

**Award**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimants

Denis Doyle and Gloria Doyle, Joint Tenants  
Denis P. Doyle, IRA  
Denis P. Doyle, Trustee of the Denis P. Doyle  
Revocable Trust FBO Denis P. Doyle  
Gloria R. Doyle, Trustee of the Gloria R. Doyle  
Revocable Trust FBO Gloria R. Doyle

Case Number: 15-01700

vs.

Respondents

Peter Joseph Doyle  
Wendy B. Feldman  
Morgan Stanley Smith Barney, LLC

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customers vs. Member and Associated Persons

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Denis Doyle and Gloria Doyle, Joint Tenants, Denis P. Doyle, IRA, Denis P. Doyle, Trustee of the Denis P. Doyle Revocable Trust FBO Denis P. Doyle, and Gloria R. Doyle, Trustee of the Gloria R. Doyle Revocable Trust FBO Gloria R. Doyle, hereinafter collectively referred to as "Claimants": Aaron M. May, Esq., and Grant B. Gelberg, Esq., Huang Ybarra Singer & May LLP, Los Angeles, California.

For Respondents Peter Joseph Doyle, Wendy B. Feldman, and Morgan Stanley Smith Barney, LLC, hereinafter collectively referred to as "Respondents": Ronald E. Wood, Esq., and Jonevin Sabado, Esq., Brown, White & Osborn, LLP, Los Angeles, California.

**CASE INFORMATION**

Statement of Claim filed on or about: July 15, 2015.

Amended Statement of Claim filed on or about: February 2, 2016.

Claimants signed the Submission Agreement: July 15, 2015.

Statement of Answer filed by Respondents on or about: September 28, 2015.

Peter Joseph Doyle signed the Submission Agreement: August 12, 2015.

Wendy B. Feldman signed the Submission Agreement: August 12, 2015.

Morgan Stanley Smith Barney, LLC signed the Submission Agreement: September 28, 2015.

### **CASE SUMMARY**

Claimants asserted the following causes of action: 1) unauthorized trading; 2) unsuitable investments; 3) breach of fiduciary duty; 4) fraud; 5) negligent misrepresentation; 6) conversion; 7) financial elder abuse; 8) failure to supervise; 9) negligence; and 10) unfair competition. The causes of action relate to Claimants' investment in various securities including but not limited to NQ Mobile.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested:

1. Compensatory damages on claims 1 through 9 in an amount to be proven;
2. Restitution on claim 10 in an amount to be proven;
3. Interest on all sums at the legal rate;
4. Punitive damages on claims 1 through 9 in an amount to be proven;
5. Attorneys' fees, costs of suit, and interest as allowed by law; and
6. Such other and additional relief as is deemed just and proper.

Respondents requested the Statement of Claim be dismissed in its entirety, and that Respondents be awarded their costs.

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

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On January 25, 2016, Claimants' counsel filed an unopposed motion to amend the Statement of Claim. Claimants' counsel advised that the proposed amendments to the Statement of Claim relate solely to Mrs. Doyle's passing and nothing else; no changes are made regarding the underlying facts or the claims asserted; and the Amended Statement of Claim adds in the fact that Mrs. Doyle passed away on September 2, 2015 and addresses the legal ramifications of her death, including the termination of the joint tenancy and Mr. Doyle's appointment as successor trustee of the Gloria R. Doyle Revocable Trust FBO Gloria R. Doyle. Claimants' counsel also advised that the Amended Statement of Claim makes changes to reflect that there is now only one Claimant, Denis Doyle, individually, as Trustee of the Denis P. Doyle Revocable Trust FBO Denis P. Doyle, and as the Successor Trustee of the Gloria R. Doyle Revocable Trust FBO Gloria R. Doyle (hereinafter referred to as "Claimant"). On January 29, 2016, the Panel issued the following Order in part:

Claimant Denis P. Doyle's Unopposed Motion to Amend the Statement of Claim is Granted and the Amended Statement of Claim is deemed filed and served on Respondents on the date this Order is served on Respondents.

At the close of the hearing, Claimant requested two alternative theories of damages for \$6,209,360.00, or \$6,733,223.00. Claimant also requested punitive damages in a range

between \$12,418,720.00 – \$20,199,669.00, and attorneys' fees and costs of \$658,865.00.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant \$6,114,857.00 in compensatory damages.
2. Respondents are jointly and severally liable for and shall pay to Claimant \$2,000,000.00 in punitive damages pursuant to Welfare and Institutions Code §§ 15657.5(b) and 15610.30. The punitive damages are awarded based on the Panel's finding of financial abuse of an elder.
3. Respondents are jointly and severally liable for and shall pay to Claimant \$400,000.00 in attorneys' fees pursuant to Welfare and Institutions Code §§ 15657.5(a) and 15610.30. The attorneys' fees are awarded based on the Panel's finding of financial abuse of an elder.
4. Respondents are jointly and severally liable for and shall pay to Claimant \$41,742.00 in costs.
5. Respondents are jointly and severally liable for and shall pay to Claimant \$50,000.00 in expert witness fees.
6. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution assessed a filing fee\* for each claim:

Initial Claim Filing Fee = \$ 1,575.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Morgan Stanley Smith Barney, LLC is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

**Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on a discovery-related motion on the papers  
with one arbitrator @ \$200.00 = \$200.00  
Claimant submitted one discovery-related motion

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Total Discovery-Related Motion Fees = \$200.00

The Panel has assessed \$200.00 of the discovery-related motion fees to Claimant.

**Hearing Session Fees and Assessments**

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

One (1) Pre-hearing session with the Panel @ \$1,125.00/session = \$1,125.00  
Pre-hearing conference: November 16, 2015 1 session

Eighteen (18) Hearing sessions @ \$1,125.00/session = \$20,250.00  
Hearing Dates: April 5, 2016 2 sessions  
April 6, 2016 2 sessions  
April 7, 2016 2 sessions  
April 8, 2016 2 sessions  
May 16, 2016 2 sessions  
May 17, 2016 2 sessions  
May 18, 2016 2 sessions  
May 19, 2016 2 sessions  
May 20, 2016 2 sessions

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Total Hearing Session Fees = \$21,375.00

1. The Panel has assessed \$562.50 of the hearing session fees to Claimant.
2. The Panel has assessed \$20,812.50 of the hearing session fees jointly and severally to Respondents.

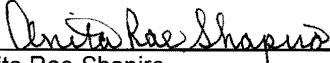
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

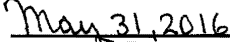
**ARBITRATION PANEL**

Anita Rae Shapiro	-	Public Arbitrator, Presiding Chairperson
Gary Timothy Haight	-	Public Arbitrator
Susan B. Gans-Smith	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Anita Rae Shapiro  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Gary Timothy Haight  
Public Arbitrator

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

\_\_\_\_\_  
Susan B. Gans-Smith  
Public Arbitrator

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

June 1, 2016  
Date of Service (For FINRA Dispute Resolution office use only)

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Signature Date

*Gary Timothy Haight*  
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Gary Timothy Haight  
Public Arbitrator

*05/31/16*  
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Signature Date

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Susan B. Gans-Smith  
Public Arbitrator

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Signature Date

June 1, 2016

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Susan B. Gans-Smith  
Public Arbitrator

5-31-2016  
\_\_\_\_\_  
Signature Date

June 1, 2016  
Date of Service (For FINRA Dispute Resolution office use only)