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6 Counsel for R. Todd Neilson, Chapter 7 Trustee  
7 for The Tulving Company, Inc.

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

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

13  
14 Debtor

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

Chapter 7

**STIPULATION REGARDING CLAIM 364-1  
AND CLAIM 365-1, FILED ON BEHALF OF  
STELLA SCHMIDT**

**[Relates to Dkt. No. 306]**

Date: January 21, 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 Chapter 7 Trustee (the “Trustee”) of The Tulving  
21 Company, Inc. (the “Debtor”) and Jerry Schmidt, son and authorized representative of claimant  
22 Stella Schmidt (deceased)(“Schmidt”), (and together with the Trustee, the “Parties”), by and through  
23 the undersigned, hereby stipulate and agree (the “Stipulation”) as follows:  
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**RECITALS**

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3 A. The Debtor was in the business of selling and purchasing gold, silver, coins, bullion,  
4 and other precious metals through its internet website or by phone. Prior to the filing of this  
5 bankruptcy case, customer complaints concerning delayed or undelivered orders were increasingly  
6 made to the Better Business Bureau against the Debtor. In early March 2014, a class action lawsuit  
7 was filed against the Debtor and its principal in the United States District Court for the Northern  
8 District of California. The Debtor ceased operations on or about March 3, 2014. Shortly before the  
9 commencement of its bankruptcy proceedings, Special Agents of the United States Secret Service  
10 executed a Search Warrant on the Debtor's offices on probable cause that the Debtor and its  
11 principal, Hannes Tulving, Jr., were engaged in fraud. The Search Warrant resulted in the seizure of  
12 the Debtor's property including computers, documents and valuable coins as part of an ongoing  
13 criminal investigation.

14 B. The Debtor commenced this case by the filing of a voluntary petition for relief under  
15 chapter 11 of the Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") on March 10,  
16 2014. In light of the pending criminal investigation and other ongoing litigation, on March 18, 2014,  
17 the United States Trustee (the "UST") filed a Stipulation Appointing Chapter 11 Trustee [Docket  
18 No. 15] ("Stipulation"), which both the Debtor and its attorney signed. The Court approved the  
19 Stipulation on March 18, 2014 [Docket No. 16]. On March 21, 2014, the Court entered an Order  
20 approving the UST's Application for the Appointment of a Chapter 11 Trustee, appointing R. Todd  
21 Neilson as Trustee of the Debtor's estate [Docket No. 22]. Thereafter, upon notice and hearing, the  
22 case was converted to a case under chapter 7 of the Bankruptcy Code. Mr. Neilson continues to  
23 serve as the Trustee [Docket No. 108].

24 C. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.  
25 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this matter is appropriate  
26 pursuant to 28 U.S.C. §§ 1408 and 1409.

27 D. On September 30, 2014, Schmidt filed proof of claim number 364-1 against the  
28 Debtor asserting a general unsecured claim in the amount of \$52,874.00 ("Claim Number 364-1").

1 E. On September 30, 2014, Schmidt filed proof of claim number 365-1 against the  
2 Debtor asserting a general unsecured claim in the amount of \$27,644.80 ("Claim Number 365-1").

3 F. On December 17, 2015, the Trustee filed an *Omnibus Motion for Order Disallowing*  
4 *Satisfied Claims*, of which Claim Number 365-1 was included(the "Motion") [Docket No. 306]. The  
5 amount asserted in Claim Number 365-1 is based upon amounts paid for the purchase of goods from  
6 the Debtor. The Debtor's books and records reflect that the goods sold by Debtor to Schmidt were  
7 shipped to her, thereby satisfying Claim 365-1. The Motion therefore seeks to disallow Claim 365-  
8 1.

9 G. During the first week of January, 2016 the undersigned conferred regarding the  
10 Motion, and came to an agreement regard to Claim Number 364-1 and Claim Number 365-1 as set  
11 forth herein.

12 **NOW, THEREFORE**, the Parties hereby stipulate and agree as follows:

- 13 1. Claim Number 365-1 is waived and withdrawn;
- 14 2. Claim Number 364-1 shall survive as a general unsecured claim in the amount of  
15 \$52,874.00; and
- 16 3. The Court shall retain jurisdiction to hear all disputes arising from this Stipulation.

17  
18 DATED: January 18, 2016

PACHULSKI STANG ZIEHL & JONES LLP

19  
20 By: /s/ Jason S. Pomerantz  
21 Richard M. Pachulski  
22 Jeffrey W. Dulberg  
23 Jason S. Pomerantz

24 Attorneys for R. Todd Neilson, Chapter 7 Trustee for  
25 TheTulving Company, Inc.

26 DATED: January 13, 2016

27 By: Jerry Schmidt  
28 Jerry Schmidt (son of Stella Schmidt)

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

## 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, 13<sup>th</sup> Floor, Los Angeles, California 90067**

A true and correct copy of the foregoing document entitled (*specify* **STIPULATION REGARDING CLAIM 364-1 AND CLAIM 365-1, FILED ON BEHALF OF STELLA SCHMIDT**) 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 19, 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 19, 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.

Jerry Schmidt, Power of Attorney for Stella Schmidt  
Stella Schmidt  
21727 E. 1010 Road  
Arapaho, OK 73620

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 19, 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 19, 2016**

*Date*

**MYRA KULICK**

*Printed Name*

**/s/ Myra Kulick**

*Signature*

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

- Wesley H Avery wamiracle6@yahoo.com, wavery@rpmlaw.com
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**2. SERVED BY UNITED STATES MAIL:**

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