

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., 13th Floor
3 Los Angeles, California 90067
Telephone: 310-277-6910
4 Facsimile: 310-201-0760
E-mail: lcantor@pszjlaw.com

5 [Proposed] Counsel for R. Todd Neilson, Chapter 7
6 Trustee for The Tulving Company, Inc.

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SANTA ANA DIVISION**

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

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

Chapter 7

**DECLARATION OF R. TODD NEILSON IN
SUPPORT OF NOTICE OF MOTION AND
MOTION OF CHAPTER 7 TRUSTEE FOR
AN ORDER EXTENDING TIME TO
COMPLETE SCHEDULES OF ASSETS
AND LIABILITIES AND STATEMENT OF
FINANCIAL AFFAIRS; MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[No Hearing Requested Per Local Bankruptcy
Rule 9013-1(O)(1)]

15
16
17
18
19
20 I, R. Todd Neilson, under penalty of perjury, depose and say:

21 1. I am a director of Berkeley Research Group, LLC ("BRG") and am the duly
22 appointed chapter 7 trustee ("Trustee") in the above-captioned case. I make this Declaration on facts
23 within my personal knowledge (albeit my own or that gathered by professionals rendering services
24 to me), or as a result of having reviewed the court files in this case. If called upon, I can and will
25 competently testify to the facts stated herein.

26 2. I make this declaration in support of the *Notice of Motion and Motion of Chapter 7*
27 *Trustee for an Order Extending Time to Complete Schedules of Assets and Liabilities and Statement*
28 *of Financial Affairs* (the "Motion").

1 3. The Debtor commenced this case by the filing of a voluntary petition for relief under
2 chapter 11 of the Bankruptcy Code on March 10, 2014. In light of the pending criminal
3 investigation and other ongoing litigation, on March 18, 2014, the United States Trustee filed a
4 *Stipulation Appointing Chapter 11 Trustee* [Docket No. 15] (“Stipulation”), which was signed by
5 both the Debtor and its attorney. The Stipulation was approved by the Bankruptcy Court on March
6 18, 2014 [Docket No. 16] and an Order was entered by the Court on March 21, 2014 approving the
7 *U.S. Trustee’s Application for the Appointment of a Chapter 11 Trustee*, appointing myself as trustee
8 of the Debtor’s Chapter 11 estate [Docket No. 22]. On April 30, 2014, I caused to have filed a
9 motion to convert the case to chapter 7 [Docket No. 74] which motion was granted at a hearing on
10 May 22, 2014. On May 29, 2014 the Court entered an order converting this Case to chapter 7 and I
11 was appointed to serve as the chapter 7 trustee, pursuant to that certain *Notice of Appointment of*
12 *Trustee and Fixing of Bond; Acceptance of Appointment as Interim Trustee*, filed on June 10, 2014
13 [Docket No. 126].

14 4. This case will be very difficult to administer. There are numerous unsophisticated
15 creditors, many of whom have lost their life savings in what appears to be a substantial fraud. It will
16 require all of the experience which I have acquired over the past 37 years to avoid completely
17 draining the estate of funds to provide the creditors with a distribution.

18 5. I have been in contact with the Department of Justice (“DOJ”) based in North
19 Carolina which is responsible for the ongoing investigation of the Tulving Company and Mr.
20 Tulving. The DOJ has seized all the assets of the Debtor as well as all computers and servers.

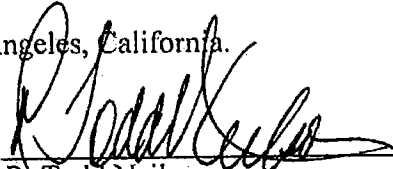
21 6. I have limited information concerning the scope of creditors in this case. The Debtor
22 did not file Schedules of Assets and Liabilities or a Statement of Financial Affairs. Various creditors
23 have identified themselves to me through the filing of proofs of claim or otherwise. However, I am
24 in the process of reviewing the Debtor’s books and records, as well as customer lists and other
25 operating information, to determine those parties that had business dealings with the Debtor and may
26 hold claims against the Debtor. Therefore, I am unable to complete the Schedules by the current
27 deadline of June 12, 2014. Given the above exigent circumstances, I believe an extension of time is
28

1 necessary and proper in order to allow me to more fully identify creditors and prepare the Debtor's
2 Schedules.

3 Based upon the above exigent circumstances, I request that this Court extend the time within
4 which the Schedules must be filed, up to and including September 10, 2014, but in any event, no
5 sooner than August 27, 2014.

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

8 Executed this 11th day of June, 2014, at Los Angeles, California.

9
10 
11 R. Todd Neilson

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

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

