

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 of the  
6 Securities Act of Washington by:

7 AltoTerra Capital Partners Ltd.;  
8 Leah Kincaid;  
9 Viktor Lawryniuk,

Respondents.

Order No. S-20-2978-22-SC01

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

10 **THE STATE OF WASHINGTON TO:**

AltoTerra Capital Partners Ltd.  
Leah Kincaid  
Viktor Lawryniuk

11 **STATEMENT OF CHARGES**

12 Please take notice that the Securities Administrator of the State of Washington has reason to believe  
13 that Respondents AltoTerra Capital Partners Ltd., Leah Kincaid, and Viktor Lawryniuk have violated the  
14 Securities Act of Washington. The Securities Administrator believes these violations justify the entry of an  
15 order against Respondents AltoTerra Capital Partners Ltd., Leah Kincaid, and Viktor Lawryniuk to cease  
16 and desist from such violations, to impose a fine, and to charge costs pursuant to RCW 21.20.390 and RCW  
17 21.20.395. The Securities Administrator finds as follows:

18 **TENTATIVE FINDINGS OF FACT**

19 **Respondents**

20 1. AltoTerra Capital Partners Ltd. (“AltoTerra”) is a British Columbia corporation formed on  
21 November 7, 2014, with its principal place of business in Burlington, Washington. AltoTerra is in the  
22 business of leasing equipment and real estate to cannabis companies in Oregon and Washington.  
23



1 management; the general and specific risks of investing; information about Kincaid’s three previous  
2 bankruptcy filings; a reasonable basis for claims and projections about AltoTerra’s planned initial public  
3 offering (“IPO”); and a reasonable basis for the company’s income projections.

4 *The Offering*

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

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

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

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

1 12. AltoTerra employees sold the company’s stock to a diverse group of uninformed friends,  
2 family members, and associates, several of whom had little to no association with the company. Thirty-five  
3 of the investors were not AltoTerra employees, and 18 of these non-employee investors were not accredited  
4 investors. Kincaid personally sold stock to at least two investors who did not have a preexisting and  
5 substantive relationship to the company; Lawryniuk personally sold stock to at least one investor who did  
6 not have a preexisting and substantive relationship to the company.

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

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

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

19 **Misrepresentations and Omissions of Material Fact**

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

1           17. While offering and selling AltoTerra stock, Respondents failed to disclose the general and  
2 specific risks of investment, including, but not limited to, the unique risks of investing in the cannabis  
3 industry, such as the illegal nature of the business both federally and in some states; the restrictions on  
4 banking for the cannabis industry; and the fact that stock in cannabis companies is subject to higher-than-  
5 average volatility.

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

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

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

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

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

22           22. On July 20, 2018, AltoTerra filed a claim of exemption from registration under Rule 504 of  
23 Regulation D with the SEC. On September 2, 2020, AltoTerra filed the same claim of exemption with the

1 Securities Division. According to WAC 460-44A-504, offers made in reliance on Rule 504 of Regulation  
2 D can qualify as exempt from registration in Washington so long as the aggregate offering price does not  
3 exceed \$1,000,000, within or without the state. Securities transactions are also exempt under Rule 504 of  
4 Regulation D if they are not made as part of a public offering and the company discloses to prospective  
5 investors information necessary to make an informed investment decision. AltoTerra's sales were not  
6 exempt from registration under Rule 504 of Regulation D because the aggregate offering price was  
7 \$1,500,000; the company's stock was sold to a diverse group of uninformed investors with whom it did not  
8 have a preexisting, substantive relationship; and the company did not provide prospective investors with  
9 any documentation regarding its financial condition, business, operations, and management.

#### 10 **Registration Status**

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

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

14  
15 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

#### 16 **CONCLUSIONS OF LAW**

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

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

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

4           4. The Respondents violated RCW 21.20.010, the anti-fraud section of the Securities Act of  
5 Washington, by making untrue statements of material fact or omitting to state material facts necessary to  
6 make the statements made, in light of the circumstances in which they were made, not misleading.

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

8           Pursuant to RCW 21.20.390(1), and based upon the Tentative Findings of Fact and Conclusions of  
9 Law, the Securities Administrator intends to order Respondents AltoTerra Capital Partners Ltd., Leah  
10 Kincaid, and Viktor Lawryniuk, and their agents and employees, to each permanently cease and desist from  
11 violating RCW 21.20.010 and RCW 21.20.140, and Respondents Leah Kincaid and Viktor Lawryniuk, and  
12 their agents and employees, to each permanently cease and desist from violations of RCW 21.20.040.

13           **NOTICE OF INTENT TO IMPOSE FINES**

14           Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of Law,  
15 the Securities Administrator intends to order that:

- 16           a. AltoTerra Capital Partners Ltd. shall be liable for and shall pay a fine of \$30,000;  
17           b. Leah Kincaid shall be liable for and shall pay a fine of \$20,000; and  
18           c. Viktor Lawryniuk shall be liable for and shall pay a fine of \$10,000.

19           **NOTICE OF INTENT TO CHARGE COSTS**

20           Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law,  
21 the Securities Administrator intends to order that:  
22  
23

- 1 a. AltoTerra Capital Partners Ltd. and Leah Kincaid shall be jointly and severally liable for  
2 and for and shall pay the costs, fees, and other expenses incurred in the administrative  
3 investigation and hearing of this matter, in an amount not less than \$5,000; and
- 4 b. Viktor Lawryniuk shall be liable for and for and shall pay the costs, fees, and other  
5 expenses incurred in the administrative investigation and hearing of this matter, in an  
6 amount not less than \$1,000.

7 **AUTHORITY AND PROCEDURE**

8 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject  
9 to the provisions of Chapter 34.05 RCW. AltoTerra Capital Partners Ltd., Leah Kincaid, and Viktor  
10 Lawryniuk may each make a written request for a hearing as set forth in the Notice of Opportunity for  
11 Hearing accompanying this Order. If a respondent does not make a hearing request in the time allowed, the  
12 Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as  
13 final and to enter a permanent order to cease and desist as to that respondent, to impose any fines sought  
14 against that respondent, and to charge any costs sought against that respondent.

15  
16 SIGNED and ENTERED this 29th day of August, 2022.



20 \_\_\_\_\_  
21 /s/  
22 William M. Beatty  
23 Securities Administrator



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

Approved by:

Presented by:

/s/

/s/

\_\_\_\_\_  
Brian Guerard  
Chief of Enforcement

\_\_\_\_\_  
Brett Werenski  
Financial Legal Examiner

Reviewed by:

/s/

\_\_\_\_\_  
Holly Mack-Kretzler  
Financial Legal Examiner Supervisor