

1 Linda F. Cantor (CA Bar No. 153762)
PACHULSKI STANG ZIEHL & JONES LLP
2 10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067
3 Telephone: 310-277-6910
Facsimile: 310-201-0760
4 Email: lcantor@pszjlaw.com
Counsel to Weneta M. A. Kosmala, Chapter 7 Trustee for
5 The Tulving Company, Inc.

6
7 **UNITED STATES BANKRUPTCY COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9 **SANTA ANA DIVISION**

10 In re:

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

12 Debtor

Chapter 7

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

**NOTICE OF MOTION AND MOTION OF
CHAPTER 7 TRUSTEE TO PAY INVOICE
OF GREATCOLLECTIONS.COM D/B/A
GREAT COLLECTIONS; MEMORANDUM
OF POINTS AND AUTHORITIES;
DECLARATION OF WENETA M.A.
KOSMALA**

[NO HEARING REQUIRED]

13
14
15
16
17
18
19 **PLEASE TAKE NOTICE THAT** Weneta M.A. Kosmala, the duly appointed chapter 7
20 trustee (the "Trustee") of the bankruptcy estate of The Tulving Company, Inc. ("Debtor") hereby
21 moves the Court (the "Motion") for authorization to pay the invoice of GreatCollections.com d/b/a
22 Great Collections ("Great Collections"), a copy of which is appended to the Motion as **Exhibit A**.
23 Great Collections provided auctioneer and related services to the Estate pursuant to this Court's
24 order authorizing its retention on or about October 12, 2016.¹

25
26
27 ¹ See Order Granting Motion for Order Authorizing the Trustee to (I) Retain GreatCollections.com d/b/a Great
28 Collections as Auctioneer, (II) Modify, in part, Asset Distribution Plan, and (III) Set New Opt-Out Deadline for
Victim/Creditors to Determine Whether to Receive Error Coins in Partial Payment of their Claim and Sell Coins not
Distributed to Creditors Free and Clear of All Liens, Claims and Interests [Dkt. No. 634]

1 **PLEASE TAKE FURTHER NOTICE** that the Motion is based on this Notice of Motion
2 and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Weneta
3 M.A. Kosmala filed concurrently herewith, and any other admissible evidence properly brought
4 before the Court at any hearing hereon.

5 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(f) requires that
6 any response to the Motion be filed with the Bankruptcy Court and served upon Trustee's counsel at
7 the address appearing on the upper-left hand corner of the caption page to this Motion and the Office
8 of the U.S. Trustee no later than fourteen (14) days prior to the Hearing hereon. The response must
9 be a complete written statement of all reasons in opposition to or in support of the Motion and
10 include declarations, documents and any responding memorandum of points and authorities.
11 Pursuant to Local Bankruptcy Rule 9013-1(h), the failure to timely file and serve written opposition
12 may be deemed by the Court to be consent to the granting of the relief requested in the Motion.

13 **WHEREFORE**, The Trustee respectfully requests that the Court authorize the Trustee to
14 pay the invoice of Great Collections, and grant such other and further relief as is appropriate and
15 just.

16 Dated: May 31, 2017

PACHULSKI STANG ZIEHL & JONES LLP

17
18 By /s/ Linda F. Cantor
Linda F. Cantor

19
20 Counsel for Weneta M.A. Kosmala, Chapter 7
Trustee

MEMORANDUM OF POINTS AND AUTHORITIES

1
2 Weneta M.A. Kosmala, the duly appointed chapter 7 trustee (the “Trustee”) of the
3 bankruptcy estate of The Tulving Company, Inc. (“Debtor”) hereby moves the Court (the “Motion”) for
4 authorization to pay the invoice of GreatCollections.com d/b/a Great Collections (“Great
5 Collections”), which was retained by the estate pursuant to this Court’s *Order Granting Motion for*
6 *Order Authorizing the Trustee to (I) Retain GreatCollections.com d/b/a Great Collections as*
7 *Auctioneer, (II) Modify, in part, Asset Distribution Plan, and (III) Set New Opt-Out Deadline for*
8 *Victim/Creditors to Determine Whether to Receive Error Coins in Partial Payment of their Claim*
9 *and Sell Coins not Distributed to Creditors Free and Clear of All Liens, Claims and Interests* [Dkt.
10 No. 634] (the “Retention Order”).

11 In accordance with Sections 327, 328, 330 and 331 of Title 11 of the United States Code, 11
12 U.S.C. § 101 et seq., (the “Bankruptcy Code”), Great Collections was retained to provide auctioneer
13 and related services including transporting certain valuable coins (the “Error Coins”) from Dallas,
14 Texas to Irvine, California, valuation of the Error Coins by submitting the coins to Professional Coin
15 Grading Service (“PCGS”) for grading and encapsulation, inventorying the Error Coins and, upon
16 further Court order, shipment of the Error Coins to creditors who were victims of the Debtor’s crime
17 (“Victim/Creditors”). Great Collections was paid \$20,000 as an advance deposit, and the balance of
18 its fees and expenses is now due. Attached hereto as **Exhibit A** is a copy of Great Collections’
19 invoice for services rendered to the estate.²

20 The Trustee has reviewed Great Collections’ invoice and finds the fees to be reasonable and
21 consistent with its prior estimates.³ In addition, the services provided by Great Collections have
22 benefitted the estate. The Trustee had no ability to substantiate the values ascribed to the Error
23 Coins by the Debtor’s coin expert or by Heritage Auctioneers, which were vastly inconsistent.
24 Without a formal valuation, the Error Coins could not be ratably allocated to Victim/Creditors.

25 _____
26 ² Great Collections’ auction services, to the extent utilized, will be subject to separate billing on the terms set forth in
the Retention Order)

27 ³ See Declaration of Ian Russell in support of the *Motion for Order Authorizing the Trustee to (I) Retain*
28 *GreatCollections.com d/b/a Great Collections as Auctioneer, (II) Modify, in part, Asset Distribution Plan, and (III) Set*
New Opt-Out Deadline for Victim/Creditors to Determine Whether to Receive Error Coins in Partial Payment of their
Claim and Sell Coins not Distributed to Creditors Free and Clear of All Liens, Claims and Interests [Dkt. No. 623] (the
“Retention Motion”).

1 Through the efforts of Great Collections and PCGS, 15,580 Error Coins have been individually
2 graded and encapsulated, with an aggregate value determination of \$2,955,113. Based on
3 calculations by the Trustee's financial advisors, a ratable distribution of the Error Coins will result in
4 Victim/Creditors who opt-in to receive such coins, receiving value of between 18.73% and 18.77%
5 of their claims.

6 For the foregoing reasons, the Trustee requests that the Court approve the Great Collections'
7 invoice in the amount of \$99,885.00, and authorize the Trustee to pay the balance of that invoice in
8 the amount of \$79,885.00.

9 Dated: May 31, 2017

PACHULSKI STANG ZIEHL & JONES LLP

10
11 By /s/ Linda F. Cantor
12 Linda F. Cantor, Counsel for Weneta M. A. Kosmala,
13 Chapter 7 Trustee for The Tulving Company, Inc.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A



17500 Red Hill Avenue, Suite 180
Irvine, CA 92614
(949)679-4180
ian@greatcollections.com

BILL TO

Tulving Company
Tulving Company (Trustee Weneta
Kosmala)

SHIP TO

Tulving Company
Tulving Company (Trustee Weneta
Kosmala)

INVOICE Q1857

DATE 05/01/2017 TERMS Due on receipt

DUE DATE 05/01/2017

ACTIVITY	QTY	RATE	AMOUNT
4060 - Grading Fees Grading Presidential/Sacagawea Dollars Errors at PCGS 12761 coins @\$7	1	89,327.00	89,327.00
4090 - Professional Services Dallas Pick-up	1	7,250.00	7,250.00
4090 - Professional Services Cost of Bond Required by Trustee	1	1,420.00	1,420.00
4090 - Professional Services Preparation of spreadsheet for c2800 coins that were already graded, detailing each coin, PCGS #s and certification numbers. 24.5 hours @\$65	1	1,592.50	1,592.50
4090 - Professional Services Adding PCGS pricing to spreadsheet to the c15000 coins. 4.5 hours @\$65	1	295.50	295.50
TOTAL			99,885.00
DEPOSIT			20,000.00
TOTAL DUE			\$79,885.00

DECLARATION OF WENETA M.A. KOSMALA

I, Weneta M.A. Kosmala, declare as follows:

1. I am the duly appointed chapter 7 trustee of the above-captioned bankruptcy case (the “Trustee”). I am making this Declaration in support of the *Motion To Pay Invoice Of Greatcollections.Com d/b/a Great Collection; Memorandum of Points and Authorities* (the “Motion”). All terms defined in the Motion shall have the same meanings when used herein.

2. Pursuant to Section 327, 328, 330 and 331 of the Bankruptcy Code, Great Collections was retained to provide auctioneer and related services including transporting the Error Coins from Dallas, Texas to Irvine California, valuation of the Error Coins by submitting the coins to Professional Coin Grading Service for grading and encapsulation, inventorying the Error Coins and, upon further Court order, shipment of the Error Coins to Victim/Creditors. Great Collections was paid \$20,000 as an advance deposit, and the balance of its fees and expenses is now due. Attached hereto as Exhibit A is a copy of Great Collections’ invoice for services rendered to the estate.¹

3. I have reviewed Great Collections’ invoice and finds the fees to be reasonable and consistent with its prior estimates.² In addition, the services provided by Great Collections have benefitted the estate. As Trustee, I had no ability to substantiate the values ascribed to the Error Coins by the Debtor’s coin expert or by Heritage Auctioneers, which were vastly inconsistent. Without a formal valuation, the Error Coins could not be ratably allocated to Victim/Creditors. Through the efforts of Great Collections and PCGS, 15,580 Error Coins have been individually graded and encapsulated, with an aggregate value determination of \$2,955,113. Based on the calculations by my financial advisors, a ratable distribution of the Error Coins will result in Victim/Creditors who opt in to receive such coins, receiving value of between 18.73% and 18.77% of their claims.

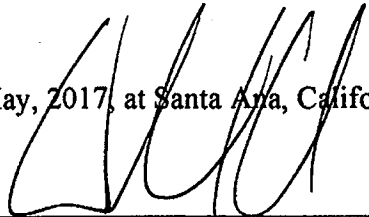
¹ Great Collections’ auction services, to the extent utilized, will be subject to separate billing on the terms set forth in the Retention Order.

² See Declaration of Ian Russell in support of the Retention Motion.

1 4. For the foregoing reasons, as Trustee I request that the Court approve the Great
2 Collections invoice in the amount of \$99,885.00, and authorize me to pay the balance of that invoice
3 in the amount of \$79,885.00.
4

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

7 Executed on this 30th day of May, 2017, at Santa Ana, California.

8 
9 _____
10 Weneta M.A. Kosmala

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

11
12
13
14
15
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 Blvd., 13th Floor, Los Angeles, CA 90067**

A true and correct copy of the foregoing document entitled **MOTION NOTICE OF MOTION AND MOTION TO PAY INVOICE OF RETAIN GREATCOLLECTIONS.COM D/B/A GREAT COLLECTIONS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF WENETA M.A. KOSMALA**

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 **May 31, 2017**, 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 **May 31, 2017**, 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.

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 **May 31, 2017**, 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.

May 31, 2017
Date

Janice G. Washington
Printed Name

/s/Janice G. Washington
Signature

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

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

2 Michael R Adele on behalf of Defendant
3 Armen Haig Gugasian
techlitcenter@yahoo.com, kadele@wgllp.com

david.gibbs@gibbslaw.com,
ecf@gibbslaw.com

4 Michael R Adele on behalf of Defendant
5 Levon Gugasian
techlitcenter@yahoo.com, kadele@wgllp.com

Nancy S Goldenberg on behalf of U.S. Trustee
United States Trustee (SA)
nancy.goldenberg@usdoj.gov

6 Wesley H Avery on behalf of Consumer
7 Privacy Ombudsman Wesley H Avery
wamiracle6@yahoo.com,
wavery@rpmlaw.com

Lawrence J Hilton on behalf of Creditor
Jeffrey Roth
lhilton@onellp.com,
lthomas@onellp.com;info@onellp.com;jander
son@onellp.com;crodriguez@onellp.com;lit
@oneil-llp.com

8 Candice Bryner on behalf of Creditor
9 Giuseppe Minuti
candice@brynerlaw.com

James KT Hunter on behalf of Plaintiff R.
TODD NEILSON
jhunter@pszjlaw.com

10 Candice Bryner on behalf of Interested Party
11 Candice Bryner
candice@brynerlaw.com

James KT Hunter on behalf of Plaintiff R.
Todd Neilson
jhunter@pszjlaw.com

12 Philip Burkhardt on behalf of Other
13 Professional Karen Duddleston
phil@burkhardtandlarson.com,
14 stacey@burkhardtandlarson.com

John H Kim on behalf of Creditor Ford Motor
Credit Company LLC
jkim@cookseylaw.com

15 Stephen L Burton on behalf of Attorney
16 Stephen L. Burton
steveburtonlaw@aol.com,
ellie.burtonlaw@gmail.com

Weneta M Kosmala (TR)
ecf.alert+Kosmala@titlexi.com,
wkosmala@txitrustee.com;dmf@txitrustee.co
m;kgeorge@kosmalalaw.com

17 Frank Cadigan on behalf of U.S. Trustee
18 United States Trustee (SA)
frank.cadigan@usdoj.gov

Nanette D Sanders on behalf of Creditor
Levon Gugasian
becky@ringstadlaw.com

19 Linda F Cantor, ESQ on behalf of Other
20 Professional Pachulski Stang Ziehl & Jones
LLP
21 lcantor@pszjlaw.com, lcantor@pszjlaw.com

Richard C Spencer on behalf of Interested
Party Courtesy NEF
rspencer@rspencerlaw.com

22 David L Gibbs on behalf of Creditor Kenneth
23 W Stach

United States Trustee (SA)
ustpregion16.sa.ecf@usdoj.gov

1
2 **2. SERVED BY UNITED STATES MAIL:**

3 Chapter 7 Trustee

4 Weneta M.A. Kosmala
5 3 MacArthur Place, Suite 760
6 Santa Ana, CA 92707

7 Attorneys for Debtor

8 James F. Wyatt, III
9 Wyatt & Blake, LLP
10 435 East Morehead Street
11 Charlotte, NC 28202

12 Laurence P Nokes on behalf of Interested

13 Party John Frankel
14 Nokes & Quinn
15 410 Broadway St Ste 200
16 Laguna Beach, CA 92651

17 Brent Murdoch
18 Murdoch & Morris, LLP
19 114 Pacifica, Ste. 320
20 Irvine, CA 92618

21 Interested Party

22 Frye & Hsieh
23 Douglas J Frye Esquire
24 24955 Pacific Coast Highway # A201
25 Malibu, CA 90265

26 Counsel for Creditor Levon Gugasian

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

Benjamin Bain-Creed
Assistant United States Attorney
Florida Bar #0021436
Suite 1650, Carillon Building
227 West Trade Street
Charlotte, North Carolina 28202