

THQ, Execs Agree To Pay \$2.6M To Settle UDraw Suit

By Cara Salvatore

Share us on:

Law360, New York (May 8, 2017, 2:51 PM EDT) -- THQ Inc. and two executives have agreed to pay \$2.6 million to settle class allegations that they misled investors before a failed plan to expand a Nintendo Wii accessory to other gaming platforms, the investors told a California federal judge on Friday.

The settlement with the now-bankrupt company and CEO Brian Farrell and Chief Financial Officer Paul Pucino will end a suit that had already taken a trip to the Ninth Circuit. The investors were taking issue with positive growth forecasts for the failed expansion of THQ's uDraw platform into the Xbox 360 and PlayStation 3 markets.

"The sole issue before the court is whether the proposed settlement is within the range of what might be found to be fair, reasonable and adequate so that notice of the proposed settlement can be given to members of the class and a hearing scheduled to consider final settlement approval," the investors said in their filing. "The settlement clearly meets these criteria."

The suit was dismissed at the trial level, but a Ninth Circuit panel revived it in January. In February, the executives had urged the full Ninth Circuit to take a second look, saying the panel depended on facts absent from the complaint. While that rehearing motion was being considered, the plaintiffs said the parties held a mediation on March 14 with Robert Fairbank of Phillips ADR. That session led to the settlement.

Attorneys are expected to receive up to \$650,000, or 25 percent of the fund.

The deal is a reasonable amount, it came from arm's-length negotiations, and it meets all the criteria of Rule 23, including commonality and typicality, the filing said.

Farrell and Pucino had said in their request for rehearing that the panel wrongly assumed that the complaint alleged they had learned of the expansion's likely failure from an independent study.

The suit, brought in June 2012, said Farrell and Pucino misled investors with 2011 predictions of significant growth from the expansion. U.S. District Judge Manuel Real tossed the suit in February 2015, saying that the forecasts at issue were tempered with warnings and covered by the Private Securities Litigation Reform Act's safe harbor relating to forward-looking statements.

The complaint said the company "shocked the market" in February 2012 by revealing a net loss of \$56 million and a \$100 million miss from what the company had projected. The company's stock fell from \$1.46 per share that previous December to \$0.53 per share, it said.

The investors are represented by Adam Apton and Nicholas Porritt of Levi & Korsinsky LLP and Avraham Wagner of The Wagner Firm.

Farrell and Pucino are represented by Ryan Blair, Koji Fukumura and Blake Zollar of Cooley LLP.

- Add to Briefcase
- Printable Version
- Rights/Reprints
- Editorial Contacts

Documents

- Settlement

Related

Sections

- Bankruptcy
- California
- Class Action
- Media & Entertainment
- Securities
- Technology

Case Information

Case Title

Khalil Zaghian v. THQ Inc et al

Case Number

2:12-cv-05227

Court

California Central

Nature of Suit

Securities/Commodities

Judge

Manuel L. Real

Date Filed

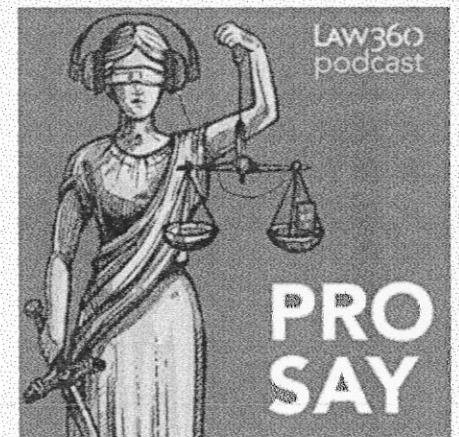
June 15, 2012

Law Firms

- Cooley
- Levi & Korsinsky

Companies

- Nintendo Co. Ltd.
- THQ Inc.



Check out Law360's new podcast, Pro Say, which offers a weekly recap of both the biggest stories and hidden gems from the world of law.

[Listen To Our Latest](#)