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3 Telephone: 310-277-6910  
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6 Proposed Counsel for R. Todd Neilson, Chapter 11  
Trustee for The Tulving Company, Inc.

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

11 In re:

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

14 Debtor.

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

Chapter 11

**DECLARATION OF R. TODD NEILSON IN  
SUPPORT OF REPLY OF PACHULSKI  
STANG ZIEHL & JONES LLP TO NOTICE  
OF OPPOSITION AND REQUEST FOR  
HEARING RE APPLICATION OF THE  
CHAPTER 11 TRUSTEE FOR THE TULVING  
COMPANY, INC., FOR ORDER APPROVING  
EMPLOYMENT OF PACHULSKI STANG  
ZIEHL & JONES LLP AS GENERAL  
BANKRUPTCY COUNSEL TO THE  
TRUSTEE *NUNC PRO TUNC* TO MARCH 25,  
2014**

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21 I, R. Todd Neilson, under penalty of perjury, depose and say:

22 1. I am a director of Berkeley Research Group, LLC (“BRG”) and am the duly  
23 appointed chapter 11 trustee (“Trustee”) in the above-captioned case. I make this Declaration on  
24 facts within my personal knowledge (albeit my own or that gathered by professionals rendering  
25 services to me), or as a result of having reviewed the court filed in this case. If called upon, I can  
26 and will competently testify to the facts stated herein.

27 2. I make this declaration in support of the *Reply of Pachulski Stang Ziehl & Jones LLP*  
28 *To Notice Of Opposition And Request For Hearing Re Application Of The Chapter 11 Trustee For*

1 *The Tulving Company, Inc., For Order Approving Employment Of Pachulski Stang Ziehl & Jones*  
2 *LLP As General Bankruptcy Counsel To The Trustee Nunc Pro Tunc To March 25, 2014* (the  
3 “Reply”) filed with this Court on April 15, 2014 as Docket No. 48.

4 3. I have acted as a Bankruptcy Trustee since 1987 and I have never had an objection  
5 filed in a Bankruptcy matter which required a hearing solely under the premise that a firm's fees  
6 were prospectively too high.

7 4. Shortly after my appointment, I contacted a few law firms in the Los Angeles area  
8 discussing possible employment as Trustee's legal counsel. Upon describing the circumstances  
9 surrounding this case as well as the lack of any available funds, I was politely turned down. It was  
10 only after asking Mr. Richard Pachulski to accept the employment based upon our past friendship  
11 and long history of prior successful cases was I able to secure the agreement of Mr. Pachulski to  
12 accept the appointment as my legal counsel.

13 5. This case will be very difficult to administer. There are numerous unsophisticated  
14 creditors, many of whom have lost their life savings in what appears to be a substantial fraud. It will  
15 require all of the experience which I have been acquired over the past 37 years to avoid completely  
16 draining the estate of funds to provide the creditors with a distribution. In order to limit the costs in  
17 this matter I will need the advice and experience of a firm like the Pachulski firm, not a low cost  
18 firm unfamiliar with the complexities of the Bankruptcy system.

19 6. I have been in contact with the Department of Justice ("DOJ") based in North  
20 Carolina which is responsible for the ongoing investigation of the Tulving Company and Mr.  
21 Tulving. The DOJ has seized all the assets of the Debtor as well as all computers and servers. I am  
22 handling a significant portion of that work without the participation of counsel in order to limit costs  
23 to the estate. I am hopeful, based on my prior law enforcement experience, to join with the DOJ, as  
24 far as reasonably possible in light of the secret nature of grand jury proceedings, in minimizing the  
25 duplication of our work.

26 7. The Courts have always been respectful of the wishes of Chapter 11 Trustees to  
27 engage the professional firms which they believe, in their experience, are best suited for the estate. I  
28 should be afforded that privilege.

1           8.       The most appropriate forum for an objection of this nature is when, and if, I am able  
2 to file an application for payment of fees to the professionals, including the Pachulski firm. It is at  
3 that time that the objection should be addressed not prior to the firm even being engaged. If there is  
4 a good faith objection to the fees based upon the rates being charged, the Pachulski firm as well as  
5 other professionals, will be able to address the concerns of the creditors at that time.

6           9.       It is ironic that we are being asked to expend thousands of dollars to attend a hearing,  
7 which I believe was not filed in good faith, all in order to save costs of administration. I believe  
8 such efforts are counterproductive.

9  
10       April 16, 2014



R. Todd Neilson

**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 **DECLARATION OF R. TODD NEILSON IN SUPPORT OF REPLY OF PACHULSKI STANG ZIEHL & JONES LLP TO NOTICE OF OPPOSITION AND REQUEST FOR HEARING RE: APPLICATION OF THE CHAPTER 11 TRUSTEE FOR THE TULVING COMPANY, INC., FOR ORDER APPROVING EMPLOYMENT OF PACHULSKI STANG ZIEHL & JONES LLP AS GENERAL BANKRUPTCY COUNSEL TO THE TRUSTEE NUNC PRO TUNC TO MARCH 25, 2014** 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 April 16, 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:

Service information continued on attached page

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

On April 16, 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.

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 April 16, 2014, 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 / Courtroom 5A  
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.

April 16, 2014

Janice G. Washington

*/s/ Janice G. Washington*

1                      *Date*    *Printed Name*    *Signature*

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

3     **8:14-bk-11492-ES Notice will be electronically mailed to:**

4     Andrew S Bisom on behalf of Debtor The Tulving Company Inc  
5     abisom@bisomlaw.com

6     Candice Bryner on behalf of Interested Party Candice Bryner  
7     candice@brynerlaw.com

8     Stephen L Burton on behalf of Attorney Stephen L. Burton  
9     steveburtonlaw@aol.com

10    Linda F Cantor, ESQ on behalf of Trustee R. Todd Neilson (TR)  
11    lcantor@pszjlaw.com, lcantor@pszjlaw.com

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

14    Lawrence J Hilton on behalf of Creditor Jeffrey Roth  
15    lhilton@oneil-llp.com, ssimmons@oneil-llp.com;kdonahue@oneil-llp.com

16    Matthew B Learned on behalf of Interested Party Courtesy NEF  
17    bknotice@mccarthyholthus.com

18    Elizabeth A Lossing on behalf of U.S. Trustee United States Trustee (SA)  
19    elizabeth.lossing@usdoj.gov

20    R. Todd Neilson (TR)  
21    tneilson@brg-expert.com, sgreenan@brg-expert.com;tneilson@ecf.epiqsystems.com;ntroszak@brg-  
22    expert.com

23    Gary A Pemberton on behalf of Interested Party Courtesy NEF  
24    gpemberton@shbllp.com, tlenz@shbllp.com

25    Robert J Pfister on behalf of Interested Party Courtesy NEF  
26    rpfister@ktbslaw.com

27    Michael B Reynolds on behalf of Interested Party Courtesy NEF  
28    mreynolds@swlaw.com, kcollins@swlaw.com

29    United States Trustee (SA)  
30    ustpreion16.sa.ecf@usdoj.gov

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

32    *Debtor*  
33    **The Tulving Company Inc**  
34    P.O. Box 6200  
35    Newport Beach, CA 92658

36    *Counsel for Debtor*  
37    **Andrew S Bisom**  
38    The Bisom Law Group