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DEPT. OF INSURANCE
BY SDI

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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In the Matter of:)	Docket No. 96A-180-INS
)	
WILLIAM CHO,)	ORDER
)	
Respondent.)	
)	
)	

On December 27, 1996, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

1. The recommended findings of fact and conclusions of law are adopted.
2. The recommended order is rejected, and in its place, the following order is

entered:

All licenses held by William Cho shall be revoked.

NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R20-6-114(B).

1 The final decision of the Director may be appealed to the Superior Court of Maricopa
2 County for judicial review pursuant to A.R.S. § 20-166.

3 DATED this 16 day of January, 1997

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6 John A. Greene
Director of Insurance

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8 A copy of the foregoing mailed
this 16th day of January, 1997

9 Charles R. Cohen, Deputy Director
10 John Gagne, Assistant Director
11 Maureen Catalioto, Supervisor
12 Arizona Department of Insurance
13 2910 N. 44th Street, Suite 210
14 Phoenix, AZ 85018

15 Office of Administrative Hearings
16 1700 West Washington, Suite 602
17 Phoenix, AZ 85007

18 Kathryn Leonard
19 Assistant Attorney General
20 1275 West Washington
21 Phoenix, AZ 85012

22 William Cho
23 2325 N. 58th Lane
Phoenix, AZ 85035

William Cho
9303 N. 7th Street
Phoenix, AZ 85020

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1 Allstate Property & Casualty
5343 N. 16th Street
2 Suite 300
Phoenix, AZ 85016

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Rosemary D Padilla

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 96A-180-INS

WILLIAM CHO,

**RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE**

Respondent.

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HEARING: December 12, 1996

APPEARANCES: S. David Childers, Esq. and John P. Flynn, Esq. appeared on behalf of the Respondent and Assistant Attorney General Kathryn Leonard appeared on behalf of the Arizona Department of Insurance

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

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FINDINGS OF FACT

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1. William Cho ("Mr. Cho") is currently licensed as a life and disability and property and casualty insurance agent in the State of Arizona.

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2. On September 5, 1996, Mr. Cho submitted an application to renew the property and casualty license ("the Renewal Application") with the Arizona Department of Insurance ("the Department").

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3. On the Renewal Application, Mr. Cho disclosed that on January 30, 1996 a federal court order was issued enjoining Mr. Cho from engaging in the sale of penny stocks and requiring the of \$20,000.00 to the Securities and Exchange Commission. Further, Mr. Cho disclosed that in June 1996, Mr. Cho received a sentence of two years probation.

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4. On June 17, 1996, judgment was entered against Mr. Cho in U.S. v. William Cho, United States District Court, District of Massachusetts, Case No. 1:95CR10262-001, wherein Mr. Cho pleaded guilty to eight felony counts as follows:

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1 one count of conspiracy in violation of 18 U.S.C. §371; and seven counts of securities
2 fraud and aiding and abetting in violation of 15 U.S.C. §78j(b) and 18 U.S.C. §2,
3 respectively; and was sentenced to two years probation and assessed a criminal
4 monetary penalty of \$400.00.

5 5. At the hearing, it was uncontroverted that in 1993, Mr. Cho had sold
6 securities issued by Fairmont Resources, Inc. that were unregistered in the State of
7 Arizona to his brother and some friends and did not disclose to them that he would
8 receive as commission one share of Fairmont stock for every ten shares of such stock
9 he sold. Further, Mr. Cho credibly testified that he arranged to have the shares issued
10 in the name of his brother so that his employer at that time, Paine Webber would not
11 learn of his dealings with Fairmont. Subsequently, the Fairmont shares of stock
12 provided as commission to Mr. Cho were sold for the sum of approximately
13 \$20,000.00.

14 6. Barry Wong, a legislator with the Arizona House of Representatives,
15 testified as a character witness on behalf of the Respondent. Mr. Wong has known Mr.
16 Cho since 1981 when they met as students attending the business school at Arizona
17 State University. Since 1981, Mr. Cho and Mr. Wong have maintained social contact
18 and see each other at Chinese community events and church social functions. Mr.
19 Wong testified that Mr. Cho is active in the Phoenix Chinese community which consists
20 of approximately 30,000 to 40,000 people. Mr. Wong testified that he has not heard
21 negative comments about Mr. Cho in the Phoenix Chinese community and that he
22 knows Mr. Cho to be an honorable person. However, Mr. Wong stated that he sees Mr.
23 Cho infrequently and has not had any business dealings with Mr. Cho.

24 7. Marc Harris, an Assistant Attorney General who represented the Arizona
25 Board of Accountancy in a disciplinary action filed against Mr. Cho, testified at this
26 hearing in his personal capacity as a witness for Mr. Cho. According to Mr. Harris, Mr.
27 Cho was candid about his conduct which led to the SEC civil, criminal and
28 administrative actions.
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1 8. Mr. Cho and the Arizona Board of Accountancy entered into a settlement of
2 the disciplinary action whereby Mr. Cho's license was suspended for five years and at
3 the end of that suspension, certain conditions apply including a two year probationary
4 period.

5 9. Dr. Simon Tsui , the pastor of the First Chinese Baptist Church ("the
6 Church"), testified that he has known Mr. Cho since August 1979 and that he and Mr.
7 Cho are close personal friends. Mr. Tsui testified that Mr. Cho regularly attends the
8 Church and eight years ago acted as the chairman of the finance committee for the
9 Church for a one year period. As chairman, Mr. Cho had access to approximately
10 \$250,000.00 and during that time, the Church did not have any problems with its
11 financial accounts. Mr. Tsui also testified that Mr. Cho has been a Sunday school
12 teacher at the Church for eight of the past twelve years and that position is a highly
13 honorable position within the Church.

14 10. Mr. Cho testified that after the above-mentioned incidents involving the sale
15 of unregistered securities, Mr. Cho has not had any criminal violations. With respect to
16 Mr. Cho's insurance licenses, Mr. Cho is unaware of any complaints made against him
17 to the Department aside from this matter.

18 11. Mr. Cho is currently an independent agent for Allstate Insurance
19 Company("Allstate"). Mr. Cho began a two year training program with Allstate in July
20 1994. Before Mr. Cho was hired as an independent insurance agent for Allstate, Mr.
21 Cho advised Allstate of the above-mentioned incidents involving Fairmont securities
22 and also informed Allstate as to his criminal conviction at around the time of the
23 conviction.

24 12. It was determined that Messrs. Wong, Harris, Tsui and Cho were sincere
25 witnesses and their testimony as set forth above was credible.

26 13. Mr. Cho appeared remorseful as to his actions which led to the above-
27 mentioned criminal conviction. In mitigation, Mr. Cho emphasized that the individuals
28 who were sold the Fairmont stock did not lose any money; that Mr. Cho cooperated with
29 the SEC, Department of Justice and the Arizona Board of Accountancy and that the
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1 \$20,000.00 profit from the sale of the Fairmont securities was disgorged. Based upon
 2 those factors, Mr. Cho's counsel argued for leniency and contended that the criminal
 3 conviction and its underlying activities were an isolated incident.

4 **CONCLUSIONS OF LAW**

5 1. Mr. Cho received notice of this proceeding as prescribed by A.R.S. §§20-
 6 163 and 41-1061.

7 2. The Director of the Department has jurisdiction over this matter pursuant to
 8 A.R.S. §§20-142, 20-290 and 20-316.

9 3. The conduct of Mr. Cho as described above in the Findings of Fact
 10 constitutes the existence of any cause for which an original issuance or any renewal of
 11 an insurance could be refused within the meaning of A.R.S. §20-316(A)(1).

12 4. The conduct of Mr. Cho as set forth above in the Findings of Fact
 13 constitutes a record of dishonesty in business or financial matters in violation of A.R.S.
 14 §20-316 (A)(1) together with A.R.S. §20-290 (B)(2).

15 5. The conviction of Mr. Cho as set forth above in the Findings of Fact
 16 constitutes a record of conviction by final judgment of a crime involving moral turpitude
 17 within the meaning of A.R.S. §20-316(A)(6).

18 6. The Director of the Department has the authority to suspend, revoke or
 19 refuse to renew Mr. Cho's insurance licenses and impose a civil penalty upon Mr. Cho
 20 pursuant to A.R.S. §20-316 (A) and (C).

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RECOMMENDED ORDER

Based on the above, the Administrative Law Judge recommends that the Director fail to renew Mr. Cho's property and casualty insurance agent license and immediately place Mr. Cho's life and disability agent license on suspension for a period of one year.

Done this day, December 27, 1996.

Lewis D. Kowal

LEWIS D. KOWAL
Administrative Law Judge

Original transmitted by mail this 27 day of December, 1996, to:

John King, Director
ATTN: Curvey Burton
Department of Insurance
2910 North 44th Street, #210
Phoenix, AZ 85018-7256

By *Chris Crawford*