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

11 In re:

12 THE TULVING COMPANY, INC., a
13 California corporation,

14 Debtor

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

Chapter 7

**STIPULATION REGARDING CLAIM 314-1,
FILED BY AMD PRODUCTS LLC**

[Relates to Dkt. No. 306]

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

19
20 R. Todd Neilson, in his capacity as Chapter 7 Trustee (the "Trustee") of The Tulving
21 Company, Inc. (the "Debtor") and AMD Products, LLC ("AMD"), (and together with the Trustee,
22 the "Parties"), by and through the undersigned, hereby stipulate and agree (the "Stipulation") as
23 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 25, 2014, AMD filed proof of claim number 314-1 against the Debtor
28 asserting a general unsecured claim in the amount of \$407,197.13 ("Claim Number 314-1").

1 E. On December 17, 2015, the Trustee filed an *Omnibus Motion for Order Disallowing*
2 *Satisfied Claims*, of which Claim Number 314-1 was included (the "Motion") [Docket No. 306].
3 The amount asserted in Claim Number 314-1 is based upon amounts paid for the purchase of goods
4 from the Debtor. The Debtor's books and records reflect that the goods sold by Debtor were shipped
5 to AMD, thereby satisfying Claim 314-1. The Motion therefore seeks to disallow Claim 314-1.

6 F. During the first week of January, 2016 the undersigned conferred regarding the
7 Motion, and came to an agreement regard to Claim Number 314-1, in that it should survive as a
8 general unsecured claim in the amount of \$98,560.00.

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

- 10 1. Claim Number 314-1 shall survive as a general unsecured claim in the amount of
- 11 \$98,560.00; and
- 12 2. The Court shall retain jurisdiction to hear all disputes arising from this Stipulation.
- 13

14 DATED: January __, 2016

PACHULSKI STANG ZIEHL & JONES LLP

16 By: /s/ Jason S. Pomerantz
17 Linda F. Cantor
Jason S. Pomerantz

18 Attorneys for R. Todd Neilson, Chapter 7 Trustee for
19 The Tulving Company, Inc.

20
21 DATED: January 19, 2016

22 AMD Products LLC
23 By: [Signature]
24 David Wisniewski

PACHULSKI STANG ZIEHL & JONES LLP
ATTORNEYS AT LAW
LOS ANGELES, CALIFORNIA