

IN THE CIRCUIT COURT FOR THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR MARTIN COUNTY, FLORIDA  
CIVIL DIVISION

DR. EUGENE F. MALLOVE, on behalf of  
and as attorney-in-fact for his parents,  
GLADYS and MITCHEL MALLOVE

Plaintiff,

v.

Case No.: \_\_\_\_\_

PARADIGM ENERGY CORPORATION  
a Florida corporation,  
DAVID A. CAPPELLETTI,  
MARGARET CLEMENTS, and  
RICHARD E. ENRIGHT JR.,

Defendants  
\_\_\_\_\_ /

**VERIFIED COMPLAINT**

Dr. Eugene F. Mallove hereby sues Paradigm Energy Corporation, David A. Cappelletti, Margaret Clements and Richard Enright Jr., (collectively, the "Defendants") and states:

**General Allegations**

1. This is an action for compensatory damages in excess of \$150,000.00, treble damages, punitive damages, attorney's fees, costs and other such further relief as the court may deem appropriate. This case is brought pursuant to the Florida Securities Act (Chapter 517 of the Florida Statutes) and the Florida Civil Remedies for Criminal Practices Act (Chapter 772 of the Florida Statutes).

2. Dr. Eugene F. Mallove ("Dr. Mallove") is an individual who resides in the State of New Hampshire. Dr. Mallove is the Director of New Energy Research Laboratory

("NERL") and also Editor-in-Chief of *Infinite Energy*, a scientific periodical dedicated to Cold Fusion and other new energy technology. Dr. Mallove manages the financial affairs, including investments, of his elderly parents, Gladys and Mitchel Mallove, pursuant to Durable Powers of Attorney, copies of which are attached hereto as Exhibit "A".

3. Paradigm Energy Corporation ("Paradigm") is a Florida corporation. Paradigm's principal place of business is 1463 S.W. Troon Circle, Palm City, Florida. According to its Articles of Incorporation, filed with the Florida Secretary of State on July 30, 1999, Paradigm's purpose is to engage in research, development and licensing of fusion technology.

4. According to the official records of the Florida Secretary of State, David A. Cappelletti ("Cappelletti") is Paradigm's President and one of its directors.

5. According to the official records of the Florida Secretary of State, Margaret Clements ("Clements") is Paradigm's Secretary and one of its directors. Upon information and belief, Clements is Cappelletti's wife or close friend.

6. According to the official records of the Florida Secretary of State, Richard Enright Jr ("Enright") is Paradigm's Assistant Secretary and its Registered Agent. Additionally, the official records identify Enright as Paradigm's Incorporator. Paradigm's official business address is the same as the business address of Enright's law practice and is located in Martin County.

7. To the best of his recollection, Dr. Mallove first met Cappelletti in 1995, when both were attending the Fifth International Convention on Cold Fusion (ICCF-5), a periodically convening international conference on Cold Fusion. Dr. Mallove had limited,

casual contact with Cappelletti at subsequent conferences on Cold Fusion in 1996 and 1998.

8. Cappelletti attended the Cold Fusion conferences as an observer, not as a reporting scientist. Dr. Mallove found Cappelletti to be very personable and friendly. Cappelletti would occasionally speak in very general terms about his long-standing association with an Italy-based scientist. In those initial conversations, Cappelletti did not identify the scientist. According to Cappelletti, this scientist had developed a remarkable high-temperature Cold Fusion process, but refused to publicly discuss his development until the process had been perfected and prohibited Cappelletti from making any disclosures. Dr. Mallove informed Cappelletti that as a scientist and publisher, he was interested in learning more about and perhaps publishing information concerning this new development. Although Cappelletti appeared eager to share information concerning this development, he would never discuss the process, only that it existed. He described the process, in vague but propagative terms, as an extremely potent Cold Fusion type process. Cappelletti stated that he was eager for the scientist to go public with the information regarding the process, but that he had been unsuccessful in that effort.

9. In May 1999, Cappelletti began openly discussing his mysterious scientist colleague. Cappelletti identified the scientist as Renzo Boscoli and advised that he had met Boscoli in the early 1990s while he was an American medical student in Italy. Cappelletti convinced Dr. Mallove, through long discussions about the nature of the work, that Boscoli's development was novel, even ground breaking, and that the process was potentially solid experimentally. Cappelletti repeatedly represented that the process was

intuitive - its output power very obviously exceeding input power due to its general characteristics. Cappelletti also advised Dr. Mallove that he had succeeded in obtaining a commitment from Boscoli to permit the publication in *Infinite Energy* of certain theoretically related scientific papers Boscoli had written in 1984 and 1992.

10. At about this same time, Cappelletti began discussing his plans and efforts at future manufacturing and exhibiting excess heat producing demonstration devices based upon the Boscoli research. Cappelletti advised Dr. Mallove that Boscoli had agreed to cooperate and participate in Cappelletti's business venture. Cappelletti and Dr. Mallove reached an informal plan or agreement whereby Cappelletti would lease space in the building housing Dr. Mallove's offices and laboratory. Dr. Mallove and employees of his company would be of technical assistance to Cappelletti's Cold Fusion company. In furtherance of this plan and with Dr. Mallove's assistance, Cappelletti contacted the building landlord and made arrangements to lease the space adjacent to Dr. Mallove's publishing offices and laboratory. In these initial conversations, Cappelletti and Dr. Mallove also discussed the possibility that Dr. Mallove, members of his family, and some of his investors and financial supporters might consider investing in Cappelletti's business enterprise (Paradigm) related to the Boscoli science and technology.

11. On September 3, 1999, Cappelletti arrived at Dr. Mallove's offices to make a partial disclosure of Boscoli's work and to discuss potential funding for the furtherance of his plans regarding Boscoli's science. Dr. Mallove was considering investing in Paradigm and had also arranged for one of his financial backers to travel from his home in Key Largo to attend the meeting. After hearing Cappelletti explain the process, Dr.

Mallove's financial backer wanted to see the process and suggested traveling to Italy to conduct an on site investigation. According to Cappelletti, this was not possible in view of the Boscoli's wishes and sensitivities. Cappelletti's high pressure sales tactics failed and Dr. Mallove's backer left the meeting, declining to make an investment in Cappelletti's company.

12. Although Dr. Mallove was disappointed that his financial backer would not be participating in Cappelletti's company, he remained very enthusiastic regarding both the science and the investment potential of Cappelletti's company. At this meeting, Cappelletti showed Dr. Mallove what he described as a highly confidential patent application and blueprint of an experimental apparatus with supporting technical drawings which Cappelletti claimed Boscoli had prepared. Dr. Mallove was significantly impressed with the work as described by Cappelletti and believed the process set forth in the application represented a plausible Cold Fusion experiment variation which had sufficient novelty to be considered a major scientific advance, particularly in light of the intuitive nature of the experimental results. Additionally, Cappelletti supplied Dr. Mallove with a written "Executive Summary" and "Overview" concerning Paradigm, copies of which are attached as Exhibit "B"

13. In reliance upon the various and numerous oral and written representations made by Cappelletti regarding the Boscoli science and pursuant to his durable power of attorney and as manager of his parents' investments, Dr. Mallove entered into a Paradigm Subscription Agreement, on their behalf, whereby he purchased 10,000 shares of stock in Paradigm for \$150,000.00. A copy of the Subscription Agreement is attached as Exhibit

"C" and a copy of the check to purchase the securities is attached as Exhibit "D."

14. The cover story of September/ October 1999, issue of *Infinite Energy* reported on the Boscoli papers. The article was preceded by a laudatory introduction by Dr. Mallove, as well as enthusiastic mention in Dr. Mallove's Editorial "Breaking Through." Cappelletti advised Dr. Mallove that Boscoli was extremely pleased with the publication and had agreed to permit Dr. Mallove to visit his laboratory in Italy to observe his work and experiments first hand. Cappelletti ordered and agreed to pay for two-thousand copies of the issues containing the article to use for publicity and promotional purposes.

15. Dr. Mallove traveled to Boscoli's laboratory in Italy on October 25-26, 1999. Much to his dismay, he saw absolutely no evidence of the heat producing process described by Cappelletti as the essence of Paradigm's direction. To the contrary, the foundation of Boscoli's research and experimentation was not as described by Cappelletti. Cappelletti and Boscoli made it clear in this meeting with Dr. Mallove that they did not intend to pursue the direction of research and experimentation previously described by Cappelletti as a heat producing process. In light of these representations, Dr. Mallove concluded that the direction Boscoli was pursuing was actually the antithesis of Cold Fusion and was nothing like the science described by Cappelletti and contained in the materials he provided Dr. Mallove.

16. Dr. Mallove concluded that he had been seriously misled by Cappelletti in connection with his investment in Paradigm. Dr. Mallove requested that Paradigm and Cappelletti refund the \$150,000.00 investment in Paradigm as soon as possible.

Cappelletti initially agreed to refund Dr. Mallove's investment in the near future when Paradigm had available cash.

17. Dr. Mallove has made several additional demands to Cappelletti and the other officers of Paradigm for the return of his investment in light of the misrepresentations regarding the company. To date, the Defendants have not returned Dr. Mallove's investment nor have they provided him with a certificate representing the 10,000 shares.

**COUNT I - FLORIDA SECURITIES AND INVESTOR PROTECTION ACT**  
**(Chapter 517 of the Florida Statutes).**

18. Count I is a cause of action against the Defendants for securities fraud, brought pursuant to §§ 517.301 & 517.211 of the Florida Statutes.

19. Dr. Mallove hereby incorporates the General Allegations contained in paragraphs 1-17 above as though fully set forth herein.

20. Cappelletti, aided by Clements and Enright, violated §517.301 by:

- a. Designing and employing an artifice or scheme to defraud;
- b. Engaging in a practice which operates as a fraud and deceit; and,
- c. Obtaining money from Dr. Mallove by means of an untrue statement of a material fact.

21. The essence of the scheme to defraud was the creation of a Florida corporation and the sale of stock in the corporation to third parties like Dr. Mallove, his financial backers and others. In order to effectuate the sale of the corporation's stock, Cappelletti would misrepresent the nature of the corporation's technology, its level of scientific confirmation, and its scientific direction to potential investors, like Dr. Mallove, his financial

backers and others.

22. As set forth more fully in the General Allegations of this Verified Complaint, in furtherance of the scheme, Clements and Enright aided Cappelletti by forming Paradigm, agreeing to serve as officers and agents of the corporation, preparing legal, promotional and other materials to entice investors, and taking other steps and measures to promote Paradigm and present a facade of legitimacy.

23. As set forth more fully in the General Allegations of this Verified Complaint, in furtherance of the scheme, and over an extended period of time, Cappelletti made numerous representations to Dr. Mallove regarding Paradigm, its technology and its scientific direction, as well as the results and direction of Boscoli's research and experimentation.

24. As set forth more fully in the General Allegations of this Verified Complaint, in reliance on Cappelletti's representations, Dr. Mallove purchased 10,000 of Paradigm stock for \$150,000.00.

25. As set forth more fully in the General Allegations of this Verified Complaint, after purchasing the Paradigm stock, Dr. Mallove discovered that Cappelletti had made numerous and various misrepresentations regarding the heat producing process, the foundation of Boscoli's previous research and experimentation, and the direction of Boscoli's and Paradigm's future research and experimentation.

26. Dr. Mallove would not have purchased stock in Paradigm had Cappelletti truthfully described the heat producing process, the foundation of Boscoli's previous research and experimentation, and the direction of Boscoli's and Paradigm's future



research and experimentation.

WHEREFORE, Dr. Mallove seeks rescission of the purchase of Paradigm stock and the return of his investment, plus pre-judgment interest, attorney's fees, and such other and further relief as the Court may deem appropriate. In the alternative, Dr. Mallove seeks compensatory damages from the Defendants in the amount of \$150,000.00, punitive damages, pre-judgment interest, attorney's fees and such other and further relief as the Court may deem appropriate.

**COUNT II - FLORIDA CIVIL REMEDIES FOR CRIMINAL PRACTICES**

**(CIVIL REMEDY FOR THEFT)**

27. Count II is a cause of action against Cappelletti for damages, brought pursuant to the Florida Civil Remedies for Criminal Practices Act (Chapter 772 of the Florida Statutes) for theft.

28. Dr. Mallove hereby incorporates the General Allegations contained in paragraphs 1-17 and the allegations set forth in Paragraphs 20-26 of Count I as though fully set forth herein.

29. At the time Dr. Mallove made his investment in Paradigm, Cappelletti requested that Dr. Mallove make his check payable to Cappelletti personally in order to facilitate its deposit in light of Cappelletti's overseas travel plans. Dr. Mallove complied with this request.

30. Notwithstanding the subscription agreement (Exhibit C), Cappelletti did not provide the required stock certificate representing ownership of the 10,000 shares and upon information and belief, Cappelletti may have converted all or a portion of Dr.

Mallove's \$150,000.00 investment in Paradigm to his own personal use.

31. In addition to the \$150,000.00 investment, in anticipation of the agreement fully set forth in Paragraph 10, Dr. Mallove incurred various expenses which he would not have incurred but for the misrepresentations made by Cappelletti.

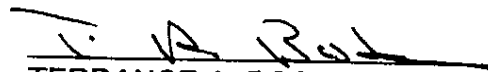
32. Cappelletti's actions set for above are in violation of Chapter 812 of the Florida Statutes and are therefore actionable as Civil Theft, as provided by §772.11 of the Florida Statutes.

WHEREFORE, Dr. Mallove demands judgment against Cappelletti for damages, treble damages, attorney's fees, costs and such other relief as the court shall deem appropriate.

I, Dr. Eugene F. Mallove, hereby state, under penalty of perjury, that I am personally familiar with the matters raised by this Complaint, that I have reviewed the Complaint, and that the factual statements in the Complaint are true and correct.

\_\_\_\_\_  
Dr. Eugene F. Mallove

Respectfully submitted,

  
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Dated: July \_\_, 2000