

## **UGA RESEARCH ROYALTY DEAL SOURS**

### **Former Professor Says Secret Agreement Cost Her Millions**

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The University of Georgia Research Foundation collected a record \$23.8 million in the last fiscal year in royalties and licensing income from discoveries and inventions by UGA researchers - more even than Emory University, UGA President Michael Adams said.

UGA officials expect royalty and licensing income to set yet another record next year, mainly because of a \$10 million payment due from the global pharmaceutical company Allergan.

The money is part of about \$70 million Allergan is paying the research foundation over several years for the right to make and sell a drug called Restasis - a cure for dry eye.

People with dry eye can't produce tears. The condition can lead to blindness.

But the research foundation's payments from the pharmaceutical company would be millions more if inexperienced UGA officials had not caved in to tougher negotiators from the drug company, according to the former UGA faculty member whose invention provided the basis for Restasis.

"They've done such a bad job of managing, they lost \$200 million," said Renee Kaswan, a former professor in the UGA College of Veterinary Medicine's small animal medicine department.

More than two decades ago, Kaswan thought of something no one had tried before - putting the immunosuppressant drug cyclosporin into a solution so that it could be applied to the eyes of dogs suffering from dry eye.

One of the first patients to be treated was Bulldogs mascot Uga IV (1981-90), who accompanied Herschel Walker to the 1982 Heisman Trophy award ceremony in New York.

"Uga IV was going blind. We saved his sight. He was the fourth dog I ever treated with this product," Kaswan said.

The drops, which reduce inflammation in the eyes, don't just treat the symptoms of dry eye, Kaswan said. They actually can cure the underlying cause.

Kaswan's second idea was even bigger than Optimune, the dog dry eye drug. Why not use basically the same solution to cure dry eye in humans?

The U.S. Food and Drug Administration approved the new drug for human use in 2002. And in 2003, Allergan began marketing and selling the drug, which it called Restasis.

Allergan expects more than \$375 million in Restasis sales this year - more than \$1 billion since sales began five years ago.

But while drug sales soar, Kaswan and the research foundation now are locked in a bitter legal struggle over the Restasis income.

Kaswan's lawyers say a judge should invalidate the agreement between UGA and Allergan, a deal struck without Kaswan's knowledge in 2003 that replaced an earlier agreement between the drug company and the university.

Under the 2003 agreement, UGA got more money up front but a smaller percentage of overall Restasis sales than in the earlier agreement.

If UGA officials had kept to its original deal with Allergan, the UGA Research Foundation would be getting something closer to \$300 million than the \$70 million it now gets, according to an analyst hired by Kaswan as she fights the research foundation in two lawsuits in Clarke County Superior Court - one filed by the research foundation against Kaswan, one filed by Kaswan against the foundation.

Under UGA policies, faculty members get 25 percent of the income the foundation receives from their inventions - unless the faculty member and the research foundation negotiate a different deal. Kaswan negotiated a deal that gave her 35 percent - which means she lost close to \$80 million when UGA renegotiated.

UGA advisers cluelessly underestimated the market potential of Restasis, according to Kaswan, whose lawyers say the second agreement violated both UGA's own policies and Kaswan's legal rights as an inventor.

They say a judge should invalidate the second agreement and revert to the original contract.

Last year, Superior Court Judge David Sweat ruled in favor of the research foundation in one of the lawsuits, saying that while the foundation did make a bad deal, it had a right to sign a new agreement with the drug company without including Kaswan in talks. Kaswan's lawyers plan to appeal.

UGA spokesman Tom Jackson said it is UGA policy not to comment on pending lawsuits.

The legal struggle now has attracted the attention of state lawmakers, including state Sen. Doug Stoner, D-Smyrna, who says UGA's apparent loss of \$220 million could hurt efforts to draw and keep top scientists to Georgia universities. Stoner has called for legislative hearings into how the state handles the licensing of scientific discoveries and other types of intellectual property.