

Tulving Company Inc. - Trustee Report #4

October 11, 2014

R. Todd Neilson, as the duly appointed chapter 11 trustee (“Trustee”) in the Tulving Company Inc. (“Tulving”) bankruptcy, provides this Fourth Trustee Report (Trustee Report #4).

In the Tulving bankruptcy, within the past month we have been moving steadily ahead in dealing with the many issues which remain unresolved. The following are some of the matters which have consumed most of our time during this period.

Claims in the Estate

The establishment of September 30, 2014, as the last date upon which claims can be filed in the bankruptcy, as well as the steps which we independently undertook to separately notify all those listed as Creditors upon the books of Tulving, resulted in much wider participation than we originally assumed might occur.

Due to a somewhat slow start, as well as concerns about possible privacy issues, I was not certain that everyone would take part in the claims process. However, we wanted to encourage participation from everyone who may have a claim. In order to be inclusive and allow the best chance for claimants to participate, we contacted all creditors listed on Tulving records who had not filed a claim, and provided directions and instructions as to how they could do so.

Our efforts were very successful as 378 claims totaling \$17,810,846.25 were filed prior to September 30th, which represented over 95% of all outstanding claims as listed upon the bankruptcy schedules filed last month. This is a sharp increase from the 50% of claims as reported in my last report. Those numbers will change as there are some duplicate claims and some claims that are categorized incorrectly. This is, however, much better than I thought we would achieve, and I am pleased with the result. In addition, 7 proofs of claims totaling \$162,617.11 were filed after the claims bar date. Such claims may be subject to a timeliness objection. However, should such objection be filed, it is my current intention to request the Court to be liberal in allowing those claims which contained the necessary documentation and were filed close to the bar date.

We have routinely updated the claims schedule on the website. We encourage you to review the schedule to make certain you are accurately listed as a claimant.

Assets of the Estate

The assets of the estate have not changed substantially since my report last month.

- The coins which were seized are still in the possession of the Department of Justice (“DOJ”) and the Secret Service, and it is their stated intention to liquidate those coins sometime in the future. The DOJ obtained an independent valuation from a professional appraiser which listed the value at approximately \$3 million. Although I have maintained an open level of communication with the DOJ, we have no further information at this time as to either the ultimate value of the coins or the timetable for the possible sale. I believe that it is the DOJ’s intention to conduct the sale in such a manner as to yield the best outcome for the Creditors.
- Accounts Receivables - I have stated previously, the books and records of Tulving list accounts receivables of approximately \$1,000,000 owing from various parties. Our financial analysts have reviewed the underlying supporting documentation and our legal counsel has sent various demand letters for the payment of those obligations. Unfortunately, those efforts have not met with much success for the following reasons:
 - First, as previously described, the method of recording receivables by the Debtor was imprecise. overstated the actual amounts due. We have now reconciled the numbers, decreasing the amount available for recovery from \$1,000,000 to \$600,000. The remaining \$600,000 represents actual amounts owing but the possibility of collection is not looking particularly good. If a company purchased \$600,000 worth of product from Tulving some may find it inconceivable that those funds cannot be quickly recovered. However, it is not that simple. As Trustee, I could direct legal counsel to bring legal action which may very well result in a judgment against the offending parties. However, having a judgment and collecting on a judgment can be two different things. My responsibility as Trustee is to balance the cost of litigation against the possibility of recovering the assets. In other words, I

don't want to spend \$100,000 to secure a \$600,000 judgment which we cannot collect. We are therefore discussing various alternatives which may not be quite as expensive, but may still yield some benefit to the estate. I am sorry that I cannot be more upbeat on the outcome, but we will provide further information as we get closer to a resolution

- Customer Lists, URL Websites and Other Intellectual Property
 - As I detailed in my prior Trustee report, we are hopeful in selling various customer lists, URL's, websites and other intellectual property to an interested buyer for the opening bid of \$150,000. We were momentarily delayed by concerns for maintaining the privacy of those included on the customer lists.
 - Last week, the US Trustee appointed an independent Ombudsman to provide an independent report outlining the suggested procedures for protecting the privacy of interested parties. We expect to receive a report from the Ombudsman within a couple of weeks, and hope to again return to the Court and seek a sales motion in accordance with the suggestions of the Ombudsman.
- Other actions to Recover Assets for the Benefit of Creditors.
 - Approximately \$1.2 billion flowed in and out of the coffers of the Tulving Company over the three years prior to bankruptcy. The nature of those transactions were often very convoluted and represented complex relationships with significant parties over an extended period of time. We are clearly well suited for untangling this financial morass and providing concrete answers as to what occurred and who was responsible, but I am also mindful of the costs for doing so. If we are not careful and judicious in our use of resources, we run the risk of consuming all of the assets which would be used to satisfy the creditor claims in answering these questions. It is our intention to balance those understandable needs with the limited resources we have in the estate. I believe we can do so.

Ongoing Administrative Costs

- The cost to administer the Tulving bankruptcy has always been in the forefront of my discussions with the professionals which we have employed. I was appointed in March of this year as Trustee in this bankruptcy, and the legal counsel and financial advisors were appointed shortly thereafter. Thus, we have been involved for seven months during which time we have prepared and filed the bankruptcy schedules for Tulving, worked almost daily to monitor the process of claims being filed, filed tax returns as required, negotiated the possible sale of the customer lists, URL's and other assets of Tulving, arranged for the appointment of an Ombudsman to provide a report to the Court, contacted and investigated over \$1 million of accounts receivable, had numerous contacts and discussions with the Department of Justice to correlate our respective investigations, reject leases and sell and remove property from the offices of Tulving, and investigated hundreds of millions of dollars in transactions.
- We will probably file a fee application sometime this year providing information to the Court and Creditors as to amount of fees incurred and request the Court to approve possible payment of those fees when cash becomes available. We will post the time summaries and requested fees with the Court. No dates have been set, and I intend to seek the input and comment of Creditors and other interested parties. The Court, at the hearing to appoint the professionals in the Tulving matter, assured attorneys representing some of the Creditors that she would review of all fees requested in accordance with the standards of fairness and benefit to the estate.

Thank you.

R. Todd Neilson
Chapter 11 Trustee