

1 **STATE OF WASHINGTON**  
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
3 **SECURITIES DIVISION**

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

7 InfoScape Corporation;  
8 Gregory D. Mrachek,

9 Respondents.

Order Number S-17-2185-18-SC01

STATEMENT OF CHARGES AND  
NOTICE OF INTENT TO ISSUE AN  
ORDER TO CEASE AND DESIST,  
IMPOSE FINES, AND CHARGE  
COSTS

10 THE STATE OF WASHINGTON TO:

InfoScape Corporation  
Gregory D. Mrachek

11 **STATEMENT OF CHARGES**

12 Please take notice that the Securities Administrator of the State of Washington has reason to believe  
13 that the Respondents InfoScape Corporation and Gregory D. Mrachek have each violated the Securities  
14 Act of Washington and that their violations justify the entry of an order of the Securities Administrator  
15 against each to cease and desist from such violations pursuant to RCW 21.20.390, to impose fines pursuant  
16 to RCW 21.20.395, and to recover costs pursuant to RCW 21.20.390. The Securities Administrator finds  
17 as follows:

18 **TENTATIVE FINDINGS OF FACT**

19 **Respondents**

20 1. InfoScape Corporation (“InfoScape”) is a Washington corporation formed in October 1994,  
21 with a principal place of business in Vancouver, Washington.

22 2. Gregory D. Mrachek (“Mrachek”) is a resident of Renton, Washington. Mrachek has never  
23 been registered with the Securities Division in any capacity.

1 **Other Related Party**

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.

5 **Background**

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

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

18 **Introduction**

19 6. In approximately February 2007, InfoScape began selling a fourth series of convertible  
20 promissory notes. The convertible note investments were intended to provide a bridge loan to InfoScape  
21 until the company raised sufficient funds from a new stock offering. Between approximately February  
22 2007 and November 2015, InfoScape raised over \$650,000 from the sale of the convertible promissory  
23 notes to approximately 32 investors, including 12 Washington residents. The majority of investors were

1 solicited to invest by Mrachek. To date, no investor has received back their principal or any return on their  
2 investment. InfoScape and Mrachek failed to disclose material information to investors regarding profit  
3 projections, the financial condition of the company, the risks, and the use of investor proceeds.

#### 4 **Offer and Sale of Convertible Notes**

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

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

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

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

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

6 11. Between February 2007 and November 2015, approximately 32 investors invested a total  
7 of \$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  
10 per annum. The convertible notes also had a minimum interest payment equal to either 20% or 40% of the  
11 note principal. The notes were convertible to stock at approximately \$1.42 per share. With their note  
12 investment, investors also received warrants with a five year expiration date.

13 *Profit Projections*

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

1 \$1.42 per share to a range from approximately \$690 to \$1,558 per share in five years. InfoScape failed to  
2 provide a reasonable 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  
7 in InfoScape would increase in value by 17 to 25 times after the company was funded and conducted an  
8 initial public offering (IPO). Mrachek failed to provide a reasonable basis for, and assumptions underlying,  
9 this profit projection.

10 *Risks & Financial Status*

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

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

1 limited to, the risk that InfoScape could default on payment of the convertible notes if it does not receive  
2 funding of the stock offering.

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

#### 10 *Use of Investor Proceeds*

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

#### 21 **Stock Offering Not Funded**

22 18. Between 2011 and 2015, InfoScape represented to investors that progress was being made  
23 on funding the stock offering and that InfoScape was in discussions with potential large investors. After

1 Rosenow's death in February 2016, Mrachek represent to investors that InfoScape was close to obtaining  
2 funding. Between June 2016 and February 2017, Mrachek represented to two investors that he was  
3 continuing to work on funding sources and that InfoScape had received a verbal commitment from an  
4 investor. Mrachek told one investor that the verbal commitment was for a \$150 million dollar investment.  
5 To date, InfoScape has not succeeded in raising funds from its stock offering.

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

### 11 **Registration Status**

12 20. On March 11, 2004, InfoScape Corporation filed with the Securities and Exchange  
13 Commission a claim of exemption from registration, for an offering of \$2 million common stock and  
14 \$628,514 convertible securities (including warrants) under Regulation D, Rule 506. On May 20, 2005, an  
15 amended filing was made which increased the offering amount to \$6 million common stock (still including  
16 \$628,514 convertible securities). InfoScape Corporation never filed this claim of exemption with the  
17 Securities Division.

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

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

### 21 **CONCLUSIONS OF LAW**

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





1 Corporation and Gregory D. Mrachek shall be liable for and pay the Securities Division the costs, fees and  
2 other expenses incurred in the administrative investigation and hearing of this matter in an amount not less  
3 than \$5,000.

4 **AUTHORITY AND PROCEDURE**

5 This Statement of Charges is entered pursuant to the provisions of RCW 21.20.390 and RCW  
6 21.20.395, and is subject to the provisions of RCW 34.05. The Respondents may each make a written request  
7 for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR  
8 HEARING accompanying this Statement of Charges.

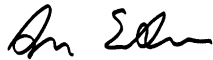
9 If a Respondent does not request a hearing, the Securities Administrator intends to adopt the above  
10 Tentative Findings of Fact and Conclusions of Law as final, enter a permanent cease and desist order as to  
11 that Respondent, and impose the fines and costs sought.

12 Signed and Entered this 6th day of June, 2018.

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14 \_\_\_\_\_  
15 William M. Beatty  
16 Securities Administrator

17 Approved by:

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19 \_\_\_\_\_  
20 Suzanne Sarason  
21 Chief of Enforcement

Presented by:

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23 \_\_\_\_\_  
24 Bridgett Fisher  
25 Financial Legal Examiner

Reviewed by:

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1 Robert Kondrat  
2 Financial Legal Examiner Supervisor

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STATEMENT OF CHARGES AND NOTICE OF  
INTENT TO ISSUE AN ORDER TO CEASE AND  
DESIST, IMPOSE FINES, AND CHARGE COSTS