

**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: July 22, 2019 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 July 31, 2020, in accordance with the Litigation Trust Agreement and Stock Trust Agreement (the “Agreements”).² In support thereof, 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.



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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. 1770] (the “Status Report”), to date THQ has made distributions on account of allowed general

unsecured claims equaling approximately 56% of the aggregate unsecured claim amount. *See* Status Report ¶ 5.

7. In addition, all of the Foreign Subsidiaries except THQ International GmbH (“TIG”) and THQ Shanghai (“THQ China”) have been fully liquidated under the laws of the relevant jurisdiction as described in the Status Report. *See id.* ¶ 10. During the past year THQI has completed the liquidations on a solvent basis of its subsidiaries in France and the United Kingdom. It has received approximately \$2.5 million in distributions from these subsidiaries. In January of 2019, THQI also received the final proceeds from the sale of an Italian governmental VAT refund that generated net proceeds totaling approximately \$417,000. *See id.*

8. While THQI has made substantial progress, the liquidations of TIG and THQ China have not yet been completed. As of March 31, 2019, there was over \$925,000 in TIG and currently there is approximately \$775,000 million held in liquidity reserve funds until the liquidation of these two entities is completed. While there will be disbursements from these amounts, the net funds held by THQ China and TIG and in the reserves for their benefit 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).

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).

11. On August 20, 2018, the Court entered an order [D.I. 1756] extending the terms of the Litigation Trust and Stock Trust through and including August 2, 2019 (“Trust Expiration Date”).

12. 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].

13. 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 Trust Expiration Date currently is 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

14. 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, 2019 through and including July 31, 2020. THQI believes 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 in advance of July 31, 2020, but is seeking an extension of the terms of the Litigation Trust and Stock Trust through July 31, 2020 to minimize the likelihood that THQI will need to seek such relief again in the future.

BASIS FOR RELIEF REQUESTED

15. 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).

16. As stated above, the liquidation of the Foreign Subsidiaries will not be completed when the Litigation Trust and Stock Trust currently are set to expire. THQI therefore requests that the terms of the Litigation Trust and Stock Trust be extended for an additional year 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.

17. 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 July 31, 2020, in accordance with Section 2.7 of the Litigation Trust Agreement and Section 2.7 of the Stock Trust Agreement.

NOTICE

18. 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: July 8, 2019
Wilmington, Delaware

/s/ Jaime Luton Chapman

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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	:	
	:	Obj. Deadline: July 22, 2019 at 4:00 p.m. (ET)
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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. 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 **July 22, 2019 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: July 8, 2019
Wilmington, Delaware

/s/ Jaime Luton Chapman
Michael R. Nestor (No. 3526)
M. Blake Cleary (No. 3614)
Jaime Luton Chapman (No. 4936)
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Counsel to the Debtors

EXHIBIT A

Proposed Order

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

	X	
In re:	:	Chapter 11
	:	
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 July 31, 2020; 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 July 31, 2020.
2. In accordance with section 2.7 of the Stock Trust Agreement, the term of the Stock Trust is hereby extended through and including July 31, 2020.

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.