

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

THOMAS SANDYS, Derivatively on  
Behalf of ZYNGA INC.,

Plaintiff,

v.

MARK J. PINCUS, REGINALD D.  
DAVIS, CADIR B. LEE, JOHN  
SCHAPPERT, DAVID M. WEHNER,  
MARK VRANESH, WILLIAM  
GORDON, REID HOFFMAN,  
JEFFREY KATZENBERG,  
STANLEY J. MERESMAN, SUNIL  
PAUL and OWEN VAN NATTA,

Defendants,

and

ZYNGA INC., a Delaware  
corporation,

Nominal Defendant.

C.A. No. 9512-CB

**THE SPECIAL LITIGATION COMMITTEE'S  
MOTION FOR APPROVAL OF THE PROPOSED SETTLEMENT**

The Special Litigation Committee of the Board of Directors of Zynga Inc. (the "SLC") respectfully moves this Court for approval of the proposed settlement, as set forth in the Amended Stipulation and Agreement of Compromise, Settlement and Release filed with the Court on March 12, 2018. The grounds for this motion are set forth in the SLC's Brief filed contemporaneously herewith.

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Dated: November 19, 2018  
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**EXHIBIT C**

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**[PROPOSED] ORDER AND FINAL JUDGMENT**

WHEREAS, a hearing was held before this Court on \_\_\_\_\_  
pursuant to this Court's Scheduling Order with Respect to Notice and Settlement  
Hearing, dated \_\_\_\_\_ (the "Scheduling Order"), and upon a  
Stipulation and Agreement of Compromise, Settlement and Release dated February

27, 2018 (the “Stipulation”) setting forth the terms and conditions of a proposed settlement (the “Settlement”) of the above-captioned action (the “Action”). The Parties appeared by their attorneys of record. The Court heard and considered the submissions and evidence presented in support of the Settlement. The opportunity to be heard was given to all other persons requesting to be heard in accordance with the Scheduling Order. The Court considered, among other matters, the benefits of the Settlement and the risks, complexity, expense, and probable duration of further litigation. The terms of the Settlement were heard and considered by the Court.

This Order and Final Judgment (“Judgment”) incorporates the Stipulation by reference and, unless otherwise defined, all capitalized terms shall have the same meanings as set forth in the Stipulation. For the sake of clarity, the following definitions, taken from the Stipulation, apply to this Judgment as well:

“California Derivative Actions” means (a) the actions filed in the Superior Court for the State of California, City and County of San Francisco, styled *In re Zynga Shareholder Derivative Litigation*, Lead Case No. CGC-12-522934 (consolidated with *Federspiel v. Pincus*, No. CGC-12-523389 (Cal. Super. Ct. Aug. 17, 2012), and *Schroeder v. Pincus*, No. CGC-12-523816 (Cal. Super. Ct. Aug. 29, 2012)); and (b) the actions filed in the United States District Court for the Northern District of California, styled *In Re Zynga Inc. Derivative Litigation*, No.

3:12-cv-4327-JSC (N.D. Cal. Aug. 16, 2012) (consolidated with *Albin v. Pincus*, No. 3:12-cv-4330-JSC (N.D. Cal. Aug. 16, 2012), *Barron v. Pincus*, No. 3:12-cv-4547-JSC (N.D. Cal. Aug. 30, 2012) and *Weber v. Pincus*, No. 3:12-cv-4684-JSC (N.D. Cal. Sept. 7, 2012)).<sup>1</sup>

“Defendants” means Mark J. Pincus, Reggie Davis, Cadir Lee, John Schappert, Owen Van Natta, Mark Vranesh, David Wehner, William Gordon, Reid Hoffman, Jeffrey Katzenberg, Stanley J. Meresman, and Sunil Paul.

“Defendants’ Related Persons” means (i) any of the Defendants’ respective heirs; assigns; current or former immediate family members; estates; executors; administrators; trusts of which the Defendant is a settlor, beneficiary, or trustee; or other entity controlled by or for the benefit of any Defendant that held Zynga securities for the benefit of the Defendant or members of his family (together with any officer, director, member, partner, limited partner, manager or other Person who held an analogous position with such entity); or (ii) any adviser, accountant, or attorney who was involved in any respect with the Defendant’s involvement with the Released Claims.

“Released Claims” means and includes any and all claims for relief or causes of action, debts, demands, rights, liabilities, losses, and claims whatsoever,

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<sup>1</sup> In May 2018, the California Derivative Actions were dismissed without prejudice by the courts in which those actions were pending, and those dismissals are now final.

known or unknown (including Unknown Claims), fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, that have been or could have been asserted by Zynga or any Current Zynga Stockholder purporting to act on behalf of Zynga in the Action or in the California Derivative Actions or any other Person purporting to act on behalf of Zynga, and that relate in any way, directly or indirectly, to any of the actual, alleged or attempted actions, inactions, conduct, transactions, occurrences, representations, misrepresentations, omissions, events, or any other matters that were, or could have been, alleged, asserted, or described in the Action or the California Derivative Actions, or that relate in any way to the investigation or resolution of the Action or the California Derivative Actions, including but not limited to claims arising out of or related in any way to (i) the IPO, the SPO, or any other sales of Zynga securities during 2011 or 2012; (ii) Zynga's launch in 2012 of new games (including *The Ville*), any acts or omissions relating to Zynga's relationship with Facebook in 2011 and 2012, or Zynga's acquisition or operation of OMGPOP in 2012; (iii) any public disclosures by Zynga regarding the matters set forth in subparagraphs (i) or (ii) or Zynga's financial condition and prospects during 2011 or 2012; (iv) Zynga's expenditure of Company funds in response to the Derivative Lawsuits or to other legal actions related to the SPO; and (v) any activities, decisions, or investigations by or relating to the SLC; ***provided, however,*** that it is understood that "Released

Claims” and any release provided by the Settlement shall not include: (i) any claims to enforce the Settlement; (ii) any claims by Zynga or Defendants or any other insured to enforce their rights under any contract or policy of insurance or the Insurer Agreement; or (iii) any claims that relate to Defendants’ rights to advancement or indemnification pursuant to Zynga’s certificate of incorporation, Zynga’s bylaws, separate indemnity and/or advancement agreements between Zynga and any of the Defendants, or pursuant to provisions of the Delaware General Corporation Law.

“Unknown Claims” means any claims that a Party does not know or suspect exists in his, her, or its favor at the time of the release of the Released Claims as against any of the Released Parties, including without limitation those which, if known, might have affected the decision to enter into the Settlement and the Stipulation. With respect to any of the Released Claims, the Parties stipulate and agree that upon Final Approval of the Settlement, the Parties shall be deemed to have, and by operation of the order and final judgment shall have, expressly waived, relinquished, and released any and all provisions, rights, and benefits conferred by or under Cal. Civ. Code § 1542 or any law or principle of common law of the United States or any state of the United States or territory of the United States, or other jurisdiction, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Parties have acknowledged that they may hereafter discover facts in addition to or different from those now known or believed to be true by them, with respect to the subject matter of the Released Claims, but it is the intention of the Parties to completely, fully, finally, and forever compromise, settle, release, discharge, and extinguish any and all Released Claims, known or unknown, suspected or unsuspected, contingent or absolute, accrued or unaccrued, apparent or unapparent, that now exist or previously existed, without regard to the subsequent discovery of additional or different facts. The Parties have acknowledged that the foregoing waiver was separately bargained for and is a key element of the Stipulation and the releases that are part of the Stipulation, and was relied upon by each and all of the Parties in entering into the Settlement.

“Zynga Related Persons” means (i) any predecessor, successor, subsidiary, division, or affiliate of Zynga; (ii) any joint venture, partnership, limited liability company, corporation, or other entity in which Zynga has an ownership interest (together with any officer, director, member, partner, limited partner, manager or other Person who held an analogous position with such entity (other than

Defendants); (iii) accountants, auditors, underwriters, bankers, investment bankers, attorneys, consultants, and advisers of or to Zynga or any entity encompassed within subparagraph (ii) (other than Defendants); (iv) any current or former officer, director or employee of Zynga (other than the Defendants), together with their respective heirs, assigns, current or former immediate family members, estates, executors, administrators, or trusts of which the Defendant is a settlor, beneficiary, or trustee; and (v) the SLC and its attorneys and consultants.

NOW, THEREFORE, IT IS ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2019 that:

1. The Court finds the Settlement as set forth in the Stipulation is fair, reasonable, adequate, and in the best interests of Zynga and its stockholders.
2. The Court finds that the Board of Directors for Zynga vested the SLC with plenary authority with respect to the Derivative Lawsuits, including the authority to settle the Litigation, that the SLC is independent and disinterested, that the SLC acted in good faith, that the SLC's investigation was adequate, and that the SLC's decision to support the Settlement is reasonable.
3. This Court approves the Stipulation, and the Settlement reflected in it, in all respects; and the Parties are directed to consummate the Settlement in accordance with the terms of the Stipulation. The Register in Chancery is directed to enter and docket this Judgment.

4. The Notice of Pendency of Settlement of Action (the “Notice”) has been given to all stockholders of the Company pursuant to and in the manner directed by the Scheduling Order, proof of mailing, and other dissemination of the Notice was filed with the Court, and full opportunity to be heard has been offered to all Parties, Zynga stockholders, and persons in interest. The Court finds that the form and means of the Notice was the best notice practicable under the circumstances and was given in full compliance with the requirements of Court of Chancery Rule 23.1 and due process of law, and that all stockholders of Zynga are bound by this Judgment.

5. This Court has jurisdiction over the subject matter of the Action, including all matters necessary to effectuate the Stipulation and this Judgment and over all parties to the Action, including Plaintiff, Current Zynga Stockholders, and all Defendants (including Nominal Defendant Zynga).

6. This Action is dismissed with prejudice. As between Zynga and Defendants, the Parties are to bear their own costs, except as otherwise provided in the Stipulation and in this Judgment or ordered by the Court.

7. The terms of the Stipulation and of this Judgment shall be forever binding upon Zynga, Defendants and all Zynga stockholders as well as their successors and assigns.

8. Upon the Effective Date, Zynga, the Zynga Related Persons, and Zynga stockholders to the extent they are acting, or purporting to act, derivatively on behalf of Zynga shall, or shall be deemed to have, and by operation of this Judgment shall have fully, finally, and forever settled, released, discharged, extinguished, and dismissed with prejudice the Released Claims against the Defendants, Defendants' Related Persons, and any other current or former officer, director, or employee of Zynga.

9. This Judgment will bar the claims that were alleged in the California Derivative Actions, both of which were dismissed without prejudice. Upon the Effective Date, Defendants and Defendants' Related Persons shall, or shall be deemed to have, fully, finally, and forever settled, released, discharged, extinguished the Released Claims against Zynga, the Zynga Related Persons, the other Defendants, and the other Defendants' Related Persons.

10. Nothing in this Judgment shall in any way impair or restrict the rights of any Party to enforce the terms of the Stipulation.

11. Neither the Stipulation, nor any of its terms or provisions, nor entry of this Judgment, nor any document or exhibit referred or attached to the Stipulation, nor any motion seeking approval of the Settlement contemplated by this Stipulation, nor any action taken to carry out the Stipulation: (a) is, may be construed as, or may be used by any Person as evidence of the factual or legal

merit of any of the Released Claims or as an admission, in this Action or any other action or proceeding, whether civil, criminal, or administrative, that the Derivative Lawsuits had merit when filed or that they currently have merit; or (b) shall be interpreted as an admission of liability or wrongdoing on the part of the Defendants or Defendants' Related Persons.

12. The Defendants, Defendants' Related Persons, Zynga, Zynga Related Persons, or Plaintiff may file the Stipulation, or any judgment or order of the Court related hereto, in any action that has been or may be brought against them in order to support a claim or defense based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

13. If the Effective Date does not occur, this Judgment shall be rendered null and void and shall be vacated. The Stipulation shall be terminated and any portion of the Settlement Amount that has been paid shall be returned in accordance with the provisions of the Insurer Agreement; *provided, however*, that the provisions of Paragraph 8.2 of the Stipulation shall remain in full force and effect. In that event, the releases contemplated the Stipulation and this Judgment shall be null and void, and the Parties shall be restored to their litigation positions on the date immediately before the execution of the Stipulation.

14. Without further order of this Court, the Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Stipulation.

15. There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Register in Chancery is instructed to immediately enter this final judgment in the Action.

16. No proceedings or Court order with respect to any award of fees or expenses to Plaintiff's counsel or counsel for any other current Zynga stockholder who may apply for a fee shall in any way affect or disturb this Judgment (including precluding this Judgment from being treated as final for purposes of any appeal or otherwise being treated as entitled to preclusive effect), and any such proceeding or Court order shall be considered as separate from this Judgment.

17. Without affecting the finality of this Judgment in any way, the Court retains jurisdiction with respect to the implementation, enforcement, and interpretation of the terms of the Stipulation and to consider any application for a Fee and Expense Award made by Plaintiff's counsel or counsel to any of the California Derivative Action plaintiffs, and all Parties submit to the jurisdiction of the Court for purposes of implementing, enforcing, and interpreting the Stipulation. Nothing herein dismisses or releases any claim by or against any party to the Stipulation arising out of a breach of the Stipulation or violation of this Judgment.

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Chancellor Bouchard

**CERTIFICATE OF SERVICE**

I hereby certify that on November 19, 2018, the foregoing document was served electronically via *File & ServeXpress* upon the following counsel of record:

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