

### THIS WEEK

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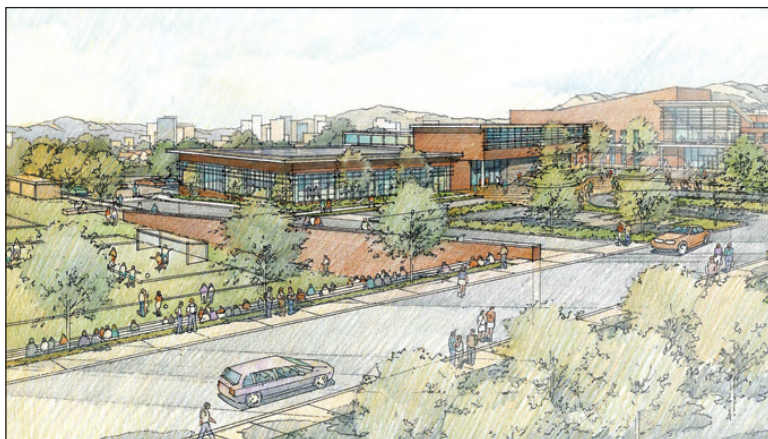
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## Rowland Hall to embark on \$75 million school expansion



Artist's conception of the new gymnasium complex that will be part of a larger campus development on Sunnyside Avenue.

**By Barbara Rattle**  
*The Enterprise*

Salt Lake City private school Rowland Hall is moving forward with a \$75 million expansion.

The 145-year-old institution has purchased 13.2 acres just west of its existing McCarthy Campus at 720 S. Guardsman Way and hopes to begin construction in March on the first of three construction phases that eventually will see the construction of new Middle and Upper schools.

The land purchase was made possible by the largest gift in the school's history, from the Steiner Family Foundation, in addition to gifts from the Ruth Eleanor Bamberger and John Ernest

Bamberger Memorial Foundation and Bob and Wendy Steiner. The new campus will bear the Steiner name.

Global architectural firm EHDD, San Francisco, is designing the new campus. There will probably be several general contractors. Construction project manager is Construction Control Corp., Salt Lake City, which oversaw the creation of Rowland Hall's McCarthy campus a decade ago.

The Salt Lake City Planning Commission unanimously approved Rowland Hall's new campus master plan at its Aug. 22 meeting. The project's first

see ROWLAND page 2

## Midvale-based mediaFORGE to be sold to New York company

Rakuten LinkShare Corp., New York City, has entered into a definitive agreement to acquire mediaFORGE, a Midvale-based display media company with 2011 revenues of \$5.5 million and 50 employees.

Terms were not disclosed.

Rakuten LinkShare is acquiring mediaFORGE to add to its portfolio of affiliate marketing, search marketing and lead generation services and solutions. The company is expanding its offerings through the mediaFORGE acquisition to help online retailers drive multi-channel, integrated campaigns. mediaFORGE will retain all its employees, as well as its name, and continue to be based in Utah. The deal is expected to close later this year.

**mediaFORGE**

mediaFORGE bills itself as the only display advertising and retargeting company that bases its business model on consumer engagement, aligning its goals with advertisers' goals by using a metric that increases site conversions. As a result, clients get highly detailed analytics capabilities that offer online retailers and other companies a tool for discovering actionable insights to achieve online marketing objectives.

Rakuten LinkShare's global network will enable mediaFORGE to accelerate its expansion and reach throughout the U.S., Canada,

see MEDIAFORGE page 2

## Digital interviewing firm closes on \$22 million round of funding

HireVue Inc., a Draper-based on-demand digital interviewing platform provider, has closed \$22 million in funding, including a \$17 million Series C equity round led by Investor Growth Capital and an expansion of the company's debt facility. Granite Ventures, which led HireVue's previous round; Peterson Ventures, which led HireVue's A-round; new investors Rose Park Advisors; and the law firm of Wilson, Sonsini, Goodrich and Rosati also supported this round.

Fueled by the emergence of social and mobile recruiting, many companies now receive more than 100 applicants for a given position, and 68 percent of employers report that more than half of those candidates are not qualified for the job, according to the Talent Board's Candidate Experience Report.

To streamline their hiring processes, more than 10 percent of Fortune 100 companies currently use the HireVue on-demand digi-



tal interview platform, and have reported an improved and more convenient experience for their candidates while being able to screen exponentially more people in less time. Qualified candidates respond to interview questions at their own convenience from a computer, tablet or smartphone, and employers can then watch interview responses anytime, anywhere. Since responses are captured digitally, they can be objectively compared, rated and shared with other members of the hiring team.

In previous rounds, the HireVue raised a total of \$6 million. The firm currently employs more than 60 professionals and provides its services to more than 300 companies, including Walmart, Nike, Starbucks, Dunkin' Donuts and others. *see HIREVUE page 2*

## Former head of AFCU receives highest award in credit union industry

Rick Craig, just retired as president and chief executive officer of America First Credit Union, based in Riverdale, has earned the highest award in the credit union industry.

Craig has won the 2013 Herb Wegner Memorial Award for Lifetime Achievement from the National Credit Union Foundation (NCUF). The awards are named in honor of the late Credit Union National Association CEO Herb Wegner and "recognize his spirit of innovative, creative, risk-taking leadership."

"Rick Craig has guided our credit union with tremendous innovation, insight and expertise," said Linda Carver, chair of the America First board of directors. "That is certainly validated by this prestigious award. Rick is one of only two dozen credit union leaders in history to receive this honor and the only Utahn ever presented with such recognition."

Bob Schumacher, NCUF awards and recognition chairman, said the award is for a lifetime of

hands-on work in the credit union movement of people helping people. "No matter if it's teaching at Western CUNA Management School, fighting for credit unions in the Utah state legislature, on Capitol Hill in Washington, D.C., or serving on countless local, state or national organizations that make a difference, Rick is there in full force."

Craig retired Sept. 1 after 38 years of service. While serving as America First's president, the credit union's assets grew from \$1.2 billion to \$5.5 billion and membership grew more than 360,000. America First now has 103 branches and is the 12th largest credit union in assets in the United States and is the seventh-largest credit union in membership, with more than 579,000 members.

Craig also was instrumental in engaging credit unions in the political arena. Through his leadership, America First modeled a form of public and government

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**CRAIG**

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advocacy that many in the industry would follow. America First was recognized in 2007 by the *Credit Union Times* as having the most Outstanding Political Action Program in the country.

Craig has held leadership positions at the local, state and national levels. He served many years on the Utah Credit Union Association board of directors and was appointed by Utah's governor as a member of the Board of Credit Union Advisors. He has been a director of the Credit Union Executives Society (CUES) and was chairman in 1995. In 1996, he was inducted into the CUES Hall of Fame and was selected as the CUES Executive of the Year in 2004.

**MEDIAFORGE**

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the U.K. and Japan.

Advertisers searching for additional ways to drive sales using the cost-per-action (CPA) model will find the two companies aligned when it comes to pricing, said Yaz Iida, CEO of Rakuten LinkShare. The media-FORGE pricing model is based on conversions attributed to consumer engagement while Rakuten LinkShare affiliate marketing has long been an industry leader in performance marketing.

Strong demand for display

related services have recently been reported as advertising industry revenues continue to climb. In April 2012, the IAB Internet Advertising Revenue Report found that 2011 display-related advertising revenues totaled \$11.1 billion, representing an increase of 15 percent over 2010.

Rakuten LinkShare provides e-commerce businesses with a pay-per-action marketing network, along consultative services and patented technology. Its clients are Fortune 500 and prominent companies doing business online, including J.C. Penney, 1-800-Flowers.com, American Express and Avon Products.

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**HIREVUE**

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Donuts, eBay, Nestle, GEICO and Dow Jones. The new investment capital will be focused on strategic investments in research and development, sales and marketing, client services and global expansion.

As the series leader, Investor Growth Capital is a global venture capital firm backed by Investor AB, with offices in Menlo Park, New York, Beijing and Stockholm. The firm manages an evergreen fund with more than 100 portfolio companies worldwide and assets exceeding \$1.5 billion.

Founded in 1916, Investor AB, the sole limited partner in IGC, is the largest listed industrial holding company in Northern Europe whose investments include AstraZeneca, Ericsson and NASDAQ OMX, among others.

Rose Park Advisors, a new investment partner for HireVue, is a specialized investment firm focused on identifying investment opportunities by applying the concept of disruptive innovation. Harvard Business School's Clayton Christensen, the *New York Times* best-selling author of *The Innovator's Dilemma* and architect of the disruptive innovation framework, founded the firm in 2007, along with his son Matt Christensen.

Granite Ventures and Peterson Ventures both participated in HireVue's previous funding rounds. Granite Ventures is largely focused on funding early-stage technology companies. Based in Salt Lake City, Peterson Ventures has invested in many successful companies, including JetBlue, Asurion and Instashred. Also contributing to this round is Robin Ferracone, CEO of Farient Advisors, a leading independent executive compensation and performance consulting firm. Ferracone is a veteran HR executive and the former president of Mercer Consulting's HR practice.

**ROWLAND**

from page 1

phase will consist of site work on the entire 13-acre parcel as well as the construction of a soccer field and practice field, said Ken Ament, president and owner of Construction Control. Rowland Hall has determined that Phase I work can't begin until \$6 million is in hand; \$1.9 million remains to be raised, according to Susan Koles, the school's director of marketing.

The 70 x 110-yard varsity soccer field will have amphitheater seating adjacent to a practice soccer field.

The second phase will consist of two gymnasiums. The 11,000 square foot new main gym will be 3,000 square feet larger than the McCarthy campus' current gym and will have retractable seating for 420 spectators plus an upper story indoor track. A practice gym will have seating for 150 spectators.

The final phase will see construction of the new Middle and Upper schools. Included in the overall project will be a new cafeteria, library, administrative offices, technology/media labs and performance arts center. LEED-certified buildings will be pursued.

Rowland Hall, Utah's oldest coed college prep school, serves 1,000 students, from preschool to grade 12, at two urban campuses. The other campus, at 843 Lincoln St., Salt Lake City, is challenged by limited space and, according to the school's website, eventually will be sold.

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## State official: Utah doesn't deserve Scam Central title

By Brice Wallace

The Enterprise

The leader of the Utah Department of Commerce does not believe Utah deserves the title of Scam Central.

Francine Giani, executive director of that agency, said recently that she rejects the notion that Utah's scam rates outdistance those of other states. While Utah did have a problem with penny stock scams in the 1980s and Utah does have a large affinity group in the form of The Church of Jesus Christ of Latter-day Saints, Giani said she has discovered during trips that other places and groups have similar woes.

"What I've found over the years is that, boy, the scammer doesn't care if they reach into the pocket of their own [acquaintances]," Giani said while addressing a Salt Lake Rotary luncheon crowd. "So if you're in a group or someone wants to talk to you about a deal, a business, just hang onto your wallets, especially if it's in an ecclesiastical setting. We would ask you to do some research because even though that person may be someone who you may know, may be someone who is close to you, it could be someone who is trying to rip you off. It may be a member of your ecclesiastical affiliation, so I reject that it's just Utah. It's across the country, with different groups of people. We just have the LDS population, which is a bigger group."

Giani showed products and described services that have been nailed as scams in recent years in Utah. A "satellite dish" cost \$500 but was only a 6-inch dish and a set of

"rabbit ears." A "laundry ball" costing up to \$90 was promoted as eliminating the need for detergent because it would "beat" clothing clean. It did not work, nor did a formula sold to many Utahns as a breast-enhancer.

Among scamming services was a church's basement homeless shelter, but the homeless had to work as telemarketers in order to stay; a credit counseling service that ultimately left victims with more debt and worse credit scores; and a cabinetry business that took prepayments but never delivered the product, bilking one of the 21 victims to the tune of \$117,000.

"Now, I would love to see a day when my job was no longer necessary. And that could only happen if potential victims — all of us — start to keep their eyes open, no matter how close to home the opportunity seems. ... An educated consumer is the best kind of consumer," she said.

Ponzi schemes and multilevel marketing (MLM) scams do seem to abound in Utah.

"There is nothing more troubling in my career than when I learn about countless victims losing their life savings, their retirements, their homes, to a Ponzi scheme. Unfortunately, jail time for the scammer rarely brings anything back to the victims," Giani said.

As for MLMs, "there's very little governance over multilevel marketing, and Utah is a hotbed for it," she said. "Misrepresentation [in the sales process] certainly is something we can pursue, and we have."

## Bus company to construct new and larger quarters in North Salt Lake

Lewis Bus Group, a Salt Lake City firm that sells and maintains school buses and commercial shuttle buses, plans to break ground this month for a new and larger facility in North Salt Lake.

Company president and owner Steve Lewis said the new facility will be 14,000 square feet and contain six service bays on 2.1 acres at 1009 Recreation Way. Completion is slated for February, at which time three to four more employees will be added to an existing staff of 13.

"We're ready for that many people and wish we could accommodate them today," Lewis said. The company is currently located at 1260 S. 500 W. The expansion will be financed through U.S. Bank.

### Bashford is new president of Leavitt's SLC office

David Bashford has been named president and managing principal of the Salt Lake City office (formerly Grant-Hatch & Associates) of The Leavitt Group, which bills itself as the second largest privately held insurance brokerage in the country.

With more than 20 years in the insurance industry, Bashford has experience in property and casualty, employee benefits and retirement plans, with an emphasis on large and middle market accounts. Prior to joining the Leavitt Group, Bashford worked as the chief operating officer and general counsel for Van Gilder, a large commercial insurance and employee benefit broker in

Lewis Bus Group began business as an offshoot of local Lewis Brothers Stages and became independent in 2003. It sells school buses in Utah and Wyoming and commercial shuttle buses in six western states. Among its shuttle bus clients are Diamond Parking and Park 'N Jet, in addition to the University of Utah, which bought virtually all its shuttle buses from Lewis Bus Group, which continues to maintain the fleet.

Lewis said business has been good — especially on the maintenance side — and the firm hopes to expand into recreational vehicle maintenance at the new location, which will be situated next door to the Pony Express RV Resort.

the Rocky Mountain region. Bashford received his undergraduate degree from Brigham Young University and his law degree from the University of Denver.

The Leavitt Group has 115 offices across the United States.

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## Building blocks

By Ronald Dunn

The imagination of children playing in a sandbox is magical. Your sandbox may have been a carefully selected plot of dirt in your backyard. As children, we created, built, stacked and leaned material in a carefully selected arrangement. Kids play alone or with friends to make their projects unique and different each time. In many cases gathering additional materials from the garage or other household items is necessary to add the final touches to their creations. Children are also quick to observe why things don't work, don't stand up or how easily they are impacted by outside influences such as the yard sprinklers. They learn and get better each and every time they create their masterpieces.

For some, a sandbox or a patch of dirt may not have been the setting, but rather a room full of blocks, an erector set, a unique dollhouse design or even the limitless possibilities of a pencil and paper. We all have, at one time or another, spent time creating something.

To a structural engineer, our sandbox just got a whole lot bigger! The imagination of a child continues to be our imagination as adults. We get to make things stand up, to make things tall, span great lengths, withstand outside forces and look cool! We are able to wake up in the morning and go out and see what we have done. We can experience the tangibility of what we do. We show our friends and children our creations. Like children, we too can become better each time we do it. There was

never only one solution then, and so it is now.

We get to use all sorts of materials to accomplish these tasks, and it's amazing what different materials can do. Some materials are great in tension; some are really good in compression. A number of them are flexible, while others are stiff and brittle. Some materials are light and others are very heavy. Several are fairly inexpensive and some are not practical. Tremendous strides have taken place in material science, which gives the structural engineer many more options.

Math allows us to combine the properties of materials with identified loads to span distances, create volumes, support loads and withstand the forces of Mother Nature. Experience allows us to do this efficiently, economically, safely and in harmony with the other demands of the structure. Imagination allows us to be unlimited by our experience.

Look outside; it is amazing some of the accomplishments that structural engineers have achieved. Just imagine what progress the future holds if we as structural engineers share our knowledge and play in the sandbox with the next generation.

Ronald Dunn is the owner and founder of Dunn Associates Inc., a structural engineering firm in Salt Lake City. Since founding Dunn Associates in 1995, he has been directly responsible for structural designs as well as supervising a large staff of professional engineers.

## Businesses urged to join Foothill Cultural District

By Brice Wallace

The Enterprise

Hotels, restaurants and other businesses will be able to expand their marketing reach next year when the Foothill Cultural District implements a new membership tier.

Speaking at a weekly luncheon of the Rotary Club of Salt Lake City, Brad Parkin, the district's president, said the Community Corporate Partner membership level will be put in place in 2013. It will allow "those organizations such as restaurants or hotels or shopping centers that would like to join and benefit from all the marketing that we do within the district," he said. "We don't have a member of that level yet, but we hope to have more by the time next August gets here."

The district's attractions include the Fort Douglas Military Museum, Red Butte Garden, This Is The Place Heritage Park, Olympic Cauldron Park, Utah Museum of Fine Arts, Natural History Museum of Utah, Utah's Hogle Zoo and the University Guest House. The district works to boost awareness and overall visitation of the attractions by using the combined marketing resources of its members.

In addition to its full membership, the district recently added a secondary level called the Community Cultural Partner. It is designed for attractions outside the district's boundaries "that share similar cultural values" to join at a limited partnership level with reduced membership dues, Parkin said. So far, Tracy Aviary is the only such partner.

"I'm personally very excited about this because it's going to allow us an opportunity to expand our reach beyond just the core area" of the district, he said.

Benefits for members of the new levels are promotion at the district's website, inclusion in promotional materials such as the district's popular brochure, inclusion in the district's social media,

having representation on the district boards, and participation in events and activities the district hosts during the year.

Many of the district's attractions are seeing visitorship boom. Parkin is associate director in charge of marketing services at the zoo, which is on track for a record-breaking year, he said. In June, about 214,000 visitors came through the gates, making it the busiest month in the zoo's history and putting it on a pace to attract more than 1 million visitors for only the third time ever.

Parkin hailed the district as containing "Utah's flagship destinations for natural and cultural heritage," with "fun, immersive and educational things to do, places to eat, explore, shop and even a place to stay." Some offer free admission and others have some free or discounted days during the year. "So it really is, for families, a great bargain," he said. "What a great collection. I don't use the words 'cultural jewels' lightly ... but it truly is, just within a short distance, these wonderful attractions, right at your fingertips."

The district's target audience is women living along the Wasatch Front and their children. A secondary audience is tourists and conventioners. "And by tourists, it's families that have moved away from the state but have come back often to visit family, and when they're looking for something to do, we've found that a lot of them consider attractions in the area," Parkin said. "Of course, we want them to consider the attractions up here, so we've made a concerted effort with our marketing efforts to attract those tourists and conventioners."

People visiting the University of Utah often swing over to the district, he said. "And especially since the university joined the PAC-12, there's been a lot of visitors — new visitors — from those states representing those schools in the PAC-12 and we're trying to capture them as well," he said.

The district was conceived as the Emigration Visitors District and originally had six members. It changed its name in 2005 to better describe the location and cultural distinction of its members. It has worked this year on creating a new brand image — its slogan is "Salt Lake's To-Do List" — and focusing its messaging. It has created a new logo, updated its website, developed and produced a new brochure, instituted seasonal promotions involving all members, enhanced social media engagement to create ongoing word-of-mouth, optimized Internet and search campaigns, and supported the new "Big Bus" sightseeing vehicle.

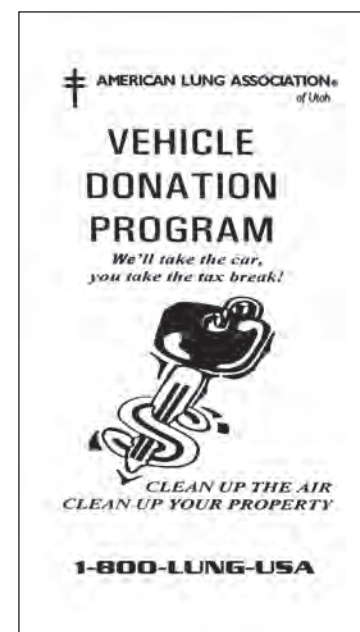
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# • Industry Briefs •

## COMMUNICATIONS

• **Veracity Networks**, Provo, celebrated its 25th anniversary in August. It is a telecommunications provider for residents and businesses. It began in 1987 as Off Campus Telecommunications and provided local and long-distance calling to off-campus student housing at Brigham Young University, Utah State University, Utah Valley State College and Southern Utah University. In the mid-1990s, the company integrated an ISP service, resulting in one of the first wireless networks in Provo to connect the off-campus housing complexes to the Internet. In 2002, the company changed its name to Veracity Communications and expanded its services to small businesses in Utah County. Two years later, Veracity became a Competitive Local Exchange Carrier (CLEC) and launched facilities-based services. Through another merger in 2009, Veracity Communications became Veracity Networks and began offering telecom services to both residential and commercial customers. The company began with two employees and now has more than 120 in Utah and Salt Lake counties.

## CONSTRUCTION

• **Sahara**, a design/build and construction management services company based in Bountiful, recently went live with a new, updated look on its corporate website, [www.sahara1.com](http://www.sahara1.com). Created by **Mighty Clever**, a full-service advertising agency based in Layton, the site uses vibrant colors and images and is designed for easy viewing on smartphones and tablets. Based in Davis County since 1985, Sahara designs and constructs commercial, institutional, retail and residential projects throughout the western U.S.

States Where Youth Rules.” North Dakota topped the list, which analyzed multiple economic and lifestyle factors to determine which states offer the best environment for young adults. The factors include employment for young people, insurance costs for young drivers, college costs, affordability of housing, youth-oriented retailing, nightlife, healthfulness, the state’s youthfulness and housing availability.

## ENVIRONMENT

• **Salt Lake Community College’s Green Academy** has completed Utah’s only solar photovoltaic training yard at the college’s Meadowbrook Campus, 250 W. 3900 S., Salt Lake City. The training yard is a resource for industry professionals and prospective technicians looking to accelerate their knowledge and skills through hands-on training and curriculum provided by North American Board of Certified Energy Practitioners (NABCEP)

certified instructors. The Green Academy is offered through the department of Continuing Education. The program offers workshops, courses, certificate and degree programs that are designed for industry-related professionals seeking career advancement or for individuals looking to enter one of the many renewable energy fields.

## EDUCATION/TRAINING

• The **Utah Educational Savings Plan (UESP) Trust** was ranked second in five-year composite performance rankings in Savingforcollege.com’s performance rankings of direct-sold 529 college savings programs. The Utah trust uses mostly the Vanguard Group Inc. funds. The website ranked plans in one-, three- and five-year performance. New York’s topped the list for one-year performance. Alaska topped the three-year list, while Florida topped the five-year list.

• The **University of Utah’s**

**Department of Geography**, with support from the College of Social and Behavioral Science, has achieved **United States Geospatial Intelligence Foundation (USGIF)** accreditation for its Geospatial Intelligence Certificate Program. It becomes the USGIF’s seventh accredited collegiate geospatial intelligence program. Collegiate geospatial intelligence certificate programs accredited by USGIF complement a variety of scientific disciplines and add value to undergraduate and graduate degrees.

• **Culture3** has become **World Trade Center Utah’s first official member**. The Utah-based company — founded by Scott Hammond, Danny Damron, and Christopher Liechty — offers training for organizations looking to succeed despite cultural barriers. Among the benefits of World Trade Center Utah membership are opportunities for exposure, admission to networking events

with other members, and access to the global network of World Trade Centers (more than 300 worldwide).

## FINANCE

• **Paige Pierce**, president and chief executive officer of **RW Smith**, is running for the Small Firm Seat on the **FINRA National Adjudicatory Council (NAC)**. FINRA is the largest independent regulator for all securities firms in the U.S., overseeing about 4,380 brokerage firms, about 162,800 branch offices and about 630,000 registered securities representatives. The NAC reviews initial decisions in FINRA disciplinary and membership proceedings and specifically handles appeals. Pierce needs 150 petitions signed by Sept. 16 to be entered on the ballot. After FINRA verifies the petitions, the election will be held, most likely at the end of September. Pierce serves on sev-

*continued on page 7*

Kennecott Utah Copper has an opening for a Reliability Engineer position in South Jordan, UT. Perform engineering duties in planning and designing mechanically functioning equipment, as well as oversee installation, operation, maintenance and repair of such equipment. Employer will accept a minimum of a Master’s degree in Mechanical Engineering or related field. Education or experience must include: 1) Weibull Analysis, B10 life, MTBF, MTTR; 2) failure modes and effects analysis, fault tree analysis, root cause analysis, single point failures; 3) process mapping, capability analysis, Pareto analysis; 4) Acceptance sampling, failure reporting; 5) material strength degradation systems; 6) project management (facilitating meetings and developing project plans); and 7) vibrations concepts (predictive maintenance). Any suitable combination of education, training, or experience is acceptable. Apply online at <http://www.riotinto.com/careers/> > Search and apply > Search and apply for current vacancies > Search for Job Number SAL001DM > Click Apply Online. Rio Tinto supports workforce diversity.

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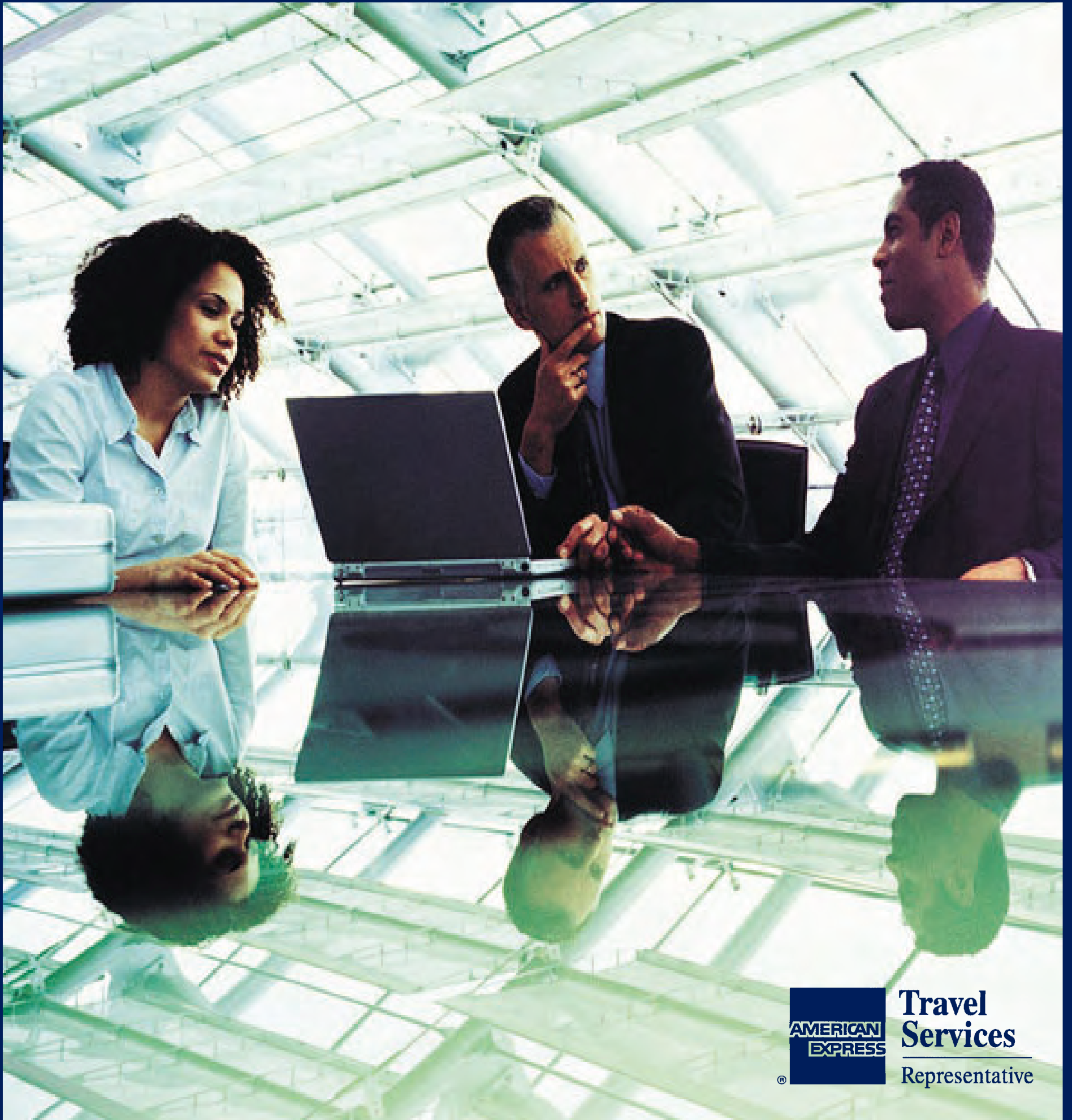
There was this very unique photo of a rescue that one of our flight team members had enlarged, it was such a striking photo that we decided to frame it and hang it in our reception area.

Because of the size, we used an old frame that we didn’t know what to do with – didn’t even know if it would work—Patty said she would take care of it. Turned out to be one of those things that stops you in your tracks when you see it!

I’ve been fortunate to work with the great people at Frame-it for more than twenty years, not only is their products top rate but their creativity and imagination is truly remarkable – they know what I want before I do—you just can’t beat that, thank you.

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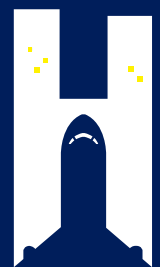
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from page 5

eral financial industry committees and currently is the network chair of the Utah chapter of the Young Presidents Organization.

**GOVERNMENT**

• **Jon Pierpont** has been appointed acting director of the **Utah Department of Workforce Services (DWS)** and former DWS director **Kristen Cox** has been named director of the newly established **Office of Management and Budget** by Gov. Gary Herbert. Pierpont has been deputy director of DWS. He has more than 20 years of public service experience with DWS and has played an important role in overseeing and participating in several agency initiatives. Pierpont served as the Eligibility Services Division director and the director of the department's largest service area, covering Salt Lake and Tooele counties, prior to being named deputy director in 2010.

• **Harvey Scott** has joined the **Governor's Office of Economic Development's (GOED) International Trade & Diplomacy office** as the new regional director for the Americas. He will work closely with both GOED and World Trade Center Utah. Scott has experience in manufacturing, supply chain management, mergers and acquisitions,

and international trade and development in Asia, Latin America, Europe, Middle East and Africa. He has direct experience in creating and implementing international expansion strategies, international supply chain strategies, and evaluating and negotiating partnerships and facilitating equity transactions for small and large corporations around the world.

• **Utah** was highly ranked in three categories in the 2011 Annual Survey of Public Employment & Payroll, a report from the **U.S. Census**. Utah was fourth among states seeing the largest increase in local government full-time-equivalent employees, with a 4.5 percent rise. Utah had the second-highest increase in full-time-equivalent state government employees, with a 4.3 percent increase, and had the largest percentage (18 percent) increase in part-time state government employees. Overall, the number of part-time U.S. state government employees grew 0.8 percent. Across the nation, state and local governments employed 16.4 million full-time-equivalent employees in 2011. That is down 1.4 percent from 2010. Most (8.9 million) worked in education, followed by those working in hospitals (964,381), police protection (923,951) and corrections (717,940). Local governments accounted for 12 million employees, down 204,781 from 2010.

**HEALTH CARE**

• The **Utah Health Care Association (UHCA)**, an advocacy group representing Utah's nursing and post-acute care home community, is celebrating the state's seniors for the 16th consecutive year in the **Mr. & Ms. Golden Years Pageant**. The pageant's contestants, all residents of long-term care facilities from across the state, range in age from the mid 60s to 90-plus years. The contest, themed "The Best is Yet to Come," celebrates the lives of Utah's aging population and promotes their continued quality of life. It will take place Sept. 11 at 8 a.m. in rooms 300 A through D at the South Towne Exposition Center, Sandy.

• In celebration of the production of 10,000 devices, **Aribex Inc.**, based in Orem, donated its 10,000<sup>th</sup> **NOMAD** handheld X-ray unit to the **Christian Medical & Dental Associations (CMDA)**. Based in Bristol, Tenn., CMDA centers much of its work on humanitarian outreach. CMDA will use the **NOMAD** as a diagnostic tool by dentists and dental students as part of its **Global Health Outreach** program. CMDA schedules 45 trips to 25 countries each year. In addition, CMDA helps train dentists in emerging nations, lectures at international dental schools and is developing a

ministry for disaster relief.

**MANUFACTURING**

• **ATK**, based in Arlington, Va., supported the successful Aug. 30 launch of a **United Launch Alliance Atlas V rocket** from Cape Canaveral Air Force Station in Florida. ATK's Clearfield facility fabricated the 10-foot-diameter composite heat shield that protected the first stage of the launch vehicle, using advanced fiber placement manufacturing techniques. The rocket launched the **Radiation Belt Storm Probes (RBSP)** mission for NASA. RBSP is designed to help understand the Sun's influence on Earth and near-Earth space by studying the Earth's radiation belts on various scales of space and time. It was the 32nd Atlas V launch using ATK-built composite structures.

• **Catheter Connections Inc.**, a Salt Lake City-based developer of disposable devices for preventing blood stream infections caused by vascular access devices, has entered into an exclusive distribution agreement with **Merit Medical Systems Inc.**, a South Jordan-based manufacturer and marketer of proprietary disposable devices used primarily in cardiology and radiology. Under the agreement, Catheter Connections can receive up to \$1 million in up-front payments and additional revenue from product sales for providing

Merit with rights to exclusively distribute Catheter Connection's proprietary disinfection technology in the fields of interventional radiology and interventional cardiology. Merit has exercised its option under the agreement to secure the exclusive right to distribute Catheter Connections' proprietary male luer disinfection technology.

• **Big Statues**, a custom bronze sculpting company based in Provo, collaborated with Diane Baker, owner of an animal shelter in Houma, La., on a six-foot sculpture that will be at the shelter in honor of Vietnam veterans and war dogs. The sculpture, by Matt Glenn, will display a soldier from the Vietnam War era in a flak jacket and combat boots kneeling next to his loyal dog, who stands with his ears perked and his tongue out. Big Statues previously worked with Baker in 2010 by sculpting three life-size bronze sculptures for a family memorial park.

**MEDIA/MARKETING**

• **BYUtv**, Brigham Young University's noncommercial television network, has launched **byutvsports.com**, an interactive high-definition website designed to combine social media interaction and gamification elements with the passion and commitment

*continued on page 10*

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# WHY YOU NEED A DOCUMENT MANAGEMENT SYSTEM



## Pete's Sharp Tips

Simply put, document management is the capture, storage and retrieval of documents. Every organization manages documents in one way or another, but for many, this process is not always done in the most efficient, secure way. This can lead to lost documents, wasted hours manually filing or searching for documents, and wasted office space.

So what is the alternative? You may want to consider using a Document Management System which can be used to capture and organize all of your important documents into electronic files that are easily retrievable. Unlike a filing cabinet, a Document Management System files your documents into electronic folders that can be indexed and searched by many criteria such as customer name, invoice number, etc.

### Key Benefits:

#### Reduced Storage Space & Printing Costs

For all businesses, there are many expenses associated with the creation and storage of paper files. The cost of printing the documents, furnishing filing cabinets, finding a place to store those filing cabinets, and finally...paying someone to file the documents. A Document Management System can greatly reduce these costs.

#### Easy Retrieval with Improved Indexing and Searching

With a Document Management System, less time is spent locating documents because they can be retrieved by a search in a matter of seconds without so much as leaving your desk! Paper-based documents are often lost, or misfiled - never to be seen again.

#### Improved Document Distribution, Internal Operations & Customer Satisfaction!

Digital Imaging makes it easy to share documents electronically with co-workers and clients via email, over a network, or over the web. Reduce response time by removing the typical delay associated with paper files such as filing, printing, sorting, folding, faxing and mailing. Doing this can improve workflow and give your organization a competitive edge!

#### Improved Security & Disaster Recovery

Document Management Systems also allow for more control over sensitive documents by determining an individual's ability to access, view, or modify a document. You can also easily back-up your important documents, providing fail-safe archives for effective disaster recovery. Your organization will be better protected from security breaches and disasters such as fires and floods.

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# Your sales voice. What is it saying to you and to others?

I was recently at Washburn University in Topeka, Kan., giving a seminar sponsored by Sales & Marketing Executives International. I had an informal logistics meeting with some of the association members before the event when Jamie, the young woman who directed me to my preparation room, talked to me about her career. I asked her what she was seeking to become.

Her response startled me. She said, "I'm still trying to find my voice."

I was taken aback because I expected some alternate career choice, or something along the lines of "make a lot of money," or "get a job in event planning." But no, she was seeking something much higher.

Jamie was seeking to gain control of her self and her power first, and find her career path second. We talked about "voice" for a while, and I began to type to capture the thoughts. What came out of the brief conversation will benefit you and your career, and help you understand who you are and who you seek to become.

Jamie was looking for her voice to come from something she believed in that would make her voice stronger, more resonant, more powerful and more believable.

How do you speak?

Not the just words, the voice that you project. Your voice is a statement and picture of your character, your poise and your persona. It's a statement of belief, confidence and personal power.

Where does your voice come from? How do you "find" it? And once you do, how do you master it?

BE AWARE: Your voice has nothing to do with your selling skills or your product knowledge. Your voice is way beyond that.

GOOD NEWS: You don't have to look far. Most of your voice is right at the tip of your tongue. The rest of it is mental and emotional.

ANSWER: It starts with your inner voice. It's the language you speak to yourself before you say a word.

Your voice becomes yours, and authentically yours, when you ...

- Do what you believe in.
- Do what you're passionate about.
- Work in your chosen field.
- Find your calling.
- Discover something you feel you were made or born to do.
- Do something you love.

EASY WAY TO START THE DISCOVERY: Write down the hobby or sport you love best, or the sporting event you go to because you love to see your team play and cheer them on.

My friend, Hall of Fame baseball player Dave Winfield, said it as simply and as completely as I have ever heard it: "I loved baseball and baseball loved me back."

Here are the elements of voice:

• You have decided to pursue your chosen path.

- You have belief in who you are.
- You have belief in what you do.
- You have a desire to succeed.
- You're personally prepared – attitude, enthusiasm, friendliness and ideas.

• You maintain self-confidence that comes from your heart, not from your head.

- Your enthusiasm is real.
- Your sincerity is evident.

• You're eager to master every

aspect of what you do.

- Your passion is contagious.
- Your moxie engages others.
- Your desire to improve is never-ending.
- You love what you do.

NOTE WELL: Your voice is not about how to make sales faster – your voice is how to make sales forever. For your voice to appear, you must possess all of these elements. Most people have a "weak" voice because they don't love what they do, or lack sincerity, or they don't fully believe in themselves, their company or their product.

SUCCESS ACTION: Go back to this list and rate yourself on a 1-10 basis. Ten being the best, your highest possible score is 130. My bet is you're 90 or below.

SUCCESS ACTION: Record your spoken voice once a week, and listen to it actively – which means take notes. By listening to yourself – arguably one of the toughest things on the planet to do – you will gain a true picture of where you are right now. Your jumping off point.

And for those of you living in the dark ages still trying to "find the pain" in your sales presentation, just record and listen to yourself – THAT'S the pain. The real pain of selling is listening to your voice trying to make a sale – it's also funny as hell.

You'll know your voice when you hear it. It will speak to you before you ever say a word.



**Jeffrey Gitomer**

Jeffrey Gitomer is the author of *The Sales Bible*, *Customer Satisfaction is Worthless*, *Customer Loyalty is Priceless*, *The Little Red Book of Selling*, *The Little Red Book of Sales Answers*, *The Little Black Book of Connections*, *The Little Gold Book of YES! Attitude*, *The Little Green Book of Getting Your Way*, *The Little Platinum Book of Cha-Ching*, *The Little Teal Book of Trust*, *The Little Book of Leadership*, and *Social BOOM!* His website, [www.gitomer.com](http://www.gitomer.com), will lead you to more information about training and seminars, or e-mail him personally at [salesman@gitomer.com](mailto:salesman@gitomer.com).

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## Looking at the new estate tax laws

With 2013 approaching, many families and their financial, tax and legal consultants are weighing major estate planning decisions. A short-term window of opportunity may be closing. The relatively low estate tax rates we have now may soon disappear, along with one of the largest federal tax breaks available in decades.

Estate taxes are at 80-year lows. At the end of 2010, Congress reset the estate, gift and generation-skipping tax (GST) rates at 35 percent and raised the lifetime federal gift, estate and GST tax exemptions to \$5,120,000 until Jan. 1, 2013. Some Capitol Hill legislators want to see these rates retained, even made permanent. Two other scenarios may be more likely.

In the first scenario, the Bush-era tax cuts expire at the end of 2012 and it becomes 2001 all over again: the lifetime estate and gift tax exemptions fall to \$1 million and estate taxes are reset to 55 percent (60 percent for some households).

In the second scenario, Congress makes good on President Obama's request to turn the clock back to 2009: estate taxes reset to a top rate of 45 percent with a \$3.5 million personal exemption. (The lifetime gift tax exemption would still fall to \$1 million.)

The current \$5.12 million personal exemption is portable between spouses. This represents a major tax break for wealthy families — an opportunity to transfer significantly greater amounts of wealth without triggering transfer taxes.

Currently, executors have an option to transfer an unused portion of a deceased spouse's \$5.12 million lifetime unified gift/estate/GST exemption to a surviving spouse. So with this new portability, a married couple can potentially transfer up to \$10.24 million of assets without incurring any federal estate tax. In 2013, this portability is scheduled to disappear.

Portability is not automatic. When the first spouse passes away, the executor of his or her estate must file a federal estate tax return even if no estate tax is owed. That move formally notifies the IRS that you are transferring the unused or partially used personal exemption to the surviving spouse. This estate tax return is due nine months after the death of the first spouse, with a six-month extension permissible.

If some planning needs to be done to bring the value of your taxable estate under \$5.12 million (or \$10.24 million), your executor could make donations to qualified charities or nonprofits on your behalf to lower the taxable value of your estate, although your heirs would consequently be left with less.

You can shrink your taxable estate without reducing the lifetime exemption. In 2012, the annual federal gift tax exclusion is set at \$13,000. So you (and your spouse) may gift up to \$13,000 each to an unlimited number of individuals in 2012 without

reducing your lifetime \$5.12 million gift/estate tax exemption. Those gifts can even be made as payments for school expenses (except housing costs) or medical bills.

Keep the \$13,000 annual exclusion limit in mind: in 2012, gifts in excess of \$13,000 per individual do cut into the \$5.12 million lifetime exemption dollar-for-dollar.

Even so, you still might want to make large gifts of appreciating assets this year. Why?

Here's an illustration: if you gift shares valued at \$52,000 to a relative, you will draw down your \$5.12 million lifetime gift/estate tax exemption by \$39,000 (\$52,000-\$13,000). Yet the future appreciation of these shares will not be included within your taxable estate. This year, you and your spouse can each give away up to \$5.12 million worth of appreciating assets without incurring federal gift taxes.

An ILIT may be worth a look. Death benefits from life insurance policies are rarely subject to federal tax. However, if you have any "incidents of ownership" (i.e., have or have had the ability to make beneficiary, payment, loan or cancellation decisions), the policy proceeds may end up in your taxable estate.

This problem tends to affect unmarried taxpayers most, though married couples may also face it. One response is to create an irrevocable life insurance trust (ILIT) — a trust that owns an individual or couple's life insurance policy/policies. Upon the death of the insured, the policy proceeds go into the trust rather than the insured's taxable estate. The proceeds can subsequently be directed to the named beneficiaries of the ILIT. Two asterisks here: you have to stay alive for at least three years after moving any existing life insurance policies into the ILIT to keep the insurance proceeds out of your estate, and you don't want to name the trust as the policy beneficiary as that negates the whole purpose of the ILIT.

It is time to carefully review your estate planning strategy in light of the potential changes ahead and the window of opportunity that may soon close. If you need a good estate planning attorney give my office a call and I can send you in the right direction.

Mark Lund is a portfolio management specialist, investor coach, speaker and author of *The Effective Investor*. To get a free consumer report, "9 Investor Mistakes that Kill Portfolio Performance" go to [www.StonecreekWealthAdvisors.com](http://www.StonecreekWealthAdvisors.com). Lund offers investment management services through Stonecreek Wealth Advisors Inc., an independent fee-only Registered Investment Advisor firm in Draper. He can be reached at (801) 545-0696.



Mark Lund

## Knowing the difference between garage-keepers coverage and garage liability insurance can save you

By Robert Mucci

It's a scenario no one who operates a garage wants to envision. An employee spills a flammable liquid or gasoline in the garage. A spark from an employee welding nearby ignites the liquid, burning a vehicle also in your garage. To make matters worse, a customer is injured vacating the building and a laptop and some golf clubs in the truck are destroyed.

What has been created is a liability perfect storm.

So now the question arises: Have you considered the difference between garage-keepers coverage and garage liability insurance, and if what you have is going to quell this liability storm?

While many may consider these policies to perform the same task, there is actually a *big* difference. But no matter the difference, in order to consider your business properly covered with garage insurance, it's crucial to have *both* policies.

So, what are the differences? According to the International Risk Management Institute, garage liability insurance is defined as "insurance covering the legal liability of franchised and non-franchised automobile, truck, truck-tractor, motorcycle, recreational vehicle, and trailer dealers for claims of bodily injury and property damage arising out of business operations."

This is the general liability policy that would respond to the claims associated with the *injured customer*. But, the general liability policy excludes coverage pertaining to any personal property that is in your care, custody or control. It does not matter whether this personal property is a vehicle or golf clubs owned by you or someone else.

On the other hand, it is the garage-keepers liability that covers the legal liability for vehicles in your care, custody and control. While a customer's vehicle is sitting in your shop, there is no telling what might happen to it. Garage-keepers coverage protects the customer's vehicle while you are keeping it on location for parking, storing or performing service. It will also provide protection for damages by fire, theft, collision or vandalism. But the catch is that the garage owner must have *some degree of negligence* associated with the claim.

Assume that in the aforementioned example it was lightning that ignited the fire. Since that is not the fault of the shop owner, generally they would not be liable for the loss, and the policy would not pay even though the vehicle is in their care. While at first glance this may seem unfortunate in that the garage owner is perceived to fend for themselves, remember, that the garage owner is not legally liable and therefore cannot be held liable in court.

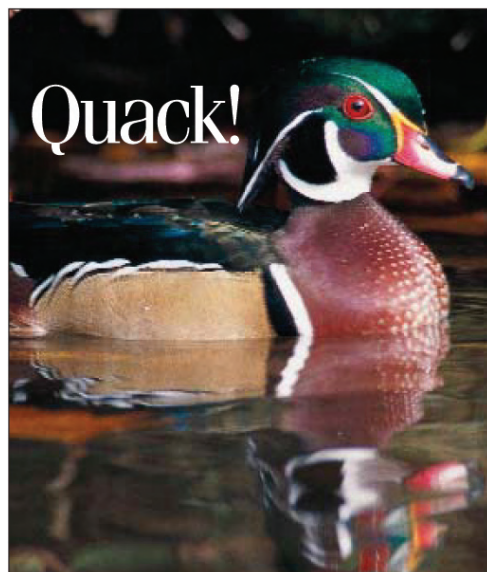
But whereas the source of the fire in this example rests with the *negligence of the employee* due to the flammable liquid spill, the resulting damage to the vehicle is covered by the garage-keepers policy.

OK, but what about the contents of the vehicle? The contents are not covered by the general liability because of the care, custody and control exclusion. It is also not covered by the garage-keepers policy because personal property is *not* a vehicle, and that's all that a garage-keepers policy covers: vehicles.

So how would the golf clubs and laptop have been covered? Simply through an endorsement to the policy which adds coverage for a customer's *personal property* while in the care of the shop owner.

Running a repair shop, valet service or garage isn't easy. The last thing you need is a claim that goes uncovered. So before you accept those keys or fix that car, be sure that your coverage is in good repair.

Robert Mucci of Wolpert Insurance Agency Inc. in Worcester, Mass. is a Certified Insurance Councilor, Accredited Advisor in Insurance, a MA Licensed Insurance Advisor, a Certified Master Workers Compensation Advisor and a former Certified Public Accountant with PwC and Bain & Co. Inc. He has more than 25 years experience in the insurance industry specializing in commercial risk strategies. He can be reached at (508) 459-4760 and [robert@wolpert.com](mailto:robert@wolpert.com).



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from page 7

of being a devoted spectator. The site allows users to live stream or access BYUtv's video-on-demand archive anywhere, anytime, on any device; interface with other social media platforms; and become virtual "players" and "commentators" on their favorite teams. Once registered, users can establish their own personal fan identities and site rankings, interacting with fellow BYU sports enthusiasts, providing their own live game commentary or post-game analysis and uploading photos and videos. Users will be able to stream live events or use the site's DVR capabilities. BYUtv's entire sports video archive will be accessible through byutvsports.com. Other elements allow users to design a personalized team jersey, create their own stat sheets, win achievement badges and be interviewed by BYUtv sports commentator Dave McCann. BYUtv is available to 50 million homes in the U.S. and on byutv.org.

### NONPROFIT

• Eight local chefs will use local food producers and artisans to raise funds for **Slow Food Utah's** programs during the eighth annual **Feast of Five Senses**, set for Sept. 16 at 5:30 p.m. at the Alta Club, 100 E. South Temple, Salt Lake City. Feast makers include Kassie Little

of Liberty Heights Fresh, Greg Neville of Lügano, Ethan Lappe of Café Niche, Nathan Powers of Bambara, Phelix Gardner of Finca, Brian Edwards of the Alta Club, Amber Billingsley of Vinto and Romina Rasmussen of Les Madeleines. Uinta Beer will offer pairings and Francis Fecteau of Libation LLC will be pairing a wine with each course. The cost is \$85 per person, with a \$35 optional wine pairing. Tickets are available at [www.slowfoodutah.org](http://www.slowfoodutah.org) or by mail to Slow Food Utah, P.O. Box 581213, Salt Lake City, UT 84158-1213. Seating is limited, so early reservations are recommended. The event allows Slow Food Utah, a nonprofit organization, to offer various programs and to fund their micro-grant program in order to fill gaps that they see in traditional funding sources for food-related projects, especially for small-scale food growers and producers, community innovators and educators. In past years, Slow Food Utah has funded schoolyard and community gardens, Utahns Against Hunger's Real Food Rising program and has helped small farmers build greenhouses and barns, purchase a tractor and expand their livestock operations. Sysco is also sponsoring this year's event.

• **PROVIDE**, a nonprofit group founded by Salt Lake City resident and Smithfield native **Kristopher Young** in 2007 and incorporated in

2010, recently won the "Volunteer Your Voice" photo contest held by **U.S. Translation Co.**, based in Salt Lake City. U.S. Translation will donate \$2,000 to **PROVIDE**, which has been involved in bringing clean drinking water, fresh fruits and vegetables, community centers and schools to Haiti since that country was hit by a magnitude 7.0 earthquake in January 2010. **PROVIDE** (Participatory Response Offering Vitality in Devastated Environments) has been alleviating injustice with marginalized communities ever since Young witnessed a glaring void between emergency relief and long-term development on a volunteer trip to Sri Lanka. Young says the money will go a long way towards projects in a school scheduled to start within the month and will be especially needed in the aftermath of Tropical Storm Isaac. Young's winning photo depicted him and seven Haitian children gathered under a tree at a local agricultural school that teaches traditional Haitian agriculture knowledge with modern techniques in agro-ecology and organic gardening. A second-place prize of \$500 was awarded to the **International Children's Surgical Foundation (ICSF)** on behalf of **Mingme Sum**, also a Salt Lake City resident. She volunteered in an operating room facilitating communication between the local Chinese

doctors and nurses at the hospital. Her photo submission was taken during the two-hour cleft palate surgery of an orphan who can now functionally eat because of the procedure. Privately held U.S. Translation Co. provides document translation services and full-service interpretation solutions in more than 100 languages for organizations around the world.

### REAL ESTATE

• **Salt Lake City** has the third-lowest operating expenses in commercial real estate city-markets, according to the **Building Owners and Managers Association (BOMA) International**, using results from the 2012 Experience Exchange Report. Salt Lake's total operating expenses were \$5.01 per square foot, behind only Jackson, Miss. (\$4.71) and Fresno, Calif. (\$4.78). The report, which compiled a list of the most and least expensive commercial real estate city-markets in the United States, aggregated rental income and operating expense figures from the previous year. In 2011, data was gathered from more than 5,400 buildings across 125 markets. The most expensive city market was New York City. It also was the most expensive for total rental income. The least expensive was Shreveport, La.

### RETAIL

• **VideoIQ**, a video surveillance solutions company based in Massachusetts, has appointed **Daryn Drulias** to director of sales, Southwest, which includes Utah. He will be responsible for developing partner relationships and generating new sales in the region. Most recently, he was senior director of sales for Western North America for Avigilon and has held similar sales roles at other companies.

• The **iTikes Discover Tour** will visit the Utah State Fair in Salt Lake City on Sept. 13-15 as **Little Tikes** marks the release of iTikes, a line of interactive pre-school toys. The tour includes "have fun while you learn" activities for the family, including a 10-foot musical keyboard where kids can learn music theory, sight reading and pitch training; a 17-foot inflatable microscope through which families can learn about plants, fibers and insects; an interior terrain for exploration and discovery; and a photo booth.

• **UpgradeUSA**, a privately held online computer leasing company based in Texas, has expanded the availability of its laptop payment plans to customers in 23 more states, including Utah. That brings the program's total reach to more than half of the country. It previously limited payment plan services to customers in four

*continued on page 17*

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\*APY=Annual Percentage Yield. Minimum to open Kasasa Cash account is \$100. APYs are accurate as of 04/02/2012. Balances up to \$25,000 receive an APY of 2.15% if qualifications are met each qualification cycle on Kasasa Cash. Balances above \$25,000 receive an interest rate of 0.50% on the portion of the balance above \$25,000 if qualifications are met each qualification cycle on Kasasa Cash. As a result, the APY for balances above \$25,000 will range from 2.15% - 0.83% if qualifications are met each qualification cycle on Kasasa Cash, depending on the balance in the account. If qualifications are not met, the APY will be 0.05% on all balances. The qualification cycle is not the same as your monthly statement cycle. Qualifying transactions must be point of sale transactions and must post to and clear the account during the qualification cycle. Transactions may take one or more banking days from the date the transaction was made to post to an account. Transfers between your accounts with us do not count as qualifying transactions. Contact us for more information about the qualification cycle. ATM fee reimbursements will be credited to your account on the last day of your statement cycle. ATM fees up to \$4.99 per transaction incurred in your Kasasa Cash account will be reimbursed up to \$15 if qualifications are met on your Kasasa Cash account during the monthly qualification cycle. Rates may change after the account is opened. Fees may reduce earnings. Limit one account per person and two accounts per household.

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# Million Dollar Homes

**Rhonda Bachman**

Realtor, JTM  
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 rhonda.bachman@utahhomes.com  
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 Salt Lake City, UT 84109



820 Empire Ave. Park City

~~\$1,295,000~~

**\$1,195,000**

Approx Sq Ft:	2898	Den:	0
Bed Rooms:	3	Living Room:	0
Bath Rooms:	2.5	Laundry:	1
Family Rooms:	1	Fireplace:	1



Exclusive opportunity to preview this amazing Old Town home. This home boasts a 5 star rating by vacationers from around the world. It is over 90% booked for the season and for that reason, difficult at times to show. Please take advantage of this rare Open House opportunity. Priced to SELL, this beautiful remodeled home features new fireplaces, bathrooms and all new master suite. Nearly ski in ski out! Only 150 Yards to Park City Town Lift providing ski access to Park City Mountain Resort. Empire #1 located across the street from the Quittin' Time run allowing you to ski back to the home after a day on the slopes. This 3 bedroom, 2-1/2 bathroom, boasts a 5 star rating from rental guests who have stayed in the home! It is nicely situated in a quiet section of historic Park City within walking distance of Main Street (1/4 mile). This old town home has the RARE 2 car garage and sits on a lot and a half! Additional features include high vaulted ceilings, wood beams, slate, granite, travertine, new carpet, well appointed furnishings and art. For buyers looking to rent the home, this home has EXCELLENT rental income and bookings. Furniture negotiable.

4490 E. Wyndom Ct. SLC

**\$2,399,000**

Approx Sq Ft:	8818	Den:	1
Bed Rooms:	7	Living Room:	1
Bath Rooms:	6	Laundry:	1
Family Rooms:	3	Fireplace:	4



Private Mountain Sanctuary. Stunning presence in a natural backdrop close to the city but worlds away without the long commute. Bring the outdoors to you with this wrap around deck complete with kitchen wolf grill, outdoor gas fireplace, natural stage and more. Outdoor oasis includes gazebo, salt water pool, log shed, vegetable gardens and more. Inside boasts gourmet kitchen, wine cellar, sauna, 2 master suites, theatre room, and more. Company coming? Don't forget the apartment with matching finishes of the home complete with private entrance. This is truly a place to enjoy and relax no matter the season. Home warranty incl.



## A Swing for Every Distance: Learn a "Short-to-Long" Pitch

Ask any of your friends what they'd use from 150 yards under standard conditions and see what they answer. My guess is that they'll quickly come up with a club and a swing. If you pose the same question, however for a shot inside 40 yards, I'll bet they won't provide a clear answer. They might say "wedge," but they say which one or if it's full, hard, easy, three-quarter or what kind of swing they'll make. Since most amateurs don't know exactly what club and swing to use from short range, they try to "feel" distance, only to chunk the shot or send the ball screaming across the green.

This is a problem — with poor feel from short range and the lack of specialty clubs to hit the ball close to the hole from 40 yards and in, amateurs struggle and maintain handicaps that are much higher than they should be. The solution is a little practice, and the best place to practice is in your own backyard.

Place a laundry basket in your yard and walk somewhere around 15 steps away from it. Drop a dozen balls on the grass then make what you feel is the shortest backswing you can possibly make, and then accelerate your wedge into a longer follow-through. (If you don't want to take divots from your

lawn, get a synthetic grass mat — they're easy to find with a simple Web search.) That's it — a short backswing and longer follow-through toward the laundry basket.

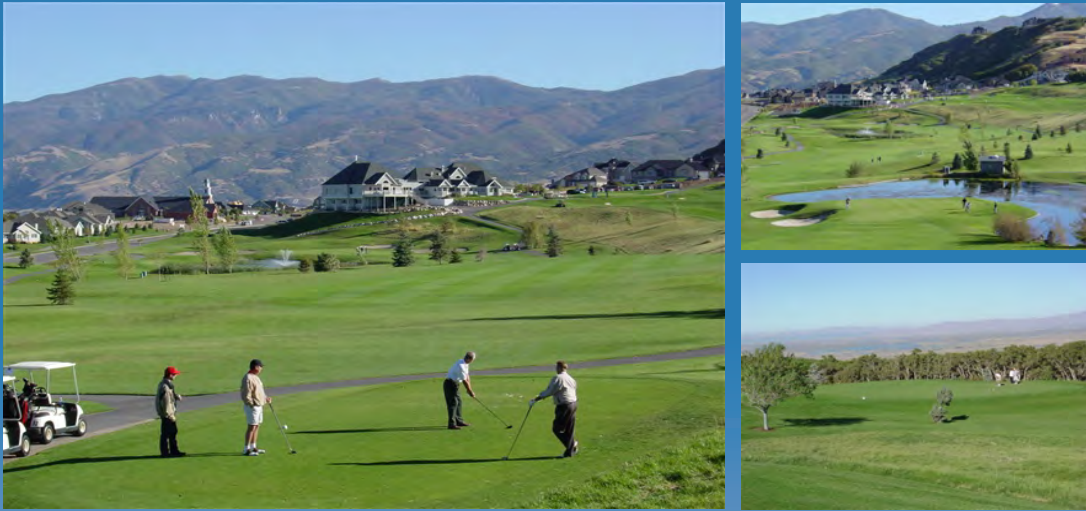
As you do this, note where the ball lands relative to the basket on your good swings. Then, move closer or farther from the basket and use the same short-to-long pitch swing until your shots consistently fly the right distance to the basket. Once this happens, walk off the distance to the basket to see how many steps this swing flies your shots.

With just this effort (several times in your backyard), you can develop a swing that pitches the ball a specific distance, as well as baseline reference for both longer and shorter shots. This alone will make a huge difference in your scoring. Repeat the drill with different clubs and you can build a mini-arsenal of pitch shots. As Ben Hogan said, "The secret is in the dirt," or in this case, the synthetic mat at home in your yard.

Dave Pelz is an American golf coach, known for his expertise and published writing on the art of the short game, particularly putting. Pelz's *Short Game Bible* was a *New York Times* national best-seller in 1999. Pelz was named by *Golf Digest* magazine as one of the 25 most influential instructors of the 20th Century. Pelz continues his research at the Pelz Golf Institute in Spicewood, Texas.

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## • Calendar •

• Sept. 11, 3-5 p.m.: **"Technology Commercialization" life science workshop**, presented by the Utah Technology Council. Bryan Ritchie from the University of Utah's Technology Commercialization Office will discuss the role and importance of commercial-sponsored research and the decision-making process behind whether to license new technologies to established companies in the community or to fund university-based startup companies. Location to be determined. Details are available at [www.utahtech.org](http://www.utahtech.org) or (801) 568-3500.

• Sept. 11, 7:45 a.m.: **"Xtreme Business: Jumping the S Curve,"** the kickoff of the Association for Corporate Growth (ACG) Utah Chapter's Breakfast Program Series. Business author and strategist Leo Hopf, author of "Rethink, Reinvent, Reposition: 12 Strategies to Renew Your Business and Boost Your Bottom Line." ACG Utah meets for breakfast the second Tuesday of each month at the Little America Hotel, 500 S. Main St., Salt Lake City. Registration and networking begin at 7:15 a.m., with the breakfast from 7:45-9 a.m. Registration and information are available at (801) 359-8613 or [www.ACGUtah.org](http://www.ACGUtah.org).

• Sept. 12, 10-11 a.m.: **"Secrets to Completing Your To-Do Lists"** webinar, presented by Webinar Masters, North Salt Lake. Julie Edison of Modern Elixir will discuss ways to make to-do lists more efficient, eliminate rollover tasks and free up time — techniques that can be applied throughout organizations. Edison has more than eight years of experience as a manager for a major electronics retailer, a B.A. degree in mass communication technology and her own small-business consulting firm. Cost is \$49. Details are at [webinar-masters.com](http://webinar-masters.com).

• Sept. 13, 11:30 a.m.: **Building Owners and Managers Association (BOMA Utah) meeting**, featuring guest speaker Utah Attorney General Mark Shurtleff. Location is Salt Lake Marriott Downtown at City Creek, Salt Lake City. Free for BOMA members, \$45 for nonmembers and guests. One hour of continuing education unit credit pending approval. Registration can be completed at [www.BOMAUtah.org](http://www.BOMAUtah.org).

• Sept. 15, 9 a.m.-1 p.m.: **10th annual Utah Manufacturers Association Forklift Rodeo**. Companies are encouraged to enter their best forklift drivers to compete against others from throughout the state. Drivers will compete in four events, with each emphasizing safety, driving abil-

ity and accuracy on courses featuring an obstacle course, loading and unloading a trailer, stacking and shelving pallets, and a safety inspection of the equipment. Winners get \$500 for first place, \$300 for second place and \$200 for third place, and a traveling trophy will be awarded to the winning operator's company to display for a year. Forklifts will be provided by Arnold Machinery Co., Salt Lake City. Registration begins at 8:30 a.m. Location is USANA Health Sciences, 3838 W. Parkway Blvd., Salt Lake City. Registration is \$35. Registration can be completed at [http://www.umaweb.org/custom\\_forms/uma\\_forklift\\_rodeo\\_reg.php](http://www.umaweb.org/custom_forms/uma_forklift_rodeo_reg.php). Details and sponsorship and advertising opportunities are available by contacting Teresa Thomas at (801) 363-3885 or [teresa@umaweb.org](mailto:teresa@umaweb.org).

• Sept. 18, 11 a.m.-2 p.m.: **"Be Ready Utah — 12 Point Program for Business Continuity,"** hosted by the Building Owners and Managers Association (BOMA Utah). Location is 3 Triad, 4th floor (BYU Center), 345 W. North Temple, Salt Lake City. Free for BOMA members, \$20 for nonmembers and guests. Three hours of continuing education unit credit approved. Registration can be completed at [www.BOMAUtah.org](http://www.BOMAUtah.org).

• Sept. 18, 7:30-9:30 a.m.: **KPMG Tax Update**, sponsored by the Utah Technology Council. Presenter will be Adam Boyar, a tax principal in the Los Angeles office of KPMG LLP. Boyar specializes in tax accounting methods, embedded cost reviews and research tax credits. He will be discussing the proposed regulations issued by the Internal Revenue Service regarding the medical device excise tax and the next steps companies should consider as they prepare for compliance with the new tax on Jan. 1, 2013. Boyar will also cover current hot topics related to R&D tax incentives. Location is the Bonneville Room of the Joseph Smith Memorial Building, 15 E. South Temple, Salt Lake City. Free for UTC members, nonmembers pay \$30. Register at [www.utahtech.org](http://www.utahtech.org) or by calling (801) 568-3500.

• Sept. 27, 8-11 a.m.: **Salt Lake Community College Inaugural Manufacturing Leadership Summit**. Jennifer McNelly, president of the Manufacturing Institute, will provide the keynote address. Her presentation will outline opportunities for the next generation of manufacturing, including cultivating a thriving workforce and staying competitive in the 21st century. The Governors Office of Economic Development will join McNelly to highlight the important func-

tion of manufacturing to Utah's economy. Additional sessions will discuss public and private partnerships that can contribute to the next generation of workforce excellence, and strategies to grow and sustain a strong manufacturing base through innovative practice. Location is the Miller Free Enterprise Center Auditorium, Larry H. Miller Campus, 9750 S. 300 W., Sandy. Registration is available at <http://tinyurl.com/manufacturingsummit>.

• Sept. 27, 11:30 a.m.: **Fifth annual Women Tech Awards**, presented by the Women Tech Council (WTC), MountainWest Capital Network, EnergySolutions, Ernst & Young, Stoel Rives and USTAR. Whitney Johnson, president of investment firm Rose Park Advisors' Disruptive Innovation Fund, a regular contributor at Harvard Business Review and the author of "Dare, Dream, Do: Remarkable Things Happen When You Dare to Dream," will tell her story and discuss innovative tips for leaders. Location is the Grand America Hotel, 555 S. Main St., Salt Lake City. Cost is \$75 for WTC members and \$85 for non-members. Student sponsorships, sponsor tables and education tables are available. Details are at <http://www.womentechcouncil.org/events/women-tech-awards.aspx>.

• Oct. 2, 3:30-5 p.m.: **"Strategic Planning and Budgeting,"** a Utah Technology Council (UTC) clinic. Kent Thomas, chief executive officer of Advanced CFO Solutions, will discuss a process of budgeting that is tied into and directly influenced by the overall strategic plan of a business. Attendees are asked to come prepared with a brief outline of their company's strategy for the next three to five years. Location is the UTC office, 2755 E. Cottonwood Parkway, No. 500, Salt Lake City. Details are available at [www.utahtech.org](http://www.utahtech.org) or (801) 568-3500.

• Oct. 3-4: **38th annual Operational Excellence Conference**, part of Utah State University's "Partners in Business" program. Keynote speakers include Hyrum Smith, chairman and chief executive officer of Legacy Quest Inc. and cofounder and former CEO of Franklin Covey; Kevin Duggan, founder of the Institute for Operational Excellence; Mike Orzen, president of Mike Orzen & Associates; Stan Prueitt, director of process improvement in the Education Department of the Church of Jesus Christ of Latter-day Saints; and Dustin Ott, global manager of operational excellence at Boart Longyear. Location is the Eccles Conference Center, Utah State University, Logan. Details are available at [partners.usu.edu](http://partners.usu.edu).

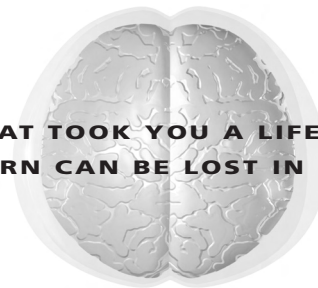
• Oct. 9, 11:30 a.m.-1:30 p.m.: **MountainWest Capital Network's Utah 100 Awards**, honoring the state's 100 fastest-

growing companies in Utah. Location is the Grand America Hotel, 555 S. Main St., Salt Lake City. Cost is \$100. Details are at [mwcen.org](http://mwcen.org).

• Oct. 11-12: **Nano Utah Conference & Exhibition**. Event will include information about career opportunities, skill tutorials, research presentations and exhibit booths. Main activities are at The Leonardo and the Salt Lake City Library Auditorium. Cost is \$175, \$65 for students and \$25 for the workshop only. Details are at [www.nanofab.utah.edu/nanoutah12](http://www.nanofab.utah.edu/nanoutah12).

tah12.

• Oct. 18, 1-6 p.m.: **Second Annual SLC Fall Employment Law Seminar**, presented by Ballard Spahr. Speakers Elisabeth Blattner-Thompson and Karen M. Clemes will provide updates on employment law developments and trends and discuss critical human resource issues and initiatives for 2013. Location is the Rice-Eccles Tower, 451 S. 1400 E., Salt Lake City. Details are available by contacting Rachel Lufkin at [lufkinr@ballardspahr.com](mailto:lufkinr@ballardspahr.com).



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# Legal Matters

## How limited is your limited liability protection?

A client recently contacted me because his business had been sued over a contract it entered into with another company. Notably, the other company sued my client, individually, in addition to his business, on the sole basis that my client was the owner and manager of the business. My client expressed his confusion as to why he was being sued personally for a contract entered into by his business. His business is a limited liability company and he did not sign a personal guaranty. Accordingly, he did not believe that he could be held personally liable for a contract entered into by his business. He was concerned about his potential personal exposure in the matter. I explained that if the plaintiff wins the lawsuit and obtains a judgment, the business and he are both responsible for paying the plaintiff its judgment. Consequently, if the business does not have enough assets to pay the judgment, the

plaintiff can garnish his personal bank account or foreclose on his other personal assets to collect the judgment. This article reviews the counsel I gave my client regarding how a business owner can be held personally liable for the debts of his or her business.



Casey Jones

Limited liability protection is one of the greatest benefits a business entity can provide to its owners. Most business entities provide limited liability, including corporations and LLCs. Other

business entities, such as general partnerships and sole proprietorships, do not offer the owners limited liability. The "limited liability veil" protects the business owner's personal assets from the business' creditors. Specifically, limited liability means the business owners are not personally liable for the business' debts or liabilities. For example, a shareholder of a corporation does not have to repay a loan taken out by

the corporation or pay the damages resulting from an automobile accident caused by one of the corporation's employees. Thus, the owners' personal assets, such as their homes and bank accounts, cannot be reached by the business' creditors. Accordingly, the owners' exposure to liability is generally considered to be limited to their initial investment. However, such generalities are overly broad and tend to fade when applied to specific situations.

As a practical matter, an owner's potential liability sometimes is not so "limited." When a small corporation or LLC decides to raise funds by borrowing, cautious creditors will require the major shareholders or members to personally guarantee the company's obligations. In that circumstance, the business owner is clearly on the hook. An individual owner is also liable for his or her own torts (e.g., negligence resulting in an auto accident), even if done in the scope of his or her employment for the company. The doctrine

of vicarious liability (liability of an employer for an act or omission by an employee) only adds a defendant; it does not relieve the employee of personal liability.

In addition, there are various judicially created doctrines that may be applied to extinguish the owner's limited liability. Although the courts are extremely reluctant to apply the doctrine, the limited liability veil may be "pierced" if a court finds that the owners disregarded the business entity by operating the company as their "alter ego." This doctrine is known as "piercing the corporate or limited liability veil." It means the business' creditors may sue the business owner personally for the business' debts. If the creditor wins the lawsuit against the business owner, the business owner is personally responsible to pay the judgment or else the creditor may enforce its judgment against the business owner.

Utah courts consider several factors in determining whether to pierce the veil and hold a business

owner personally liable. One factor Utah courts consider is whether the business entity was adequately capitalized. Undercapitalization of a one-owner entity may lead to the limited liability veil being pierced. Thus, a business should be properly capitalized so that is able to pay its obligations. Courts also take into consideration whether the use of the business is to evade a personal obligation of the business owner, to perpetrate a fraud or a crime, to commit an injustice or to gain an unfair advantage.

Another factor courts consider is whether the business observed its business formalities. Thus, a business should hold an organizational meeting when the business is first organized, adopt bylaws for a corporation or an operating agreement for an LLC, issue certificates for stock or clearly provide documentation that the shares are uncertificated if the entity is a corporation, maintain complete business and financial records, hold regular annual meetings and

see *LIABILITY* next page



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# LIABILITY

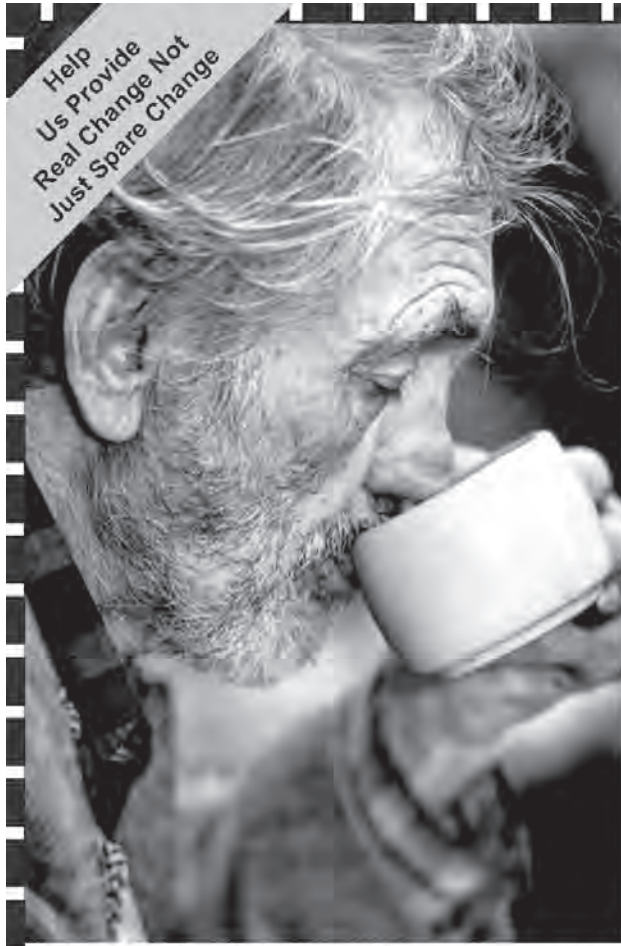
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keep minutes, file business income tax returns, ensure named officers and directors are involved and play a role in the business, file annual business renewals with the state, adopt resolutions reflecting approval of all major corporate actions (even LLCs should take steps to document action by appropriate records), pay dividends when possible and maintain arm's length relationships among the owner and the business.

In addition, Utah courts consider whether the business owner commingled his or her personal funds with the business. Therefore, a business owner should maintain separate bank accounts for the business and his or her personal accounts. In addition, the business should not pay the owner's personal bills or personal living expenses with business funds and the business owner should not use the company credit card or funds for his or her personal purchases.

This discussion should not be taken to mean that limited liability is easily lost. That is not the case. Limited liability is the essence of a corporation and LLC. On the other hand, it is a risk which should not be minimized or overlooked. If you operate the business in a reasonable and business-like manner and follow the guidelines above, you should enjoy the protections of limited liability.

Casey Jones is an attorney at Strong & Hanni Law Firm and a member of the business group at Strong & Hanni. His primary role is to assist clients with legal issues in the areas of business, tax, real estate and estate planning. He is an active member of the Business and Securities Sections of the Utah State Bar. He can be at [cjones@stronandhanni.com](mailto:cjones@stronandhanni.com) or (801) 532-7080.




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# Staffing Matters

## Avoid the pitfalls of personality conflicts

You will come in contact with all types of people in the workplace. Some will mesh well with your personality and some won't — it's just the nature of human relationships. While it's not imperative that everyone be your best friend, it is important that you learn how to navigate challenging personalities if you want to be successful in your career. Being able to manage the complex world of office dynamics is a useful tool you will be able to utilize wherever your career path takes you.

If you have not already experienced it, at some point in your career you will be confronted with a worker whose personality rubs you the wrong way. Unless you work at a job that completely cuts you off from contact with any other human being, the problem is simply inevitable. Unfortunately,

avoiding that person will not make the problem go away, it will only build a thicker wall between you two — and that's never productive or beneficial to achieving business goals. Healthy workplace communication, such as an e-mail,



Ron Zarbock

conversation or presentation, requires a basic set of communication skills. These skills are usually automatic, however, when it comes to personality conflicts, you need to consciously focus on specific skills that can help resolve

the problem. Here are some hints that will help you avoid the pitfalls of personality conflicts:

### Take the High Road

Instead of venting frustrations or letting your emotions get the best of you, determine to stay calm, keep things professional and overlook offenses. A lot of irreversible damage can be done in the heat of the moment. It's better to take a deep breath (count to 10 if you must) and let it go. How

you respond to conflicting situations says a great deal about you as a professional, and it will influence the way others view you as well.

### Seek to Understand

There may be a multitude of reasons why a person acts the way they do — from mere differences in personality type to underlying circumstances that have imposed undue stress or hardship on that individual. You simply don't know. For this reason, you should always seek to understand what's causing the personality clash. Put yourself in their shoes and try to look at things from their perspective. Sometimes, you may find the problem rests with you, and you didn't even realize it. Really reflect on what things the person is doing that may bother you and what things you may be doing that bother your co-worker. Come up with ideas on how the two of you could compromise to make things less stressful.

### Use Nonconfrontational Language

How you word things during a conflict negotiation is very important. Accusing statements, such as "You act like you're the boss" are going to automatically put people on the defensive. Factual statements prevent someone from going on the defensive. Instead try statements like, "I feel as if you act like you're the boss sometimes." While someone may argue that they don't act a certain way, they cannot argue that you don't feel a certain way. Also, remember to watch the tone of your voice. Speak calmly and remember to stop and count to 10 if you need to regain your cool.

### Work Toward Resolution

Once you've had some time to cool off and consider what's provoking the personality conflict, go to that individual nonconfrontationally and seek resolution. Regardless of who's to blame, a humble and sincere approach to making amends will bring about the best results. Once you deal with the issues causing the tension, you may discover you have

more in common with that person than you realized.

### Keep it Private

The best way to aggravate personality conflicts is by participating in office gossip. Nothing spreads faster in a workplace setting than gossip. Regardless of how your conflict negotiations turn out, it's important to keep your opinions and feelings to yourself. The best way to keep the issue from growing or reigniting is to keep it private.

People skills play a big part in your career success. When challenging personalities come your way, consider them tests that will make you wiser and stronger for the road ahead.

Ron Zarbock is the area owner and manager for Spherion Staffing and Recruiting and Today's in Utah, with several locations along the Wasatch Front. Zarbock has more than 30 years of business experience in process and distribution, automation and workforce solutions.

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from page 10

states.

**RESTAURANTS**

• **Sorrel River Ranch**, Moab, will have its **Farm To Plate Wine Dinner** on Sept. 29. It will begin at 6:30 p.m. with a champagne garden tour at Sorrel River Farms, the on-site garden and greenhouse at Sorrel River Ranch. A garden table dinner follows, with executive chef Richard Potts using ingredients from the on-site farm. The cost is \$150, plus tax and gratuity. Reservations are required and can be completed at [www.sorrelriver.com](http://www.sorrelriver.com) or by calling (435) 259-4642.

**TECHNOLOGY**

• The deadline for nominations for the **Medal for Science and Technology** is Sept. 17 at 5 p.m. For 25 years, the governor has awarded the medal as a symbol of achievement to people who have provided distinguished service to Utah in science and technology. Gov. Gary R. Herbert and the Utah State Advisory Council on Science and Technology are accepting nominations, with awardees being presented the honors at a dinner in January. Nominations follow a two-step submittal process. A one-page form is all that is needed to initiate a nomination. It can be accessed at <http://business.utah.gov/governors-medals>. Nominations should be addressed to Tami Goetz, State Science Advisor, GOED, 60 E. South Temple 3rd Floor, Salt Lake City, UT. Nominees selected from the first round of applications may be asked to submit a more complete application package that would include letters of recommendation. Nominees must meet specific requirements detailed in the "Procedures and Criteria for Selection" document located at <http://business.utah.gov/Procedure-Criteria>. Nominations can be made in one of five categories: academic, science education, industry-individual (independent inventors and entrepreneurs), industry-company (for- and non-profit company) and government.

• **Utah** placed third in the annual "Best of the Web" competition in rankings of best state government websites announced by the **Center for Digital Government**. Alabama took top honors in the rankings. The center is an international research and advisory institute on the use of information technology in government. Utah also won several honors in the center's Digital Government Achievement Awards. Utah was among states winning honors in the Driving State Digital Government category for the Utah Master Index; the Government-to-Business category for the Utah

One-Stop Business Registration Version 4; the Government-to-Citizen State Government category for Utah Warrants Check; and the Government Internal category for Utah GovPay. The Digital Government Achievement Awards will be presented Sept. 13 in San Francisco. Utah.gov is the entry point to more than 1,000 online services. It is managed and operated without tax funds through a public-private partnership between the state and **Utah Interactive**, part of e-government firm **NIC's** family of companies.

• **eFileCabinet Inc.**, a Lehi-based provider of paperless software products, has released the latest version of its cloud-based client portal and file sharing service, **SecureDrawer 3.0**. The new version offers users a more efficient way to store and share client files in the cloud, including the addition of eSignature powered by RightSignature. This integration allows users to obtain digital signatures from clients and seamlessly transfer confidential documents without using e-mail, overnight delivery or fax. Along with the integration of eSignatures, enhancements include a simplified toolbar, more robust help options with built-in chat, third-party integration capability and enhanced integration with eFileCabinet's flagship product, eFileCabinet Desktop. Users can now drag and drop files from their SecureDrawer account into eFileCabinet Desktop by simply clicking on their Virtual Drawer inside of eFileCabinet Desktop.

**TRANSPORTATION**

• **SkyWest Inc.**, St. George, has announced a stock repurchase authorization and regular quarterly dividend. The company's board has authorized the repurchase of up to 5 million outstanding shares of SkyWest common stock, which is in addition to the 1.51 million shares previously authorized. The dividend of 4 cents per common will apply to shareholders of record on Sept. 28 and is payable Oct. 5. It is the 69th consecutive quarterly dividend for the company. SkyWest is the holding company for SkyWest Airlines, Atlanta-based ExpressJet Airlines and an aircraft leasing company. The company has about 4,000 daily flights and a fleet of about 725 regional aircraft.

• **Savage**, based in Salt Lake City, has completed its termi-

nal located near Trenton, N.D., with direct connection to **BNSF Railway's** main line track. The terminal is located to gather crude oil from the Williston Basin and Bakken Shale and facilitate the transport of crude to key refinery markets. The terminal has been translating crude from truck to rail on a manifest basis since December 2011. With construction complete, the terminal has the capacity to handle unit trains and will operate 24 hours per day. The Savage Bakken Petroleum Service Hub is served by BNSF, which enables the flexibility to deliver crude to East Coast, West Coast and Gulf Coast markets. The location and design enables the terminal to have future expansion of trackage and capacity.



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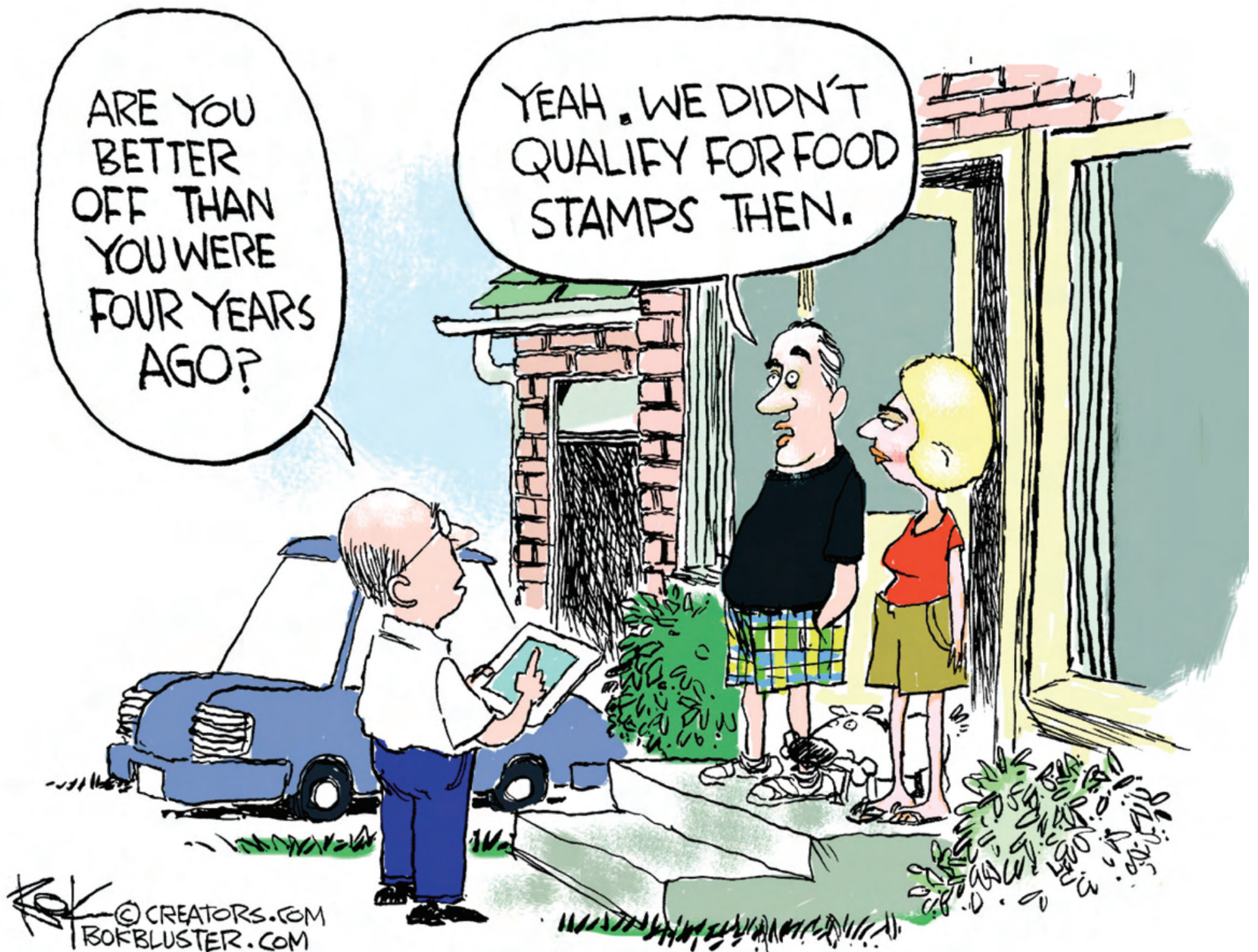
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## Foreign affairs: how Romney's millions went tax-free overseas

On the same day that Mitt Romney cracked his birther “joke,” new evidence indicated that he and his partners at Bain Capital have used questionable methods to avoid federal taxes — including a scheme that transforms corporate stock into untaxed offshore “derivatives” and a practice that converts management fees into capital gains, which are taxed at a far lower rate.

While nobody has asked to see the Republican candidate’s birth certificate, as he said at a Michigan rally, everybody has a renewed interest in examining the tax returns he continues to withhold.

The complex and tricky tax shelters used by Bain Capital continued to emerge as lawyers and other experts examined the hundreds of pages of previously confidential company documents uncovered by the Gawker website in an exclusive series. The authenticity of the documents was

confirmed by a Bain spokesperson, who said that the company deprecates the public posting of its proprietary materials.

In a sense, the latest revelations about how Bain protected its vast income from taxation are scarcely surprising to anyone familiar with the world of private equity where Romney made his fortune, estimated at \$250 million or more. Avoiding taxes is among the most important attractions of that industry for the wealthy clients it aims to attract.

But several experts who have looked over the new Bain documents have warned that dubious legal tactics may have been employed by some of the company’s investment vehicles, including several that are listed on the partial returns that Romney has already released. Those experts, such as Victor Fleischer, a law profes-

or at the University of Colorado, and Daniel Shaviro, who teaches tax law at New York University’s law school, have raised questions about both the equity “swap” and fee-conversion maneuvers.

Companies like Bain make money both from investment income, which is taxed at the lower capital gains rate, and from management fees, which are taxed as ordinary income like wages. If the firm can somehow transform its management fees into capital investments, then it can avoid the 35 percent top federal income tax rate and instead pay the 15 percent capital gains rate.

That is what Bain evidently does to keep its partners’ taxes low — around the 13 percent rate that Romney admits to paying. But critics like Fleischer say this is an abusive tactic that cannot be justified by law, even though the IRS has never attempted to stop companies that use it.

“Unlike carried interest, which is unseemly but perfect-

ly legal, Bain’s management fee conversions are not legal,” the Colorado professor wrote on his blog. “If challenged in court, Bain would lose. The Bain partners, in my opinion, misreported their income if they reported these converted fees as capital gain instead of ordinary income.”

Equally troubling is the use of offshore accounts to avoid taxation on stock holdings. This tactic is called a “total return equity swap,” because it involves swapping real equities for derivative paper investments that provide all the same dividends as the stock itself — but aren’t subject to federal taxes. According to Shaviro, this practice was sufficiently blatant to elicit a warning from the IRS two years ago. He wrote recently that those who used it over the past decade “were coming perilously close to committing tax fraud, in cases where the economic equivalence to direct [stock] ownership was too great.”

In the complex territory of

tax law, precise boundaries aren’t always clear. What makes the “total return equity swap” potentially perilous for Romney, however, is the use of foreign accounts to avoid taxes, which is what many Americans suspect him of doing. Despite the accounts that he has maintained in Switzerland, the Cayman Islands, Luxembourg, Bermuda and other tax havens, Romney’s campaign has repeatedly denied, with little credibility, that his wealth was invested abroad to evade taxes.

The proof may well lie within the tax returns that he is so determined to conceal. Wisecracks about the president’s alleged foreign birthplace may not distract concerned voters from the overseas accounts where Romney’s money has been hidden.

Joe Conason is the editor in chief of NationalMemo.com.

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V.P. DEBATE (IN THEIR OWN WORDS)

## 'Bait and switch' taxes

We have heard many times from President Barack Obama how he plans to raise taxes on “millionaires and billionaires,” but not on the middle class. Apparently, if you don’t happen to be a millionaire or billionaire, you don’t have to worry.

But the numbers say otherwise — and say so big time.

The actual tax increase plans being proposed by Obama do not start with people who have an income of a million dollars a year. They start with people with incomes of \$250,000 and up.

That is more than most people make, but it is far short of a million dollars, and miles away from a billion dollars. How many of the people who stand to get hit with Obama’s higher tax rate plan are in fact either millionaires or billionaires?

According to the Internal Revenue Service, there are more than 2.7 million people who earn \$250,000 a year or more — and

fewer than one-tenth of them earn a million dollars or more. So more than nine-tenths of the people who would be hit with the higher taxes supposedly aimed at “millionaires and billionaires” are neither.



Thomas Sowell

When businesses advertise one thing and then actually sell something else, that is called “bait and switch” advertising. That is exactly what President Obama is doing with his proposed tax increases on “millionaires and billionaires.”

It gets worse when you look at the potential economic consequences of the tax rate increases being proposed. The small proportion of the people targeted for Obama’s higher tax rates who are in fact millionaires and billionaires have the least likelihood of actually paying the higher tax rates.

People with annual incomes in the millions or billions of dollars can live pretty high on the hog

on a fraction of their income, leaving them with plenty of money to invest. And they can invest it in ways that keep it away from the tax collectors. In addition to tax-exempt bonds, they can invest in other countries that have lower tax rates.

Hard facts show this happening as far back as we have had a federal income tax.

The Constitution of the United States had to be amended in 1913 to permit the federal government to collect income taxes. Almost immediately, very high tax rates on people with very high incomes led to their taking steps to avoid paying those taxes.

In 1920, Secretary of the Treasury David Franklin Houston in the Democratic administration of Woodrow Wilson pointed out that the taxable income of people with incomes of \$300,000 and up had been more than cut in half, just from 1916 to 1918. He did not believe that this was because the rich were becoming poorer but “almost certainly through invest-

ment by the richer taxpayers in tax-exempt properties.”

President Woodrow Wilson himself urged Congress to reconsider whether very high tax rates are in fact “productive of revenue” to the government. He said that, beyond some point, “high rates of income and profits taxes discourage energy, remove the incentive to new enterprise, encourage extravagant expenditures, and produce industrial stagnation with consequent unemployment and other attendant evils.” That sounds a lot like where we are today.

Both Democratic and Republican presidents once warned that high tax rates can reduce economic growth. And Secretaries of the Treasury under both Democratic and Republican administrations once pointed out that higher tax rates do not necessarily bring in more tax revenues than lower tax rates. Yet this lesson from more than 90 years ago has still not been learned by those who advocate higher taxes on “the rich” as the answer to our fiscal

problems.

In today’s global economy, it is even easier for genuine millionaires and billionaires to escape high tax rates by investing in other countries. Not so for the other nine-tenths of the people hit with higher tax rates, such as small business owners or independent professionals such as dentists or realtors, whose sources of income are necessarily local.

Those hardest hit by high tax rates that drive jobs overseas are likely to be those who are unemployed and need jobs here. Ironically, millionaires and billionaires may have the least to lose from higher tax rates on “the rich.” But Barack Obama has the most to gain from class warfare rhetoric that wins votes from gullible people.

Thomas Sowell is a senior fellow at the Hoover Institution, Stanford University, Stanford, CA 94305.



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