

**Final Order**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Paul J. Callahan (Claimant) vs. Fleet Boston Robertson Stephens, Inc. (Respondent)

Case Number: 00-00990

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant Paul J. Callahan, hereinafter referred to as "Claimant": Glenn H. Ripa, Esq., a sole practitioner, New York, NY.

Respondent Fleet Boston Robertson Stephens, Inc., hereinafter referred to as "Respondent": Timothy P. Burke, Esq., Bingham Dana LLP, Boston, MA.

**CASE INFORMATION**

Statement of Claim filed on or about: March 13, 2000.

Opposition to Motion to Dismiss filed by Claimant on or about: June 22, 2000.

Claimant signed the Uniform Submission Agreement.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: May 30, 2000.

Reply to Opposition to Motion to Dismiss filed by Respondent on or about: July 5, 2000.

Respondent signed the Uniform Submission Agreement: June 16, 2000.

**CASE SUMMARY**

Claimant asserted the following cause of action: Respondent improperly calculated Claimant's base pay which resulted in reduced severance pay for Claimant.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief can be granted; Claimant is estopped from contesting the amount of his severance benefit because he has collected severance benefits for approximately 27 weeks based on the formula which calculates severance using the base pay figure calculated by Respondent; Claimant is barred from asserting a claim for additional severance benefits by the doctrine of accord and satisfaction; and Claimant is barred from introducing extraneous evidence of his "interpretation" of the severance plan by the parole evidence rule.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$592,307.32 plus interest.

Respondent requested that Claimant's claim be dismissed.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Final Order in this matter may be executed in counterpart copies or that a handwritten, signed Final Order may be entered.

### **DECISION**

After considering the pleadings, including Respondent's Motion to Dismiss and all responses thereto, and the testimony and evidence presented at the pre-hearing conference conducted on October 19, 2000, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim is hereby dismissed in its entirety.
2. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Fleet Boston Robertson Stephens, Inc. is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$2,400.00
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Pre-hearing conferences:	September 13, 2000	1 session	
	October 19, 2000	1 session	
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Total Forum Fees			= \$2,400.00

1. The Panel has assessed \$1,200.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,200.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$1,200.00
Total Fees	= \$1,575.00
<u>Less payments</u>	<u>= \$1,575.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00


2. Respondent be and hereby is solely liable for:

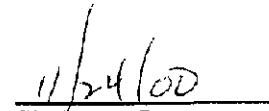
Member Fees	= \$6,100.00
Forum Fees	= \$1,200.00
Total Fees	= \$7,300.00
<u>Less payments</u>	<u>= \$2,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$4,700.00

All balances are due and payable to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
\_\_\_\_\_  
Herbert Z. Geiger, Esq.  
Industry Arbitrator, Presiding Chair

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Roger C. Campbell, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Allen I. Cederbaum  
Industry Arbitrator

\_\_\_\_\_  
Signature Date


November 29, 2000  
Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
Herbert Z. Geiger, Esq.  
Industry Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Roger G. Campbell, Esq.  
Industry Arbitrator

11-17-00  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Allen I. Cederbaum  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

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Herbert Z. Geiger, Esq.  
Industry Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Roger C. Campbell, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

Allen I. Cederbaum  
Allen I. Cederbaum  
Industry Arbitrator

November 20, 2000  
Signature Date

November 29, 2000  
Date of Service (For NASD office use only)