

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Wesley H. Avery, CIPP - Consumer Privacy Ombudsman  6055 East Washington Blvd., Suite 500  Los Angeles, CA 90040   (661) 618-7376 (T) (661) 430-5467 (F)  wavery@thebankruptcylawcenter.com <input checked="" type="checkbox"/> Individual appearing without attorney <input type="checkbox"/> Attorney for:	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA - Santa Ana Division</b>	
In re: THE TULVING COMPANY, INC., a California corporation,  Debtor.      Debtor(s).	CASE NO.: 8:14-bk-11492-ES CHAPTER: 7  <b>APPLICATION FOR PAYMENT OF:</b> <input type="checkbox"/> INTERIM FEES AND/OR EXPENSES (11 U.S.C. § 331) <input checked="" type="checkbox"/> FINAL FEES AND/OR EXPENSES (11 U.S.C. § 330)  DATE: December 18, 2014 TIME: 10:30 a.m. COURTROOM: 5A PLACE: 411 W. Fourth St., Santa Ana CA 92701

1. Name of Applicant (*specify*): Wesley H. Avery, CIPP
2. Type of services rendered:
  - a.  Attorney for (*specify*): \_\_\_\_\_
  - b.  Accountant for (*specify*): \_\_\_\_\_
  - c.  Other professional (*specify*): Consumer Privacy Ombudsman
3. Date of filing of petition under chapter 11 of the Bankruptcy Code: 10 Mar 14
4. Date of entry of Order Approving Applicant's Employment: 14 Oct 14
5. Date of filing of last Fee and/or Expense Application: None.

This form is optional. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

6. Total fees allowed or paid to Applicant to date (including retainers and prior approved fee applications): \$ None
- a. Retainer received: \$ None
- b. Retainer remaining as of the date of this Application: \$ None
- c. Total amount requested in all prior applications: \$ None
- d. Total amount actually paid pursuant to prior approved applications: \$ None
- e. Total amount currently due but unpaid pursuant to prior approved applications: \$ None
- f. Total amount allowed but reserved pending final fee application: \$ No

7. **Summary of Requested Fees:** (attach detailed supporting documentation to this Application)

Professional Person's Name	Hourly Rate	X	Total Hours this Person	=	Total Fees this Person
a. Wesley H. Avery	\$ 475	X	24.1	= \$	11,447.50
b.	\$	X		= \$	
c.	\$	X		= \$	
d.	\$	X		= \$	
e.	\$	X		= \$	
f.	\$	X		= \$	

- g.  Continued on attached page
8. The hourly rates above are the same rates charged by the above professionals for non-bankruptcy services except as follows: Not applicable.  See attached page
9. Bonus requested (final fee applications only): \$ 0  
(attach Declaration and Memorandum of Points and Authorities justifying bonus)
10. **TOTAL FEES REQUESTED THIS APPLICATION:** \$ 11,447.50
11. Total expenses paid to Applicant to date (including retainers and prior approved expense applications): \$ 0

**12. Summary of Requested Expense Reimbursement:** (attach detailed supporting documentation to this Application)

Type of Expense	Reimbursement Requested this Application
a. Postage	\$ 0.49
b. Photocopying 15 pages @ 20¢ page	\$ 3.00
c.	\$
d.	\$
e.	\$
f.	\$
g. <input type="checkbox"/> Continued on Attached Page	

**13. TOTAL EXPENSE REIMBURSEMENT REQUESTED THIS APPLICATION:** \$ 3.49

14. Applicant submits the following in support of the Application herein pursuant to LBR 2016-1 (specify):

See attached.

15. Total number of attached pages of supporting documentation: 1

16. Applicant declares under penalty of perjury under the laws of the United States that the foregoing Application and all attached supporting documentation are true and correct and accurately reflect services rendered and expenses incurred.

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

18 Nov 14  
Date

Wesley H. Avery  
Printed Name

  
Signature

Because a hearing was required under section 363(b)(1)(B), on September 15, 2014 the Court ordered the United States trustee to appoint, a disinterested person to serve as the consumer privacy ombudsman in this case. On October 14, 2014, applicant Wesley H. Avery (the "Applicant" or "CPO") was appointed as the consumer privacy ombudsman in this case.

The CPO timely filed a report (the "CPO Report") with the Court on October 22, 2014 and will appear at the sale procedures hearing on December 4, 2014 to provide to the Court information to assist the Court in its consideration of the facts, circumstances, and conditions of the proposed sale of personally identifiable information ("PII") under section 363(b)(1)(B). Such information will include presentation of— (1) the debtor's privacy policy; (2) the potential losses or gains of privacy to consumers if such sale was approved by the Court; (3) the potential costs or benefits to consumers if such sale was approved by the Court; and (4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

The CPO's fee request herein is reasonable compensation for actual, necessary services rendered by the Applicant, given: (1) the 24.1 hours spend on such services; (2) the \$475 hourly rate charged for such services; (3) that the services were beneficial to the estate; (4) that the services were timely performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the PII addressed; (5) that the CPO holds U.S. Corporate Privacy Certification # 88319I (otherwise known as a CIPP) issued by the International Association of Privacy Professionals or IAPP, and is recognized as a certified specialist in bankruptcy law by the American Board of Certification which is recognized by the American Bar Association and by the American Bankruptcy Institute; and (6) that the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

**Attachment**



Wesley H. Avery, Esq.  
Law Offices of Wesley H. Avery  
28005 Smyth Drive # 117  
Valencia, CA 91355  
  
(661)295-4674  
wavery@thebankruptcylawcenter.com  
http://thebankruptcylawcenter.com

## Invoice

Date	Invoice No.
08/31/2014	2127
Terms	Due Date
Trustee Case	08/31/2014

### Bill To

The Tulving Company  
c/o Frank Madigan  
Assistant United States Trustee  
Office of the United States Trustee  
411 W Fourth St., Suite 9041  
Santa Ana, CA 92701-4593

Amount Due	Enclosed
\$1,947.50	

Please detach top portion and return with your payment.

Date	Billing Code	Description	Hours	Rate	Amount
08/27/2014	CPO	Telephone call with Linda Cantor re new assignment; exchange of emails re same; review and determination of case status through docket pleadings.	1.2	475.00	570.00
08/27/2014	CPO	Performed conflicts check for new CPO assignment.	0.3	475.00	142.50
08/31/2014	CPO	Review and analysis of sale motion filed on August 7, 2014 and asset purchase agreement attached thereto.	2.6	475.00	1,235.00
<b>Total</b>					<b>\$1,947.50</b>



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# Invoice

Date	Invoice No.
09/30/2014	2126
Terms	Due Date
Trustee Case	09/30/2014

Bill To
The Tulving Company c/o Frank Madigan Assistant United States Trustee Office of the United States Trustee 411 W Fourth St., Suite 9041 Santa Ana, CA 92701-4593

Amount Due	Enclosed
\$3,705.00	

Please detach top portion and return with your payment.

Date	Account Summary	Amount
08/31/2014	Balance Forward	\$1,947.50
	Payments and credits between 08/31/2014 and 09/30/2014	0.00
	New charges (details below)	1,757.50
	Total Amount Due (activity through 09/30/2014)	3,705.00

Date	Billing Code	Description	Hours	Rate	Amount
09/03/2014	CPO	Telephone calls with Linda Cantor and Frank Cadigan re sale status.	0.4	475.00	190.00
09/03/2014	CPO	Preparation of the Acceptance of the CPO; preparation of correspondence to Frank Cadigan re same.	0.9	475.00	427.50
09/04/2014	CPO	Telephone call with Frank Cadigan re case status.	0.1	475.00	47.50
09/15/2014	CPO	Review and analysis of stipulation to appointment a CPO filed by the Trustee and the by the OUST.	0.2	475.00	95.00
09/15/2014	CPO	Review and analysis of web postings by customers of the Debtor re sale of possible PII.	0.7	475.00	332.50
09/16/2014	CPO	Review and analysis of business and attributes of Greatcollections.com	1.4	475.00	665.00
<b>Total Of New Charges</b>					<b>\$1,757.50</b>
<b>Total Amount Due</b>					<b>\$3,705.00</b>



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# Invoice

Date	Invoice No.
10/31/2014	2158
Terms	Due Date
Trustee Case	10/31/2014

Bill To
The Tulving Company c/o Frank Madigan Assistant United States Trustee Office of the United States Trustee 411 W Fourth St., Suite 9041 Santa Ana, CA 92701-4593

Amount Due	Enclosed
\$11,450.99	

Please detach top portion and return with your payment.

Date	Account Summary	Amount
09/30/2014	Balance Forward	\$3,705.00
	Payments and credits between 09/30/2014 and 10/31/2014	0.00
	New charges (details below)	7,745.99
	Total Amount Due (activity through 10/31/2014)	11,450.99

Date	Billing Code	Description	Hours	Rate	Amount
10/01/2014	CPO	Legal research in support of CPO report re statutory meaning of "a product or a service . . . primarily for personal, family, or household purposes	1.3	475.00	617.50
10/01/2014	CPO	Legal research in support of CPO report re common law meaning of "a product or a service . . . primarily for personal, family, or household purposes	1.2	475.00	570.00
10/02/2014	CPO	Exchange of emails with Linda Cantor re case status.	0.2	475.00	95.00
10/08/2014	CPO	Review and analysis of application to appoint a CPO.	0.2	475.00	95.00
10/09/2014	CPO	Exchange of emails with Linda Cantor re case status.	0.1	475.00	47.50
10/10/2014	CPO	Review and analysis of proposed addendum to purchase agreement.	0.5	475.00	237.50
10/10/2014	CPO	Exchange of emails with Jonathan Kim re possible privacy policy of the Debtor; review of attachments thereto from the Trustee's counsel.	1.2	475.00	570.00
10/12/2014	CPO	Legal research in support of CPO Report.	1.6	475.00	760.00
10/13/2014	CPO	Exchange of emails with Jonathan Kim re CPO report status.	0.3	475.00	142.50
10/14/2014	CPO	Review and analysis of order granting application to appoint a CPO.	0.2	475.00	95.00
10/14/2014	CPO	Exchange of emails with Linda Cantor re appointment status.	0.3	475.00	142.50
10/15/2014	CPO	Preparation of CPO Report and exhibits thereto.	4.6	475.00	2,185.00
Continue to the next page					



Date	Billing Code	Description	Hours	Rate	Amount
10/16/2014	CPO	Exchange of emails with Jonathan Kim re possible change to exhibit 2 to the CPO Report.	0.3	475.00	142.50
10/19/2014	CPO	Review and analysis of proposed amendment to the purchase and sale agreement; review of correspondence from Trustee's counsel re same.	0.4	475.00	190.00
10/21/2014	CPO	Telephone call with Linda Cantor re awaiting Trustee's accountant's confirmation that credit card information was not retained by the Debtor.	0.2	475.00	95.00
10/22/2014	Postage	U.S. Mail	1	0.49	0.49
10/22/2014	CPO	Exchange of emails with Linda Cantor re CPO Report.	0.3	475.00	142.50
10/22/2014	Photocopies	Photocopies @ 20 ¢/page	15	0.20	3.00
10/27/2014	CPO	Exchanges of emails with Jonathan Kim re prospective sale motion and approval of CPO report.	0.4	475.00	190.00
10/31/2014	CPO	Prospective appearance at sale hearing in Santa Ana.	3	475.00	1,425.00
<b>Total Of New Charges</b>					<b>\$7,745.99</b>
<b>Total Amount Due</b>					<b>\$11,450.99</b>

## 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:  
6055 E. Washington Blvd., Suite 500  
Los Angeles, CA 90040

A true and correct copy of the foregoing document entitled (*specify*): **Application for Payment of Final Fees and/or Expenses** 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 (*date*) 11/19/2014, 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:

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  
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

Service information continued on attached page

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

On (*date*) 11/19/2014, 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.

Debtor, The Tulving Company, Inc., PO Box 6200, Newport Beach, CA 92658  
Honorable Erithe Smith, 411 W. Fourth Street, Suite 5040, Santa Ana, CA 92701

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*) \_\_\_\_\_, 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.

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.

11/19/2014  
Date

Jennifer Phan  
Printed Name

/s/Jennifer Phan  
Signature