

The Tulving Company, Inc. - Trustee Report #7

December 1, 2015

R. Todd Neilson, the duly appointed Chapter 7 trustee (“Trustee”) in The Tulving Company, Inc. (“Tulving”) bankruptcy, provides this Seventh Trustee Report (Trustee Report #7).

There has been a great deal of activity over the past few months, most of which had not been finalized until the last few days. In my prior report I discussed the difficult process of resolving the manner in which we would liquidate the coins that were seized (the “Seized Items” or “Coins”) by the Department of Justice (“DOJ”) in their raid of the Tulving offices on March 3, 2014. The Coins consist of approximately 12,539 Presidential Error-Missing Edge Letter Coins (“Error Coins”) and approximately 176,461 other coins (“Non-Error Coins”). The government could have essentially held the Coins pursuant to their federal authority and jurisdiction over the Debtor and Hannes Tulving, Jr..

The manner in which we resolved that issue was outlined in a Coordination Agreement (“Agreement”) which was described in my prior Trustee Report #6. Under the Agreement, I am required to make a proposal (“Proposal”) for the liquidation of the Coins and the distribution of proceeds to the victims of Tulving’s criminal actions who are also creditors of this bankruptcy (the “Victim/Creditors”). If the Proposal is approved by the DOJ, the Bankruptcy Court and the district court in the criminal case (the “District Court”), the government will turn over the Coins to me and they will be administered in the bankruptcy case in the manner as described below.

This week I filed a motion with the Bankruptcy Court for approval of the Proposal. A hearing is scheduled on the motion for January 19, 2016. A copy of the motion is posted on the Tulving Company Official Bankruptcy Website under “Filings”. In summary, the motion represents as follows:

- Pursuant to the Agreement, I am required to (a) file a final list of the Victim/Creditors and their respective losses, (b) make a proposal for the sale of the Seized Items and the distribution of proceeds to the Victim/Creditors in the Bankruptcy Case, and (c) submit the Proposal to the Government, the District

Court and the Bankruptcy Court for approval. The Agreement by and among the Debtor, myself, Hannes Tulving and the DOJ establishes the procedure for the distribution of the Seized Items and their proceeds to the creditors of this Estate who are also Victims of the Defendants' criminal actions in the Bankruptcy Case.

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- If the Proposal is approved by the Government, the District Court and the Bankruptcy Court, the Government will turn over the Seized Items to me on behalf of the estate in an amount sufficient to satisfy the proposed partial payouts to Victim/Creditors as outlined in this proposal. The Proposal, if approved, allows for the DOJ to transfer the Coins from the Delaware Depository in Wilmington, Delaware, to another location at which the Non-Error Coins will be sold at auction under the administration of the Bankruptcy Court. (By separate application I will be seeking authority to retain an auctioneer to conduct an auction of the Non-Error over a three to six month period.)
- Under a normal Chapter 7 Bankruptcy case, I would typically reduce all of the assets of the estate to cash and distribute the funds directly to the allowed claimants. However, after much consideration, I have chosen not to auction the Error Coins. My decision not to auction the Error Coins is based upon consultations with a number of specialists and experts in the coin industry throughout the nation including Miles Standish, one of the country's premier experts in valuing Error Coins. Although I have obtained an approximate valuation of \$7,367,235 for the 12,539 Error Coins, based upon my consultations with the foregoing experts, I am informed and believe that the mass infusion of 12,539 Error Coins into the market over a short period of time would represent a significant increase in the availability of Error Coins within the marketplace and would therefore substantially reduce the overall value of all Error Coins. I also believe that the Error Coins would likely require a number of years to fully be

absorbed into the marketplace which would require that the Bankruptcy Case remain open with all of the attendant costs of compliance, including tax returns and distributions.

- Based upon the foregoing, I propose to return the Error Coins directly to the Victim/Creditors in a ratable fashion based upon the valuation of \$7,367,235 and the percentage amount of each such creditor's allowed claim vis-à-vis all allowed Victim/Creditors' claims. The claims of the Victim/Creditors' will be reduced by the allocated value of the Error Coins distributed to them.<sup>1</sup> I will waive any fee from the distribution of the Error Coins to Victim/Creditors otherwise compensable under Section 326(a) of the Bankruptcy Code.
- The distribution of Error Coins directly to Victim/Creditors will allow a prompt distribution of value to these creditors, consistent with the terms of the Coordination Agreement and restitution judgment against the Defendants. The Victim/Creditors may determine to hold their Error Coins for possible long-term appreciation or liquidate them in the open market at a time of their own choosing and at a minimal cost and without fees directly allocable to the return of these coins. However, if a Victim/Creditor chooses not to receive the Error Coins allocated to them, those Error Coins would be auctioned with the Non-Error Coins and such Victim/Creditor would then receive its allocable percentage of return from all Error Coins and the Non-Error Coins net proceeds as well as other Estate assets based on its claim unadjusted by the Error Coin allocation.
- As stated, in typical bankruptcy cases, the trustee often undertakes a laborious and time consuming process of liquidating the assets of the estate and years later provides an often non-substantial payment to the creditors with the notice of the

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<sup>1</sup> For example, assuming the total Victim/Creditors' claims amounted to \$15 million and the value allocated to the distribution of the Error Coins equaled \$7.5 million, the Victim/Creditors' Claims would be reduced by 50% (\$15 million / \$7.5 million) prior to additional distributions by the Trustee in the Bankruptcy Case.

case being closed. Under the proposal outlined herein, the Victim/Creditors receive the transfer of the most valuable assets of the estate in a prompt manner which they can either retain for their personal coin collection or sell in the market and directly reap the proceeds from the sale.

- I am in the process of finalizing claim objections to Victim/Creditors' claims whose claim amounts exceed the losses set forth on the final list. I anticipate that those claim objections will have been determined by such time as the interim distributions are made. However, to the extent there are any unresolved claim objections at the time of making interim distributions to Victim/Creditors, I will establish appropriate reserves to cover the outstanding unresolved claim amounts.
- The remaining Non-Error Coins will be sold at auction and the net proceeds (after costs of administration) will be distributed to Victim/Creditors on a pro rata basis, in partial payment of the remaining amount of their claims.

I believe that the procedure as outlined above delivers the most valuable assets in the estate to the Victim/Claimants without any costs associated with the transfer. It will be an asset "in your hands" as opposed to being held by a Chapter 7 Trustee. You can do with it as you please – hold it for future appreciation or sell it now. The remaining Non-Error coins will be sold in a public auction over a reasonable period of time which may allow for a further cash distribution to the Victim/Claimants.

The Proposal addresses only the claims of the Victim/Creditors who are entitled to prompt payment of restitution from the Seized Items under my settlement with the government in the Coordination Agreement. There are also claims of trade creditors (i.e., non-customers) against Tulving. After disposing of the coins pursuant to my Proposal, any additional net recoveries by the estate will be distributed to all claimants on account of their outstanding allowed claims pursuant to the priorities and other provisions of the Bankruptcy Code.

If any of you have questions, you may communicate with me at [tneilson@brg-expert.com](mailto:tneilson@brg-expert.com). I will respond as soon as I can.

Thank you.

R. Todd Neilson  
Chapter 7 Trustee