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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 California
13 corporation,

14 Debtor.

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

Chapter 11

**NOTICE OF MOTION OF THE CHAPTER
11 TRUSTEE FOR ORDER AUTHORIZING
(1) REJECTION OF NON-RESIDENTIAL
REAL PROPERTY LEASE LOCATED IN
COSTA MESA, CALIFORNIA, AND (2)
ABANDONMENT OF REMAINING
PERSONAL PROPERTY PURSUANT TO 11
U.S.C. §§ 365 AND 554**

[No Hearing Required Per L.B.R. 9013-1(O)]

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19 **TO: THE HONORABLE ERITHE A. SMITH, UNITED STATES BANKRUPTCY
20 JUDGE; THE DEBTOR AND ITS COUNSEL, THE LANDLORD, THE OFFICE OF
21 THE UNITED STATES TRUSTEE; CREDITORS AND OTHER PARTIES IN
INTEREST REQUESTING SPECIAL NOTICE:**

22 **PLEASE TAKE NOTICE** that R. Todd Neilson, the duly appointed chapter 11 trustee (the
23 “Trustee”) in the above-captioned bankruptcy case of The Tulving Company (the “Debtor”), has
24 filed a motion with the Bankruptcy Court (the “Motion”) requesting that the Court enter an order
25 authorizing and approving the rejection of that certain non-residential real property lease, dated
26 January 1, 2011, between the Debtor, as tenant, and Levon Gugasian, as landlord (the “Landlord”),
27 for the premises (the “Leased Premises”) located at 150 West 17th Street, Unit A, Costa Mesa,
28 California (the “Lease”), with said rejection being effective (the “Rejection Effective Date”) as of

1 the earlier of: (a) the date that the Trustee turns over the keys to the Landlord, or (b) May 20, 2014;
2 and (2) the abandonment of any personal property (the “Remaining Personal Property”) belonging to
3 the Debtor remaining at the Leased Premises as of the Rejection Effective Date, with the
4 abandonment being effective as of the Rejection Effective Date.

5 The grounds for the Motion are that the Debtor no longer occupies or uses the Leased
6 Premises and the Trustee has no need for the Lease in the administration of the estate. Based on his
7 review, the Trustee does not believe that the Lease has any value to the estate and, in fact, believes
8 that the Lease is burdensome to the estate. In order to minimize any further administrative rent
9 obligations of the Debtor’s chapter 11 estate and to maximize the estate for the creditors, the Trustee
10 has determined that rejection of the Lease is in the best interest of the estate.

11 **PLEASE TAKE FURTHER NOTICE** that the Trustee, by no later than the Rejection
12 Effective Date, will have removed all personal property of any value to the estate from the Leased
13 Premises. The personal property that remains at the Leased Premises after such removal will be *de*
14 *minimis*. To the extent there may be any other Remaining Personal Property, it will be of no value to
15 the chapter 11 estate. The cost of removing, storing and marketing the Remaining Personal Property
16 would significantly outweigh the value of that property therefore, the Remaining Personal Property
17 is burdensome to the estate and should be abandoned effective as of the Rejection Effective Date.

18 **PLEASE TAKE FURTHER NOTICE** that the Motion is based on and supported by this
19 Notice of Motion, the concurrently filed Motion with accompanying Memorandum of Points and
20 Authorities and Declaration of R. Todd Neilson in Support thereof (collectively, the “Motion
21 Pleadings”), as well as the arguments of counsel, and other admissible evidence properly brought
22 before the Court at or before any hearing on this Motion. If you wish to receive a copy of the
23 Motion Pleadings, please contact the office of proposed counsel for the Trustee, attn.: Patricia
24 Jefferies by phone at (310) 277-6910 or by e-mail at pjeffries@pszjlaw.com.

25 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule 9013-1(o)
26 any responses or objections to approval of the Motion by the Court must be filed with the Court and
27 served on counsel to the Trustee within 14 days of service of this Notice. If no objections or other
28 responses are timely received, the Trustee will submit a proposed order under certification of

1 counsel requesting approval of the Motion without the need of a hearing. In the event there is an
2 objection or other response contesting the entry of an order approving the Motion, the Trustee will
3 schedule a hearing subject to the Court's availability and file a separate notice of such hearing date
4 and time.

5 **PLEASE TAKE FURTHER NOTICE** that the failure to timely respond in the manner set
6 forth above by the dates indicated above may result in the Court approving the Motion or refusing to
7 consider any late-filed response or opposition.

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9 Dated: May 6, 2014

PACHULSKI STANG ZIEHL & JONES LLP

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11 By: /s/ Linda F. Cantor

Linda F. Cantor (SBN 153872)

12 Proposed Attorneys for R. Todd Neilson, Chapter
13 11 Trustee
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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 **NOTICE OF MOTION OF THE CHAPTER 11 TRUSTEE FOR ORDER AUTHORIZING (1) REJECTION OF NON-RESIDENTIAL REAL PROPERTY LEASE LOCATED IN COSTA MESA, CALIFORNIA, AND (2) ABANDONMENT OF REMAINING PERSONAL PROPERTY PURSUANT TO 11 U.S.C. §§ 365 AND 554** 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 6, 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 May 6, 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 May 6, 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.

May 6, 2014

Date

Janice G. Washington

Printed Name

/s/ Janice G. Washington

Signature

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

2 **8:14-bk-11492-ES Notice will be electronically mailed to:**

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

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

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

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

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

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

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

17 John H Kim on behalf of Interested Party Courtesy NEF
18 jkim@cookseylaw.com

19 Matthew B Learned on behalf of Interested Party Courtesy NEF
20 bknotice@mccarthyholthus.com

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

23 R. Todd Neilson (TR)
24 tneilson@brg-expert.com, sgreenan@brg-expert.com; tneilson@ecf.epiqsystems.com; ntroszak@brg-expert.com

25 Gary A Pemberton on behalf of Interested Party Courtesy NEF
26 gpemberton@shbllp.com, hdillion@shbllp.com; tlenz@shbllp.com

27 Robert J Pfister on behalf of Interested Party Courtesy NEF
28 rpfister@ktbslaw.com

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

United States Trustee (SA)
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