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7 for The Tulving Company, Inc.

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

10 In re:

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

13 Debtor.

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

Chapter 7

**TRUSTEE'S REPLY TO RESPONSE AND
OBJECTION BY CLAIMANT KENNETH
CHRISTMAN TO NOTICE OF MOTION
AND MOTION FOR ORDER
RECLASSIFYING CLAIM 36-1 OF
KENNETH CHRISTMAN**

[RELATES TO DOCKET NO. 340]

Date: January 19, 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 the duly appointed, authorized and acting Chapter 7
21 Trustee (the "Trustee") of The Tulving Company, Inc. (the "Debtor"), hereby files this reply (the
22 "Reply") to the *Response and Objection by Claimant Kenneth Christman* (the "Response") to the
23 *Notice of Motion and Motion for Order Reclassifying Claim 36-1 of Kenneth Christman* (the
24 "Motion") [Docket No. 340]. In support of the Reply, the Trustee respectfully represents as follows.

25 The Motion requests that the Court reclassify the proof of claim filed by Kenneth Christman
26 ("Claimant"), Claim No. 36-1 in the amount of \$21,230 plus interest (the "Claim"), as a general
27 unsecured claim on the grounds that Claimant has provided no grounds or basis upon which the
28 Claim is entitled to priority status and no such support is shown in the Debtor's books and records.

1 The Response appears to misapprehend the relief sought by the Motion and, therefore, requests that
2 the Court allow the Claim as a priority claim. As the Claim arises from allegations of fraud in a
3 prepetition transaction, however, it does not fall within any of the categories afforded priority by 11
4 U.S.C. § 507.

5 There is no basis to support the Claim as a priority claim, this Claim should be reclassified
6 as a general unsecured claim. The Court will determine Claimant's right to distributions on equal
7 footing with other holders of allowed general unsecured claims.

8 The Trustee, through one of his representatives, has reached out to Claimant to seek to
9 resolve the Motion consensually. These efforts were not successful. Since Claimant is not entitled
10 to priority status, the Response should be overruled, and the Claim should be reclassified as a
11 general unsecured claim.

12 **WHEREFORE**, the Trustee respectfully requests that the Court enter an order granting the
13 Motion and reclassifying the Claim as a general unsecured claim.

14 Dated: January 11, 2016

PACHULSKI STANG ZIEHL & JONES LLP

15 By /s/ Jason S. Pomerantz

Linda F. Cantor

Jason S. Pomerantz

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18 Counsel for R. Todd Neilson, Chapter 7
19 Trustee for the Tulving Company, Inc.
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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*): **TRUSTEE'S REPLY TO RESPONSE AND OBJECTION BY CLAIMANT KENNETH CHRISTMAN TO NOTICE OF MOTION AND MOTION FOR ORDER RECLASSIFYING CLAIM 36-1 OF KENNETH CHRISTMAN** 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 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*) **January 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 D. Christman
1965 Loma Linda Lane
Dayton, OH 45459

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 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.

January 11, 2016

Date

MYRA KULICK

Printed Name

/s/ Myra Kulick

Signature

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

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