any anomalies in levels of commissions paid, reviewing the activities and correspondence of those with the authority to direct trades and conducting due diligence on the rationale for selecting brokers for the approved list in an effort prevent and detect potential issues. Please contact Fairview with any questions or concerns you have about this case and how it might apply to your firm’s business.</p>

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Source: [SEC Sues Former State Pension Official for Accepting Kickbacks to Steer Commission Business](#)