

**NASD AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

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In the Matter of the Arbitration Between

Name of Claimant

Suzanne A. Lepage

and

93-04112

Name of Respondent

Patrick Wayne Malloy

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**REPRESENTATION OF PARTIES**

Suzanne A. Lepage ("Claimant") appeared *pro se*.

Patrick Wayne Malloy ("Respondent") did not appear at the hearing.

**CASE INFORMATION**

The Statement of Claim was filed on or about October 7, 1993. Submission Agreement of Claimant was signed on October 2, 1993.

Respondent Patrick Wayne Malloy did not file an answer to the Statement of Claim.

**HEARING INFORMATION**

The hearing was held on Wednesday, November 2, 1994 in Dallas, Texas for a total of one (1) session.

**CASE SUMMARY**

Claimant alleged that Patrick Wayne Malloy ("Malloy"), the sole owner of Enerco Securities Corporation ("Enerco"), violated an Employment Agreement and wrongfully terminated Claimant from her duties. The Claimant specifically alleged that:

1. The Claimant and Malloy entered into an Employment Agreement on December 11, 1992. Claimant's duties were to conduct the business of Enerco Securities Corporation in a

- professional, ethical and legal manner and to adhere to all applicable state and federal regulations. Claimant fulfilled all these duties;
2. Malloy was to provide financing in a timely fashion, provide Enerco with pertinent information to successfully operate, pay all the expenses of the corporation, and other duties required to prepare Enerco for business. Malloy failed in the performance of these duties;
  3. On July 23, 1993, Malloy unjustly and without cause terminated the Claimant's employment from Enerco.

Respondent did not submit an answer to the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested damages from the Respondent in the amount of \$39,929.00 for back wages, severance pay and wages which would have been paid for the remaining twenty-three weeks (23) of the Employment Agreement.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Patrick Wayne Malloy has been properly served with the Statement of Claim pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Patrick Wayne Malloy had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

Respondent Patrick Wayne Malloy did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 Code and is bound by the determination of the arbitration panel on all issues submitted.

At the commencement of the hearing, one of the arbitrators was not in attendance. The Claimant agreed to proceed with the remaining arbitrators pursuant to §24 of the NASD Code of Arbitration Procedure.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Patrick Wayne Malloy shall be and hereby is liable for and shall pay to the Claimant Suzanne A. Lepage the sum of **Thirty nine thousand nine hundred twenty nine dollars (\$39,929)**.
2. Respondent Patrick Wayne Malloy shall be and hereby is liable for and shall pay to the Claimant Suzanne A. Lepage the sum of **Six hundred dollars (\$600)** as reimbursement of the hearing session deposit made in this matter.
3. Each party shall bear its own cost, expenses, and attorneys' fees incurred in this matter not specifically enumerated herein.

#### **FORUM FEES**

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each prehearing conference, if any. There was one (1) session x \$600 = \$600 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimant. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

**/s/ Henry Hermann**  
Henry Hermann  
Industry Arbitrator, Presiding Chair

**November 28, 1994**

**/s/ Ronald G. Johnson**  
Ronald G. Johnson  
Industry Arbitrator

**November 29, 1994**