

OF NOTE



A lot of house payments

In the second quarter of 2019, American homeowners' mortgage balances totaled \$9.4 trillion, \$162 billion more than the previous quarter, according to data released last week by the Federal Reserve Bank of New York. The new number surpassed the previous peak of \$9.3 trillion in mortgage debt recorded back in the third quarter of 2008.

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A concept drawing shows the village area of the new Mayflower Mountain Resort that will be built near Jordanelle Reservoir off of U.S. Highway 40 in Wasatch County. Preliminary site work is underway and the resort will build out over the next two decades, according to developers.

Huge ski resort underway near Jordanelle Reservoir

John Rogers
The Enterprise

A New York-based developer, best known for its multiple upscale residential properties on Billionaire's Row along the south side of New York City's Central Park and in the posh Two Bridges neighborhood of Manhattan, has announced plans for a massive new ski resort in the Jordanelle Reservoir area of Wasatch County. Extell Development Co. has already begun build-

ing roads in the area west of the Mayflower exit on U.S. Highway 40 north of Heber City.

To be known as the Mayflower Mountain Resort — so named for historic mining claims on the site — the development will back up to Deer Valley Resort and will share ski terrain with the existing ski properties over the mountain from Jordanelle Reservoir in the Park City area. Extell owns

see MAYFLOWER page 21

Gas prices down, housing costs up, CPI unchanged

Gas prices went down while housing prices continued to rise and the net result was a Zions Bank Wasatch Front Consumer Price Index (CPI) that was virtually unchanged from June to July. Since a year ago, the CPI has risen 2.6 percent.

In the same time period, the national Consumer Price Index has increased 1.8 percent.

Falling gasoline prices put the largest downward pressure on overall prices along the Wasatch Front in July. Gas at the pump dropped about 20 cents per gallon from May, yielding a 2.9 percent dip in transportation prices. That is the largest month-to-month drop in transportation prices in the month of July since 2014. Transportation prices are down 3.6 percent since July 2018, continuing a downward trend for the third month in a row.

"The price dip in gasoline is a good sign for Utah consumers, who feel the change in prices at the pump very quickly," said Randy Shumway, chairman and partner at Cicero Group, a Salt Lake City Research firm that does data collection and analysis for the CPI. "In addition, declining transportation prices typically help push overall price

see CPI page 23

Miller: Don't yet know what inland port will look like

Brice Wallace
The Enterprise

What will the Utah Inland Port look like?

The short answer is that nobody knows, not even the chairman of the Utah Inland Port Authority board.

Speaking recently at a Salt Lake Rotary luncheon, Derek Miller acknowledged that lots of study still needs to take place to develop several hundred acres in Salt Lake City's Northwest Quadrant into a site that will "maximize the economic impact and minimize the environmental impact."

In broad terms, many see the area to someday be a hub for manufacturing, warehousing, logistics and distribution of goods. Miller said it will feature all of the activities that take place at a seaport — including customs work and the movement of containers to trucks or rail — with the exception of unloading the goods from ships.

"I get asked all the time, 'What's the best model for an inland port that we would want to build in Utah?' And I say, 'It hasn't been built. There's no model for it,'" Miller said, "because we have the opportunity to learn from everyone else — what did they do well, what mistakes did they make that we should avoid?"

During site visits to existing ports, an exploratory committee saw everything from a sophisticated facility in South Carolina that contained the North American manufacturing plant for BMW, to a Georgia site that featured a single-story building and the movement of containers from truck to rail.

"The point I'm trying to make is, there's a broad spectrum of what an inland port might look like," Miller said.

Whether or not it ultimately becomes a commerce center, Utah's port has so far

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Sandy Area Chamber absorbs Draper & Riverton, takes on new name

It's sort of been that way for a while, but the Sandy Area Chamber made it official last week, absorbing the Draper and Riverton areas and changing its name. The new entity will be called the South Valley Chamber, with new offices located at the Mountain America Center in the Cairns District in Sandy.

"Our business landscape has changed, so as a chamber of commerce we need to adapt as well," said Greg Summerhays, Sandy Area Chamber president and CEO who will continue in the same role of the expanded organization. "We believe that a vital role of a chamber of commerce is to provide necessary resources to help companies grow, increase

annual revenues, create jobs and get more customers. Networking alone cannot achieve these goals, which is why, in 2018, we

nesses through these new partnerships."

Summerhays said that for the past several years the chamber has operated more as a regional chamber with 40 percent of its membership located outside Sandy city limits. The name change will open the door for more businesses located throughout the south end of the valley to participate in the programs offered by the chamber, he said. The South Valley Chamber will continue to actively work to create additional partnerships with other surrounding cities.

The chamber's Business Institute has several academies, including a mini-MBA program, a sales academy, digital market-

ing academy and a finance academy. The signature program, the KeyBank Business Accelerator Academy, takes business owners through a 13-session course that builds a customized three-year growth plan by taking a hard look at the company's finances, marketing, sales and management style. The program utilizes a curriculum that has proven tangible growth outcomes for small businesses, Summerhays said.

"We see this name change and regional focus as a benefit to Sandy City," said Sandy Mayor Kurt Bradburn. "As the south end of the valley continues to grow, we need an institution that can help drive economic development for the region by strengthening our small- to medium-sized business community. We have valued our partnership with the chamber and are excited about the opportunities this will bring to not only Sandy businesses but businesses throughout the region."

Mayor Troy Walker of Draper added, "We are thrilled with this new partnership because it will give more businesses in our city the opportunity to benefit from the programs that are already being offered at the South Valley Chamber. We have a great relationship with our surrounding cities and believe this partnership with the South Valley Chamber will help accelerate regional economic development."

"With Riverton's strong economic trajectory, a partnership with the new South Valley Chamber will help businesses in our city continue to prosper in the years ahead," said Riverton Mayor Trent Staggs. "This move aligns directly with Riverton's goal of promoting a thriving business climate that supports the needs of our residents. The regional economy in the south end of Salt Lake County will benefit from the support of a strong regional chamber of commerce."



introduced The Business Institute. Businesses all across Salt Lake County — and even beyond — have taken advantage of these services and we are excited to bring these programs to even more busi-



Greg Summerhays addresses the crowd at the organizational meeting for the newly formed South Valley Chamber last week in Sandy. The Sandy Area Chamber has expanded to include businesses in Draper and Riverton and has taken on the new name. Summerhays was the president and CEO of the Sandy group and will continue in the same role with the new organization.

Romney set to address group of area chambers

United States Sen. Mitt Romney will address a meeting of businesspeople as part of the Wasatch Business Series on Aug. 21. The Millcreek Business Council will host the luncheon meeting at Golden Customer Care, 3902 S. State St. in Millcreek.

Romney will provide a legislative update from Washington, and discuss how his efforts affect small businesses along the Wasatch Front. Romney currently serves on the Senate Committee on Small Business and Entrepreneurship along with other key posts of interest to the business community.

The event will mark the fourth installment of the Wasatch Business Series. Established earlier this year, the series is a collaborative effort from local chambers of commerce to help small businesses network, foster innovation and develop their entrepreneurial spirit. The partners include Millcreek Business Council, Holladay Chamber of Commerce, Murray Area Chamber of Commerce, South Salt Lake Chamber of Commerce, Sugarhouse Chamber of Commerce, the Utah Independent Business Coalition and the Utah LGBTQ+ Chamber of Commerce.

The cost is \$15 and the public is invited. Details are available at <https://millcreek.us/291/Millcreek-Business-Council>.

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Incentive will bring 289 new high-paying jobs to Price electronics firm

Brice Wallace
The Enterprise

A Price-based electrical power equipment company will expand in that city, adding 289 high-paying jobs over the next few years.

Intermountain Electronics Inc. made the announcement after being approved for a state tax credit incentive by the Governor's Office of Economic Development board, which had its July meeting in Park City.

Company Chairman John Houston noted that rural Utah has a low unemployment rate. "As we move forward, we're going to have some big challenges in developing that workforce and developing that skillset that's needed there," he told the board. "Our confidence level is way up there. We feel like this is something that we can do. But again, it's going to be a learning curve. It's going to be a big learning curve for Carbon County."

Founded in Price in 1985, Intermountain Electronics designs and manufactures custom power distribution equipment for industrial customers. The company originally serviced the coal mining industry in Carbon and Emery counties but has diversified by adding customers in the oil and gas, utility, renewable energy and data center sectors. The company has more than 250 employ-

ees; manufacturing facilities in Price; Denver; Centralia, Illinois; and South Point, Ohio; and service centers in six locations.

"This is, by far, the most impactful, largest project for rural Utah that I've worked on in the five years that I've been here, so we're really excited about it,"

lion over 15 years and new state tax revenue of nearly \$21.6 million during that time. The tax credit is nearly \$6.5 million.

"We have deep roots in Carbon and Emery counties and are excited to proceed with this expansion in Price," Phil Blackburn, CEO, said in a prepared statement.



Intermountain Electronics in Price manufactures electrical control products for industry such as the trailer-mounted unit for mines shown here.

Thomas Wadsworth, GOED associate managing director, told the board. Wadsworth described the company as "a mainstay in Eastern Utah for a long time:" and said the 289 jobs will have "a tremendous impact" on Carbon County.

Utah competed with Denver for the \$12.5 million project, which will have manufacturing and engineering jobs paying an average of \$71,000.

The project is expected to result in new wages of \$251.6 mil-

"While we have other facilities outside of Utah that we considered for this expansion, the strong interest and collaboration from officials at both the county and state level helped us become comfortable with proceeding here. We have other challenges ahead, including growing our local staff. The support from both Carbon and Emery counties and the state of Utah gave us confidence that we have strong local partners to address these challenges going forward."

Jerry Oldroyd, GOED board chairman, said the incentive is a model for rural Utah. "It's a company that was developed in Price, Utah," he told the board. "It was brought to us by the local community. The local community has been heavily involved in bringing it to Salt Lake and getting this thing finished; it's been a tremendous partner with the state. And it's in rural Utah, which has been an emphasis, as you know, from both the Legislature and the governor's office for as long as I've been on this board, which is close to 20 years. ... This is how it works. This is how it should work."

Mel Lavitt, chairman of the GOED board's incentives committee, said the project is noteworthy because "it helps keep people in Price, Utah."

In a prepared statement, Larry Jensen, Carbon County commissioner, said the company's expansion "is vital to the future of our local economy."

"The scale of its expansion will ensure many of our children will not have to leave for employment and other local businesses will see growth as demands for products and services increase. We are very grateful to the Houston family and the Intermountain Electronics staff for their investment in our community, and we are committed to supporting their efforts well into the future."

Gov. Gary Herbert said expansions like Intermountain Elec-

tronics' "go a long way in creating valuable jobs and opportunities" in rural Utah.

"The vitality of rural Utah's economy depends on the commitment of local entrepreneurs, like John Houston," said U.S. Sen. Mitt Romney, R-Utah. "I am grateful for John's commitment to creating jobs in Carbon County with the expansion of Intermountain Electronics. His investment in Eastern Utah will have a lasting impact on the community for generations to come."

"This is a regional win for Carbon and Emery counties," said Theresa Foxley, president and CEO of the Economic Development Corporation of Utah. "Intermountain Electronics weighed expansion options in neighboring states, but the counties, Utah State University and the local school districts demonstrated the resources and commitment to workforce development that the company appreciated."

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801-533-0556 FAX 801-533-0684
www.slenterprise.com

PUBLISHER & EDITOR

R. George Gregersen

PRESIDENT

David G. Gregersen
david@slenterprise.com

VP/GENERAL SALES MANAGER

Dale Dimond
dale@slenterprise.com

MANAGING EDITOR

John M. Rogers
john@slenterprise.com

CONTROLLER

Richard Taylor
richard@slenterprise.com

OFFICE MANAGER

Dionne Halverson
dionne@slenterprise.com

CLASSIFIED AND REAL ESTATE

david@slenterprise.com

CIRCULATION

Dionne Halverson
dionne@slenterprise.com

LIST DEVELOPMENT

Lanece Gregersen
lists@slenterprise.com

ADVERTISING INQUIRIES

david@slenterprise.com

TO CONTACT NEWSROOM

john@slenterprise.com

ART SUBMISSIONS

art@slenterprise.com

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INLAND PORT

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been a center of controversy. Salt Lake City Mayor Jackie Biskupski has sued because of what she considers the board's usurpation of land-use and tax authority from the city, and protestors have raised issues focused on possible envi-

ronmental impacts that the port could have on air quality and the Great Salt Lake.

"It's a one-step-at-a-time kind of project," Miller said. "And that's been part of the frustration, I think, from many quarters is there is a lot that we don't know yet. So often, in the absence of fact, we project our fear. But I can tell you my approach to it is — and always

has been for the last three years — as long as we get a green light and it makes sense, we'll take the next step."

Port proponents have hailed the project as a way to advance Utah from "Crossroads of the West" to "Crossroads of the World." Miller said that of the 10,000 developable acres in the Northwest Quadrant, a few hundred acres would be the

site of "a transfer facility that then drives and guides development of the rest of those thousands of acres so that it doesn't just fill up with warehouses over the next several decades, so that we actually have something that will bring jobs to our community."

Miller said manufacturing is a key element to understanding the opportunity that the port presents

"because what I think we're really trying to accomplish is to bring manufacturing — manufacturing companies and manufacturing jobs — to the Northwest Quadrant. That is the goal, as I see it."

With Utah already a crossroads for interstate highways and railroads and with the redevelopment project at the Salt Lake City International Airport, the inland port would be a way "to connect those three assets to maximize the potential of that infrastructure that we already have," Miller said.

Utah already is an "internationally engaged state and an internationally connected state," Miller said, citing statistics showing that Utah is the only state to double exports over the past 10 years and have positive export growth in that period; is the fourth-fastest-growing export economy in the U.S.; has 3,544 companies that export, of which 85 percent are small businesses; and has nearly one in four jobs supported by international trade.

"The opportunity that exists and the authority that the board that I share is to use tax increment to guide the development," he said. "In a nutshell, that's the charge we've been given by the legislation that was passed: to guide the development in this area in, I think, a way that we can maximize the economic impact and minimize the environmental impact."

Currently, a two-part study is taking place that will guide the port's future. One is a business plan and the other an environmental impact study. "I certainly agree with the principle," Miller said, "that we ought not to do anything that is going to damage the environment."

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Computer Science education plan released

Talent Ready Utah, the state program tasked with enhancing education to better provide industry with trained employees, has released its Utah Computer Science Master Plan, a four-year plan designed to meet Gov. Gary Herbert's goal to ensure every public K-12 student in Utah has the opportunity to learn computer science by 2022. During the recent legislative session, HB227 assigned the development of a state master plan to achieve Herbert's goal to Talent Ready Utah's board. The development and approval of the statewide master plan is a significant step in Utah's commitment to ensuring equitable computer science learning opportunities and outcomes, the organization said in a release.

"I appreciate the leadership of the Talent Ready Utah board and the State Board of Education in creating a comprehensive and actionable strategy to offer computer science courses to all K-12 students in Utah," said Herbert. "Computer science impacts every industry. Computing jobs are the No.1 source of new wages in the U.S. and are projected to grow at twice the rate of other jobs. Com-

puter science is a new literacy, and we must ensure that all students across our state have the opportunity to learn and develop the skills needed to create their futures."

The Utah Computer Science Master Plan was developed through a grant from the Pluralsight One Fund and the support, input and engagement of subject matter experts and stakeholders

across industry sectors, including members of the Talent Ready Computer Science Committee. Utah will be the 12th state in the nation to develop and implement a statewide computer science plan. "Computer science is now a foundational literacy that is critical to preparing Utah students to succeed in our technology-driven world," said Aaron Skonnard, CEO of Pluralsight and co-founder of Silicon Slopes and member of the executive board of Talent Ready Utah. "Every school in Utah must teach computer science, and every student must have equality of opportunity to learn computer science regardless of whether they pursue a career in technology. With the approval of our state master plan, we now have a roadmap to achieve that outcome, and we are one step closer to delivering on Gov. Herbert's goal of ensuring every K-12 student in Utah has the opportunity to learn computer science by 2022."

"The Utah Computer Science Plan identifies key needs, strategies and target outcomes across six essential categories that uplift the education system and its successful and equitable integration of computer science," said Sydnee Dickson, state superintendent of public instruction. "The Board of Education is committed to increasing enriching, high-quality computer science learning opportunities for students across grade levels. Likewise, we are committed to building long-term and sustainable capacity within our local education agencies while prioritizing professional development opportunities for our educators."

TALENT READY
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Stoddard to lead VCO

VentureCapital.org (VCO), a nonprofit venture accelerator based in Salt Lake City, has named Brandon Stoddard as CEO, succeeding co-founder Brad Bertoch, who is retiring, in the position. Stoddard is also the director of the Weber State University Hall Global Entrepreneurship Center, a position that he will retain.

Backed by the Wayne Brown Institute, VentureCapital.org's stated mission is to help entrepreneurs "start, find money, change the world." It offers educational programs, pitch events and empowers its "Cooperative Venturing" network of professionals who are actively engaged in advancing entrepreneurs.

Stoddard, who has spent much of the last 15 years building organizations, counseling and teaching entrepreneurs and small businesses, was formerly director of programs at VCO.

VCO has assisted over 850 companies in its history. More than 70 percent of those companies have raised additional funding and 80 percent are still in business after 10 years, far exceeding the Small Business Administration's figures of 35 percent over the same time period, Stoddard said. VCO alumni companies have recorded more than \$20 billion in transactions, added 45,000 direct or indirect new jobs and enhanced the Utah economy with \$4.5 billion in recurring gross domestic product, the organization said in a release.

"VCO has a strong history of results, including helping high-potential ventures raise almost \$3 billion in venture funding with exits of over \$17 billion," Stoddard said. "Despite the state's hot entrepreneurial economy, Utah still has untapped potential. I look forward to assisting the next generation of high-potential entrepreneurs in Utah, growing student-based businesses at Weber State and giving students a unique opportunity to be part of the local venture community."



Brandon Stoddard



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CORPORATE FINANCIAL REPORTS

The following are recent financial reports as posted by selected Utah corporations:

SkyWest

SkyWest Inc., based in St. George, reported net income of \$88 million, or \$1.71 per share, for the second quarter ended June 30. That compares with \$76 million, or \$1.43 per share, for the same quarter a year earlier.

Revenue in the most recent quarter totaled \$744.4 million,

down from \$805.5 million in the year-earlier quarter.

SkyWest Inc. is the holding company for SkyWest Airlines and SkyWest Leasing, an aircraft leasing company. SkyWest Airlines operates through partnerships with United Airlines, Delta Air Lines, American Airlines and Alaska Airlines to carry more than 38 million passengers annually.

"This quarter we were pleased to demonstrate our ability to deploy capital and unlock growth

opportunities within our partners' existing scope constraints," Chip Childs, CEO and president, said in announcing the results.

Nu Skin

Nu Skin Enterprises Inc., based in Provo, reported net income of \$46.3 million, or 83 cents per share, for the second quarter ended June 30. That compares with \$51 million, or 90 cents per share, for the same quarter a year earlier.

Revenue in the most recent quarter totaled \$623.5 million, down from \$704.2 million in the year-earlier quarter.

Nu Skin develops and distributes a line of beauty and wellness products and has manufacturing and technology innovation companies.

"As previously announced, our second-quarter results were negatively impacted by limited sales meetings, media scrutiny and consumer sentiment in Mainland China in connection with the recently completed 100-day review of the nutrition and direct sales industries," Ritch Wood, CEO, said in announcing the results.

"Outside of Mainland China, most of our other markets performed in line with expectations. Our customer numbers remained steady as we continued our customer-focused initiatives globally, while sales leaders declined 14 percent, primarily due to Mainland China. We remain committed to our long-term growth strategy focused on attracting and retaining customers, and are confident that, despite recent external factors, we are moving in the right direction."

Nature's Sunshine

Nature's Sunshine Products Inc., based in Lehi, reported net income attributable to common shareholders of \$2.7 million, or 14 cents per share, for the second quarter ended June 30. That compares with \$67,000, or zero cents per share, for the same quarter a year earlier.

Net sales totaled \$90.7 million, down from \$91.3 million in the year-earlier quarter.

Nature's Sunshine Products markets and distributes nutritional and personal care products in more than 40 countries.

"We're about three months into our transformation and are pleased with the progress we're seeing," Terrence Moorehead, president and CEO, said in announcing the results. "It's still early, but the business is performing in line with expectations, delivering strong second-quarter growth in net income and adjusted EBITDA (earnings before interest, taxes, depreciation and amortization), as a direct result of our strategic restructuring initiatives."

"Net sales were relatively flat versus prior year despite double-digit growth in Europe and 4 percent-plus growth in Asia, excluding impact of foreign currency. Continued softness in North America and the disruption of sales in China, from the government's 100-day review of the direct selling industry, were the key factors inhibiting top-line performance."

Overstock.com

Overstock.com, based in Salt Lake City, reported a net loss of \$24.7 million, or 69 cents per share, for the second quarter ended June 30. That compares with a loss of \$64.9 million, or \$2.20 per share, for the same quarter a year earlier.

Revenue in the most recent quarter totaled \$373.7 million, down from \$483.1 million.

Overstock.com is an online retailer and technology company.

In a letter to shareholders, Patrick M. Byrne, founder and CEO, said the second quarter "brought strong results for both our blockchain and retail businesses as we continue to innovate in both areas with our disruptive technologies." He added that the retail business has returned to positive adjusted EBITDA (earnings before interest, taxes, depreciation and amortization) for the first time since the second quarter of 2017 "and shows no signs of stopping."

Lipocine

Lipocine Inc., based in Salt Lake City, reported a net loss of \$3.4 million, or 14 cents per share, for the second quarter ended June 30. That compares with a loss of \$3.3 million, or 15 cents per share, for the same quarter a year earlier.

The company reported no revenues in either quarter.

Lipocine is a clinical-stage biopharmaceutical company focused on metabolic and endocrine disorders.

"During the second quarter, we continued to advance our pipeline, with important milestones achieved for both TLANDO and LPCN 1144," Dr. Ma-

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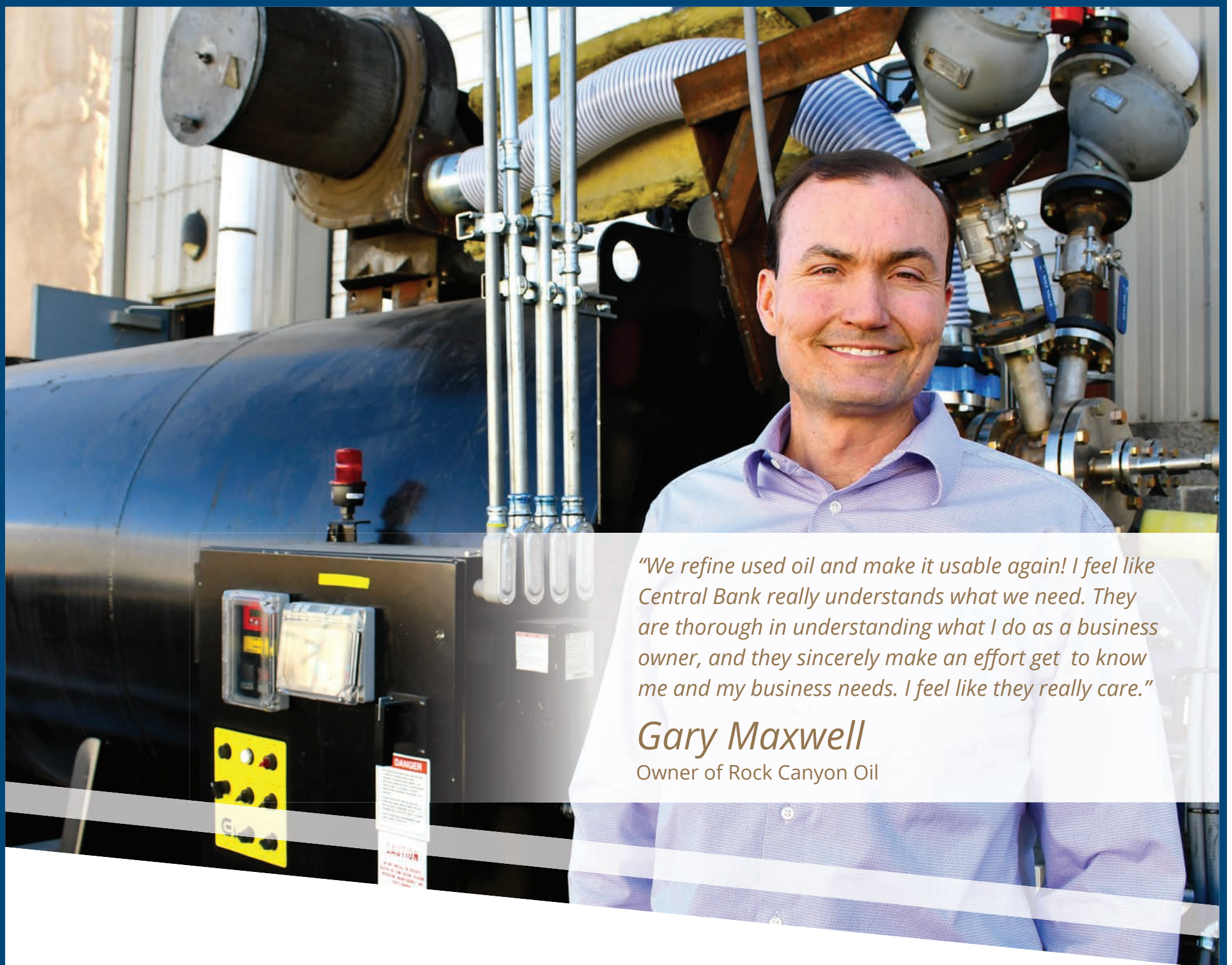
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A stylized illustration of a golfer in mid-swing, wearing a red shirt and blue cap. In the background, there is a white golf cart on a green field, and a large orange sun setting behind a range of red and yellow hills. The sky is blue with a few birds.

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Industry Briefs

Industry Briefs are provided as a free service to our readers. Company news information may be sent to brice@slenterprise.com. The submission deadline is one week before publication.

ASSOCIATIONS

• The **Salt Lake Chamber** has announced **Jacey Skinner** as its general counsel and vice president for public policy. Skinner succeeds **Abby Osborne**, who left the chamber earlier this summer to become the chief of staff for the Utah House of



Jacey Skinner

Representatives. Skinner has held a variety of senior leadership roles in Utah state government and is currently an attorney at Ballard Spahr LLP, where she focuses on government relations, public policy, administrative law, election law and litigation. She will continue her relationship with the firm. Skinner served as general counsel to Gov. Gary Herbert from 2013-17. She also served as the deputy state court administrator for the state of Utah, where she facilitated policy development and managed relations with the state Legislature, executive branch agencies, the Utah Judicial Council, and the Utah Supreme Court. Her experience also includes serving as director of the Utah Sentencing Commission, president of the National Association of Sentencing Commissions, and deputy district attorney from 2003-09 at the Salt Lake County District Attorney's office.

BANKING

• **D.L. Evans Bank** has appointed **Kent Francis** as vice president branch manager of the bank's South Ogden branch. Francis has more than 32 years of banking experience. He earned a degree in marketing and sales management from Weber State University and Stevens-Henager Business College in Ogden.



Kent Francis

CORPORATE

• The board of directors of **SINTX Technologies Inc.**, Salt Lake City, has declared a 1-for-30 reverse stock split of the company's common stock, with the split effective July 26. The company said the reverse stock split is primarily intended to bring the company into compliance with the minimum bid price requirements

for maintaining its listing on the Nasdaq Global Market. As a result of the reverse stock split, every 30 shares of the company's common stock issued and outstanding has been automatically reclassified into one new share of common stock. The split will not affect the number of authorized shares of common stock or the par value of the common stock.

• **Divvy**, a Lehi-based company focused on spend and expense management, has broken ground on new headquarters in Draper. The 150,000-square-foot building will include an outdoor basketball court, gender-neutral restrooms and a hotel-inspired lobby designed for flexibility and team collaboration. When completed in June 2020, the building will accommodate up to 850 people. Divvy also has announced a \$500 million purchase agreement with **Credit Suisse**. The terms of the agreement give Credit Suisse the ability to buy up to \$500 million in Divvy receivables over the next two years.



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DIVIDENDS

• The board of directors of **SkyWest Inc.**, St. George, has declared a quarterly dividend of 12 cents per share. The dividend will be paid Oct. 4 to shareholders of record Sept. 30. SkyWest Inc. is the holding company for SkyWest Airlines and SkyWest Leasing, an aircraft leasing company.

• The board of directors of **Nu Skin Enterprises Inc.**, Provo, has declared a quarterly dividend of 37 cents per share. The dividend will be paid Sept. 11 to shareholders of record Aug. 30. The company develops and distributes beauty and wellness solutions and has a collection of manufacturing and technology innovation companies.

EDUCATION/TRAINING

• The **Utah Coal Country Strike Team** has awarded two

\$25,000 grants to **Carbon and Emery school districts** to help fund high-quality computer and information technology courses at the high school level. These initial funds, which are tailored to align with the IT Pathways program established by the Utah Legislature, will target teacher training so graduating students will be prepared for additional training in technology fields. The strike team investments are the first of what will be in excess of \$1 million in workforce training investments — including equipment, a remote work site and scholarships — designed to help establish Carbon and Emery counties as an attractive location for Utah's burgeoning tech sector, as well as other industries. Current funding partners include the **Utah Legislature** and the **Alliance for the American Dream**. Additional financial support will be sought from the federal government, business partnerships and private philanthropy. It is also anticipated that both school districts will seek matching funds through Talent Ready Utah grants and Strategic Workforce Investment allocations available from the Utah Governor's Office of Economic Development. The Utah Coal Country Strike Team serves the coal communities of Carbon and Emery counties by working to raise incomes and diversify the economy.

• **Western Governors University's** Teachers College recently was awarded full seven-year accreditation in recognition of program quality for its teacher licensure programs by the **Association for Advancing Quality in Educator Preparation (AAQEP)**. WGU was one of nine universities recognized for early adoption of the AAQEP standards, which promote excellence and innovation in educator preparation programs. WGU is the first educator preparation provider in the U.S. to be awarded full, seven-year accreditation from both the Council for the Accreditation of Educator Preparation (CAEP) and AAQEP. WGU received CAEP accreditation in 2018.

EXPANSIONS

• **Level5**, an Atlanta-based design-build firm focusing exclusively on the financial industry, has opened a Salt Lake City regional office in Ogden. It is the company's third office, with the other being in Raleigh, North Carolina. The company said the office will house design-build consultants, superintendents, project managers and other roles aimed to better serve its West Coast clientele.

INVESTMENTS

• **Vivint Solar Inc.**, a Lehi-

based residential solar system provider, has closed a \$325 million revolving warehouse facility, which refinanced the aggregation credit facility that was set to mature in 2020. The company said the new warehouse reduces the cost of debt by 87.5 basis points and materially increases the amount of upfront proceeds as a percentage of future contractual cash flows. Five lenders are involved in the deal, which includes an accordion feature that provides the ability for the company to increase the facility to \$400 million. The lenders include **Bank of America Merrill Lynch**, **CitiBank**, affiliates of **Credit Suisse**, **KeyBank** and **Silicon Valley Bank**.

• **STRT Inc.**, a Salt Lake City-based designer and operator of living and working accommodations, has raised an undisclosed seed round of financing. The round was led by **Celtic Investment Inc.**, **Sentry Investments LLC** and **4-D Investments LLC**. Launched earlier this year, STRT has developed a new living and working concept focused on the user experience of entrepreneurs and creatives that will combine co-living, co-working and startup accelerator services into each property.

• **Suralink**, a Salt Lake City-based company producing workflow software for accounting firms, has received a minority growth equity investment from **Growth Street Partners**, based in San Francisco. The amount was not disclosed. Suralink will use the investment to continue to invest in its product and team. In conjunction with the investment, Growth Street Partners will join the Suralink board of directors.



Mickell Jimenez

upfront guidance to help position businesses to effectively mitigate risk. Jimenez has experience serving as outside counsel to business owners on a wide range of employment and litigation issues, including more than 20 years as outside general counsel to Cafe Rio Inc. Before joining Holland & Hart, Jimenez was a director and shareholder at Clyde Snow, where she was recently a member of the firm's Management Committee and co-chair of the labor and employment group.

MANUFACTURING

• **Amp Human**, a Park City-based lotion company, has created a scientific advisory board that includes eight researchers, scientists and coaches with complementary expertise in human performance science and training. The board will guide Amp Human in research, product development and application. Members are **Brad Wilkins**, former director of the Nike Sport Research Laboratory, advisory board chairman and Amp Human executive; **Nigel Mitchel**, head nutritionist for British Cycling; **Andy Jones**, professor of applied physiology at the University of Exeter and an exercise physiology researcher; **Jason Siegler** of Western Sydney University and an expert in bicarb use in exercise; **Brett Kirby**, human performance lead in the Nike Sport Research Laboratory; **Per Lundstrom**, director of athlete performance at Red Bull;

see BRIEFS next page

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LAW

• **Holland & Hart** has hired **Mickell Jimenez** to its labor and employment practice in its Salt Lake City office. Jimenez provides

Industry Briefs

from previous page

Hoby Darling, president of human performance at Logitech; and **Paul Dituro**, who served 13 years in Special Operations and influenced human performance programs for elite military.

NONPROFITS

• A groundbreaking ceremony was held recently for **Habitat for Humanity of Summit and Wasatch Counties'** first two single-family homes to be constructed at **Silver Creek Village**. Among those attending were representatives from sponsors **Village Development Group, Wells Fargo, Think Architecture, Vail EpicPromise** and **Summit County**. Silver Creek Village marks Habitat for Humanity of Summit & Wasatch Counties' most ambitious project to date. Twenty-six homes in total will be designated for the local nonprofit's beneficiaries. The first two to be constructed are single-family residences. Plans call for up to 24 attached townhomes to follow. Habitat's homes will be part of a total of 330 affordable housing residences in the master-planned community, which will consist of 1,300 homes. The first two single-family homes in Silver Creek Village are expected to be complete within a year.

RECOGNITIONS

• The **Utah Board of Tourism Development** has issued a proclamation recognizing **Alsco Inc.**, a Utah-based linen and uniform rental company, for demonstrating corporate and social responsibility during the shutdown of the federal government last winter. Alsco donated \$100,000 to help ensure Utah's parks were welcoming and clean for visitors by underwriting expanded visitor and custodial services at Zion, Bryce and Arches national parks. Alsco worked in collaboration with state Sen. Dan McCay, R-Riverton, and the Utah Office of Tourism to define a plan to protect the visitor experience and natural environment during the shutdown. The government reopened shortly after Alsco's contribution. Alsco committed those funds to the park natural history associations to be used in the event of another shutdown or to support high-priority projects: \$62,300 for Zion National Park Forever Project; \$19,600 for Canyonlands Natural History Association, which supports Arches National Park; and \$18,100 for Bryce Canyon

Natural History Association. Arches and Bryce have retained their funds while Zion has used the Alsco donation to support its K-12 active engagement education program to grow the next generation of park stewards.

• **Wasatch Nectar**, Salt Lake City, has been awarded a \$4,000 fourth-quarter 2018 "Growth Grant" from the **National Association for the Self-Employed** to help expand business operations. The association is an advocate and resource for the self-employed and micro-business community. It awarded \$48,000 in grants in 2018. Wasatch Nectar, owned by Kristen Moffatt, uses only raw honey sourced locally from the Wasatch Range with naturally derived electrolytes to provide energy and nutrition to athletes.

TECHNOLOGY/LIFE SCIENCES

• **Domo**, an American Fork-based business operating system company, has hired **John Mellor** as chief strategy officer, **Robert Davy** as vice president of ecosystem, and **Pam Marion** as chief customer suc-



John Mellor



Robert Davy



Pam Marion

cess officer. Mellor has more than 25 years of technology industry experience, most recently serving as vice president for strategy and business operations for Adobe's Digital Experience business. Mellor joined Adobe through the company's acquisition of Omniture in 2009, where he served as executive vice president of marketing. He holds both a bachelor's degree in mechanical engineering and an MBA from Brigham Young University. Davy was with Microsoft for more than 14 years, most recently as the general manager for Microsoft's customer success unit in the financial services industry. Previously, he was the general manager for Microsoft's Northeast enterprise and partner group. Prior to Microsoft, Davy held leadership positions at Sapient, Avaya, Lucent and AT&T. Marion has more than 25 years of software experience. She joins Domo from SAP SuccessFactors, where she served as chief of staff and

senior vice president of strategic programs and customer experience. During her 12 years with SAP, she served in many leadership roles in services, services sales and development. Prior to SAP, she worked a combined 15 years with Kronos and Ultimate Software.

• **Sarcos Robotics**, a Salt Lake City-based producer of robots that augment humans to enhance productivity and safety, has appointed **Jim Miller** as vice president of defense solutions. The appointment comes amid increased traction for Sarcos' products — particularly its full-body, powered exoskeleton technologies — across military sectors. Miller is a retired U.S. Army



Jim Miller

special forces colonel and joins Sarcos after serving more than 29 years of active duty in the U.S. Army. His most recent role was as commander of the Joint Acquisition Task Force Tactical Assault Light Operator Suit. His previous assignments also included chief of staff of Special Operations Command Europe in Stuttgart, Germany, and director of operations at Special

Operations Command South in Miami, among other roles.

TRANSPORTATION

• **SkyWest Inc.**, a St. George-based holding company for SkyWest Airlines and SkyWest Leasing, has reached an agreement with **Delta Air Lines** to operate six used E175 aircraft under a multi-year contract scheduled to begin in early 2020. The aircraft are financed by Delta and to be sourced from a regional operator transitioning out of Delta Connection. SkyWest has also agreed to purchase and operate seven new E175 aircraft for Delta instead of SkyWest operating seven new CRJ900 aircraft that were to be financed by Delta and scheduled for delivery in 2020. The seven E175 aircraft have delivery dates scheduled from late 2019 to mid-2020. Under Delta's initiative to reduce the number of Delta Connection operators, SkyWest anticipates becoming one of just three carriers under the Delta Connection portfolio and Delta's primary regional operator in several western U.S. cities by mid-2020, including Los Angeles, Salt Lake City and Seattle. Separately, SkyWest cancelled its previously announced order for three new E175 aircraft scheduled for service with Alaska Airlines in 2021.



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- 413 Community Outreach Events
- 1,864 Volunteer Hours
- 1,472 Hours of Crisis Therapy
- 14,702 Nights of Safe Shelter



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EARNINGS

from page 8

age processing solutions that are key components of X-ray imaging systems. It employs roughly 2,000 people located at manufacturing and service center sites in North America, Europe, and Asia.

"Our business had solid gains in revenues in the third quarter, and operating earnings comparable to the prior-year quarter," Sunny Sanyal, CEO, said in announcing the results. "Quarterly

revenues were up 3 percent, led by record-level global CT tube sales and double-digit sales growth in products for the oncology and mammography imaging markets. The Direct Conversion acquisition we completed early in the third quarter contributed approximately \$2 million of revenues, as expected, and integration activities are well underway. Offsetting these revenue gains were significantly lower sales of radiographic detectors."

Pluralsight

Pluralsight Inc., based in Farmington, reported a net loss of \$29.4 million, or 30 cents per share, for the second quarter ended June 30. That compares with a loss of \$41.3 million, or 20 cents per share, for the same quarter a year earlier.

Revenues in the most recent quarter totaled \$75.9 million, up from \$37.6 million in the year-earlier period.

Pluralsight is an enterprise technology skills platform company.

"Our Q2 revenue and non-GAAP EPS (earnings per share) were both above guidance, with revenue growing 42 percent and non-GAAP EPS improving by 71 percent," Aaron Skonnard, co-founder and CEO, said in announcing the results. "Our continued penetration with our top customers, our best-in-class net revenue retention and our early wins with GitPrime give us a strong base for continued success, and I'm excited about the insights and capabilities our platform and content provide to technology leaders."

Vivint Solar

Vivint Solar Inc., based in Lehi, reported a net loss attributable to common stockholders of \$28.6 million, or 24 cents per share, for the quarter ended June 30. That compares with net income of \$18.1 million, or 15 cents per share, for the same quarter a year earlier.

Revenue in the most recent quarter totaled \$90.8 million, up from \$80.8 million in the year-earlier quarter.

Vivint Solar is a residential solar provider in the United States.

Profire Energy

Profire Energy Inc., based in Lindon, reported net income of \$986,000, or 2 cents per share, for the second quarter ended June 30. That compares with \$1.7 million, or 3 cents per share, for the same quarter a year earlier.

Revenues in the most recent quarter totaled \$10.1 million, down from \$11.3 million in the year-earlier quarter.

Profire creates, installs and services burner and chemical management solutions in the oil and gas industry.

"We are very excited about both of our recent acquisitions of Millstream and Midflow and believe they fit within our long-term strategy," Brenton Hatch, president and CEO, said in announcing the results. "We anticipated the current market volatility in 2019 and believe our investment strategies, including acquisitions and product development, are crucial to Profire's growth in the coming years. We will continue to thoughtfully analyze additional strategic opportunities while we focus on the strategic integration of Midflow and Millstream to ensure these acquisitions are value accretive."

PolarityTE

PolarityTE Inc., based in Salt Lake City, reported a net loss of \$22.8 million, or 92 cents per share, for the quarter ended June 30. That compares with a loss of \$14 million, or 74 cents per share, for the same quarter a year earlier.

Revenue in the most recent quarter totaled \$1.3 million, up from \$320,000 in the year-earlier quarter.

PolarityTE is a biotechnology company developing and commercializing regenerative tissue products and biomaterials.

Superior Drilling Products

Superior Drilling Products Inc., based in Vernal, reported a net loss of \$397,000, or 2 cents per share, for the quarter ended June 30. That compares with net income of \$913,000, or 4 cents per share, for the same quarter a year earlier.

Revenues in the most recent

Arthritis Foundation Swing for a Cure Golf Classic

Monday, September 30, 2019

7:00 a.m. Registration

8:00 a.m. Shotgun Start

1:00 p.m. Awards Lunch & Auction

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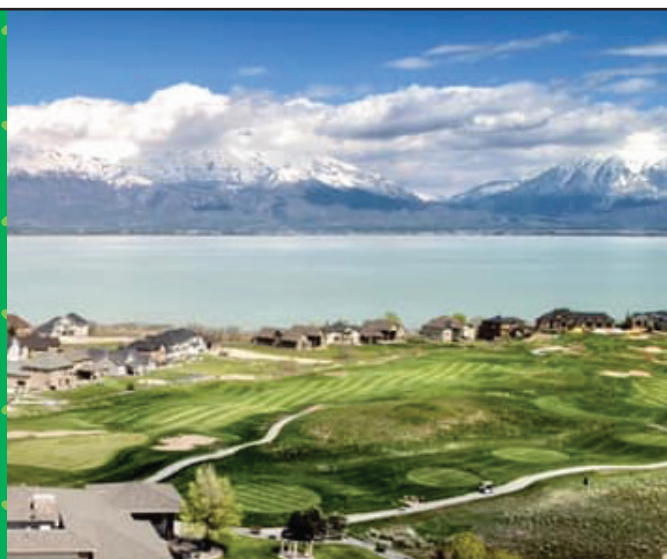
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see EARNINGS page 22

Calendar

Calendar listings are provided as a free service to our readers. Information about upcoming events may be sent to brice@slenterprise.com. The submission deadline is one week before publication.

Aug. 20, 8:30 a.m.-1 p.m.

Minority-Owned Business Workshop, presented by the Women's Business Center of Utah and the Procurement Technical Assistance Center (PTAC) for minority-owned businesses in need of assistance to start/grow a business, how to obtain financing and how to successfully contract with the government. Location is the Miller Business Resource Center, 9690 S. 300 W., Sandy. Cost is \$12. Details are at wbcutah.org.

Aug. 20, 11:30 a.m.-1 p.m.

Business Alliance Networking Luncheon, a Davis Chamber of Commerce event. Location is Boondocks Fun Center, 525 Deseret Drive, Kaysville. Free. No RSVP required. Details are at davischamberofcommerce.com.

Aug. 20, 11:30 a.m.-1 p.m.

Southwest Valley Women in Business. Location to be determined. Details are at southjordan-chamber.org.

Aug. 20, 3-5 p.m.

"Creating a Content Strategy Guide for Your Business," a Utah Microloan Fund event. Presenter is Sara Day. Location is the Utah Microloan Fund, 154 E. Ford Ave., Suite A, Salt Lake City. Free. Registration can be completed at Eventbrite.com.

Aug. 21, 7 a.m.-3 p.m.

2019 Chamber Golf Classic, an Ogden-Weber Chamber of Commerce event. Breakfast starts at 7 a.m., followed by shotgun start at 8 a.m. (four-man scramble format) and lunch and awards at 1 p.m. Location is Mount Ogden Golf Course, 1787 Constitution Way, Ogden. Sponsorships are available. Details are at ogdenweberchamber.com.

Aug. 21, 8-10 a.m.

M.A.C.H. Speed Networking, a Murray Area Chamber of Commerce event. Location is Urban Arts Factory, 116 S. Rio Grande St., Salt Lake City. Free (pre-registration is required). Details are at murraychamber.org.

Aug. 21, 8-9:30 a.m.

"Addiction at Work," part of the Legal Breakfast Briefing Series presented by Employers Council. Location is Employers Council, Utah office, 175 W. 200

S., Suite 2005, Salt Lake City. Cost is \$99. Details are at employerscouncil.org.

Aug. 21, 8-9:30 a.m.

Chamber Launch, a Salt Lake Chamber networking event. Location is the Salt Lake Chamber, 175 E. University Blvd. (400 S.), Suite 600, Salt Lake City. Free. Details are at slchamber.com.

Aug. 21, 11:30 a.m.-1 p.m.

Wasatch Business Series, hosted by the Millcreek Business Council. Speaker is U.S. Sen. Mitt Romney, R-Utah. Location is Golden Customer Care, 3902 S. State St., Millcreek. Cost is \$15. Registration can be completed at Eventbrite.com.

Aug. 21, 1-2 p.m.

"Running a Successful Crowdfunding Campaign," a Silicon Slopes event. Speaker is Weston Kay, founder of Rose Anvil. Location is Vivint Smart Home, 1400 N. 635 E., Logan. Free. Details are at siliconslopes.com.

Aug. 21, 4:30-5:30 p.m.

Tax Planning Clinic, a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 21, 5:30-6:30 p.m.

QuickBooks Workshop, a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 21, 6:30-8 p.m.

"Simple Steps: Financing," a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 22

ACG (Association for Corporate Growth) Utah Golf Tournament. Activities begin with 7:30 a.m. breakfast and registration. Shotgun start is at 8:30 a.m. Lunch and awards follow play. Location is Englewood Golf Course, 1110 E. Eaglewood Drive, North Salt Lake. Cost is \$250 for ACG members, \$300 for nonmembers, \$1,000 for a foursome. Sponsorships are available. Details are available by contacting Linda Blake at linda@acgutah.org.

Aug. 22, 11:30 a.m.-1 p.m.

Fall Lunch Meeting, a Murray Area Chamber of Commerce event. Location is Brio Tuscan Grille, 6100 S. State St., Fashion Place Mall, Murray. Cost is \$25 for guests, \$20 after Aug. 20 or at the door. Details are at murraychamber.org.

Aug. 22, 11:30 a.m.-1 p.m.

ChamberWest Luncheon Series. Speaker Karston Watkins of LifeTree Local Marketing will discuss "Online Reputation Management: How Does Your Business Look Online?" Location is Utah Trucking Association, 4181 W. 2100 S., West Valley City. Cost is \$20 for ChamberWest members by Aug. 19, \$30 for members thereafter and for nonmembers. Details are at chamberwest.com.

Aug. 22, 5-7 p.m.

Business After Hours, a Salt Lake Chamber event. Location is The Daily, 222 S. Main St., Suite 140, Salt Lake City. Cost is \$10 for members, \$15 for nonmembers. Details are at slchamber.com.

Aug. 22, 6-7 p.m.

Legal Clinic, a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 22, 6-7 p.m.

Intellectual Property Clinic, a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 22, 6-7 p.m.

Health Insurance Clinic, a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 23, 7:30-8:30 a.m.

"Eggs & Issues," a Murray Area Chamber of Commerce event. Speaker is Dave Davis of the Utah Food & Retail Association. Location is Anna's Restaurant, 4770 S. 900 E., Salt Lake City. Free unless ordering from the menu. Open to everyone. Details are at murraychamber.org.

Aug. 23, 7:30 a.m.-2 p.m.

Sandy Area Chamber Executive Golf Tournament, a Sandy Area Chamber of Commerce

event. Registration begins at 7:30 a.m., followed by 8:30 a.m. shotgun start. Location is River Oaks Golf Course, 9300 Riverside Drive, Sandy. Sponsorships are available. Details are at sandychamber.com.

Aug. 23, 9 a.m.-6:30 p.m.

2019 Utah DMC Annual Conference, a Utah Digital Marketing Collective event. Location is Megaplex Theatres at Jordan Commons, 9335 S. State St., Sandy. Cost is \$449. Details are at <http://www.utahdmc.org/dmc-2019>.

Aug. 23, noon-1 p.m.

Silicon Slopes Town Hall featuring Melanie Colton, vice president of talent product at Andela, and Kyle Kartchner, vice president of engineering at Weave. Location is Silicon Slopes, 2600 W. Executive Parkway, Suite 140, Lehi. Free. Details are at siliconslopes.com.

Aug. 23, noon-1 p.m.

Women in Business Brown Bag Lunch, a West Jordan Chamber of Commerce event. Speaker Connie Zeller, founder of C. Zeller Events, will discuss "The Five Biggest Event Disasters: How to Make Your Event Rock." Location is Huntington Learning Center, 5474 W. Daybreak Parkway, Suite G5, South Jordan. Free. Details are at westjordan-chamber.com.

Aug. 24-25

Fifth Annual "Made in Utah" Festival, featuring more than 100 local makers and artists, local foods, food trucks, craft beer and cocktails from Utah breweries and distilleries, and live music. Hours are noon-8 p.m. Aug. 24 and noon-6 p.m. Aug. 25. Family- and pet-friendly. Location is The Gateway, from 100 South to 50 North along Rio Grande Street, Salt Lake City. Free. Details are at <https://www.madeinutahfest.com/madeintutahfest2019>.

Aug. 26-28

68th United Nations Civil Society Conference on Building Inclusive and Sustainable Cities and Communities, co-hosted by the UN Department of Global Communications, Salt Lake City and the NGO Executive Committee. Event features plenary sessions, thematic sessions, workshops, exhibits and youth hub. Location is Salt Palace, 100 S. West Temple, Salt Lake City. Details are at <https://outreach.un.org/ngorelations/68th-un-civil-society-conference>.

Aug. 27, 8:30-11:30 a.m.

"Disaster Preparedness & Business Recovery Program," a ChamberWest event in partnership with the Utah Department of Public Safety's Division of Emergency Management. Part 1 is Aug. 27, with Part 2 being Oct. 29. Location is Jordan Valley Water Conservancy, Garden Park, 8275 S. 1300 W., West Jordan. Free for ChamberWest members, \$49 for nonmembers (\$100 for three people from the same company). Details are at chamberwest.com.

Aug. 27, 11:30 a.m.-1 p.m.

Women in Business Luncheon, an Ogden-Weber Chamber of Commerce event. Location is Ogden Eccles Conference Center, 2415 Washington Blvd., Ogden. Cost is \$20 for members, \$30 for nonmembers. Details are at ogdenweberchamber.com.

Aug. 27, 4:30-6:40 p.m.

Annual Women in Business Summer Social, a Sandy Area Chamber of Commerce event. Location is Embassy Suites by Hilton South Jordan, 10333 South Jordan Gateway, eighth floor, South Jordan. Cost is \$30 for members, \$35 for nonmembers. Registration can be completed at Eventbrite.com.

Aug. 27, 6-8 p.m.

"Basic SEO Strategy and Skills," a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 27, 6:30-8:30 p.m.

"Smart Start for Business Beginners," a Small Business Development Center (SBDC) event. Location is Tooele City Hall, 90 N. Main St., Tooele. Free. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 27, 6:30-8:30 p.m.

"Simple Steps: Capital," a Small Business Development Center (SBDC) event. Location is the Orem/Provo SBDC, Utah Valley University, 815 W. 1250 S., Orem. Details are at <https://clients.utahsbdc.org/events.aspx>.

Aug. 28, 7:30-8:30 a.m.

"Coffee Connection," a Holladay Chamber of Commerce event. Location is 3 Cups, 4670 Holladay Village Plaza, Suite 104, Holladay. Details are at holladaychamber.com.

Legal Matters

What you should know about ‘sandbagging’ in M&A transactions

The term “sandbagging” is commonly used in merger and acquisition (M&A) transactions. The term refers to a practice often employed by buyers to claim a breach of a seller representation or warranty (rep or warranty) in the transaction agreement and seek indemnification from the seller, in spite of the buyer having known about the breach or the fact that a particular rep or warranty was not true. Sandbagging claims can



THOMAS
TAYLOR

arise irrespective of the transaction structure — whether a stock purchase, an asset purchase or a merger.

Indemnification provisions are among the most heavily negotiated provisions in M&A agreements. Sellers will seek to limit the scope, duration and amount of damages subject to indemnification claims, while buyers attempt to expand their indemnification rights as much as possible. Buyers

often argue for a sandbagging provision in the transaction agreement, whereas sellers will want to include an antisandbagging provision.

Sandbagging Provisions

A sandbagging provision (sometimes referred to as a prosandbagging provision) provides that the buyer will be entitled to postclosing indemnification for any breaches of the seller’s reps and warranties, whether or not the buyer knew of the breach or the fact that a particular

rep or warranty was false.

A sandbagging provision may read as follows:

“The rights of buyer to indemnification under this agreement shall not be impacted or limited by any knowledge that buyer acquired, or could have acquired, whether before or after the closing or the closing date, nor by any investigation or due diligence inquiry conducted by buyer. Seller hereby acknowledges that, regardless of any investigation or due diligence inquiry conducted by or on behalf of buyer, and regardless of the results of any such investigation or inquiry, buyer has entered into this agreement and the transaction in express reliance upon the representations and warranties of seller made in this agreement.”

Simply stated, a sandbagging provision provides that a buyer’s remedies against the seller are not impacted regardless of whether the buyer had knowledge, at or prior to closing, of the facts or circumstances giving rise to an indemnification claim.

Antisandbagging Provisions

Sellers, on the other hand, will sometimes request an antisandbagging provision, which is a proseller provision that prevents the buyer from being indemnified for the breach of any rep or warranty that the buyer had knowledge of at or prior to the closing. An antisandbagging provision may read as follows:

“Buyer acknowledges and agrees that it has had an opportunity to conduct a thorough due diligence investigation on the [company] [seller], and in no event shall seller have any liability to buyer with respect to the breach of any representation or warranty in this agreement to the extent buyer knew of such breach as of the closing or closing date.”

An antisandbagging provision, as the name suggests, prohibits the buyer from sandbagging or seeking postclosing indemnification against the seller for any breaches of its reps or warrant of which the buyer had knowledge at or prior to the closing. An antisandbagging provision is a sellerfavorable provision and should be resisted by buyers and their counsel.

Trends in Usage

The American Bar Association (ABA) publishes a Private Target Mergers and Acquisitions Deal Point Study every other year that analyzes various terms in middle-market M&A transactions. In the ABA’s 2017 study (the most recent available), the ABA found the following in the M&A agreements it reviewed:

- 42 percent contained a sandbagging provision,
- 6 percent contained an antisandbagging provision, and
- 51 percent were silent on the issue.

Consequences of Remaining Silent

In many transactions, the parties are not able to agree on the sandbagging issue and the agreement will simply be



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Succeeding in Your Business

A laughing jury never convicts - Part 2

These days, we live in a world of infotainment, marketainment and edutainment.

It isn't enough anymore to just give out information. Your listeners need to have their emotions manipulated — to laugh, cry or get angry — even though you're talking about recent developments in sales taxation.

It isn't enough anymore to just sell something. Your customers need to have an experience to which the product or service somehow relates but that is only part of a greater whole.

It isn't enough anymore to teach lessons. With ever-shrinking attention spans and competition from the ever-fascinating Internet, you need to become a circus act and develop breakdancing moves just to keep your students

awake, much less create memorable moments that will stick in their skulls for more than a few minutes.

Even lawyers, accountants and other professionals have to adopt a show biz style if they want to stay in business. Like the song says, "Make 'em laugh." The ability to laugh at yourself and not take yourself seriously (as opposed to taking your work seriously, which you should) goes a long way toward success, especially in a service business.

Of course, you also have to know what you're doing, but you would be amazed how often people take that for granted. People never ask me about my grades in law school or how well I performed on the bar exam. If I tell them I can help them, they almost

always take me at my word.

So how can you become funny? The first rule is to not try. Humor should flow naturally and should never be forced. Someone who is clearly trying to be funny just comes across looking phony.

Here are some other rules:

Tell Stories, not Jokes. A well-placed joke at the beginning of a talk can be a great icebreaker, but few people can pull it off. You are much better off telling humorous stories, especially if they come from your own experience. The greatest stand-up comedians, like Bill Cosby, are storytellers, not joke slingers. Listen to Cosby's early Warner Bros. record albums to learn exactly how to tell a funny story. No one, not even Mark Twain, did it better.

If you can, take your speaker's introduction and turn it into something funny. Whenever I am introduced to an audience of lawyers, I begin with something like, "That was a great introduction, but there's really only one thing you need to know about me. I practice alone. I work from home. No partners, no assistants, no paralegals, no secretaries, no dog, no cat, no gerbil. Most of the time I am naked. I am running — to my knowledge — the only clothing-optional law practice in the country. And" — (lower-

ing my voice to a conspiratorial whisper) — I am looking for associates!" If you have ever seen me speak live or on YouTube, you know why this is funny.

The Joke Is Always on You. You, not your audience, have to be the butt of the joke. Insult comics like Don Rickles are fun to watch at a safe distance but not when they're pointing at you. Self-effacing humor demonstrates humility, assumes personal responsibility for the things that happen to you and acknowledges our common humanity. Also, you can't sue yourself for defamation. When something happens in a Woody Allen joke, it happens to Woody Allen, never the other person.

Always Playful, Always Upbeat. You know the difference between a scooch and a nudge? If you look the words up on Wikipedia, they mean pretty much the same thing. But when they refer to people, there's a big difference. A nudge is a pain in the neck, an irritating, pestering person. A scooch is a playful person, someone who pokes fun at life in general and at themselves in particular, without being sarcastic or negative. A scooch is actually fun to have around; a nudge is someone you keep at a distance. Be a scooch, not

a nudge. Keep the dark irony for your next trip to England.

Humor Is the Spice, Not the Meal. I love a great joke during a speech but not when it has nothing to do with the subject. Humor for humor's sake may get you a quick laugh, but the audience goes right back to sleep once it sees your joke was a one-off.

Humor should be interwoven throughout your presentation, at least once every five minutes (or once for every PowerPoint slide). The humor should be organic — flowing from the substance of the talk — and ideally should illustrate a serious point rather than stand on its own.

Never, Ever Offend Your Audience. It's no secret that people are increasingly sensitive about many things and are more easily offended than ever before. If your humor shows a lack of intelligence or sensitivity to your audience, your audience will hate you, really *hate* you. Know your audience, and tailor your humor to fit who it is, not who you are.

Cliff Ennico (crennico@gmail.com) is a syndicated columnist, author and former host of the PBS television series "Money Hunt."

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TAYLOR

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left silent on the issue, in which case the choice of law governing the agreement becomes critical. The parties should carefully consider the legal consequences of remaining silent and evaluate how the sandbagging issue will be addressed under the law governing the transaction agreement.

While, as noted above, the ABA's 2017 study found that 51 percent of the M&A agreements it reviewed were silent on the sandbagging issue, other studies have found that up to 75 percent of the M&A agreements that were reviewed were silent.

Two General Rules

The rules applied by courts to M&A agreements that are silent on the sandbagging issue vary among the states. Accordingly, it's critical to carefully select the law that will govern the agreement and understand how courts will treat an agreement that is silent on the sandbagging issue. Courts have developed two different rules: the so-called "Modern Rule" and the "Traditional Rule."

The Modern Rule

The Modern Rule permits a buyer to bring an indemnification claim for a false rep or warranty, regardless of the buyer's knowledge of the inaccuracy prior to closing. These courts hold that the reps and warranties are negotiated contractual

obligations upon which the buyer had the right to rely. Among the states following the Modern Rule are Delaware and (with one limited exception) New York. The Modern Rule is a buyer-favorable rule because it does not require the buyer to show reliance on the false rep or warranty in order to obtain indemnification.

The Traditional Rule

Under the Traditional Rule, a buyer must prove reliance on the rep or warranty as an element of its indemnification claim. California is the leading state that follows the Traditional Rule. This rule is seller-favorable because the buyer will be required to prove reliance on the seller's false rep or warranty in order to obtain indemnification.

There is no Utah case that addresses the sandbagging issue or the consequences of the transaction agreement being silent on the issue. However, based on a 1976 10th Circuit Court of Appeals case (the circuit in which Utah sits), it appears that the 10th Circuit adopted the Traditional Rule, or the seller-favorable position of requiring the buyer to prove reliance on the seller's false rep or warranty in order to obtain indemnification.

Thomas R. Taylor is a corporate and M&A lawyer and shareholder in the Salt Lake City office of the law firm of Durham, Jones & Pinegar, PC. He is a member of the firm's Business and Finance section.

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CALENDAR

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Aug. 28, 7:30 a.m.-1 p.m.

"Chicks with Sticks 2019," presented by NAWBO Salt Lake. Location is River Oaks Golf Course, 9300 S. Riverside Drive, Sandy. Cost is \$80, \$300 for a foursome; \$35 for lunch only. Details are at (801) 487-4600 or nawboslc@gmail.com.

Aug. 29, 7 a.m.-2 p.m.

14th Annual Scholarship Golf Tournament, a South Jordan Chamber of Commerce event. Location is Glenmoor Golf Club, 9800 S. 4800 W., South Jordan. Details are at southjordanchamber.org.

Aug. 29, 11:30 a.m.-1 p.m.

Networking Lunch, a Murray Area Chamber of Commerce event. Location is The Point After, 5445 S. 900 E., Murray. Cost is \$20 for members, \$25 for guests. Details are at murraychamber.org.

Aug. 29, noon

"Deal Flow Panel: The Accelerator Advantage," a Kiln Deal Flow panel series. Location is Kiln, 2701 N. Thanksgiving Way, Lehi. Registration can be completed at Eventbrite.com.

Aug. 30, 7:30-8:30 a.m.

Eggs & Issues, a Murray Area Chamber of Commerce event. Speaker is Dave Nicponski, Murray City Council candidate (District 1). Location

is Anna's Restaurant, 4700 S. 900 E., Murray. Free unless ordering from the menu. Open to everyone. Details are at murraychamber.org.

Sept. 3-4

Utah Rural Summit, presented by Southern Utah University's Utah Center for Rural Life and featuring leaders in industry, education and government discussing innovation through entrepreneurship and partnership. Location is Southern Utah University's Hunter Conference Center, 351 W. University Blvd., Cedar City. Cost is \$125. Registration can be completed at Eventbrite.com.

Sept. 3, 11:30 a.m.-1 p.m.

Business Alliance Networking Luncheon, a Davis Chamber of Commerce event. Location is Boondocks Fun Center, 525 Deseret Drive, Kaysville. Free. No RSVP required. Details are at davischamberofcommerce.com.

Sept. 3, 11:30 a.m.-1 p.m.

"Let's Do Lunch," a South Jordan Chamber of Commerce event. Location to be determined. Details are at southjordanchamber.org.

Sept. 4, 8 a.m.-noon

"Basic I-9 Compliance," an Employers Council event. Location is Employers Council, Utah office, 175 W. 200 S., Suite 2005, Salt Lake City. Cost is \$145. Details are at employerscouncil.org.

Sept. 5, 7:30-9 a.m.

Chamber Speaker Series,

an Ogden-Weber Chamber of Commerce event. Location is Weber Center, 2380 Washington Blvd., Ogden. Free for chamber members and first-time guests. Details are at ogdenweberchamber.com.

Sept. 5, 11:30 a.m.-1:30 p.m.

"MDSAP: What Does It Mean for Medical Device Manufacturers?" presented by the RAPS Utah chapter. Speaker is Alexander Crosby of Intertek discussing some of the common issues and expectations with the Medical Device Single Audit Program (MDSAP). Location is Master Control, 6350 S. 3000 E., Old Mill III Building, Cottonwood Heights. Cost is \$30 for members, \$50 for nonmembers. Details are at <https://www.raps.org/events/raps-utah-chapter-mdsap-what-does-it-mean-for-medical-device-manufacturers>.

Sept. 6, 7:30-8:30 a.m.

Eggs & Issues, a Murray Area Chamber of Commerce event featuring networking. Location is Anna's Restaurant, 4700 S. 900 E., Murray. Free unless ordering from the menu. Open to everyone. Details are at murraychamber.org.

Sept. 6, 8 a.m.-noon

"Presentation Skills," a Salt Lake Chamber two-part event taking place Sept. 6 and Oct. 4. Speaker is Beth Levine, founder and principal at SmartMouth Communications. Location is Salt Lake Chamber, 175 E. 400 S., Suite 600, Salt Lake City. Early-bird price for each event is \$149

for members, \$199 for nonmembers. Cost of Oct. 18 one-on-one video feedback session is \$75 for members, \$99 for nonmembers. Details are at slchamber.com.

Sept. 6, 8 a.m.-4:30 p.m.

"PHR/SPHR Study Programs," an Employers Council event focused on preparation for those exams and taking place over five consecutive Thursdays. Location is Employers Council, Utah office, 175 W. 200 S., Suite 2005, Salt Lake City. Cost is \$1,395 for members, \$1,595 for nonmembers. Details are at employerscouncil.org.

Sept. 6, 8-10 a.m.

First Friday Face-to-Face, a West Jordan Chamber of Commerce business-to-business networking event. Location is the Megaplex Theatres at The District, 3761 W. Parkway Plaza Drive, South Jordan. Free. Details are at <http://firstfridaysnetworking.com/>.

Sept. 6, 8-10 a.m.

Friday Forum, a Utah Valley Chamber event. Location is Utah Valley Convention Center, 220 W. Center St., No. 200, Provo. Details are at thechamber.org.

Sept. 6, 8-9 a.m.

Silicon Slopes Breakfast, featuring Andrew Joiner, CEO of Inmoment. Location is Silicon Slopes, 2600 W. Executive Parkway, Suite 140, Lehi. Free. Details are at silicon slopes.com.

Sept. 10, 10-11:30 a.m.

"How to Become a Leader People Will Follow," a West Jordan Chamber of Commerce event. Location is Mountain America Credit Union, 3065 W. 5400 S., Taylorsville. Free for chamber members, \$10 for nonmembers. Details are at westjordanchamber.com.

Sept. 10, 11:30 a.m.-1 p.m.

Lunch & Learn, a South Jordan Chamber of Commerce event. Discussion is "Estate Planning Made Easy." Location is Brick Oven, 10622 S. River Front Parkway, South Jordan. Cost is \$25 for members, \$30 for nonmembers. Details are at southjordanchamber.org.

Sept. 11-12

Leadership Institute, a ChamberWest series of 10 one-day programs taking place through June 11 that are designed to challenge and engage leaders in professional and personal growth while inspiring an entrepreneurial spirit in building a better community. Location is the Homestead Resort, 700 N. Homestead Drive, Midway. Cost is \$1,025. Details are at (801) 977-8755, chamber@chamberwest.org or www.chamberwest.com.

Sept. 11, 8 a.m.-noon

"Lean Pit Crew Challenge," an Employee Development program offered by Salt Lake Community College. Open to the public, the challenge is an experiential learning event that incorporates pit stops as a tool for teaching the concepts of continuous improvement, efficiency, preparation and team building. Location is Westpointe Campus, Salt Lake City. Cost is \$325. Details are at <http://www.slcc.edu/workforce/courses/index.aspx>.

Sept. 11, 5-7 p.m.

Business After Hours, an Ogden-Weber Chamber of Commerce event. Location is Weber State University, Stewart Stadium Sky Suites, 3870 Stadium Way, Ogden. Free for chamber members and first-time guests, \$10 for nonmembers. Details are at ogdenweberchamber.com.

Sept. 11, 6-9 p.m.

Official Launch of The Mill at Miller Campus. Location is The Mill at Miller Campus, 9690 S. 300 W., third floor, Sandy. Details are available by contacting Tim Cooley at (801) 957-5441 or timothy.cooley@slcc.edu.

Sept. 12, 19, 26

Digital Marketing Academy, a Sandy Area Chamber of Commerce Business Institute event. Sept. 12 course is "Developing a Comprehensive Online Marketing Strategy." Sept. 19 course is "SEO & Maximizing Web Traffic." Sept. 26 course is "Pay Per Click Advertising, Google AdWords, Facebook Ads and Programmatic Display Advertising." Each class is 8:30-10:30 a.m. Location is Salt Lake Community College's Miller Campus, MFEC 223, 9750 S. 300 W., Sandy. Registration can be completed at Eventbrite.com.

Sept. 12, 7:30 a.m.-4 p.m.

Water Innovation Summit 2019 "BusinessH20," presented by the Salt Lake Chamber and U.S. Chamber of Commerce. Theme is "Promoting Innovative Solutions to Water Scarcity: Water Management Best Practices from the United States and Israel." Location is Snowbird Center, Tram Building, 9385 S. Snowbird Center Drive, Snowbird. Cost is \$85. Sponsorships are available. Details are at slchamber.com.

Sept. 12, 8 a.m.-2:30 p.m.

"Strategic Talent Acquisition," an Employers Council event. Location is Employers

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CALENDAR

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Council, Utah office, 175 W. 200 S., Suite 2005, Salt Lake City. Cost is \$205. Details are at employerscouncil.org.

Sept. 12, 11:30 a.m.-1 p.m.

WIB Luncheon, a Davis Chamber of Commerce event. Location is 850 N. 2200 W., Layton. Cost is \$20. Details are at davischamberofcommerce.com.

Sept. 12, 11:30 a.m.-1 p.m.

Networking Lunch, a Murray Area Chamber of Commerce event. Location is The Point After, 5445 S. 900 E., Murray. Cost is \$20 for members, \$25 for guests. Details are at murraychamber.org.

Sept. 12, 5-7 p.m.

BioUtah Member Appreciation BBQ. Location is Recursion Pharmaceuticals, The Gateway, 41 S. Rio Grande, Salt Lake City. Free for members, \$20

for nonmembers. Registration can be completed at <http://www.bioutah.org/events/details/2019-membership-appreciation-bbq-5147>.

Sept. 13, 7:30-8:30 a.m.

Eggs & Issues, a Murray Area Chamber of Commerce event. Speaker is Ben Levenger of Downtown Redevelopment Services. Location is Anna's Restaurant, 4700 S. 900 E., Murray. Free unless ordering from the menu. Open to everyone. Details are at murraychamber.org.

Sept. 13, 7:45-9 a.m.

Women in Business Networking, an Ogden-Weber Chamber of Commerce event. Location is Weber Center, 2380 Washington Blvd., Ogden. Free for WIB members. Details are at ogdenweberchamber.com.

Sept. 13, 8 a.m.-4 p.m.

"Effective Interpersonal Communication," a Frontline Leader workshop presented by Salt Lake Community College. Location is SLCC's Miller Campus in Sandy. Also offered Sept. 17, 8 a.m.-4 p.m., at the Westpointe Campus in Salt Lake City. Cost is \$250. Details are at slcc.edu/workforce.

Sept. 17, 8 a.m.-noon

"Working with Multiple Generations," an Employers Council event. Location is Employers Council, Utah office, 175 W. 200 S., Suite 2005, Salt Lake City. Cost is \$145. Details are at employerscouncil.org.

Sept. 17, 11 a.m.-1 p.m.

"Networking to the Next Level," a Business Women's Forum event. Presenter is Emma Houston, director of the diversity and inclusion for Salt Lake County. Location is 50 West Club & Café, 50 W. Broadway, Salt Lake City. Cost is \$27 for members, \$35 for nonmembers. Details are at slchamber.com.

Sept. 17, 11:30 a.m.-1 p.m.

Business Alliance Networking Luncheon, a Davis Chamber of Commerce event. Location is Boondocks Fun Center, 525 Deseret Drive, Kaysville. Free. No RSVP required. Details are at davischamberofcommerce.com.

Sept. 17, 11:30 a.m.-1 p.m.

Southwest Valley Women in Business. Location to be determined. Details are at southjordanchamber.org.

Sept. 18, 7:15 a.m.-3 p.m.

2019 Fall Business Conference, a ChamberWest event featuring two keynote presenters, nine breakout sessions, exhibitor tables and more. Location is Utah Cultural Celebration Center, 1355 W. 3100 S., West Valley City. Cost is \$99 for early-bird ChamberWest members (through Aug. 30) and \$125 thereafter, \$125 for nonmembers. Details are at chamberwest.com.

Sept. 18, 8-10 a.m.

M.A.C.H. Speed Networking, a Murray Area Chamber of Commerce event. Location is Urban Arts Factory, 116 S. Rio Grande St., Salt Lake City. Free (pre-registration is required). Details are at murraychamber.org.

Sept. 18, 8 a.m.-2 p.m.

"CO — Salt Lake City: A Forum for Small and Growing Businesses," presented by the U.S. Chamber of Commerce, MetLife and the Salt Lake Chamber. Location to be determined. Details are at slchamber.com.

Sept. 18, 7-10 p.m.

"Strategic Planning and Analysis for Your Growing Business," a Utah Microloan Fund event. Presenter is Brenner Adams. Location is the Utah Microloan Fund, 154 E. Ford Ave., Suite A, Salt Lake City. Free. Registration can be completed at Eventbrite.com.

Sept. 19, 8 a.m.-4 p.m.

"Supervisory Skills: Taking It to the Next Level," an Employers Council event taking place over two consecutive Thursdays. Location is Employers Council, Utah office, 175 W. 200 S., Suite 2005, Salt Lake City. Cost is \$345. Details are at employerscouncil.org.

Sept. 19, 11:30 a.m.-1 p.m.

Annual Mayoral Roundtable Discussions, a Davis Chamber of Commerce event featuring conversations with Dais County mayors about business and community issues. Location is Fountain View Events Center, Station Park, 164 W. Promontory, No. 200, Farmington. Cost is \$20 for members, \$25 for guests. Details are at davischamberofcommerce.com.

Sept. 19, 11:30 a.m.-1 p.m.

"Multiplying Lasting Profitable Relationships," a West Jordan Chamber of Commerce event. Presenter is Clay Neves of Personal Sales Dynamics. Location is Mountain America Credit Union, 3065 W. 5400 S., Taylorsville. Free for members, \$10 for nonmembers. Details are at westjordanchamber.com.

Sept. 20, 7:30-8:30 a.m.

Eggs & Issues, a Murray Area Chamber of Commerce event. Speaker is Brett Hales, Murray City Council candidate (District 5). Location is Anna's Restaurant, 4700 S. 900 E., Murray. Free unless ordering from the menu. Open to everyone. Details are at murraychamber.org.

Sept. 20, 8-10 a.m.

Utah County Speednet, a Utah Valley Chamber speed networking event. Location is SCERA Center for the Arts, 745 S. State St., Orem. Free. Details are at thechamber.org.



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WHAT YOU SHOULD KNOW IF YOU HAVE A PENSION PLAN

Some of the largest employers in Utah have traditionally included pensions, also known as Defined Benefit or Cash Balance plans, for employee retirement. These kinds of plans are nearly extinct now. However, they use to be commonly used by employers for tax and retirement strategy decades ago.. Pension plans pay retirees a set amount of money monthly for the remainder of their life.

When it comes to collecting pension money, you will likely have two options. You can either use the company's monthly sum or take a one-time, large distribution and roll it into an IRA. If you have a pension plan and are nearing retirement, or if your company is one of the many now discontinuing this type of plan, you will have to consider which option is best for you and your family.

This answer is not always easy, and counsel from a knowledgeable retirement planner is highly recommended. Nevertheless, there are many benefits that stem from choosing the lump sum option when collecting your pension money. Consider these five factors as you make your decision.

VIABILITY

Viability of pension-type accounts depends on markets, interest rates, and company solvency. During the recession years around 2008, many companies were forced to reduce payments to retirees. When you decide to take the company's monthly payout, you grant control of your money to someone else and their investment decision process.

LONGEVITY

Pension plans are designed to pay out only until your death date, although a few may continue until the death of your spouse. Regardless, any fund balance is then kept by the company for other employees. When you pass away, your beneficiaries will not receive inheritance money that may still remain in the account. If leaving money for your children is a priority, you may want to consider rolling the lump sum into an IRA.

INVESTING FOR LARGER RETURN

Gains or losses in a pension plan do not affect you as the retiree, which means there is less risk if you accept the monthly payouts. However, if you are willing to assume a little risk, you will also have greater potential for return. With a lump sum IRA rollover, you have investing options that could allow you to earn above average returns.

INFLATION

When you are on a fixed income, inflation becomes a significant factor. As inflation rises, your pension money may buy less and less each year. On the other hand, investing your lump sum wisely can protect you against the rising cost of living.

TAXES

When you are in control of your pension assets through an IRA, there is more flexibility to influence your tax bill each year. This can help minimize the effect that taxes have on your overall portfolio.



When you choose a lump sum payout at retirement, you are given power to invest that money how you choose. As circumstances change, you can decide to take more or fewer funds. If there is money remaining when you pass, your heirs inherit all balance funds.

Because each individual situation is different, it is essential to consult with an expert advisor as you consider how to collect your pension or other retirement money. To review YOUR unique situation, contact our advisors at TrueNorth Wealth for a consultation.



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Opinion

Who bears the burden? Passing laws, passing taxes & passing the buck

What do the French digital services tax, the employers' share of payroll taxes and the corporate income tax all have in common? They are rarely shouldered by those entities and individuals targeted by legislators. In fact, one of the most important things to know about taxes is that the people who actually write the checks to the Internal Revenue Service (or to its French equivalent) are seldom the ones who actually shoulder its burden.

In 2004, economist Stephen Entin wrote, "The economic burden of a tax frequently does not rest with the person or business who has the statutory liability for paying the tax to the government." That's because taxes are paid only by flesh-and-blood individuals. The actual incidence of any tax is not determined by the formalities of the tax code but, rather, by the realities of markets — specifically, by how sensitive buyers are to price changes, relative to sellers. It makes it difficult to fully predict the full impact of taxes, but as a general rule, it is rarely what politicians think.

Take, for example, the employer's statutorily stipulated share of the payroll tax.

On paper, workers and employers each pay 7.65 percent of the employee's salary and wages. Employers send their portion of the tax as well as the one collected from their employees to the government. But this fact doesn't tell us anything about the tax's true burden. Economic research shows that employers shift the burden of the payroll to their employees by decreasing workers' wages by almost 7.65 percent.

So the next time you hear someone announce that they want to enact a federal paid leave policy to be paid for by increasing the payroll tax, ask yourself whether it makes sense for the government to give to workers with one hand and then to take from the same workers with the other hand. This is precisely what will happen. Employees end up paying their share of the payroll tax increase, in addition to paying — through lower wages — their employer's share.

Payroll taxes are extremely regressive, disproportionately impacting low-income earners, so any hike in such taxes will hit those workers especially hard. That includes, of course, the workers that government paid leave policies are supposed to

help the most.

What about the corporate income tax? From Sen. Elizabeth Warren to author Marianne Williamson, Democratic presidential candidates have been telling workers that, if elected, they'll repeal Pres. Donald Trump's 2017 tax reform. That includes repealing the corporate income tax rate reduction from 35 percent to 21 percent. If that happens, these candidates assert, corporations will foot more of the tax burden and, thus, lead to a more equitable world.

Don't fall for it.

First, corporations don't pay taxes. People do. In this case, economists have figured out that a big chunk of the additional tax burden will be shouldered by workers and shareholders (if you have a retirement plan, that means you).

What economists can't seem to agree on is the degree to which workers are burdened. Estimates range from 66 percent to 100 percent of the tax falling on workers in the form of lower wages. Democratic candidates should think about this large burden when calling for a restoration of the 35 percent corporate tax rate.

Finally, France's government has announced that it will impose a 3 percent digital tax on the revenue of American tech

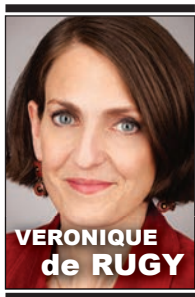
giants like Facebook, Google and Amazon. The rationale is that it's supposedly necessary to make Internet companies pay their "fair share" of taxes. But if that's the true objective of this blatant extraterritorial tax grab, it'll completely miss the mark. Big tech firms won't ultimately shoulder that tax — consumers will.

Consider Amazon. That tax will force the company to reduce its capital investments. Less investment means less production, lower productivity, fewer jobs and higher prices for consumers. This prediction is consistent with a recent report by Deloitte, which finds that big tech companies will pay only 5 percent of the tax. The rest of the tax burden will be passed along to consumers who use the digital platforms.

The bottom line is that nobody can determine who truly bears the burden of a tax just by looking at where or on whom it is initially imposed, despite what the tax is called. Politicians better learn that lesson, unless they want to continue hurting the people they claim they want to help.

Veronique de Rugy is a senior research fellow at the Mercatus Center at George Mason University.

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VERONIQUE de RUGY

With history as the example, Trump should know tariffs just don't work

Pres. Trump has set off what could end up becoming a full-blown trade war. As we go down this path, it is worth keeping something firmly in view: Tariffs don't work. I'm not spouting free-market theory; I'm simply making a practical observation. There have been many efforts in recent decades to help industries in decline in America. I can think of no case where tariffs have worked to reverse that decline, except temporarily.

Take the most recent example before Trump — tariffs on tires put in place by Pres. Obama. In 2009, after complaints from American companies about cheap Chinese imports, the Obama administration slapped a 35 percent tariff on Chinese tires. As many as 1,200 jobs were saved in the tire industry, according to the Peterson Institute.

But the institute also estimates that consumers paid about \$1.1 billion in higher prices, which caused 3,700 jobs to be lost in the retail sector. The cost per tire job saved was almost \$1 million. In addition, China retaliated with tariffs on American chicken producers, which Peterson says led to \$1 billion in lost sales. As for the long-term effect? In 2008, there were 60,000 Americans working in the tire industry. By 2017, there were 55,000.

Robert Lighthizer, Trump's top trade negotiator, learned his tactics during the 1980s, back when Americans were worried that Japan was ravaging the U.S. economy with cheap imports. As Ronald Reagan's deputy trade chief, Lighthizer employed a

variety of trade barriers to cut imports of Japanese goods like cars and steel. Doug Irwin recently noted in *Foreign Affairs* that two comprehensive studies by the International Trade Commission and the Congressional Budget Office concluded that these sorts of measures were ineffective. The CBO's conclusion was simple: "Trade restraints have failed to achieve their primary objective of increasing the international competitiveness of the relevant industries."

Consider Trump's steel and aluminum tariffs. The pro-tariff Alliance for American Manufacturing claims that 12,700 jobs have been saved or added. But the Peterson Institute calculates that higher steel prices cost American companies about \$11.5 billion a year, or about \$1 million per steel job saved. U.S. aluminum production has risen slightly but is still well below 2015 levels.

The United States occupies a central place in global supply chains, with many industries using it as a hub to produce goods and services. If it becomes a high-tariff fortress, it will lose that pivotal place in the international economy.

The nonpartisan National Bureau of Economic Research released a paper in March observing that Trump has ushered in the largest return to protectionism since the Smoot-Hawley tariffs of the 1930s and the brief Nixon shock of 1971. The scholars calculated that Trump's tariffs last year cost American consumers and firms a staggering \$68.8 billion.

The U.S. now has the highest tariffs among the G-7, the group of the world's leading industrialized countries. Over time, other nations will surely become more protectionist as well. And history suggests that, once imposed, tariffs are hard to repeal since domestic lobbies that benefit will advocate fiercely for their retention. In 1964, retaliating for a European tax on American chickens, the U.S. placed a 25 percent tariff on light trucks. The chicken tax was long ago repealed, but the truck tariff remains in place.

It's true that China has been something of a trade cheat, though more often than not it has been clever in using and

manipulating the rules to its benefit. But to put things in perspective, according to a 2015 Credit Suisse tally, the country that imposed the most non-tariff protectionist measures since 1990 was the United States, with three times the number as China. And that was *before* Trump. More importantly, although Trump wants China to abide by World Trade Organization rules, many of his measures are either in contravention of those rules or a flagrant abuse of them — such as the use of the "national security exemption" to slow down imports

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FAREED ZAKARIA



MAYFLOWER

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more than 5,600 acres on the site.

Mayflower's master plan calls for a village with 1,560 residential units; 825 hotel rooms in three separate hotels, including a five-star property; and 250,000 square feet of retail and commercial space. In addition to parking for the on-site facilities, there will be 600 day-skier parking spaces. Plans also call for a 68,000-square-foot recreation complex and 95,000 square feet of workforce housing.

Extell Development's chairman and founder, Gary Barnett, said that work has begun on remediation of the old Mayflower Mine, something he said has been made a priority in the development of the new resort. The Blue Ledge Mining District was established in the 1870s and the Mayflower mine was one of the nation's top gold-producing operations until it played out in the 1960s. Barnett said that Extell entered into Utah's Voluntary Cleanup Program in July 2017 and the company's plan for remediation was approved this spring for Phase 1, which encompasses the entire village area of the master plan.

An Extell release said the cleanup effort will be a "multi-million-dollar endeavor in just the first year of site work." Many of the areas of the old mining operation will have to have soil removed to a depth necessary to extract pollutants. The soil will be hauled off-site and capped, the company said.

Mayflower will be the first new full-blown ski resort to be built in the U.S. in 30 years and the first in Utah in nearly four decades. Barnett will tap into Utah's Military Industrial Development Agency (MIDA) tax increment financing to help make his project possible. MIDA is an entity created by the Utah Legislature in 2007 to facilitate the development of military land in Utah. It serves a dual role of helping strengthen the military presence in Utah while stimulating the state's economy.

In 2018, the Mayflower area was designated by the state and Wasatch County as a site under MIDA jurisdiction for the construction of a Morale Welfare Recreation (MWR) facility, hotel and conference center. Similarly designated facilities, where active U.S. military personnel from all branches can go for rest and recreational activities, exist worldwide. Extell has agreed that it will build the MWR as part of the Mayflower village with reduced fees for members of the armed forces in exchange for the return of some of the property tax generated by the facility. Although under MIDA jurisdiction, permit-

ting and taxing authority for the MWR development will stay with Wasatch County

The Mayflower MWR, which will be the country's first at a ski resort, will be located on approximately six acres within the Mayflower village. The site will include a 1.5-acre undeveloped parcel requested by the Air Force. The eight-story hotel will have 388 guest rooms, 100 of which will be reserved for military personnel at preferred pricing based on rank. It will also have four levels of underground parking and 55 condominium units for private ownership. The MWR conference center will contain approximately 75,000 square feet of commercial, military concierge, ballrooms, conference rooms, restaurants and coffee shops, retail shops and a bar. The MWR will break ground within a few weeks, Extell said.

With its proximity to Deer Valley Resort, Barnett said that the two companies are still negotiating on shared usage of ski lifts and slopes. Deer Valley and Barnett recently announced the signing of a 99-year lease for the lifts serving Deer Valley's Mayflower and Sultan ski runs. Extell bought the land beneath the lifts in 2017. Barnett said that the decision on how much terrain and how many lifts will be shared by the two resorts is still pending. He also said that ski lift and run configurations for Mayflower are still on the drawing board.

"We're actually in the midst of studying exactly what kind of skiing we can provide and I think will determine that the next several months," Barnett told KPCX radio in Park City. Another decision yet to be made concerns snowboarders. Deer Valley is a skier-only resort and Mayflower has yet to determine if it will allow snowboarders.

The lease agreement between Deer Valley and Mayflower does not address management of ski operations, which Barnett said are likely to be handled by a ski management company, not Extell. He said Deer Valley is an option but that the decision will be made down the road.

With remediation work underway, Extell is planning to break ground on vertical improvements later this year, starting with the ski improvements and the MWR conference hotel. The complete village build-out will occur over the next two decades with the majority of the infrastructure completed in anticipation of the potential 2030 Olympic Games in Utah.

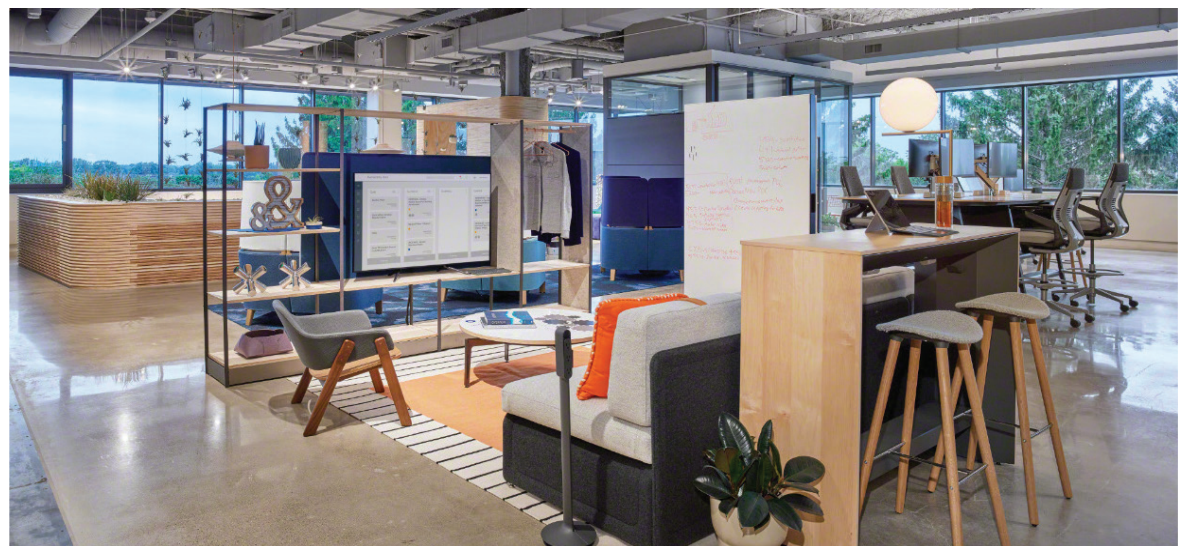
The Langvardt Design Group of Salt Lake City is developing the master plan for the Mayflower project while SE Group, also of Salt Lake City, is designing the ski operations. Two Denver firms, OZ Architecture and 4240 Architects, are designing the buildings and layout of the village area.



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GLASS

EARNINGS

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quarter totaled \$4.5 million, down from \$5.4 million in the year-earlier period. Superior Drilling Products designs, manufactures, repairs and sells drilling tools.

“We made great headway in the Middle East,” Troy Meier, chairman and CEO, said in announcing the results. “We now engage three oil field services companies to represent our patented Drill-N-Ream well bore conditioning tool. We expect the adoption rate to increase over the next several months and that the success of our efforts will be demonstrated in our results by year-end.

“Domestically, our current North American channel partner is gaining new customers even as the number of rigs has declined, including major oil companies. Our expanded relationship with our long-time legacy customer also drove the increase in contract services revenue by increasing bit repair, expanding to include repair and refurbishment of other drill tools and by adding contract manufacturing of new products.

“Importantly, we have a number of opportunities that we expect to solidify over the next few months that will drive our future growth by measurably expanding our relationship with our long-time legacy customer.”

HollyFrontier

HollyFrontier Corp., based in Dallas but with operations in Utah, reported net income attributable to HollyFrontier stockholders of \$196.9 million, or \$1.15 per share, for the second quarter ended June

30. That compares with \$345.5 million, or \$1.94 per share, for the same quarter a year earlier. Revenues in the most recent quarter totaled \$4.78 billion, up from \$4.47 billion in the year-earlier quarter.

HollyFrontier is an independent petroleum refiner and marketer that produces light products such as gasoline, diesel fuel, jet fuel and other specialty products. HollyFrontier owns and operates refineries in Utah and four other states.

“HollyFrontier’s solid second-quarter results were driven by strong gasoline and diesel margins across our company,” George Damiris, president and CEO, said in announcing the results. “Our healthy free cash flow generation allowed us to return over \$245 million in cash to shareholders through regular dividends and share repurchases. With no major planned downtime until late September, we believe our refineries are well-positioned for strong operational and financial performance in the third quarter.”

Holly Energy

Holly Energy Partners LP, based in Dallas but with operations in Utah, reported net income of \$45.7 million, or 43 per unit, for the second quarter ended June 30. That compares with \$40.1 million, or 38 cents per share, for the same quarter a year earlier.

Revenues in the most recent quarter totaled \$130.8 million, up from \$118.8 million in the year-earlier quarter.

Holly Energy Partners provides petroleum product and crude oil transportation, terminalling, storage and throughput services to the petroleum industry, including

HollyFrontier Corp. subsidiaries. The partnership, through its subsidiaries and joint ventures, owns and/or operates petroleum product and crude pipelines, tankage and terminals in Utah and eight other states and refinery processing units in Utah and Kansas.

“Strong crude oil pipeline volumes in the Permian Basin and Rockies regions supported solid financial results, which allowed us to maintain our record of quarterly distribution increases,” George Damiris, CEO, said in announcing the results. “Looking forward, we expect strong performance in the second half of 2019, driven by the increase in contractual tariff escalators and healthy demand for pipeline volumes.”

Dominion Energy

Dominion Energy, based in Virginia but with operations in Utah, reported net income of \$54 million, or 5 cents per share, for the second quarter ended June 30. That compares with \$449 million, or 69 cents per share, for the same period a year earlier.

Operating revenue in the most recent quarter totaled \$3.97 billion, up from \$3 billion in the year-earlier quarter.

Dominion provides electricity or natural gas to nearly 7.5 million customers in 18 states.

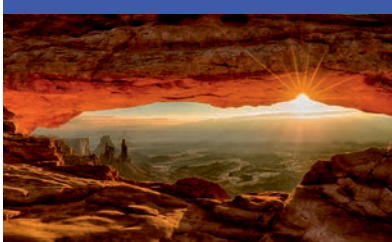
“Strong performance across our business units combined with favorable weather resulted in operating earnings per share above the midpoint of our quarterly guidance range,” Thomas F. Farrell II, chairman, president and CEO, said in announcing the results. “Adjusted for normal weather, quarterly results were at the midpoint of our guidance, representing solid execution for the quarter.”

CLASSIFIED

EVENTS

Official Notice for the Mountainlands Area Plan Room’s Networking Event

The Plan Room’s 2ND Southern Utah Annual



SW Meet the GCs EVENT

Friday August 23, 2019
10:00 AM – 4:00 PM

Hilton Garden Inn - Next to the Dixie Center, St. George, UT

Team-Building / Sub & Supplier Development Day #MeetGCsEvent

- FREE face to face networking & business development for subs and suppliers
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VOLUNTEERS



International Relief Teams Seeks Skilled Construction Volunteers

International Relief Teams (IRT) is seeking volunteers with construction skills (handypersons or licensed contractors) for one week deployments to U.S. flood affected areas to help those families who cannot financially recover on their own, get back into their homes. Our construction teams are currently working in Louisiana in the aftermath of last year’s record floods, and anticipate we will be needed in Texas in the near future.

Although skilled construction volunteers are our first priority, we will be adding a limited number of unskilled volunteers to each team. All volunteers accepted for this assignment will be flown commercially from an airport near their home to an airport near the job site, leaving on a Sunday and returning the following Sunday. IRT will provide minivans for volunteers to use to for local transportation to and from the arrival airport and to and from the job site.

Teams will be housed at local churches or other suitable facilities. Volunteers are responsible for bringing their own bedding, towels, and toiletries. There is a \$150 volunteer participation fee to help cover airfare and local transportation costs, and volunteers are responsible for their own meals while on assignment.

Work is performed Monday through Friday (full days) and a half day on Saturday. Job assignments generally include installing windows, doors, kitchen cabinets; laying tile, linoleum, or wood flooring; building handicap ramps to the home; roofing; drywall and mudding; finish carpentry work, finishing plumbing; and other related tasks. We ask each volunteer to bring basic hand tools, such as a tool belt, hammer, pliers, putty knives, tape measure, etc. Power tools, generators, compressors, and other large specialty tools are provided by IRT and our local agency partners.

For more information, contact Brett Schwemmer (bschwemmer@irteams.org), or to apply for an assignment, fill out an online volunteer application (www.irteams.org).

About IRT: Since 1988, IRT has been actively involved in helping families in need in 68 international disasters, and 24 U.S. disasters. IRT construction teams worked for more than six years repairing and rebuilding homes in Mississippi after Hurricane Katrina, and four years in New Jersey after Superstorm Sandy, and is now working in Louisiana after last year’s record floods.

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CALENDAR

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Sept. 20, noon

Silicon Slopes Live, a lunch and live recording of a Silicon Slopes podcast and featuring SimpleNexus executives Matt Hansen, founder and CEO; Dave Stevenson, founder and CTO; and Ben Miller, president and COO. Location is Silicon Slopes, 2600 W. Executive Parkway, Suite 140, Lehi. Free. Details are at siliconslopes.com.

Sept. 20, noon-2 p.m.

"Big Ideas: Creating Environments for Problem Solving," a Utah Technology Council "Innovation Series" event. Speaker is Craig Case, author of *Big Ideas*. Location is Salt Mine Productive Workspace, 7984 S. 1300 E., Sandy. Free. Registration can be completed at Eventbrite.com.

Sept. 24, 11:30 a.m.-1 p.m.

Women in Business Luncheon, an Ogden-Weber Chamber of Commerce event. Location is Ogden Eccles Conference Center, 2415 Washington Blvd., Ogden. Cost is \$20 for WIB members, first-time guests and Athena recipients; \$30 for nonmembers. Details are at ogdenweberchamber.com.

Sept. 24, 3-6 p.m.

"Financial Statements for the Small-Business Owner,"

a Utah Microloan Fund event. Presenter is Eric J. Marx. Location is the Utah Microloan Fund, 154 E. Ford Ave., Suite A, Salt Lake City. Free. Registration can be completed at Eventbrite.com.

Sept. 25-Dec. 4, 6-9 p.m.

Executive Certificate of Global Business Management Course, a Salt Lake Community College course offered 6-9 p.m. Wednesdays. Designed for business executives, professionals, working staff, entrepreneurs and qualified students who wish to increase their knowledge and improve their strategies in global business practices. Details are available by contacting Deb Bilbao at (801) 957-5336 or deb.bilbao@slcc.edu.

Sept. 25, 7:30-8:30 a.m.

"Coffee Connection," a Holladay Chamber of Commerce event. Location is Great Harvest, 4655 S. 2300 E., Suite 105, Holladay. Details are at holladaychamber.com.

Sept. 25, 8 a.m.-5 p.m.

"Lean Six Sigma Black Belt," an Employee Development program offered by Salt Lake Community College on Wednesdays through Nov. 13. Open to the public. Location is SLCC's Miller Campus, Sandy. Cost is \$1,950. Details are at <http://www.slcc.edu/workforce/courses/index.aspx>.

Sept. 25, 3-5 p.m.

"Developing Your Business Systems," a Utah Microloan Fund event. Presenters are Ethan White and Jonathan Engle. Location is the Utah Microloan Fund, 154 E. Ford Ave., Suite A, Salt Lake City. Free. Registration can be completed at Eventbrite.com.

Sept. 26, 3-5 p.m.

Public Policy Forum, a Utah Technology Council event focusing on important issues regarding government's impact on business. Location is NICE inContact, 75 W. Towne Ridge Parkway, Sandy. Free. Registration can be completed at Eventbrite.com.

Sept. 26, 4-6 p.m.

ACG (Association for Corporate Growth) Utah After-Hours Event. Location is Easton Archery, 575 N. John Glenn Road, Salt Lake City. Cost is \$5 for members, \$10 for nonmembers. Details are at <https://www.acg.org/utah/events/acg-utah-after-hours-archery>.

Sept. 27, 9-10 a.m.

Pitch Clinic, a West Jordan Chamber of Commerce event for business development professionals to hone their skills in delivering a powerful elevator pitch. Location is Mountain America Credit Union, 3065 W. 5400 S., Taylorsville. Free for chamber members, \$10 for nonmembers. Details are at westjordanchamber.com.

Sept. 27, noon-1 p.m.

Women in Business Brown Bag Lunch, a West Jordan Chamber of Commerce event. Location is Residence Inn, 7558 S. Plaza Center Drive, West Jordan. Free. Details are at westjordanchamber.com.

Oct. 1, 11:30 a.m.-1 p.m.

Business Alliance Networking Luncheon, a Davis Chamber of Commerce event. Location is Boondocks Fun Center, 525 Deseret Drive, Kaysville. Free. No RSVP required. Details are at davischamberofcommerce.com.

ZAKARIA

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from "threatening" countries like Canada and Germany.

Many of Trump's demands on China have nothing to do with opening up markets. They are shopping lists presented to Beijing for goods mostly produced in states that the president wants to win in 2020. Think soybeans grown in the Midwest. It's less a trade strategy than a reelection strategy. In fact, it actually moves China in the direction of

greater statism since the only way Beijing can fulfill Trump's wish list is to have the government or state-owned enterprises buy the goods.

Trump's trade strategy might have started out well-intentioned, but it has turned into a highly politicized and out-of-control wrecking ball that could end up destroying a system that has brought peace and prosperity to the world for 75 years.

Fareed Zakaria's email address is comments@fareedzakaria.com.

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CPI

from page 1

levels down as the cost of getting goods to market decreases. This will likely have further positive effects on the economic outlook."

Looking ahead, the U.S. Energy Information Administration (EIA) expects that gasoline prices will drop about 10 cents to \$2.64 in September.

Meanwhile, housing prices continue to put an upward pressure on prices. The cost of the places people live increased 1 per-

cent in July, the largest month-to-month increase since July 2018. Prices for hotels and motels also rose sharply, which is common in July. Apartment rental rates continued to inch up for the fifth consecutive month. Housing prices have risen 5.2 percent since July 2018.

The 12-month overall price growth of 2.6 percent is the lowest seen along the Wasatch Front since March 2018, but still slightly above the national target inflation rate of 2 percent. The relatively modest growth is due largely to the 12-month drop in transportation prices and comparatively mild growth in other sectors.



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¹Centers for Disease Control and Prevention, <https://www.cdc.gov/physicalactivity/walking/call-to-action/index.htm>, accessed June 20, 2019

²Participants must meet specific goals each day to earn incentives, and may earn up to \$3 per day/up to \$1,095 per year, deposited quarterly to their HSA account to be used for eligible health care expenses.

UnitedHealthcare Motion is available to employers with 51 or more employees. UnitedHealthcare Motion is a voluntary program. The information provided under this program is for general informational purposes only and is not intended to be nor should be construed as medical advice. You should consult an appropriate health care professional before beginning any exercise program and/or to determine what may be right for you. Receiving an activity tracker and/or certain credits may have tax implications. You should consult an appropriate tax professional to determine if you have any tax obligations from receiving an activity tracker and/or certain credits under this program, as applicable. If any fraudulent activity is detected (e.g., misrepresented physical activity), you may be suspended and/or terminated from the program. If you are unable to meet a standard related to health factor to receive a reward under this program, you might qualify for an opportunity to receive the reward by different means. Contact us at 855-256-8669 and we will work with you (and, if necessary, your doctor) to find another way for you to earn the same reward. Rewards may be limited due to incentive limits under applicable law. Insurance coverage provided by or through UnitedHealthcare Insurance Company or its affiliates. Administrative services provided by United HealthCare Services, Inc. or their affiliates. Health Plan coverage provided by or through UnitedHealthcare of Utah, Inc. 9191170.0 5/19 ©2019 United HealthCare Services, Inc. 19-12556