

1 Linda F. Cantor (CA Bar No. 153762)  
Jason S. Pomerantz (CA Bar No. 157216)  
2 Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13<sup>th</sup> Floor  
3 Los Angeles, California 90067  
Telephone: 310-277-6910  
4 Facsimile: 310-201-0760  
E-mail: [lcantor@pszjlaw.com](mailto:lcantor@pszjlaw.com)  
5 [jspomerantz@pszjlaw.com](mailto:jspomerantz@pszjlaw.com)

6 Counsel for R. Todd Neilson, Chapter 7 Trustee  
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 CLAIM 142-2,  
FILED BY KENNETH W. STACH**

**[Relates to Dkt. No. 353]**

**Hearing:**

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

**Continued Hearing:**

Date: March 1, 2016  
Time: 10:30 a.m.  
Place: Courtroom 5A  
411 West Fourth Street  
Santa Ana, CA 92701  
Judge: Hon. Erithe A. Smith

24 R. Todd Neilson, the duly appointed and acting Chapter 7 Trustee (the “Trustee”) of The  
25 Tulving Company, Inc. (the “Debtor”) and creditor Kenneth W. Stach (“Stach” and, together with  
26 the Trustee, the “Parties”), by and through the undersigned, hereby stipulate and agree (the  
27 “Stipulation”) as follows:  
28

**RECITALS**

1  
2  
3 A. The Debtor commenced this case by the filing of a voluntary petition for relief under  
4 chapter 11 of the Bankruptcy Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”) on March 10,  
5 2014. Pursuant to a stipulation between the Debtor and the United States Trustee, approved by the  
6 Court on March 18, 2014 [Docket No. 16], the Court appointed a chapter 11 trustee over the  
7 Debtor’s case and on March 21, 2014, R. Todd Neilson was appointed as the Chapter 11 Trustee  
8 [Docket No. 22]. Thereafter, upon notice and hearing, the case was converted to a case under  
9 chapter 7 of the Bankruptcy Code. Mr. Neilson continues to serve as the Trustee [Docket No. 108].

10 B. On July 23, 2014, Stach filed proof of claim number 142-1 against the Debtor  
11 asserting a claim in the amount of \$318,932.00 (“Claim 142-1”) based upon amounts paid for the  
12 purchase of gold coins from the Debtor that were not delivered.

13 C. On September 29, 2014, Stach filed an amended proof of claim number 142-2 against  
14 the Debtor, asserting a general unsecured claim in the amount of \$333,632 (“Claim 142-2”) based  
15 upon the same undelivered purchase of gold coins, but adding interest, costs of recovery and  
16 punitive damages.<sup>1</sup>

17 D. On December 21, 2015, the Trustee filed a *Motion for Order Reducing and Allowing*  
18 *Claim 142-2 Filed by Kenneth W. Stach* (the “Motion”) [Docket No. 353] seeking to reduce Claim  
19 142-2 to \$318,932 as Stach did not provide any contractual or legal support for any claim amount in  
20 excess of \$318,932, which comports to the amount set forth in the Debtor’s books and records.

21 E. On February 8, 2016, counsel for Stach and the Trustee reached an agreement with  
22 regard to Claim Number 142-2 as set forth herein.

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

24 1. Claim Number 142-2 shall be allowed as an unsecured claim in the amount of  
25 \$318,932.00;

26  
27  
28  

---

<sup>1</sup> Claim 142-1 was disallowed by order of the Bankruptcy Court dated January 29, 2016 [Dkt. No. 499].

1           2.       This Stipulation may be executed in counterparts, each of which may be transmitted  
2 by facsimile or email, and each of which shall be deemed an original, but all of which together shall  
3 constitute one instrument; and

4           3.       The Court shall retain jurisdiction to hear all disputes arising from this Stipulation.

5  
6 DATED: February 11, 2016

PACHULSKI STANG ZIEHL & JONES LLP

7  
8 By: /s/ Linda F. Cantor

Linda F. Cantor

Jason S. Pomerantz

9  
10 Attorneys for R. Todd Neilson, Chapter 7 Trustee for  
11 The Tulving Company, Inc.

12 The Gibbs Law Firm

13 DATED: February 10, 2016

14 By: 

David L. Gibbs

15 Attorneys for Kenneth W. Stach  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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, 13<sup>th</sup> Floor, Los Angeles, California 90067**

A true and correct copy of the foregoing document entitled (*specify*): **STIPULATION REGARDING CLAIM 142-2, FILED BY KENNETH W. STACH** 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 **February 11, 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:

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) **February 11, 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.

Kenneth W. Stach  
c/o The Gibbs Law Firm, APC  
903 Calle Amanecer #215  
San Clemente, CA 92673-6251

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*) **February 11, 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.

**February 11, 2016**  
Date

Nancy H. Brown  
Printed Name

/s/ Nancy H. Brown  
Signature

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

- Wesley H Avery wamiracle6@yahoo.com, wavery@rpmlaw.com
- Candice Bryner candice@brynerlaw.com
- Philip Burkhardt phil@burkhardtandlarson.com, stacey@burkhardtandlarson.com
- Stephen L Burton steveburtonlaw@aol.com, ellie.burtonlaw@gmail.com
- Frank Cadigan frank.cadigan@usdoj.gov
- Linda F Cantor lcantor@pszjlaw.com, lcantor@pszjlaw.com
- David L Gibbs david.gibbs@gibbslaw.com, ecf@gibbslaw.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Lawrence J Hilton lhilton@oneil-llp.com, ssimmons@oneil-llp.com;kdonahue@oneil-llp.com
- John H Kim jkim@cookseylaw.com
- R. Todd Neilson (TR) tneilson@brg-expert.com, sgreenan@brg-expert.com;tneilson@ecf.epiqsystems.com;ntroszak@brg-expert.com
- Jason S Pomerantz jspomerantz@pszjlaw.com, jspomerantz@pszjlaw.com
- Nanette D Sanders becky@ringstadlaw.com
- Richard C Spencer rspencer@rspencerlaw.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

**2. SERVED BY UNITED STATES MAIL:**

Debtor

The Tulving Company Inc  
2049 Century Park East, Suite 2525  
Los Angeles, CA 90067-3225

Counsel for Debtor

Andrew S Bisom  
The Bisom Law Group  
8001 Irvine Center Drive, Suite 1170  
Irvine, CA 92618

Attorneys for Defendants Hannes

Tulving, Jr. and The Tulving Company  
James F. Wyatt, III  
Wyatt & Blake, LLP  
435 East Morehead Street  
Charlotte, NC 28202

Laurence P Nokes on behalf of  
Interested Party

John Frankel  
Nokes & Quinn  
410 Broadway St Ste 200  
Laguna Beach, CA 92651

Brent Murdoch  
Murdoch & Morris, LLP  
114 Pacifica, Ste. 320  
Irvine, CA 92618

Interested Party

Frye & Hsieh  
Douglas J Frye Esquire  
24955 Pacific Coast Highway # A201  
Malibu, CA 90265

Counsel for Creditor Levon Gugasian

Nanette D. Sanders, Esq.  
Ringstad & Sanders LLP  
2030 Main Street, Suite 1600  
Irvine, CA 92614

On the Rocks Jewelry & Rare Coins  
Attn: David Halpin and Desirea Sloan  
207 N. El Camino Real  
San Clemente, CA 92672