

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	:	Chapter 11
	:	
THQ INC.,	:	Case No. 12-13398 (MFW)
	:	
Debtor. ¹	:	
	:	Obj. Deadline: August 15, 2018 at 4:00 p.m. (ET)
	:	Hearing Date: To Be Determined, if necessary
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**MOTION OF THQ INC. FOR AN ORDER EXTENDING THE TERMS
OF THE LITIGATION TRUST AND STOCK TRUST**

THQ Inc. (“THQI”), by and through its undersigned counsel, hereby moves (the “Motion”), for entry of an order extending the terms of the Litigation Trust and Stock Trust through and including August 2, 2021, in accordance with the Litigation Trust Agreement and Stock Trust Agreement (the “Agreements”).² In support thereof, the THQI respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief requested herein is section 105(a) of the Bankruptcy Code.

¹ The Debtor in this proceeding, along with the last four digits of its taxpayer identification number, is THQ Inc. (1686). The Debtor’s current mailing address is c/o FTI Consulting, 350 South Grand Avenue, Suite 3000, Los Angeles, CA 90071.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreements. See D.I. 791.



BACKGROUND

A. General Background

2. On December 19, 2012 (the “Petition Date”), THQI and certain of its wholly owned subsidiaries (the “Debtors”) each filed a petition for relief under the Bankruptcy Code with this Court.

3. Additional information regarding the events leading up to the Petition Date is set forth in the *Declaration of Brian Farrell in Support of the Debtors’ Chapter 11 Petitions and Requests for First Day Relief* [D.I. 2].

4. On July 16, 2013, the Debtors filed the *Second Amended Chapter 11 Plan of Liquidation of THQ Inc. and its Affiliated Debtors* [D.I. 925] (the “Plan”). On July 17, 2013, the Court entered an *Order Confirming Second Amended Chapter 11 Plan of Liquidation of THQ Inc. and its Affiliated Debtors* [D.I. 929] (the “Confirmation Order”). The Plan became effective on August 2, 2013 (the “Effective Date”) [D.I. 1029].

5. Under the Plan, THQI was preserved and reorganized for the purpose of liquidating the Debtors’ remaining assets, resolving the claims asserted against the Debtors, and distributing the Debtors’ assets to the Debtors’ creditors and, if there was a surplus, to the Stock Trust.

6. THQI has made significant progress in winding-down the affairs of the Debtors. This has included pursuing and completing litigation actions, reconciling and resolving claim amounts, and winding down a number of its foreign subsidiaries. As noted in the most recent *Status Report of THQ Inc. with respect to Wind-Down of THQ Inc.’s Foreign Subsidiaries, Causes of Action and Derivative Claims, Resolution of Claims and Implementation of Plan* [D.I.

1742] (the “Status Report”), to date THQI has distributed over \$75 million to THQI’s unsecured creditors.

7. Recently, THQI obtained a substantial transfer pricing distribution from its subsidiary in France and successfully negotiated a reduction of \$4.5 million in the liquidity fund held for certain Foreign Subsidiaries (as defined in the Status Report). As a result, in April 2018, THQI commenced its sixth distribution to unsecured creditors, consisting of approximately \$7 million.

8. While THQI has made substantial progress, the liquidation of the Foreign Subsidiaries has not been completed. Based on the most recent information, there is currently over \$1 million in certain Foreign Subsidiaries that have not completed their liquidations, several hundred thousand dollars likely to be recovered from THQI’s interest in an Italian tax refund, and over \$1.9 million required to be held in liquidity funds until the liquidation of THQI’s Foreign Subsidiaries is complete. While there will be expenses (including tax payments) that reduce the recovery on these amounts, these amounts, as well as the release of any operating reserves held by THQI, will likely provide material additional recoveries to THQI’s unsecured creditors.

B. Specific Background Regarding Extension of the Litigation Trust and Stock Trust

9. The Litigation Trust was created for the purposes of: (a) administering, holding, and liquidating Derivative Actions; and (b) administering, investigating, prosecuting, settling, and abandoning all Derivative Actions in the name of, and for the benefit of, the Estates, subject to the limitations set forth in the Plan. Litigation Trust Agreement, § 2.1. Section 2.7 of the Litigation Trust Agreement provides, in relevant part, “the Litigation Trust shall be dissolved no later than five (5) years from the Effective Date, unless the Bankruptcy Court, upon motion made

prior to such fifth (5th) anniversary, determines that an extension for a fixed period of not more than (3) years (including any prior extensions) is necessary for the purposes for which the Litigation Trust was formed.” *Id.* at 2.7; *see also* Plan, § 6.14(i). Accordingly, absent an order from the Court, the Liquidation Trust will expire on August 2, 2018 (“Litigation Trust Expiration Date”).

10. The Stock Trust was created for the purpose of holding the sole outstanding share of stock in THQI in the name of, and for the benefit of, the Holders of Allowed Equity Interests and Allowed Securities Law Claims. Stock Trust Agreement, § 2.1. Section 2.7 of the Trust Agreement provides, in relevant part, “the Stock Trust shall be dissolved no later than five (5) years from the Effective Date, unless the Bankruptcy Court, upon motion made prior to such fifth (5th) anniversary, determines that an extension for a fixed period of not more than (3) years (including any prior extensions) is necessary for the purposes for which the Stock Trust was formed.” *Id.* at § 2.7; *see also* Plan, § 6.13(h). Accordingly, absent an order from the Court, the Stock Trust will expire on August 2, 2018 (“Stock Trust Expiration Date”).

11. Additional information regarding the Agreements is set forth in the Litigation Trust Agreement and Stock Trust Agreement. *See Notice of Filing of Additional Plan Supplement Documents* [D.I. 791].

12. Between February 22, 2014 and February 27, 2014, THQI submitted several settlement agreements between THQI and certain Foreign Subsidiaries to the Court. *See* D.I. 1332. The settlement agreements provide, among other things, that the Foreign Subsidiaries will not receive any distributions from THQI on account of the Claims asserted by the Foreign Subsidiaries against THQI. Instead, THQI has established liquidity funds that each Foreign Subsidiary or its liquidator (as applicable) may draw from under certain conditions if that

Foreign Subsidiary does not otherwise have sufficient cash to pay all its debts as they become due. THQI believes that, after considering the liquidity funds, each of the Foreign Subsidiaries is solvent and can be liquidated without commencement of any insolvency proceedings. However, the liquidation of the Foreign Subsidiaries will not be complete when the Litigation Trust Expiration Date and Stock Trust Expiration Date is currently scheduled to occur. As a result, the Liquidation Trustee and Stock Trustee have determined that an extension of the terms of the Litigation Trust and Stock Trust is required to help ensure that the liquidation of the Foreign Subsidiaries is completed before the terms of the Litigation Trust and Stock Trust expire.

RELIEF REQUESTED

13. By this Motion, THQI seeks entry of an order, substantially in the form attached hereto as Exhibit A, extending the terms of the Litigation Trust and Stock Trust from August 2, 2018 through and including August 2, 2021. THQI submits that the extended terms will provide sufficient time for the wind-down and liquidation of the Foreign Subsidiaries, which may result in the distribution of additional funds to THQI. THQI will endeavor to complete its liquidation and make all appropriate distributions to creditors as soon as possible, and believes it can do so well in advance of August 2, 2021, but is seeking an extension of the Agreements through August 2, 2021 to minimize the likelihood that it will need to seek such relief again in the future.

BASIS FOR RELIEF REQUESTED

14. Section 2.7 of the Litigation Trust Agreement and Section 2.7 of the Stock Trust Agreement expressly provide that the Court may extend the terms of the Litigation Trust and Stock Trust. Furthermore, section 105(a) of the Bankruptcy Code provides: “The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

15. As stated above, the liquidation of the Foreign Subsidiaries will not be completed when the Litigation Trust and Stock Trust are currently set to expire. THQI therefore requests that the terms of the Litigation Trust and Stock Trust be extended for an additional three (3) years to allow the wind down and liquidation of the Foreign Subsidiaries to conclude, and for the Stock Trustee and Litigation Trustee to make distributions, if necessary. THQI reserves the right to seek further extensions if the circumstances so warrant.

16. For the reasons set forth herein, THQI respectfully requests entry of an order extending the terms of the Liquidation Trust and Stock Trust through and including August 2, 2021, in accordance with Section 2.7 of the Litigation Trust Agreement and Section 2.7 of the Stock Trust Agreement.

NOTICE

17. THQI will provide notice of this Motion to (i) the U.S. Trustee; and (ii) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, THQI submits that no other or further notice is necessary.

WHEREFORE, THQI respectfully requests that the Court grant the relief requested herein, in substantially the form of order attached hereto as Exhibit A, and such other and further relief as may be just and proper.

Dated: August 1, 2018
Wilmington, Delaware

/s/ Jaime Luton Chapman

Michael R. Nestor (Bar No. 3526)

M. Blake Cleary (Bar No. 3614)

Jaime Luton Chapman (No. 4936)

Rodney Square

1000 North King Street

Wilmington, Delaware 19801

Telephone: (302) 571-6600

Facsimile: (302) 571-1253

-and-

Oscar Garza (Ca No. 149790)

Jeffrey C. Krause (Ca No. 94053)

GIBSON, DUNN & CRUTCHER LLP

333 South Grand Avenue

Los Angeles, California 90071-1512

Telephone: (213) 229-7000

Facsimile: (213) 229-7520

Counsel to THQ Inc.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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THQ INC.,	:	Case No. 12-13398 (MFW)
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Debtor. ¹	:	
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NOTICE OF MOTION

TO: (I) THE U.S. TRUSTEE; AND (II) ALL PARTIES WHO HAVE FILED A NOTICE OF APPEARANCE AND REQUEST FOR SERVICE OF PAPERS PURSUANT TO BANKRUPTCY RULE 2002

PLEASE TAKE NOTICE that THQ Inc. (“THQI”) has filed the attached *Motion of THQ Inc. for an Order Extending the Terms of the Litigation Trust and Stock Trust* (the “Motion”).

PLEASE TAKE FURTHER NOTICE that responses, if any, to the relief requested in the Motion must be filed with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **August 15, 2018 at 4:00 p.m. (ET)** (the “Objection Deadline”). At the same time, you must serve a copy of your response upon the undersigned counsel.

PLEASE TAKE FURTHER NOTICE THAT IF ANY OBJECTIONS TO THE MOTION ARE TIMELY FILED AND SERVED, A HEARING ON THE MOTION WILL BE SCHEDULED BY THE DEBTORS, SUBJECT TO THE AVAILABILITY OF THE COURT.

¹ The Debtor in this proceeding, along with the last four digits of its taxpayer identification number, is THQ Inc. (1686). The Debtor’s current mailing address is c/o FTI Consulting, 350 South Grand Avenue, Suite 3000, Los Angeles, CA 90071.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND TO THE MOTION IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED THEREIN WITHOUT FURTHER NOTICE OR A HEARING.

Dated: August 1, 2018
Wilmington, Delaware

/s/ Jaime Luton Chapman

Michael R. Nestor (No. 3526)
M. Blake Cleary (No. 3614)
Jaime Luton Chapman (No. 4936)
YOUNG CONAWAY STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

-and-

Oscar Garza (CA No. 149790)
Jeffrey C. Krause (CA No. 94053)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, California 90071-1512
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

Counsel to the Debtors

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	:	Chapter 11
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THQ INC.,	:	Case No. 12-13398 (MFW)
	:	
Debtor. ¹	:	
	:	Ref. Docket No. ____
	:	
	:	
	:	
	X	

**ORDER AUTHORIZING EXTENSION OF THE TERMS
OF THE LITIGATION TRUST AND STOCK TRUST**

Upon the motion (the “Motion”)² of THQ Inc. for an order extending the terms of the Litigation Trust and Stock Trust through and including August 2, 2021; and this Court being satisfied that the relief requested in the Motion, in accordance with the continuing jurisdiction of the Bankruptcy Court, is in the best interests of the Debtor, its estate and creditors, and all parties in interest; and due notice of the Motion having been given; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. In accordance with section 2.7 of the Litigation Trust Agreement, the term of the Litigation Trust is hereby extended through and including August 2, 2021.

2. In accordance with section 2.7 of the Stock Trust Agreement, the term of the Stock Trust is hereby extended through and including August 2, 2021.

¹ The Debtor in this proceeding, along with the last four digits of its taxpayer identification number, is THQ Inc. (1686). The Debtor’s current mailing address is c/o FTI Consulting, 350 South Grand Avenue, Suite 3000, Los Angeles, CA 90071.

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

3. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.