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7 for The Tulving Company, Inc.

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SANTA ANA DIVISION**

11 In re:
12 THE TULVING COMPANY, INC., a
California corporation,
13
14 Debtor

Case No.: 8:14-bk-11492-ES

Chapter 7

**STIPULATION REGARDING CLAIMS 222-1
AND 222-2, FILED BY CATHERINE J.
TAYLOR**

[Relates to Dkt. No. 351]

Date: January 21, 2016
Time: 10:30 a.m.
Place: Courtroom 5A
411 West Fourth Street
Santa Ana, CA 92701
Judge: Hon. Erithe A. Smith

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20 R. Todd Neilson, in his capacity as Chapter 7 Trustee (the "Trustee") of The Tulving
21 Company, Inc. (the "Debtor") and Catherine J. Taylor ("Taylor"), (and together with the Trustee, the
22 "Parties"), by and through the undersigned, hereby stipulate and agree (the "Stipulation") as follows:
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RECITALS

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3 A. The Debtor was in the business of selling and purchasing gold, silver, coins, bullion,
4 and other precious metals through its internet website or by phone. Prior to the filing of this
5 bankruptcy case, customer complaints concerning delayed or undelivered orders were increasingly
6 made to the Better Business Bureau against the Debtor. In early March 2014, a class action lawsuit
7 was filed against the Debtor and its principal in the United States District Court for the Northern
8 District of California. The Debtor ceased operations on or about March 3, 2014. Shortly before the
9 commencement of its bankruptcy proceedings, Special Agents of the United States Secret Service
10 executed a Search Warrant on the Debtor's offices on probable cause that the Debtor and its
11 principal, Hannes Tulving, Jr., were engaged in fraud. The Search Warrant resulted in the seizure of
12 the Debtor's property including computers, documents and valuable coins as part of an ongoing
13 criminal investigation.

14 B. The Debtor commenced this case by the filing of a voluntary petition for relief under
15 chapter 11 of the Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") on March 10,
16 2014. In light of the pending criminal investigation and other ongoing litigation, on March 18, 2014,
17 the United States Trustee (the "UST") filed a Stipulation Appointing Chapter 11 Trustee [Docket
18 No. 15] ("Stipulation"), which both the Debtor and its attorney signed. The Court approved the
19 Stipulation on March 18, 2014 [Docket No. 16]. On March 21, 2014, the Court entered an Order
20 approving the UST's Application for the Appointment of a Chapter 11 Trustee, appointing R. Todd
21 Neilson as Trustee of the Debtor's estate [Docket No. 22]. Thereafter, upon notice and hearing, the
22 case was converted to a case under chapter 7 of the Bankruptcy Code. Mr. Neilson continues to
23 serve as the Trustee [Docket No. 108].

24 C. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
25 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this matter is appropriate
26 pursuant to 28 U.S.C. §§ 1408 and 1409.

27 D. On September 8, 2014, Taylor filed proof of claim number 222-1 against the Debtor,
28 asserting a general unsecured claim in the amount of \$41,250.00 (Claim Number 222-1).

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ATTORNEYS AT LAW
LOS ANGELES, CALIFORNIA

1 E. On September 25, 2014, Taylor filed proof of claim number 222-2 against the Debtor,
2 amending Claim Number 222-1, and asserting a general unsecured claim in the amount of
3 \$129,305.00 (“Claim Number 222-2”).

4 F. On December 21, 2015, the Trustee filed a *Motion for Order Reducing and Allowing*
5 *Claim 222-2 Filed by Catherine J. Taylor* (the “Motion”) [Docket No. 351]. The amount asserted in
6 Claim Number 222-2 is based upon amounts paid for the purchase of goods from the Debtor, plus
7 treble damages, fees and costs, for which there is no contractual or legal basis. The Motion seeks to
8 reduce and allow Claim 222-2 in the amount of \$42,685.50.

9 G. On January 13, 2016 the undersigned conferred regarding the Motion, and came to an
10 agreement regard to Claim Number 222-2 as set forth herein.

11 **NOW, THEREFORE**, the Parties hereby stipulate and agree as follows:

- 12 1. Claim Number 222-1 is withdrawn and waived;
- 13 2. Claim Number 222-2 shall survive as an unsecured claim in the amount of
14 \$42,685.50; and
- 15 3. The Court shall retain jurisdiction to hear all disputes arising from this Stipulation.

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17 DATED: January 14, 2016

PACHULSKI STANG ZIEHL & JONES LLP

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19 By: /s/ Jason S. Pomerantz

Linda F. Cantor
Jason S. Pomerantz

20
21 Attorneys for R. Todd Neilson, Chapter 7 Trustee for
22 The Tulving Company, Inc.

23
24 DATED: January 14, 2016

By: 

John B. Dougherty
Attorney for Catherine J. Taylor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **10100 Santa Monica Boulevard, 13th Floor, Los Angeles, California 90067**

A true and correct copy of the foregoing document entitled (*specify*): will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document on **January 14, 2016**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

John B. Dougherty, Esq. 10955 Westmoor Drive, Suite 400, Westminster, CO 80021	Catherine J. Taylor 4572 Beachcorner Court Boulder, CO 80301
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Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **January 14, 2016**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL

(*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **January 14, 2016**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Federal Express

The Honorable Erithe A. Smith
United States Bankruptcy Court
Central District of California
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5040
Santa Ana, CA 92701-4593

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 14, 2016

Date

Diane H. Hinojosa

Printed Name

/s/ Diane H. Hinojosa

Signature

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

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2. SERVED BY UNITED STATES MAIL:

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