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

IN THE MATTER OF DETERMINING
whether there has been a violation
of the Securities Act of Washington by:

InfoScape Corporation;
Gregory D. Mrachek,

Respondents

Order No.: S-17-2185-18-CO02

CONSENT ORDER AS TO INFOSCAPE
CORPORATION

INTRODUCTION

On June 6, 2018, the Securities Administrator of the Securities Division of the Department of Financial Institutions (“Securities Division”) issued a Statement of Charges and Notice of Intent to Issue an Order to Cease and Desist, Impose Fines, and Charge Costs (“Statement of Charges”), Order Number S-17-2185-18-SC01, against the Respondents InfoScape Corporation and Gregory D. Mrachek. Pursuant to the Securities Act of Washington, Chapter 21.20 RCW, the Securities Division and the Respondent InfoScape Corporation do hereby enter into this Consent Order in settlement of the matters alleged herein. The Respondent InfoScape Corporation neither admits nor denies the Findings of Fact and Conclusions of Law stated below.

FINDINGS OF FACT

Respondents

1. InfoScape Corporation (“InfoScape”) is a Washington corporation formed in October 1994, with a principal place of business in Vancouver, Washington.
2. Gregory D. Mrachek (“Mrachek”) is a resident of Renton, Washington. Mrachek has never been registered with the Securities Division in any capacity.

Other Related Party

1
2 3. Peter D. Rosenow (“Rosenow”) was a resident of Bellevue, Washington. Rosenow was the
3 founder and President of InfoScape. Rosenow died in February 2016. Rosenow was never registered with
4 the Securities Division in any capacity.

Background

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6 4. In 1994, Rosenow founded InfoScape to develop computer security products with technology
7 that he invented and transferred to InfoScape. InfoScape planned to develop at least four products, and
8 SecurePC was the first product developed. SecurePC was an external appliance that users could connect to
9 their computer to protect data through secure encryption, enable data to be securely shared among multiple
10 users, and support secure e-commerce transactions.

11
12 5. Between 1999 and 2007, InfoScape raised over \$7 million dollars to fund the business and
13 develop SecurePC. Between 1999 and November 2007, InfoScape raised a total of approximately \$6.5 million
14 dollars from selling stock investments in a private placement offering. Between 2003 and 2005, InfoScape
15 raised an additional \$623,671 from the sale of three series of convertible promissory notes. In approximately
16 January 2007, InfoScape completed development of a SecurePC prototype. By 2008, InfoScape did not have
17 the funds to sustain its operations, and could no longer afford to rent an office, pay its employees, or finish
18 development of the product.

Introduction

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20 6. In approximately February 2007, InfoScape began selling a fourth series of convertible
21 promissory notes. The convertible note financing was intended to convert to equity in the event that InfoScape
22 raised additional funds from a new stock offering. Between approximately February 2007 and November
23 2015, InfoScape raised over \$650,000 from the sale of the convertible promissory notes to approximately 32
24 investors, including 12 Washington residents. The majority of investors were solicited to invest by Mrachek.
25

1 To date, no investor has received back their principal or any return on their investment. InfoScape and
2 Mrachek failed to disclose material information to investors regarding profit projections, the financial
3 condition of the company, the risks (including investing in a company with no revenue and a limited cash
4 position), and the use of investor proceeds.

5 **Offer and Sale of Convertible Notes**

6 7. The sale of the fourth issue of convertible notes in February 2007 began with investments by
7 Rosenow's relatives. In approximately November 2008, InfoScape engaged Mrachek to find additional
8 investors for the convertible promissory notes. Between November 2008 and November 2015, Mrachek
9 introduced approximately 25 investors to InfoScape. The investors that Mrachek introduced invested
10 approximately \$432,500 of the total \$666,240 raised in this offering.

11 8. For introducing investors to InfoScape, Mrachek received a commission that averaged 6% of
12 the investment principal. On two occasions, Mrachek's commission was as high as 10% of the investment
13 principal. Between November 2008 and October 2014, Mrachek received a total of over \$20,000 in
14 commissions from InfoScape. Mrachek also received warrants to purchase InfoScape stock as part of his
15 commission. Mrachek's commissions were not disclosed to any investors.

16 9. Mrachek found investors to refer to InfoScape by soliciting his relatives, friends, former
17 colleagues, and acquaintances. Mrachek referred potential investors to Rosenow for details regarding the
18 investment. However, before he referred most investors to Rosenow, Mrachek provided significant
19 information to the investors about the investment. At least one investor received the majority of information
20 about the investment from Mrachek. In a letter that Mrachek sent to two investors, Mrachek represented that
21 he was working with InfoScape and had done significant due diligence on the company since October 2007.
22

23 10. InfoScape and Mrachek represented to potential investors that InfoScape was close to obtaining
24 full funding of its stock offering. After InfoScape raised at least \$1- \$2 million from its stock offering, the
25

1 convertible notes would mature or investors could convert the notes to stock. Mrachek represented to one
2 potential investor that InfoScape was close to receiving a \$10 million dollar stock investment. InfoScape and
3 Mrachek represented to investors that the convertible note offering would close once funding of the stock
4 offering occurred. Mrachek pressured four investors to invest quickly, including telling one investor that the
5 note offering would likely be closed that week.

6 11. Between February 2007 and November 2015, approximately 32 investors invested a total of
7 \$666,240 in approximately 65 convertible promissory notes. Investors sent checks or wire transfers to
8 InfoScape. One investor sent his investment funds to Mrachek to deliver to InfoScape. Investors received
9 convertible promissory notes that had maturity dates of either one or two years and a 17.5% interest rate per
10 annum. The convertible notes also had a minimum interest payment equal to either 20% or 40% of the note
11 principal. The notes were convertible to stock at approximately \$1.42 per share. With their note investment,
12 investors also received warrants with a five year expiration date.

13
14 *Profit Projections*

15 12. InfoScape provided three investors with misleading projections regarding the future value of
16 their investment. In May 2010, InfoScape sent an email to an investor that projected that a \$100,000
17 convertible note investment with a 20% minimum interest rate (with exercised warrants) would be worth
18 approximately \$165 million dollars in five years. This projection was based on a forecast that the share price
19 would increase from approximately \$1.42 to approximately \$1,069 per share in five years. Between
20 approximately February 2012 and October 2013, InfoScape sent letters to two investors that contained various
21 projections that a \$25,000 convertible note investment with a 40% minimum interest rate (with exercised
22 warrants) would be worth a range from approximately \$29 million to \$65 million dollars in five years. These
23 projections were based on forecasts that the share price would increase from approximately \$1.42 per share
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1 to a range from approximately \$690 to \$1,558 per share in five years. InfoScape failed to provide a reasonable
2 basis for, and assumptions underlying, the projected increase in share price.

3 13. Mrachek also made claims to investors regarding the profitability of the investment. In
4 February 2012, Mrachek represented to a potential investor that InfoScape was close to receiving a \$100
5 million dollar stock investment and that when that happened “the stock @ \$1.43 a share will sky-rocket!”
6 Beginning in approximately June 2013, Mrachek repeatedly represented to an investor that an investment in
7 InfoScape would increase in value by 17 to 25 times after the company was funded and conducted an initial
8 public offering (IPO). Mrachek failed to provide a reasonable basis for, and assumptions underlying, this
9 profit projection.

10 *Risks & Financial Status*

11 14. Mrachek misleadingly represented to investors that the investment was low risk. Mrachek told
12 an investor that the convertible note investment had no risk. Mrachek also sent a letter to this investor that
13 stated that the investment “has little downside, and potentially huge upside.” Mrachek represented to another
14 potential investor that “the convertible note mitigates your risk.” Mrachek failed to disclose to investors the
15 risk that they could lose their entire investment principal.
16

17 15. InfoScape failed to provide some investors with any risk disclosures regarding the convertible
18 note investment. Several investors received various versions of an InfoScape Offering Memorandum created
19 for the stock offering, with dates ranging between October 2008 and August 2010. The InfoScape Offering
20 Memorandums contained risk disclosures for the stock offering, and many risks were also applicable to the
21 convertible note investments. However, at least three convertible note investors did not receive an InfoScape
22 Offering Memorandum or risk disclosures in any other form. In addition, the offering memorandums failed
23 to disclose risks particular to the convertible note offering, including but not limited to, the risk that InfoScape
24 could default on payment of the convertible notes if it does not receive funding of the stock offering.
25

1 16. InfoScape also failed to fully disclose the company's financial condition to all investors.
2 Between 2008 and 2011, InfoScape had operating losses that totaled over \$7 million dollars. This included
3 unpaid employee wages that totaled nearly \$800,000 by 2008. The InfoScape Offering Memorandums
4 received by some investors disclosed the company's operating loss and included financial statements.
5 However, at least three convertible note investors did not receive an InfoScape Offering Memorandum, and
6 they did not receive financial statements or disclosures about the company's financial condition in any other
7 form.

8 *Use of Investor Proceeds*

9 17. InfoScape represented to investors that their funds would be used to support "continuing
10 operations" until the stock offering was completed. In fact, the majority of investor funds were taken in
11 withdrawals by Rosenow. In November 2008, when the first investor that Mrachek introduced made a
12 convertible note investment, a pattern of draws by Rosenow commenced. Of the approximate \$601,540 of
13 investor proceeds that were deposited into the InfoScape business bank account between November 2008 and
14 November 2015, Rosenow withdrew approximately \$459,103. Rosenow's withdrawals were recorded in the
15 business check register as "Peter Rosenow Paid Founder Draw" or "Unpaid Founder Draw," and were taken
16 shortly after investor funds were deposited and sometimes on the same day as the deposit. InfoScape failed
17 to disclose to investors that over 75% of their funds would be taken in withdrawals by Rosenow.
18

19 **Stock Offering Not Funded**

20 18. Between 2011 and 2015, InfoScape represented to investors that progress was being made on
21 funding the stock offering and that InfoScape was in discussions with potential large investors. After
22 Rosenow's death in February 2016, Mrachek represented to investors (without authorization from InfoScape)
23 that InfoScape was close to obtaining funding. Between June 2016 and February 2017, Mrachek represented
24 to two investors that he was continuing to work on funding sources and that InfoScape had received a verbal
25

1 commitment from an investor. Mrachek told one investor that the verbal commitment was for a \$150 million
2 dollar investment. To date, InfoScape has not succeeded in raising funds from its stock offering.

3 19. None of the convertible note investors received payment of their principal or interest after the
4 maturity date of their notes. None of the investors converted their notes to InfoScape stock or exercised their
5 warrants. One investor tried contacting InfoScape to ask how to liquidate his note or convert it to stock, but
6 he never received a reply. At least five investors have requested the return of their investment principal.

7 **Registration Status**

8 20. On March 11, 2004, InfoScape Corporation filed with the Securities and Exchange
9 Commission a claim of exemption from registration, for an offering of \$2 million common stock and \$628,514
10 convertible securities (including warrants) under Regulation D, Rule 506. On May 20, 2005, an amended
11 filing was made which increased the offering amount to \$6 million common stock (still including \$628,514
12 convertible securities). InfoScape Corporation never filed this claim of exemption with the Securities
13 Division.

14 21. Gregory D. Mrachek has never been registered as a securities salesperson or broker-dealer in
15 the State of Washington.

16 Based upon the above Findings of Fact, the following Conclusions of Law are made:

17 **CONCLUSIONS OF LAW**

18 1. The offer and/or sale of the fourth series convertible promissory notes, as described above,
19 constitutes the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12).

20 2. InfoScape Corporation violated RCW 21.20.140 because, as set forth in the Tentative Findings
21 of Fact, they offered and/or sold securities for which no registration is on file with the Securities Administrator,
22 and for which no valid claim of exemption exists.
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1 3. Gregory D. Mrachek violated RCW 21.20.040 by offering and selling securities while not
2 registered as a securities salesperson or broker-dealer in the State of Washington.

3 4. InfoScape Corporation and Gregory D. Mrachek have each violated RCW 21.20.010 because,
4 as set forth in the Tentative Findings of Fact, they each made misstatements of material fact or omitted to state
5 material facts necessary in order to make the statements made, in light of the circumstances under which they
6 were made, not misleading.

7 **CONSENT ORDER**

8 Based upon the foregoing and finding it in the public interest:

9 IT IS AGREED AND ORDERED that the Respondent InfoScape Corporation shall cease and desist
10 from violation of RCW 21.20.140, the securities registration section of the Securities Act of Washington.

11 IT IS FURTHER AGREED AND ORDERED that the Respondent InfoScape Corporation shall cease
12 and desist from violation of RCW 21.20.010, the anti-fraud provision of the Securities Act of Washington.

13 IT IS FURTHER AGREED that the Respondent InfoScape Corporation enters into this Consent
14 Order freely and voluntarily and with a full understanding of its terms and significance.

15 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this order.

16 IT IS FURTHER AGREED that in consideration of the foregoing, the Respondent InfoScape
17 Corporation waives its right to a hearing and to judicial review of this matter pursuant to RCW 21.20.440
18 and Chapter 34.05 RCW.

19 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE**

20 SIGNED this 31st day of January, 2019.

21 Approved for Entry by:

22 _____/s/
23
24 William H. Caffee, Attorney for Respondent
25 Oregon State Bar No. 811820

1 Signed by:

2 InfoScape Corporation

3 _____/s/_____
4 Sherri R. Rosenow, Former President

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6
7 DATED AND ENTERED this 5th day of February, 2019.

8
9 By:

10 

11 _____
12 William M. Beatty
13 Securities Administrator

14 Approved by:

15 Presented by:

16 

17 

18 _____
19 Suzanne Sarason
20 Chief of Enforcement

21 _____
22 Bridgett Fisher
23 Financial Legal Examiner

24 Reviewed by:

25 

Robert Kondrat
Financial Legal Examiner Supervisor