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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

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IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Securities Act of Washington by:  
  
Dai Lam Phuong, a.k.a. Dan Phuong,  
and d.b.a. Fortpoint Investment Management,  
  
Respondent.

Order No. S-19-2762-20-SC01

**STATEMENT OF CHARGES AND NOTICE OF  
INTENT TO ENTER ORDER TO CEASE AND  
DESIST, TO IMPOSE A FINE, AND TO CHARGE  
COSTS**

**THE STATE OF WASHINGTON TO:**

Dai Lam Phuong, a.k.a. Dan Phuong,  
and d.b.a. Fortpoint Investment Management

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondent Dai Lam Phuong, a.k.a. Dan Phuong and d.b.a. Fortpoint Investment Management violated the Securities Act of Washington. The Securities Administrator believes these violations justify the entry of an order against Respondent Dai Lam Phuong, a.k.a. Dan Phuong and d.b.a. Fortpoint Investment Management to cease and desist from such violations, to impose a fine, and to charge costs pursuant to RCW 21.20.390 and RCW 21.20.395. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

**Respondent**

1. Dai Lam Phuong, a.k.a. Dan Phuong (“Phuong”) and d.b.a. Fortpoint Investment Management (“Fortpoint”), is a former resident of Washington and California. From approximately 2008 to 2019, Phuong provided investment advisory services in California, Utah and Washington.

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2 **Background**

3 2. From February 2005 to March 2006, Phuong was registered as a securities salesperson with  
4 Morgan Stanley.

5 3. From March 2006 to January 2008, Phuong was registered as a securities salesperson with  
6 Merrill Lynch. While working at Merrill Lynch and Morgan Stanley Phuong registered with the California  
7 Department of Business Oversight (“CADBO”) under CRD #4932241.

8 4. From 2008 to 2019, Phuong d.b.a. Fortpoint registered with the California Department of  
9 Business Oversight as an investment advisor, IARD #146572. As a condition of his registration in  
10 California, Phuong was required to file an updated “Uniform Application for Investment Adviser  
11 Registration” (Form ADV) with the CADBO to reflect material changes in the operation of his advisory  
12 business. The Form ADV enables the CADBO to determine what disclosures Phuong is making to investors  
13 and to determine where he is keeping his required books and records.

14 5. In 2012 and 2015, Phuong submitted his Form ADVs (“Form ADV”) to the CADBO and  
15 certified under the penalty of perjury that the information and statements made in the 2012 and 2015 Form  
16 ADVs were true and correct. Phuong further certified that his books and records would be preserved and  
17 made available for inspection as required by law. Phuong authorized any person having custody of his  
18 books and records to make them available to federal and state regulatory representatives.

19 6. In 2012 and 2015, Phuong indicated on his Form ADVs filed with the CADBO that the  
20 principal place of business for Fortpoint was located in Bellevue, Washington and that he kept regular  
21 business hours at those locations from 8:00am to 5:00pm, Monday through Friday. The California  
22 Corporations Code section 25241 requires every investment adviser registered with the CADBO to maintain  
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1 books and records, file reports with the Commissioner, and submit to examination by the Commissioner, as  
2 the Commissioner deems necessary or appropriate in the public interest or for the protection of investors.

3 7. Phuong did not file an application to register in Washington as an investment adviser in 2012  
4 or thereafter.

5 8. Phuong indicated on his 2012 Form ADV that he had provided investment advisory services  
6 to approximately eleven to twenty five clients.

7 9. Phuong did not provide an alternative address on his 2012 Form ADV when he was requested  
8 to provide his full residence address, if it was different from his principal office and place of business as he  
9 stated earlier on the form.

10 10. In 2018, the CADBO Commissioner requested on five separate occasions that Phuong and  
11 Fortpoint complete and submit an online examination form. On May 21, 2019, the CADBO issued an  
12 “Order Levying Administrative Penalties” against Dai Lam Phuong, d.b.a. Fortpoint Investment  
13 Management in the amount of \$5,000 for its failure to timely complete and submit an online examination  
14 form after repeated reminders to do so.

15 11. On June 18, 2019, the CADBO issued an “Order Summarily Revoking Investment Adviser  
16 Certificate” for Dai Lam Phuong, d.b.a. Fortpoint Investment Management” after providing him notice of its  
17 intent to do so for his failure to timely complete and submit an online examination form after repeated  
18 reminders to submit a form.

### 19 **CADBO Referral to Washington**

20 12. In August 2019 the CADBO sent a referral to the Washington Securities Division and  
21 pointed out that it had summarily revoked the investment adviser registration of Dai Phuong d.b.a. Fortpoint  
22 Investment Management and that Phuong may be acting as a possible unlicensed investment adviser in  
23 Washington.

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2 **Failure to Comply with Subpoena**

3 13. In September 2019, the Securities Division issued a Subpoena Duces Tecum and To Testify  
4 to Phuong. Phuong did not provide any of the records requested in the subpoena, including books and  
5 records of his advisory business, and failed to appear for his testimony that was scheduled in November  
6 2019.

7 **Nature of the Conduct**

8 14. From at least 2012 to 2019, Phuong d.b.a. Fortpoint held himself out as offering services as  
9 an investment manager located in Washington. Fortpoint maintained a website at [www.fortpointim.com](http://www.fortpointim.com). On  
10 the website, Phuong stated that “Fortpoint was formed to assist clients achieve more from their investment  
11 portfolios. Phuong described Fortpoint as “an innovative, research-focused investment firm providing  
12 investment management to individuals, private foundations, endowments, and other institutions. The firm  
13 has built a platform that offers a comprehensive range of investment services to effectively meet the  
14 requirements of a diverse set of clients.” Phuong stated that he offered institutional clients “separately  
15 managed accounts and investment consulting services.” Phuong stated that “Whether the client is looking  
16 for active or passive strategies, our experience will assist in making appropriate recommendations to meet  
17 client requirements.”

18 15. The Fortpoint website contained a webpage called “Contact” that listed its address as 677  
19 120<sup>th</sup> Avenue NE #2A-134, Bellevue WA 98005. A second address was also listed at 1000 Bristol Street  
20 North Suite 17-144, Newport Beach CA 92660. In 2015, Phuong used 227 Bellevue Way, #215 Bellevue  
21 WA 98004 as its address.



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2 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

3 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
4 Administrator intends to order, pursuant to RCW 21.20.390(1), that Respondent Dai Lam Phuong, a.k.a. Dan  
5 Phuong d.b.a. Fortpoint Investment Management, and his agents and employees, shall each cease and desist  
6 from violations of RCW 21.20.010 and RCW 21.20.040.

7 **NOTICE OF INTENT TO IMPOSE FINES**

8 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of Law,  
9 the Securities Administrator intends to order that: Respondent Dai Lam Phuong, a.k.a. Dan Phuong and d.b.a.  
10 Fortpoint Investment Management shall be liable for and shall pay a fine of \$76,600;

11 **NOTICE OF INTENT TO CHARGE COSTS**

12 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law,  
13 the Securities Administrator intends to order that Dai Lam Phuong, a.k.a. Dan Phuong and d.b.a. Fortpoint  
14 Investment Management shall be liable for and for and shall pay the costs, fees, and other expenses incurred  
15 in the administrative investigation and hearing of this matter, in an amount not less than \$7,000.

16 **AUTHORITY AND PROCEDURE**

17 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject  
18 to the provisions of Chapter 34.05 RCW. Respondent Dai Lam Phuong, a.k.a. Dan Phuong and d.b.a.  
19 Fortpoint Investment Management may make a written request for a hearing as set forth in the Notice of  
20 Opportunity for Hearing accompanying this Order. If the Respondent does not make a hearing request in  
21 the time allowed, the Securities Administrator intends to adopt the above Tentative Findings of Fact and  
22 Conclusions of Law as final and to enter a permanent order to cease and desist as to the Respondent, to  
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1 impose any fines sought against the Respondent, and to charge any costs sought against the Respondent.

2 SIGNED and ENTERED this 26th day of February, 2020.

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William M. Beatty  
Securities Administrator

Approved by:

Presented by:



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Suzanne Sarason  
Chief of Enforcement

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Martin Cordell  
Financial Legal Examiner

Reviewed by:



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Jack McClellan  
Financial Legal Examiner Supervisor