

## Tulving Company Inc. - Trustee Report #2

June 20, 2014

R. Todd Neilson, as the duly appointed chapter 11 trustee (“Trustee”) in the Tulving Company Inc. (“Tulving”) bankruptcy provides this second Trustee report (Trustee Report #2). Since the time of his last report on May 20, 2014, a number of events have occurred which will affect the administration and the projected assets in this estate.

### Chapter 11 - 341a Hearing

On May 22, 2014, pursuant to hearing and prior notice, a Meeting of Creditors under Section 341(a) of the Bankruptcy Code was held in Santa Ana at the Ronald Reagan Courthouse in Room 1- 154. The general purpose of a 341(a) hearing is to allow creditors and other parties in interest to interview Mr. Hannes Tulving, as the Debtor’s representative, under oath. Prior to the scheduled meeting I had discussions with Andrew Bisom, attorney for the Debtor<sup>1</sup>, concerning the desire on the part of Mr. Tulving to appear telephonically at the meeting. I refused to permit him to do so. I stated that Mr. Tulving should have to personally face those creditors who have lost substantial sums of money as a result of his actions. I further stated that I thought the telephonic process was sterile and unacceptable, particularly if Mr. Tulving wished to avail himself of the right not to testify.

Ultimately, the meeting was held and Mr. Tulving did not appear. I spent approximately an hour with several creditors (mostly attorneys representing creditors) and we discussed the general state of the bankruptcy case. I answered whatever questions I could and then concluded the meeting.

### Conversion to Chapter 7

The next day, May 23, 2014, I appeared in Bankruptcy Court to provide a case status report to the Court. In addition, as I stated in my last Report, it is highly unlikely that Tulving will resume normal business operations. Accordingly, I filed a Motion to Convert the case to Chapter 7 liquidation. The Court granted that motion as there were no objections filed in response to it. Although I conducted a Chapter 11 341(a) meeting in May, the conversion to a

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<sup>1</sup> It should be noted that Mr. Bisom is the counsel for the Debtor, the Tulving Company, not Hannes Tulving. Mr. Tulving has not filed a personal bankruptcy and therefore does not have a Bankruptcy Attorney.

Chapter 7 required a new 341(a) hearing which has been scheduled for 10:00 a.m. on July 2, 2014 at the same location as the Chapter 11 341(a) meeting referenced above. I doubt Mr. Tulving will appear, but I will be there to, at a minimum, answer any questions creditors may have concerning this Case.

#### Retention of Professionals

Various creditors filed objections to my employment of the law firm Pachulski Stang Ziehl & Jones LLP as possibly being too expensive for this estate. A similar objection was also filed with respect to my retention of financial advisors. During discussions prior to the hearing, I explained to the attorneys who filed objections that, prior to engaging in major and expensive litigation, I would consult with them concerning the possibility of hiring a less expensive law firm. Based on those conversations, the objecting parties withdrew their objections and the employment of all professionals was approved by the Court. No payments will be made to any professionals until there is an order entered after a Court hearing on those fees. The Court, in its order approving the employment of all professionals, commented that she will monitor the fees charged in this Case. Because this case has now been converted to a case under chapter 7 of the Bankruptcy Code, new employment orders are required. Therefore, I have filed additional applications to retain the same counsel and financial advisors to represent me in the chapter 7 case. The Court will continue to oversee my professionals' fees in the chapter 7 case.

#### Assets of the Estate

Tulving ceased operations on March 3, 2014, and the Secret Service and the Department of Justice seized in excess of 100,000 coins from the offices of Tulving. The Department of Justice, based upon their initial good faith assessment, concluded that the coins were essentially "worthless" and I reported those conversations in my prior Trustee Report.

However, over a period of twelve days, a professional jewelry appraisal firm engaged by the Secret Service conducted a more fulsome appraisal of the twenty-two wooden pallets containing five hundred boxes and 189,000 miscellaneous graded and ungraded coins, as well as gold and silver ingots and bullion. Their opinion is that the Fair Market Value of the aforementioned coins is \$3,017,718.03, which is far from "worthless", as originally assumed. However, it should be noted that this appraisal is not final and may experience a material

increase or decrease for at least the following reasons; 1) in order to avoid damaging the coins, the appraisers did not open the entire tube or roll and inspect each coin. They assumed all coins in a roll would be in the same condition and denomination as the first coin. Thus, any diminution in value of coins below the first coin will not be reflected in the appraisal, and conversely, any increase in value below the first coin may not be reflected; 2) There was a safe containing additional items of value which were observed and photographed, but not included in the appraisal. As a consequence, the worth of these coins, and gold and silver ingots and bullion, may be adjusted in the future. However, the approximate value of \$3 million is certainly good news.

I have also been pursuing the potential sale of various URL's, websites and other intellectual property assets to an interested buyer. I have received a number of inquiries and am in the process of seeking an offer from interested parties. Hopefully, I will be able to present such an offer to the Court within the next few months.

#### Bankruptcy Schedules and Statements

In a typical bankruptcy, the schedules and statements listing the assets and liabilities of the Debtor are either filed concurrently with, or shortly after the filing of the bankruptcy. The Debtor usually assumes responsibility for filing the necessary schedules and statements. However, because of the closure of Tulving's business operations and Mr. Tulving's unavailability, I have agreed to work with my financial advisors and legal counsel to file the appropriate schedules. Due to the seizure of records by the Department of Justice and the inadequacy of the underlying records, I have not yet been able to file the schedules and statements within the normally required time period. Although I have a portion of the books and records of the Debtor, I am awaiting an image of the servers seized by the Department of Justice. Accordingly, I have caused to be filed with the Court a motion requesting the Court to extend the required deadline for the preparation and filing of schedules and statements until September 10, 2014 at which time the records will hopefully be in a more complete state.

#### Claims in the Estate

As of the date of this Report, there have been approximately ninety proof of claim forms filed with the Court, and I believe there are additional claims being filed almost every day. The

total amount of claims currently being sought is just under \$4 million, although it appears that there are a few duplicates included in those claims. I am providing a copy of the schedule of the individuals who have filed claims with the court on the website.

With the conversion to a Chapter 7, courts routinely set a formal bar date for the filing of claims. In this instance, the bar date deadline for filing a claim is September 30, 2014.

### Bankruptcy Notices

In order to address creditor concerns about the administrative costs of sending our notices to creditors and parties in interest, I have filed a motion requesting that the Bankruptcy Court (a) limit the number of notices that must be sent out in this case, and (b) approve a procedure whereby creditors and other interested parties not represented by counsel may obtain notices by e-mail. Provided that such motion is approved, I will include instructions for parties to receive notices by e-mail on the Tulving website.

BRG, the Financial Advisors engaged by the Trustee in this Case, have been reviewing the financial statements as listed in the Quick Books of the Debtor and will continue to do so. In order to encourage full participation in the process, as the total number of valid claims in the estate is finalized and, I may send a letter to each potential individual claimant with a proof of claim and instructions as to how file the claim with Court.

Thank you.

R. Todd Neilson  
Chapter 11 Trustee