

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	)	
William R. Dunlop, M.D.	)	
Medical Corporation	)	
Defined Benefit Plan	)	
and William R. Dunlop	)	
Keogh Trust dated 3-16-82,	)	
by William R. Dunlop, Plan	)	
Trustee/Administrator	)	Claimants
vs.	)	AWARD
Eagan & Company	)	
James R. Eagan	)	Respondents
	)	CASE NO. 89-02489

SUMMARY OF ISSUES

Claimants alleged Respondents breached their fiduciary duty to the Plans by placing funds in the common stock of Universal Savings and Loan, shares of which were traded through pink sheets. Claimants alleged this investment was unsuitable for inclusion in the portfolios of an ERISA-qualified Keogh Trust and Defined Benefit Pension Plan. Claimants alleged further that Respondents maintained inaccurate account records and that the Respondent broker's sale of Universal shares represented conflict of interest.

Respondents denied all allegations, and asserted that the shares at issue were suitable for these ERISA-qualified plans, that investments were made at the direction of Claimants' trustee/administrator and further that all account statements were generated not by Respondents but by Respondents' clearing houses.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages of \$62,120.40 plus interest at the legal rate.

Respondents requested dismissal of all claims.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on September 7, 1989. On August 27, 28, 29, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to

arbitration signed by Claimants' trustee/administrator on September 1, 1989, by Respondent Eagan & Company on December 8, 1989, and by Respondent James Eagan on August 29, 1990. The hearing was conducted in San Francisco, California and lasted six (6) sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted as follows:

1. Respondents are jointly and severally liable and shall pay to Claimants' trustee/administrator the sum of \$46,500.00, plus interest at the rate of 10% per annum from the date of award until paid; said sum to be disbursed by Claimants' trustee/administrator to the respective Claimants in his fiduciary capacity.
2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimants as an assessment of forum fees.

Additional forum fees are assessed as follows:

- a) \$1,000.00 to be paid by Claimants;
- b) \$1,500.00 to be paid jointly and severally by Respondents.

ARBITRATORS CONCURRING

DATE SERVED: 11/28/90

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on

Edward H. Sanborn, IV