

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:

AltoTerra Capital Partners Ltd.;
Leah Kincaid;
Viktor Lawryniuk,
Respondents.

Order No. S-20-2978-22-CO01

CONSENT ORDER AS TO VIKTOR LAWRYNIUK

INTRODUCTION

On August 29, 2022, 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 Enter Order to Cease and Desist, to Impose a Fine, and to Charge Costs (“Statement of Charges”), Order Number S-20-2978-22-SC01, against Respondents AltoTerra Capital Partners Ltd., Leah Kincaid, and Viktor Lawryniuk. Pursuant to the Securities Act of Washington, RCW 21.20, the Securities Division and Respondent Viktor Lawryniuk hereby enter into this Consent Order in settlement of the matters alleged in the Statement of Charges. Respondent Viktor Lawryniuk neither admits nor denies the Findings of Fact and Conclusions of Law as set forth below.

FINDINGS OF FACT

Respondents

1. AltoTerra Capital Partners Ltd. (“AltoTerra”) is a British Columbia corporation formed on November 7, 2014, with its principal place of business in Burlington, Washington. AltoTerra is in the business of leasing equipment and real estate to cannabis companies in Oregon and Washington.

2. Leah Kincaid (“Kincaid”) is a resident of Burlington, Washington. Kincaid is the Chief Executive Officer of AltoTerra.

1 3. Viktor Lawryniuk (“Lawryniuk”) is a resident of Mount Vernon, Washington. Lawryniuk is
2 a business and financial advisor who served as consultant and salesperson for AltoTerra.

3 **Related Entities**

4 4. Clarion Holdings LLC (“Clarion Holdings”) is a limited liability company based in Sedro-
5 Woolley, Washington, that was formed in 2014. Clarion Holdings is a real estate holding company and a
6 wholly owned subsidiary of AltoTerra.

7 5. Phytatek Solutions LLC (“Phytatek Solutions”) is a limited liability company based in Sedro-
8 Woolley, Washington, that was formed in 2014. Phytatek Solutions is a real estate holding company and a
9 wholly owned subsidiary of AltoTerra.

10 6. MJ Farms Sedro Woolley, LLC d/b/a Dynamic Processors (“Dynamic Processors”) is a
11 limited liability company based in Sedro-Woolley, Washington, that was formed in 2016. Dynamic
12 Processors is in the business of producing nutraceutical cannabis products. Kincaid acquired a 95% stake
13 in Dynamic Processors by personally taking over the company’s debt and has been the company’s marijuana
14 license holder since September 2019.

15 **Nature of the Offering**

16 *Overview*

17 7. Between July 2018 and August 2019, the Respondents offered and sold 1,442,286 shares of
18 unregistered AltoTerra stock to 39 U.S. investors at \$0.50 a share. Thirty-eight of these investors were
19 residents of the state of Washington, and they purchased \$707,893 of stock. While offering and selling
20 AltoTerra stock, the Respondents failed to disclose to investors material information related to the
21 investment, including basic information about its financial condition, business, operations, and
22 management; the general and specific risks of investing; information about Kincaid’s three previous
23

1 bankruptcy filings; a reasonable basis for claims and projections about AltoTerra’s planned initial public
2 offering (“IPO”); and a reasonable basis for the company’s income projections.

3 *The Offering*

4 8. Since 2014, AltoTerra and its subsidiaries have acquired assets that they leased to cannabis
5 companies in Oregon and Washington. AltoTerra purchased approximately \$5,000,000 in cannabis
6 processing equipment. Meanwhile, Clarion Holdings bought real estate in Sedro-Woolley, Washington, and
7 Phytatek Solutions entered into a partnership agreement with a Canadian company to share ownership of
8 real estate in Oregon. AltoTerra has had a total of three lessees since Kincaid became CEO. At present,
9 Dynamic Processors is the company’s only lessee.

10 9. On July 20, 2018, AltoTerra filed a Form D with the U.S. Securities and Exchange
11 Commission (“SEC”), notifying the SEC of the company’s intention to raise \$1,500,000 through a securities
12 offering. AltoTerra intended to issue stock that could be sold to both accredited and non-accredited
13 investors. The company did not file the Form D with the Securities Division until 2020.

14 10. AltoTerra opened its stock offering to its employees and their “friends and family.” The
15 company did not limit the sale of stock to a discrete class of investors with a preexisting and substantive
16 relationship with AltoTerra. For the majority of AltoTerra’s investors, the only documentation provided to
17 them prior to their stock purchase was a Share Agreement. Kincaid prohibited her employees from
18 distributing any information about the company to prospective investors.

19 11. The purpose of the stock offering was to allow people to buy shares in AltoTerra before the
20 company went public. Lawyrniuk represented to at least one investor that AltoTerra would raise millions
21 when the company had an IPO, which he said could occur as soon as 2019.

22 12. AltoTerra employees sold the company’s stock to a diverse group of uninformed friends,
23 family members, and associates, several of whom had little to no association with the company. Thirty-five

1 of the investors were not AltoTerra employees, and 18 of these non-employee investors were not accredited
2 investors. Kincaid personally sold stock to at least two investors who did not have a preexisting and
3 substantive relationship to the company; Lawryniuk personally sold stock to at least one investor who did
4 not have a preexisting and substantive relationship to the company.

5 13. Regardless of Kincaid’s prohibition on providing investors with information, an employee of
6 AltoTerra showed at least one investor a 2014 presentation prepared by the company. In the presentation,
7 AltoTerra projected its revenues to be \$18,000,000 by 2019. On a separate slide in the same presentation,
8 AltoTerra represented that its revenues could be as high as \$120,000,000 by 2019 if the company were to
9 acquire additional properties.

10 14. AltoTerra encountered several obstacles that impaired its profitability. Chief among them
11 were changes to the cannabis laws that interfered with the company’s long-term planning. AltoTerra’s
12 financial prospects were also hindered by the “cannabis industry crash” that happened in or around 2018.
13 The COVID-19 pandemic was an additional factor that negatively impacted the company’s financial
14 performance.

15 15. AltoTerra never conducted an IPO. As of April 2022, AltoTerra no longer had funds sufficient
16 to compensate its employees. The company has ceased operation.

17 **Misrepresentations and Omissions of Material Fact**

18 16. While offering and selling AltoTerra stock, Respondents failed to provide prospective
19 investors with material information about the company that was necessary to make an informed investment
20 decision. Prior to the sale, AltoTerra did not furnish investors with information regarding the company’s
21 financial condition, business, results of operations, or management.

22 17. While offering and selling AltoTerra stock, Respondents failed to disclose the general and
23 specific risks of investment, including, but not limited to, the unique risks of investing in the cannabis

1 industry, such as the illegal nature of the business both federally and in some states; the restrictions on
2 banking for the cannabis industry; and the fact that stock in cannabis companies is subject to higher-than-
3 average volatility.

4 18. While offering and selling AltoTerra stock, Respondents failed to disclose that Kincaid filed
5 for Chapter 7 Bankruptcy in 1997, Chapter 13 Bankruptcy in 2004, and Chapter 13 Bankruptcy in 2015.

6 19. While offering and selling AltoTerra stock, Lawryniuk failed to provide a reasonable basis
7 for his claims and projections about AltoTerra's planned IPO.

8 20. While offering and selling AltoTerra stock, AltoTerra failed to provide a reasonable basis for
9 its revenue projections.

10 **Failure to Comply with Rule 4(a)(2), RCW 21.20.320(1), and Rule 504 of Regulation D**

11 21. AltoTerra's securities transactions do not qualify as exempt from registration under Rule
12 4(a)(2) and its corresponding Washington exemption, RCW 21.20.320(1). Securities transactions are not
13 exempt under these provisions if they are made as part of a public offering and/or the company fails to
14 disclose to prospective investors the information necessary to make an informed investment decision.
15 AltoTerra's securities transactions were conducted as part of a public offering because the company offered
16 and sold stock to a diverse group of uninformed investors with whom the company did not have a
17 preexisting, substantive relationship. Moreover, AltoTerra failed to provide prospective investors with the
18 information necessary to make an informed investment decision because it did not furnish any
19 documentation regarding the company's financial condition, business, operations, and management.

20 22. On July 20, 2018, AltoTerra filed a claim of exemption from registration under Rule 504 of
21 Regulation D with the SEC. On September 2, 2020, AltoTerra filed the same claim of exemption with the
22 Securities Division. According to WAC 460-44A-504, offers made in reliance on Rule 504 of Regulation
23 D can qualify as exempt from registration in Washington so long as the aggregate offering price does not

1 exceed \$1,000,000, within or without the state. Securities transactions are also exempt under Rule 504 of
2 Regulation D if they are not made as part of a public offering and the company discloses to prospective
3 investors information necessary to make an informed investment decision. AltoTerra's sales were not
4 exempt from registration under Rule 504 of Regulation D because the aggregate offering price was
5 \$1,500,000; the company's stock was sold to a diverse group of uninformed investors with whom it did not
6 have a preexisting, substantive relationship; and the company did not provide prospective investors with
7 any documentation regarding its financial condition, business, operations, and management.

8 **Registration Status**

9 23. AltoTerra is not, and never has been, registered to sell its securities in the state of Washington.

10 24. Kincaid and Lawryniuk are not, and never have been, registered as securities salespersons or
11 broker-dealers in the State of Washington.

12
13 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

14 **CONCLUSIONS OF LAW**

15 1. The offer and/or sale of the AltoTerra stock described above constitutes the offer and/or sale
16 of a security as defined in RCW 21.20.005(14) and (17).

17 2. The Respondents violated RCW 21.20.140, the securities registration section of the Securities
18 Act of Washington, by offering and/or selling securities for which no registration is on file with the
19 Securities Administrator.

20 3. Leah Kincaid and Viktor Lawryniuk violated RCW 21.20.040, the salesperson registration
21 section of the Securities Act of Washington, by offering and/or selling said securities while not being
22 registered as a securities salesperson or broker-dealer in the State of Washington.

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Signed by:

_____/s/
Viktor Lawryniuk, Individually

SIGNED and ENTERED this 24 day of January, 2023.

Approved by:

_____/s/
Brian Guerard
Chief of Enforcement

Reviewed by:

_____/s/
Holly Mack-Kretzler
Financial Legal Examiner Supervisor

_____/s/
William M. Beatty
Securities Administrator

Presented by:

_____/s/
Brett Werenski
Financial Legal Examiner

