

THIS WEEK

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Megaplex Theatres enters 'mega' expansion mode



Crowds gather at the recent Megaplex opening of the new film "The Hunger Games."

By Brice Wallace
The Enterprise

For the past few years, many people have predicted a downturn in, if not the death of, the movie industry because of the proliferation of large HDTVs and home theater systems. In spite of that, Megaplex Theatres continues to grow at both new locations and existing sites.

Megaplex Theatres, part of the Larry H. Miller Sports and

Entertainment Group, which is owned by the Larry H. Miller Group of Companies, is adding two theaters and two retail food sites at Jordan Commons in Sandy and last week announced it has acquired several Westates locations in Logan, Cedar City and St. George, plus one in Mesquite, Nev.

"We're moving pretty quickly these days," said Jeff Whipple,

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Woods Cross crane manufacturer sold to Houston-based firm

By Barbara Rattle
The Enterprise

Overhead Crane International LLC, Woods Cross, has been sold to Houston-based ProservCrane Group, making the latter one of the largest independently owned overhead crane manufacturers in the country.

The addition of Overhead is expected to increase ProservCrane's sales revenues to more than \$60 million this year and increase ProservCrane's output from about 800 cranes per year to 900.

Thomas Rich, one of the sellers of Overhead, said the company is now known as ProservCranes

West and is more optimistic about the future than it has been in years, as the company's employee headcount dipped from 29 to 10 as a result of the recession.

"When the economy went south we had to pull back," he said. "Consequently we're in a little bit of a rebuilding phase. Cash flow was difficult, but we found a company who was interested in us and they are a very sound, well-managed, well-funded business where the customer is still king. It's always been that way for us; when times are tight and difficult it becomes harder and harder to take care of people. But

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Tech firms scrambling to find highly skilled talent in Utah

By Brice Wallace
The Enterprise

How difficult is it to hire highly skilled technology talent in Utah?

Well, fast-growing Watson Laboratories even has trouble attracting people to paid internships.

During a question-and-answer portion about tech hiring at the Utah Technology Council's annual members' meeting, John Spiegel, general manager at Watson, said the company recently had eight openings for paid internships. Despite the firm's operations being at the University

of Utah's Research Park, the only person who applied was a business major, and he turned the company down because he had three offers elsewhere in the Salt Lake Valley.

"The competition out there for talent is extremely fierce," Spiegel said.

Simply put, Utah tech companies are scrambling to meet their hiring needs. "It's painful," said Richard Nelson, UTC's founder, president and CEO. "We've got some of our companies looking for 30 and 50 and 75 and 100 and more than 100 developers and

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Consumer credit call center business to hire 500 this year



Progrexion, based in North Salt Lake, has been hiring at the rate of 100 employees per month.

By Barbara Rattle
The Enterprise

Progrexion, a North Salt Lake-based firm that operates call centers which serve as the marketing arm for companies that provide consumer debt reduction and credit rating improvement services, is planning an expansion into West Valley City.

The firm currently occupies a pair of 14,000 square foot buildings in North Salt Lake — and has operations in Provo and Rexburg, Idaho — but needed additional space because it is hiring roughly 100 new employees per month and expects to continue to do so for the rest of the year, according to company spokesperson Celeste Edmunds-Brady.

Progrexion is anticipating an

early May move into approximately 20,000 square feet at 2850 S. Decker Lake Dr., West Valley City. The operation will be staffed by roughly 250 employees who will transfer from the corporate campus in North Salt Lake. Another 250 people will be added to the North Salt Lake operation in the immediate future, and the firm should see a net gain in employment of about 500 people this year, she said.

The company will take the third floor of the Decker Lake Drive building and plans to secure a lease of the first floor. The company currently has about 900 employees.

Founded in 2000, Progrexion's primary client is

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Focus
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MEGAPLEX

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a Megaplex executive over advertising, marketing and public relations. “With all the construction going on at Jordan Commons, the work we’re doing finishing up at Thanksgiving Point, our addition in Centerville and the acquisition of the Westates locations, we’re moving pretty fast at picking up auditoriums, screens and seats.”

Big-D Construction, using designs by FFKR Architects, Jordan Commons’ original designers, is currently renovating space that was originally the Mayan Adventure restaurant into what will become the 19th and 20th auditoriums at that location. Exact seat counts have yet to be determined but likely will be about 300 each when they open at the end of the year. Jordan Commons overall has more than 5,000 seats.

The new auditoriums will have a section of D-Box seats, which move in sync with action on the screen. Those will be the first D-Box seats at Jordan Commons, although Megaplex has them at a few other sites.

“And we will have special event space similar to what we have at The District and at our other locations for handling corporate meetings, parties and banquets,” Whipple said.

The changes also will provide Jordan Commons with space for Cold Stone Creamery and Rocky Mountain Chocolate Factory retail locations.

The Mayan Adventure restaurant was part of the original Jordan Commons construction. “The Miller family made arrange-

ments with a third-party restaurant company to see if they could manage it differently, but with the economy and everything else, it became a substantial challenge to move it forward,” Whipple said.

“At the same time, the theaters continued to enjoy record success, so the space really did become an asset as what could be done on the theater side of things. Jordan Commons has had national rankings with a number of Hollywood blockbusters, like ‘Twilight,’ the ‘Harry Potters’ and ‘Pirates of the Caribbean.’ We’ve been at and beyond capacity on a number of opening nights and premiere weeks, so for us it makes sense to do what we can to accommodate guests and offer them the latest amenities like the D-Box seats.”

Although Whipple declined to say how much the company is investing in the project, it comes on the heels of the March 15 opening of the Groove VIP Auditorium in the former arcade space at Jordan Commons. It offers fully reclining seats, concierge in-seat food service, executive lounge with high definition satellite screens and other premium amenities. The 58-seat auditorium has four levels of premium seating and is available for regular movie showings and special private engagements and events.

The Westates acquisition, for an undisclosed amount, includes 11 movie complexes: Providence Stadium 8, University Stadium 6 and Logan Movies 5, all in Logan; Cedar City Stadium 8 and Cedar City Fiddler 6; Pineview Stadium 10, Sunset Stadium 8, Washington Red Cliffs 4, St. George Cinema 6 and St. George Flood Street 4, all

in St. George; and Stadium 6 in Mesquite. Combined, they have 71 auditoriums seating 11,968.

Westates Theatres was founded by the late Tony Rudman Sr. in the 1950s. Starting with the Davis Drive-In in Layton, the chain grew to more than 100 screens at 25 locations in Utah, Idaho, Arizona and Nevada, employing more than 300 full- and part-time people. Westates will continue to operate theatre complexes in Holladay; Elko, Nev.; Page, Ariz.; and Montpelier, Idaho.

The former Westates theaters will be transitioned to Megaplex complexes over the next several months, although details have yet to be completed. “We’re doing our homework right now, and it will likely take some time,” Whipple said. “We will be thoughtful as we approach it and will do it in the best and smartest way possible. We don’t want to disrupt the guest experience as we’re heading into the summer blockbuster season.”

All qualified Westates employees at the acquired locations will be offered positions at Megaplex. Megaplex Theatres expects to create more than 300 positions as part of its ongoing expansion program in Utah and Nevada. Although staffing is seasonal, Megaplex employs more than 600 people across its locations.

“We had been looking at expanding outside our current geographic area for some time,” Whipple said. “We get approached routinely by communities anxious to have the Megaplex theater experience in their communities, and the short list for some time has included Logan and St. George and surrounding areas.”

The Westates acquisition is part of a larger expansion program currently under way at Megaplex Theatres. In the past three years, it has grown from 70 screens in Utah to more than 150 screens in Utah and Nevada. Among other current or recent Megaplex projects are:

- A new 14-screen, 3,000-seat complex at Valley Fair Mall in West Valley City, scheduled to open late this year at the former site of the Mervyns store. It will include an IMAX screen, reserved seating, a food court, D-Box motion seats and private event space.

- Additions at the Megaplex Theatres at Thanksgiving Point. The company acquired the lease agreement from Westates in January 2005. The facility has grown from eight screens to 17

screens and includes an expanded lobby, a food court, D-Box seats and special event space. Construction is expected to be finished in mid-May.

- The new Megaplex Theatres at Legacy Crossing recently opened in Centerville. It features an IMAX screen, D-Box seats and other amenities.

“Especially in the economy we’ve all been working to survive through, it’s great to be part of so many projects and an organization that is moving forward,” Whipple said. “We’ve got quite a bit of activity going on right now, yet on our Facebook page, we posed the question, ‘Where should we go next?’ It makes us smile that the folks in Vernal say, ‘We’re next’ or that Saratoga Springs says, ‘Come on, come on.’”

PROGREXION

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Lexington Law Firm, which is also based in North Salt Lake. For 21 years, it has operated on a credit correction platform. Progrexion and Lexington Law do business in all 50 states.

Edmunds-Brady said potential customers are guided to Progrexion in a number of ways. Some come from offline partnerships — for example, auto dealers might steer those with poor credit to Lexington Law — but the majority are simply those who research credit repair online.

“Lexington Law will pull up in the top two searches every time because of how long they’ve been in business,” she said. “Then they call the 800 number and they’re tapped into the Progrexion sales side. We read them the retainer agreement and transfer them to our client.

“Most people don’t have any idea that their credit is really bad until they try to get something,” she said. “Or they’re people who have been able to pay cash for a long time, but when they go to get a loan they realize they have items [on their credit report] that

either don’t belong to them or are so old they should have been removed. The unfortunate side of credit is that negative things will be reported quickly, but nothing is automatically taken off. The consumer is the only one that can do that. We have some consumers that proactively do it themselves and we have others that either don’t know how, don’t want to take the time to learn or just don’t have the time, and they hire our clients to make that happen. We want people to understand their rights to credit repair, to know that 83 percent of credit reports usually have errors.”

Customers of Progrexion’s clients are given a login to an online case file and are alerted every time there is a change to their credit report or a letter submitted regarding it, she said. Customers also have six-day-a-week access to paralegals.

Progrexion will hold a job fair at the West Valley site on June 2.

The firm’s CEO is Jeff Johnson, former president and CEO of GMAC Bank, The Prudential Bank & Trust Co., Equifax Secure and Franklin Management Corp.

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Florida-based investment advisor enters Utah market

Tampa-based JHS Capital Advisors, a registered securities broker dealer and registered investment advisor, has established a Utah presence as the result of acquiring Paulson Investment Co. Inc., a wholly owned subsidiary of Portland, Ore.-based Paulson Capital Corp.

The purchase added 70 advisors to the staff of JHS, seven of them in Utah. They are Heidi Hackett in Salt Lake City, J. Kelly Hansen in Syracuse, James Romera and Scott Steorts in Bountiful, James Bergen and Richard Diamond in Ogden and Derrell Reeves in Park City.

Over the past 15 months, JHS has increased its number of financial advisors to 170 in 55 offices across the U.S. resulting in a four-fold increase in client assets to \$3.2 billion.

"We believe we are unique-

ly positioned on one side of an emerging dividing line within the industry," said Frank McPartland, COO of JHS, "between those increasingly using automation, self-service and call centers, versus those committed to the traditions of personalized financial advice where advisors take the time to intimately know their clients' history, family and aspirations. We believe our growth trajectory over the past year shows that advisors across the country are realizing that joining JHS provides them with the ability to spend more time focusing on their clients' needs."

With the continued implementation of the Dodd-Frank Act, many small independent broker-dealers have found it challenging to maintain the costs to comply with the new regulations, he said.

Final building in South Jordan business park under construction



Upon completion, Pheasant Hollow Business Park will contain about 900,000 square feet on 70 acres.

Work is under way on the final building in the Pheasant Hollow Business Park, South Jordan, and the structure is already almost fully leased.

Designed by GA Architects and being built by Eckman & Mitchell Construction, the roughly 107,000 square foot building will be located at 9865 Jordan Gateway. It will be a tilt-up office/warehouse building.

Mike Roderick, general partner of Roderick Enterprises, which developed and owns Pheasant Hollow, said one tenant, whom he declined to name, will take a majority of the building. A second, also unidentified, is

expected to soon sign a lease for the remainder.

The building will be the 12th in Pheasant Hollow, which, upon completion of the structure, will contain just under 900,000 square feet on 70 acres. The final building's cost is about \$6 million; Roderick said it is being financed with cash on hand.

Major tenants in Pheasant Hollow include Baker Distributing, Monavie, Siemens, Henry Schein, Stryker and the Ted Lansing Co.

Roderick said he is now in the process of assembling parcels of land for additional business parks along the Wasatch Front.

State grants incentives to film projects

Fresh from playing Mars in this year's "John Carter," film, Utah is poised to play a key role in a movie set in the "primitive, tribal world of Maruvan."

The Governor's Office of Economic Development Board this month approved a film incentive for Indus Co. LLC to shoot scenes in Utah for its production of "Irandum Ulagam," which translates to "The Second Earth." The incentive will be \$300,000 to \$375,000.

The Bollywood independent feature film is expected to result in about \$1.5 million being spent in Utah, with principal photography set for June 1 through July 22.

Marshall Moore, director of the Utah Film Commission, said scenes will be shot in Monument Valley, Skull Valley, Moab and in mountain areas. "We're going to get a lot of great exposure visually in those 50 days that they're here," Moore told the board. "They'll cover everything from the deserts of southern Utah to the mountains of northern Utah."

The GOED board also made adjustments to two earlier film

incentives during its April meeting.

One adjustment was for Local Creative LLC, which had been approved in March for a \$105,000 cash rebate for its independent feature film production "Nightlight." But before Utah shooting began, the company decided it would spend about \$250,000 more in Utah than it originally anticipated, and now it expects to spend about \$950,000 in the state. The incen-

tive was increased to \$135,000 and approved for NLHL LLC, a production company that Local Creative formed exclusively for the film's production.

In November, Cosmic Pictures was approved for an incentive between \$222,886 and \$278,608 for its production of the series "Turning Point: Season 2." The original incentive was in the form of a tax credit but was switched to a cash rebate.

TECH

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engineers and other professionals. ...”

Spigiel and Keyvan Esfarjani, executive officer for IM Flash Technologies in Lehi, told the tales of their companies' woes and efforts. Spigiel said Watson Laboratories parent company, Watson Pharmaceuticals, is spending \$44 million to retrofit and expand operations in Salt Lake City. The subsidiary already occupies three buildings and has 450 workers who manufacture and package topical gels at the site, which serves as global research and development headquarters for the company. Watson Labs expects to hire 170 people during the next month and perhaps 300 more in the next few years.

“The issue that we face is the corporation has invested \$44 million into Salt Lake City, and what we need to do is we need to attract, hire and retain the talent to deliver the benefit that matches that investment,” Spigiel said. “So we need to pay back that investment, and then some, in order to grow and expand within Salt Lake City.”

Esfarjani's five-year-old, 1,600-employee company makes flash memory chips and needs to hire about 100 engineers annually. Sixty-four were hired in 2011, but 59 percent were from out-

side Utah because of the lack of skilled talent in the Beehive State. The company needs people skilled in making products smaller than human DNA, he said.

“We're producing parts at that level. In order to do that, you can all imagine, you need to have people that really understand the fundamentals of science and technology and are constantly pushing that. And the key challenge is, if you don't do it, somebody else will,” he said.

IM Flash's initiatives include investing \$1 million annually to meet its talent needs. It has supported talent-preparation activities, internship programs and partnerships. For example, one effort's goal is to get more young children excited about the impact of math and science on today's world.

Likewise, Watson has partnered with the University of Utah and Brigham Young University; instituted an internship program, scholarships and job shadowing; partnered with the Utah Department of Workforce Services, Hill Air Force Base, the Salt Lake Chamber and others; hosted job fairs, with the March 31 event attracting more than 600 people; and worked with companies that are closing or downsizing to help talented workers land new jobs.

Spigiel noted that many companies are attracted to Utah and all are or will be compet-

ing for the same skilled workers. “The demand for talent continues to grow, with the expectations of 150,000 jobs to be created [in Utah] over the next five years. The creation of these jobs is great for Utah and the Utah economy, but it makes it tough for all of us who are competing for the talent in an increasingly smaller pool,” he said.

Spigiel suggested a task force to study the matter and develop solutions, a technology symposium, increased funding for technology education and training, and working with educators to ensure curricula meets the needs of technology companies in the future.

“If we have a highly technical, highly educated workforce, companies will come, companies will expand,” he said. “And we need to provide them with that leverage, not only to come to Utah but to expand their businesses in Utah.”

Ooops ...

A story in last week's edition about St. Louis-based Permalok Corp. establishing a plant in Salt Lake City reported an incorrect address. The firm's Utah plant is located at 670 S. 500 W., Salt Lake City.

CRANE

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those days are gone now. We're now building ourselves back up to the point that we can take care of any customer anywhere in the western United States. We really think we'll double staff within the next two or three years.”

While ProservCranes concentrates largely on the manufacture of one-quarter to 250-ton cranes for the oil and gas industry, the Woods Cross firm will continue to serve other markets, such as mining, water treatment plants, small businesses, repair facilities and the government. Its territory will basically be “anything west of Texas,” said Rich, who, under new ownership, is now western

branch manager.

Overhead Cranes was founded 12 years ago but Rich has been designing and manufacturing cranes for 35 years. A licensed professional engineer, he began his career as an associate structural engineer with Fluor Corp. in Southern California.

“The acquisition is a 'win, win' for both parties,” said Brad Wilson of ProservCrane Group. “...It gives ProservCrane an instant presence in the West Coast, plus helps expand our parts, service/inspection and new equipment sales business. Many companies are turning to a single source for their material handling needs, so it made sense to extend our services to the West, which will also increase our reach and brand recognition.”


DigiCert promotes Nicholas Hales to CEO

DigiCert Inc., a Lindon-based online security provider for many of the most recognized brands and websites in the world, has promoted Nicholas Hales from COO to CEO.

Hales, who has been DigiCert's COO since early 2010, has been instrumental in the company's efforts to attract top talent and increase its market share. Under his leadership, DigiCert has enjoyed revenue growth of nearly 120 percent — continuing its strong growth trends in 2012 — and has been recognized with

multiple awards for its customer value, customer support and flexible workplace.

Hales' background includes more than 15 years within the online security space. Previous to his appointment at DigiCert, Hales worked in the industry as a director and chief legal officer at Comodo and CEO of USERTrust. A licensed attorney, he previously worked in private practice and as assistant attorney general for the state of Utah, among other positions of public service.



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Small Business in Utah

Minimizing your company's e-liability

My good wife was on the Internet looking for images of wildlife to show our then five-year-old son who was obsessed (and still is) with the animal kingdom. That day, our son had a particular interest in foxes. Being the e-savvy gem that she is, my wife typed in the following Web address: www.foxes.com. Please don't go to this site; you will not find anything from the animal kingdom! As pornographic images popped up, my wife screamed, covered my son's eyes and quickly navigated to more appropriate sites. After implementing some strict Internet-usage policies in our home, I can truly say "all is well on the home front."

But can your company make the same claim? Is your Internet house in order? How about your electronic communications policy — do you have one? Workplace e-liability (i.e., employer legal liability resulting from employee intentional or negligent misuse of the Internet, social networking and blogging sites — Web 2.0 — e-mail, texting, instant messaging and other electronic communication media) has increased exponentially over the last few years.

Take a recent age discrimination case where a jury returned a verdict for \$26 million against a company in mostly punitive damages after the plaintiff produced a company e-mail (apparently not produced by the company but obtained by plaintiff's lawyers from an anonymous donor) that stated, "Hawkins is 64 yrs old with 20 yrs with km. I think I can get him to retire. Let me work on him."

Ouch! The employee who wrote the e-mail obviously harbored discriminatory sentiment towards the plaintiff, but did he have to write it in an e-mail for the jury (and now world) to see?

A now-retired Toyota vice president, Irv Miller, provided another e-mail gem. In the wake of Toyota's accelerator disaster, he said, "I hate to break this to you but WE HAVE A tendency for MECHANICAL failure in accelerator pedals of a certain manufacturer on certain models. We are not protecting our customers by keeping this quiet ... The time to hide on this one is over." Miller sent this e-mail to Toyota's executive coordinator for corporate communications for Toyota Motor Sales U.S.A. a few days before the three million-vehicle recall. That

e-mail, now all over the Internet, will be used by the plaintiff's lawyers for years to come (or at least until the statute of limitations has run).

Merck lost \$6.8 billion in stock value after e-mails were released suggesting Merck knew Vioxx increased heart-related risks. In an e-mail dated March 9, 2000, Merck's chief researcher said cardiovascular events "are clearly there." Another researcher stated that high-risk patients should be eliminated from the Vioxx clinical trials so the rate of cardiovascular incidents "would not be evident."

In January 2009, prosecutors successfully used text messages in proving two Ohio Attorney General's Office employees were subjected to sexual harassment and a hostile work environment under Attorney General Marc Dann. The plaintiffs' sexual harassment lawsuit was settled for \$495,000.

The sheer number of texts, e-mails and social media postings accumulating in the workplace each day makes it nearly impossible to entirely eliminate the risk of e-liability. In a survey featured in the *Journal of Organizational Behavior*, 64 percent of 1,000 workers, while on the job, surfed the Internet for personal interest. In addition, 84 percent sent non-job-related e-mails and 90 percent surfed recreational websites instead of doing work. So let's approach this, as we should, from a risk-management perspective. What are the most common types of e-pitfalls? And, what should an electronic communications policy include?

• Textual Harassment. Textual harassment is, in Title VII terms, sexual harassment by another name. It is the act or acts of creating a hostile work environment through the means of texting. Each day, eight billion texts are sent out in the world. The nature of texting seems to lend employees a false sense of privacy, leading them to think texts will not become known to anyone else aside from the recipient. Because of this presumed privacy, employees will often write things in a text that they would under no circumstances verbally express, live or in person. It is as if each employee has a texting avatar that is unleashed into cyberspace. And, when employees are awakened from their texting stupor, they will

sometimes seal their own and their employer's legal fate (I had this in a case recently) by sending one last text to their texting victim: "Please don't sue me." The problem is, the employer does not have an avatar and will be directly sued for text messages that create a hostile working environment. This is the real world, and employees' text messages are not private. They are retrievable by a simple subpoena to the phone carrier. Judges may order employees to produce their phones as evidence. Plaintiffs' lawyers all over the country are successfully subpoenaing and requesting text message records from managers and other employees to prove their client's sexual harassment claims.

Recommended Textual Harassment Policy. You probably (or at least should) have an existing sexual harassment policy. You should include expressly in your policy that sexual harassment includes any unwanted sexual advances, requests for sexual favors or visual conduct of a sexual nature that is expressed verbally, in writing, by e-mail, by text, by instant messaging or any other electronic or tangible medium. Simply put, your employees must be trained that private text messages to co-workers, even after hours, can and will be used as the basis for a sexual harassment claim.

• Internet and Pornography Use. Allowing employees to view pornography from their computers is an invitation for a sexual harassment lawsuit. Once on a pornographic website, an employee may easily send a link to the site to other employees, or forward a pornographic e-mail to certain employees or the entire company. Also, employees may print images that are visible to other employees. In a study on the effects of Internet pornography, among countless others, it was discovered that individuals who view pornography are more likely to make off-color jokes, engage in inappropriate sexual conversations and conduct, and create a sexually charged work environment. All of these factors may lead to a sexual harassment claim.

Recommended Policy. Employers should implement network software protections that filter out and block access to pornographic websites. Employers should also have a policy that prohibits viewing pornography during working hours and using company electronic equipment or devices, including handheld devices, to view pornography. The policy should prohibit forwarding or sending pornographic images from or to company e-mail accounts, or from or to employees. Importantly, an employer's Internet usage policy should clear-

ly state that employees do not have an expectation of privacy with respect to the content they are viewing on company computers and devices and that such usage may be monitored by the employer without notice.

• Social Networking Sites (SNSs). Web 2.0 (world of user-generated content) allows employees to instantaneously publish or post information on the Internet to millions of users via Facebook, LinkedIn, Twitter, YouTube, personal blogs, wiki, and the list goes on. The legal ramifications from employees' use of SNS in the workplace may include the following:

* Intentional or unintentional disclosure of confidential information or trade secret: an employee may disclose to the public secret recipes, formulae, customer lists, or business plans via SNS;

* Defamation: the company may be sued for false information published on SNSs against the company or individual by an employee using the employer's computers or devices;

* Consumer protection claims: are your salespersons engaging in "sock puppeting?" In other words, do your employees go online and pump up your products without disclosing their affiliation with your company?

Recommended Policy.
see *LIABILITY* next page



Christopher Snow



Congratulations to Cafe Rio on the opening of its 50th restaurant.



Burke, VA 2012. Top: St. George, UT 1997.

Cafe Rio opened its first restaurant in St. George, Utah 15 years ago. Since then, the company has made "Every Meal a Masterpiece" the industry standard. With 50 restaurants now in operation, Cafe Rio's loyal customers span the globe and Clyde Snow is delighted to count ourselves among them. We've been proud to navigate the ride alongside Cafe Rio—and even more proud to congratulate the company on their golden achievement.

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LIABILITY

from previous page

There really is no use in prohibiting SNS in the workplace. It is going to happen. A best practice is to implement a policy that limits or restricts the use of SNS. The policy should at least include clear prohibitions against disclosing confidential information, making false statements about individuals, competitors or other entities, and failing to disclose affiliations with the employer when advertising or discussing products.

• **e-Discovery.** In litigation, e-discovery pertaining to e-mails and electronically stored information has been available for some time. However, status posts, tweets, texts and “private” MySpace or Facebook messages are now additional targets of document production requests and subpoenas. Judges are becoming more aggressive in granting wide-ranging access to a litigant’s supposedly private social media postings and messages.

Recommended Policy. Employees should be trained that Web 2.0 postings, messages, tweets are not private when it comes to litigation. In the event the company is sued and employees have Web 2.0 content related to the suit, it may have to be produced under current law.

Social Networking and Google: Hiring and Firing

• **Hiring.** More and more companies are becoming savvy in e-snooping for potential new hires. Prior to interviews, HR departments are often conducting Google searches and reviewing public (and sometimes private if they have friend or friend of friend access) to Facebook. While there is nothing illegal about reviewing publicly available information on the Internet per se, should companies really go there prior to an interview? Consider the information you may learn from a Google search, i.e., age, gender, marital status, race, religious affiliation. This is exactly the type of information that is intentionally not asked for in an interview or on a job application because it is illegal to base hiring decisions on such criteria. So why do you want it in your possession and Internet history?

Hiring decisions should be merit-based. When companies mix in illegal hiring criteria, particularly prior to providing an interview, they are at risk of being accused of illegal hiring practices. Because of claims such as these, two states, Illinois and Maryland, are considering legislation that would prohibit such behavior.

• **Firing.** Employees’ “private” social media behavior is

increasingly coming under scrutiny by employers, and some employers have used this misbehavior as grounds for discipline, including termination. Under what circumstances can employers discipline or terminate employees based on their use of social media? This is a complex question and should be evaluated on a case-by-case basis after careful consultation with counsel.

The National Labor Relations Act (NLRA), as interpreted by the National Labor Relations Board (NLRB), governs this question, and it is in a state of legal flux. But, what is clear is that employers are prohibited from basing disciplinary decisions on employees’ social media postings that constitute “protected concerted activity.” In other words, employees have the right to join together, in unions or otherwise, to discuss wages, policies and the general terms and conditions of the workplace. The NLRB will protect this concerted activity regardless of whether it takes place verbally, on an e-mail group, or on a social media site or wall. Employers are prohibited from making adverse employment action against employees engaged in protected, concerted activity.

Employers might also run afoul of the NLRA if their social media policies are drafted too broadly and either intentionally or

unintentionally restrict, inhibit or prohibit conduct that is protected by the NLRA.

• **Protected or not Protected?** When reviewing social media posts by your employees, consider these factors:

* Is the employee engaging in textual or sexual harassment by threatening another employee, or is the employee violating an anti-harassment policy? Not protected.

* Is the employee a supervisor? Supervisors are not protected by the NLRA.

* Is the employee discussing wages or compensation? This conduct is probably protected particularly if there appears to be a plan to act.

* Are there comments on the post from other co-workers? If so, the NLRA may deem this protected and concerted activity.

Because of the complex nature of these questions, employers should consult with counsel prior to firing any employees over social media postings.

Christopher B. Snow of the Salt Lake City law firm of Clyde Snow represents management in federal, state and administrative employment matters. He has extensive experience in the areas of wrongful termination, reduction in workforce, civil rights (Title VII, Age Discrimination in Employment Act, and Americans with Disabilities Act), Fair Labor Standards Act,

Family Medical Leave Act (FMLA), OSHA violations, and qui tam whistleblower actions. His experience also encompasses the enforcement of non-compete contracts and claims for trade secret misappropriations and trademark infringement. Snow has an active real estate license and represents businesses and individuals in real estate transactions and general business litigation as well. Currently, he chairs Clyde Snow’s Employment Law Practice Group and frequently writes articles for the group’s newsletter, *Business as Usual*.

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SCHOOL

Employers have few options when workers are legally ingesting opioids, physician says

By Brice Wallace

The Enterprise

Employers trying to ensure that a worker with an Oxycontin prescription doesn't get behind the controls of a backhoe or a semi truck apparently have few options.

That was among the messages relayed by Dr. Alan Colledge, medical director at the Utah Labor Commission, during the first-ever safety conference sponsored by the Utah Manufacturers Association and the Utah Mining Association.

In discussing opioid use in the workplace, Colledge, who also is in the orthopedic department at Central Utah Clinic in Provo, suggested companies establish clear policies about the use of such strong pain-killing medications and their use by workers in "safety-sensitive" positions. In some companies, it's clearly established that someone using an opioid cannot, for example, pilot an aircraft, drive a bus or commercial truck or operate machining equipment.

Colledge said it is common for employees returning to work after an accident to have a prescription for such medications, and they can still take them if the doctor is familiar with the worker's medical history and his assigned work duties and has warned the worker about the drug's effects on mood and behavior. Companies seem to have few options, although they can have their own doctor review the worker's situation and ban the employee taking a particular medication from working in safety-sensitive positions if that is spelled out in a company policy.

"Well," Colledge mordantly said to the crowd, "I wish you luck."

That's because more people than ever are taking opioids for chronic pain, the result of a way of thinking that he said is perpetuated by pharmaceutical companies, pain management specialists and people advertising a "pain-free" life. For a physician, "if I start you on Oxycontin today, that means you'll probably be on it for the rest of your life. That means I see you once a month for a \$100 visit. I mean, that's a pretty good annuity," he said.

His own belief is that continued use of strong narcotics is often unnecessary and difficult to stop. While needed for acute pain, their use for chronic pain can lead to a lower quality of life, increased susceptibility to pain, loss of bone density, lower testosterone levels, decreased libido and an increased possibility of addiction as the brain becomes "hard-wired" for a craving for a dopamine rush. "Instead of life being exciting, about vacations, grandkids and

The number of people who die from opioid overdoses in Utah now outpaces the number that die in motor vehicle accidents.

sex, it's all going to be about pain," he said. "Your life's going to revolve around pain."

Few studies have been conducted on the topic of opioid use for chronic, nonmalignant pain, and those that have were short-term looks at the issue and often of poor quality, he said. Their use for treating chronic lower back pain, for example, is questionable. "Either we have gotten a whole lot sicker...or something has happened in the community itself with us who prescribe them," Colledge said, adding that the number of people who die from opioid overdoses in Utah now outpaces the number that die in motor vehicle accidents.

"There's a difference between acute and chronic pain. Acute pain is where you have a fracture or a laceration, and that pain is our sensors. There are probably 10,000 sensors in our skin that tell us where our skin is, or our bones or whatever, in space. When we disrupt those, that gives us acute pain and that pain protects us. It's very necessary for our survival. Chronic pain — pain after three weeks to six weeks — serves no useful purpose. 'Hurt' doesn't mean 'harm.' That's what our ancestors did. They knew that. They had no other choice and they went on and did just fine [without opioids]. But our problem is we've been treating now the chronic pain with an acute model, ending up with this whole cascade."

State medical officials now have a database available that alerts them when a narcotic has

been prescribed. It's a way to prevent people from "doctor shopping."

"We watch out for any of your folks that have been having pain for more than three months [and are on opioids]...and the treatment is to wean them off. There's only one way, and that's to cage the beast and starve it to death," Colledge said.

He acknowledged that the medical community is "schizophrenic" and "indecisive" about the issue. "It's kind of a touchy issue. It depends on who you have speaking to you as to what you would hear. I dare say that pain physicians would say exactly the opposite," he said.

But the long-term ramifications are severe, he added. "And you all know people who have died. You all know people whose families are now devastated or ravaged by this disease of addiction. It's terrible. And it's not going away. You'd like to say your children, your grandchildren, would be protected from this, but they're not, even as we speak. It's out there."


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• Industry Briefs •

ASSOCIATIONS

• Celebrating its 23rd year, **Utah Valley Entrepreneurial Forum (UVEF)** is accepting nominations through June 1 for this year's "Top 25 Under Five" Awards. Top 25 Under Five spotlights outstanding Utah entrepreneurs and emerging companies from across the state. Award recipients will be recognized at ceremonies on July 12. UVEF's Top 25 Under Five Awards have recognized the development of more than 200 individuals and companies, including Skullcandy, Imagine Learning, Agel Enterprises, Lendio (Funding Universe), Simply Mac, Entice Labs, Kynetx, ZAGG and InterbankFX. Companies five years old or younger throughout Utah are invited to apply at www.UVEF.net. Applicants are judged based on revenue and job creation.

• The **National Association of Women Business Owners (NAWBO)**, Salt Lake City chapter is soliciting nominations for the **2012 Woman Business Owner of the Year and 2012 Rising Star Awards**. The award is presented annually to a woman who has demonstrated strong leadership skills in growing and managing a successful business that is more than three years old, while also

demonstrating those skills in volunteer and civic activities. The NAWBO Rising Star Award is presented annually to a woman business owner who has demonstrated entrepreneurial creativity and determination in successfully managing a business that is less than three years old. Nomination forms are available online at <http://nawboslc.org/news/awards>, or from the NAWBO office at 801-487-4600. The deadline for nominations is May 5, 2012.

BANKING

• **Bank of Utah** has tapped **Amy Kae Johnson** and **Adam Harmon** to fill new marketing positions at the locally-owned bank's main branch in Ogden. Harmon is Bank of Utah's new mortgage marketing coordinator. He graduated from Brigham Young University-Idaho and the University of Utah in marketing. While finishing his degree, he began working in the marketing department at Ivory Homes. After four years there, he became the marketing director at Henry Walker Homes. Johnson has joined Bank of Utah as a marketing coordinator. Johnson holds a Master of Business Administration from Idaho State University and a bachelor's degree in integrated stu-

dio art from BYU-Idaho. Johnson has experience designing marketing materials for Idaho State University's College of Business, where she was most recently employed.

COMPUTERS/ SOFTWARE

• **Simply Mac**, the Utah-based Apple computer specialist and retailer, recently challenged Utahns to go greener and recycle their electronic waste at its second annual e-Waste Recycle Event. The event took place on April 13 and 14 at the Maverick Center in West Valley, and Utah's businesses and consumers recycled more than 250,000 pounds in electronic waste. Electronic items that could be recycled included televisions, CRT monitors, LCD displays, CPUs, laptops, servers, keyboards, mice, speakers, hard drives, cables, two-way radios, fax machines, photo copiers, printers, scanners, surge protectors, telephones, typewriters and adding machines.

CONSTRUCTION

• **EDA Architects**, Salt Lake City, has promoted **Scott Later** to associate. Since joining EDA, Later has contributed to

many civic, justice and educational facilities. He provides project management for the design team and coordinates EDA's contract document production with all the consultant team members. He recently successfully managed the construction of South Weber K-2 and is currently involved in the renovation and restoration of the historic Ogden High School.

• **Big-D Construction**, Salt Lake City, recently hired **Drew Watkins** as senior project manager. Watkins has more than 37 years of experience in the construction industry, beginning as a cabinet maker in 1975. Since then, he has worked in many dif-

ferent areas, gaining experience as a senior project manager, project director, senior quality control manager, project engineer, estimator and laborer. Watkins holds a bachelor's degree in construction management from Cal State University Long Beach, and has worked on projects such as the Intermountain Medical Center, City Creek Center, University of Utah Orthopedic Center and Shriners Hospital, as well as an addition to the Madison Memorial Hospital in Rexburg, Idaho.

ENVIRONMENT

• **Salt Lake City** made the list of **top 25 cities with the most Energy Star buildings** in the country, ranking 24th. This is the first time Salt Lake City made the list. A few programs made Salt Lake City stand out among cities nationwide. The Utah Building Energy Efficiency Strategies (UBEES), a coalition of government agencies, utilities, building industry, and key industry stakeholder partnerships, has been actively encouraging public and private buildings to benchmark with Portfolio Manager. Portfolio Manager is an interactive energy management tool that tracks and assesses energy and water consumption of buildings. Nineteen



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schools in Salt Lake City School District have earned the Energy Star. The District was recognized as an Energy Star Partner of the Year in 2012. The District worked closely with Utah Building Energy Efficiency Strategies (UBEES) to get started with benchmarking. Seventy-three percent of Salt Lake City metro area Energy Star certified buildings are K-12 schools.

HEALTH CARE

• Humana Inc.'s pharmacy benefits management subsidiary **Humana Pharmacy Solutions Inc.** (HPS) is offering employers a new **Rx4Value formulary and Walmart Rx Network** that together guarantee up to 20 percent savings on employers' average prescription price. The new options extend HPS's signature Average Script Price Guarantee, which guarantees the average prescription cost a self-insured employer will pay across all of its annual in-network prescriptions. Both new pharmacy benefits options are available now to self-insured employers. The Walmart Rx Network option is expected to be available to fully-insured employers later this year.

• **Jane Carlile** of Provo recently received the **2012 William N. Jones Trustee of Excellence Award** in recognition of her volunteer leadership service as a trustee of Intermountain Healthcare. She was selected from

among Intermountain's 450 volunteer trustees for the award, which is given annually to board members who have been exceptionally effective in helping Intermountain achieve its mission. This honor is named for Bill Jones, who chaired Intermountain Healthcare's board from its creation in 1975 until 1990. Carlile is a former Provo City Council member and has served on a variety of boards, including Habitat for Humanity, Neighborhood Housing Services of Provo, Boys and Girls Club, Provo City Energy, Intermountain's Women's Advisory Council for the Urban South Region and the Workforce Services Board for Utah County.

HUMAN RESOURCES

• New data released by the **National Partnership for Women & Families** reveal the costs of Utah's gender-based wage gap. **Women in Utah are paid 69 cents for every dollar paid to men**, amounting to a yearly gap in wages of \$14,446. African American women and Latinas in Utah fare worse, being paid \$22,229 and \$22,405 less than all men in the state, respectively. Nearly 85,500 Utah households are headed by women. The full report ranks Utah 48 among the 50 states. According to the report, if the gap between men's and women's wages were eliminated, each full-time working woman in Utah could afford to

pay for groceries for 2.1 years, buy 3,890 more gallons of gas, pay mortgage and utilities for 10 more months, pay rent for 18 more months, or purchase family health insurance premiums for 4.1 more years.

• The **latest wage data covering more than 600 Utah occupations** is now available from the **Department of Workforce Services**. The wage data is broken out into 10 geographic areas representing every county in the state and is available online in a searchable database at <http://jobs.utah.gov/jsp/wi/utalmis/gotoOccwage.do>. Workers in the Salt Lake City Metropolitan Statistical Area realized the state's highest 2011 median annual wage, at \$34,210, and the rural southwest counties posted the lowest median annual rate, at \$27,430. The state median was \$32,050. Statewide median wages for 2011 increased 2.4 percent over 2010. The highest paid jobs were physicians, top managers, engineers and other professionals with earnings well in excess of \$100,000 per year. The lowest paid were service and hospitality-related jobs with pay of under \$9 per hour. Examples of more common occupations and their median wages are accountant (\$27.93), carpenter (\$17.41), registered nurse (\$28.57), secretary (\$14.27), customer service representative (\$12.84) and heavy and tractor-trailer truck

driver (\$19.22).

LAW

• **Wendy Bowden Crowther** has joined the Salt Lake City law firm of **Parsons Behle & Latimer** as a shareholder and member of the Environmental, Energy and Natural Resources Department. Crowther concentrates her practice on water law and represents municipalities, water conservancy districts, special service districts, irrigation companies and private water rights holders before the Utah State Engineer and Utah District Court. She handles water rights and property transfers and is experienced in condemnation litigation. She also represents clients in Clean Air Act and Clean Water Act matters. Crowther graduated from the University of Utah with a J.D. degree in 2000 and B.A. and B.S. degrees in 1994. She was admitted to the Utah State Bar in 2000.

• **Andrew A. Hufford, Brandon S. Mecham** and **Stephen E. Pulley** have joined the Salt Lake City law firm of **TraskBritt**. Hufford received his J.D. from the University of Houston in 2010. He holds a Master of Science and Bachelor of Science in biochemistry from the University of California, Riverside where he was awarded a Chancellor's Distinguished Research Fellowship to promote his work. Mecham received his

J.D. in 2010 from the University of New Hampshire School of Law, where he served as senior editor of the *Intellectual Property Law Review*. He also received a Bachelor of Science in mechanical engineering from Brigham Young University. Pulley received his J.D. in 2011 from J. Reuben Clark Law School where he graduated cum laude and received first place in the Kilpatrick Townsend Award for Intellectual Property Writing and Scholarship. He also received a Bachelor of Science in mechanical engineering from Brigham Young University.

MANUFACTURING

• Pleasant Grove startup **People Water Inc.** has named **Ken Bretschneider** as CEO. He is founder of local DigiCert Inc., an online security provider. People Water's goal is to provide clean water to the world's impoverished. The water is contained in biodegradable bottles.

MEDIA/MARKETING

• In celebration of National Small Business Week 2012, **SBA is looking for creative videos from small businesses that show how they have been helped by an SBA program or service**. The contest is designed to raise awareness of the importance of SBA programs and the impact the small

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BSD Medical
BSD Medical Corp., based in Salt Lake City, reported a net loss of \$2.1 million, or 7 cents per share, for the fiscal second quarter ended Feb. 29. That compares with a loss of \$1.6 million, or 5 cents per share, for the same quarter a year earlier.

Revenues in the most recent quarter totaled \$271,883, down from \$444,439 a year earlier.

BSD provides medical systems that use focused radiofrequency (RF) and microwave energy to treat cancer and benign diseases.

"We have a strong balance sheet, no debt, and believe we are sufficiently capitalized to continue our sales and marketing and product development efforts," Harold Wolcott, BSD's president, said in releasing the figures.

Schiff Nutrition
Schiff Nutrition International Inc., based in Salt Lake City, reported net income of \$4.6 million, or 16 cents per share, for the fiscal third quarter ended Feb. 29. That compares with \$4 million, or 14 cents per share, for the same quarter a year earlier.

Net sales in the most recent quarter totaled \$72.2 million, up from \$57.7 million in the same quarter a year earlier.

Schiff Nutrition produces vitamins, nutritional supplements and nutrition bars.

"We are pleased with our third quarter performance," said Tarang Amin, president and CEO, in announcing the results. "Net sales grew 25 percent, which was driven by a 53 percent increase in our branded business. These results reflect successful execution against Schiff's growth strategy as we invest to build premium brands and lead innovation in our categories. ... We are positioning Schiff for long-term growth. Our sales and gross margins continue to benefit from our investments in brand building. It is gratifying the business has responded to these efforts so positively in fiscal 2012."

Security National Financial
Security National Financial Corp., based in Salt Lake City, reported net income of \$1.2 million, or 14 cents per share, for the full year 2011. That compares with a net loss of \$430,000, or 5 cents per share, for the prior year.

Revenues for 2011 totaled \$160 million, down from \$169 million in 2010.

The company has three business segments: life insurance, cemeteries and mortuaries, and mortgages.

"The fourth quarter marked continued improvement in all of our segments, which is reflected in our much improved year-end results," Scott Quist, the company's president, said in announcing the results.

Quist noted that the company was "particularly pleased" with the mortgage segment, especially during the second half of 2011 when the segment produced net income of nearly \$1.5 million. "Those earnings were accomplished despite a volume contraction, consistent with the industry, of about one-third during 2011," he said. "Despite the industry-wide volume decrease in 2011, we believe we gained market share in the second half of the year. While there remains considerable uncertainty in the mortgage and housing markets, we believe our results show positive adaptation to circumstances and give reason for optimism."

Franklin Covey
Franklin Covey Co., based in Salt Lake City, reported net income of \$1.2 million, or 6 cents per share, for the fiscal second quarter ended Feb. 25. That compares with \$305,000, or 2 cents per share, for the same quarter a year earlier.

Revenues totaled \$38.6 million, up from \$35.5 million a year earlier.

Franklin Covey provides training and consulting services designed for improving efficiency and productivity. It has more than 40 direct and licensee offices providing professional services in more than 140 countries.

In announcing the results, Bob Whitman, chairman and CEO, said revenue per client grew 7 percent over the past four quarters. "We are very pleased that we have been able to translate the increasing demand for our offerings into continued strong growth in revenue, adjusted EBITDA (earnings before interest, taxes, depreciation and amortization), cash flow, and EPS (earnings per share) during the second quarter of fiscal 2012, for the year-to-date, and over the past several years. We expect continued strong growth in revenue, profitability and cash flows from operations in fiscal 2012 and beyond."

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from page 9

businesses that use them have in their local communities. Three winning videos will also be shown during a Google+ Hangout hosted by the SBA and the White House with SBA administrator Karen Mills on May 24. For more information on the Small Business Week Video Contest, visit <http://smallbizvid.challenge.gov>.

- **Anna West**, a Salt Lake City public relations veteran of 14 years, has opened her own PR shop, **West Public Relations**, in Salt Lake City. West spent nine years spent handling PR needs client-side, including eight years as a spokesperson for the Utah Department of Health, and five years serving clients as an employee of a downtown advertising agency. West's client list already includes Moore Hair Design, Realty Experts and the Oquirrh Mountain Symphony.

REAL ESTATE

- Commercial real estate investment banking firm **George Smith Partners**, Los Angeles, has arranged a total of \$22.8 million in financing for **Doerken Properties Inc.** (DPI) for two Salt Lake City properties owned by affiliates of the company. The GSP team arranged financing for two properties, including a \$15.3 million bridge loan on a Class B office building as well as the

\$7.5 million refinance of a retail property. The former is a partial-recourse bridge loan to facilitate the refinance of a 221,145 square foot office building located in the Salt Lake City Central Business District, two blocks from the new City Creek Development. The latter was a refinance of a 54-percent-occupied retail center located in Murray.

SERVICES

- **AlphaGraphics**, a Salt Lake City-based leader in print and marketing communications, is launching its new **AG Alliance program** aimed at assisting current franchisees in growing their business, new candidates in understanding the options for joining the AlphaGraphics Network and independent print owners interested in converting or selling their businesses. Through the program, AG Alliance will now serve as the umbrella brand under which many of the company's franchise development functions will fall. This includes new digital business center start-ups, satellite centers, sales offices, conversions, acquisitions, tuck-ins, acquire-and-converts, re-sales, transfers and other evolving services. Other resources available through the AG Alliance include access to financing partners and independent, third-party business evaluations.

SPORTS/RECREATION

- **Snowbird Ski and Summer Resort** plans to **replace two double chairlifts with high-speed quads and install a new water pump** to increase snow-making capability. Snowbird has the required approval to replace the current Little Cloud chairlift, which was installed in 1980, with a detachable high-speed quad chair manufactured by Doppelmayr, a European company with its North American headquarters in Salt Lake City. The new chairlift will be located in the footprint of the existing Little Cloud chairlift and be operational for winter 2012-13. Pending an environmental assessment, Snowbird also plans to replace Gad 2, an original double chairlift at Snowbird, with a detachable high-speed quad chair, also manufactured by Doppelmayr. The replacement chair will be lower-capacity than the new Little Cloud chair to minimize overcrowding on the terrain accessed on the west side of the resort. Snowbird also plans several run modifications in the Gad 2 area during installation, scheduled for summer 2013. The new Gad 2 lift will be operational for winter 2013-14. Snowbird will be selling its old, original chairs, and proceeds will benefit Wasatch Adaptive Sports (WAS). WAS offers year-round therapeutic recreational activities to people of all ages with special needs, with a special program for

wounded veterans.

TECHNOLOGY/LIFE SCIENCES

- The **Utah Technology Council** honored several people at its annual members' meeting for their active participation in UTC forums. The honorees included Legislators of the Year House Speaker Rebecca Lockhart, R-Provo; Sen. Curt Bramble, R-Provo; Sen. Stuart Reid, R-Ogden; Sen. Jerry Stevenson, R-Layton; Sen. John Valentine, R-Orem; and Rep. Wayne Harper, R-West Jordan; CEO of the Year Jerry Ropelato, TechMediaNetwork; CFO of the Year Morgan Brown, WorldHeart; CTO of the Year Steven ZoBell, ADP AdvancedMD; Emerging Executive of the Year Adam Ward, CEO and co-founder of eSilverBullet; Marketing Executive of the Year Lynda Mellor, VLCM; Sales Executive of the Year Shawn Robinson, JourneyTEAM; HR Executive of the Year Cammie Cable, Clearlink; Educator of the Year David Doty, superintendent, Canyons School District; Volunteer of the Year Brent Lawrence, senior vice president, Mountain America Credit Union; and Trustee of the Year Jeff Nelson, Nelson Laboratories.

TRANSPORTATION

- C.R. England, Salt Lake

City, has been selected as a **finalist for the 13th annual Corporate University Xchange ("CorpU") Awards for Excellence and Innovation**. CorpU, a talent development insight and education provider, will present the awards during a gala dinner on May 15 as part of the 13th annual Global Leadership Congress at the University of Pennsylvania in Philadelphia. The CorpU Awards for Excellence and Innovation is the longest running independent evaluation of corporate learning and talent programs. C.R. England is one of North America's largest transportation companies and the world's largest temperature-controlled carrier.

TRAVEL/TOURISM

- Volleyball athletes from around the country will descend on Salt Lake City May 26-June 2 for the **2012 USA Volleyball Open National Championships**. The event will be hosted by the Intermountain Region of USA Volleyball, the Utah Sports Commission and Visit Salt Lake. The 83rd Annual USA Volleyball Open National Championships will take place at Calvin L. Rampton Salt Palace Convention Center. An estimated 14,000 total persons, including 440-plus teams, will arrive into the Salt Lake City, and are projected to have an anticipated \$14 million to \$16 million economic impact.

FRONTLINE

Money, Power and Wall Street

Tue. Apr. 24, 8PM

Tue. May 1, 8PM

In a special two-part Frontline, journalists investigate how two U.S. administrations have confronted the financial crisis while dealing with sharp internal divisions and a relationship with Wall Street marked by mistrust and dependence, mutual interests and competing goals.

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• Calendar •

• April 24, 2-4 p.m.: **“Bad Global Web User Experience: How to Lose Leads and Alienate Customers,”** presented by the Utah Technology Council. Adam Wooten, director of translation services at Lingotek, will be the guest speaker. The presentation will be targeted to the needs of vice presidents, directors, managers, developers and designers in marketing, product management (for Web applications) and e-commerce. Seventy-three percent of the Internet users worldwide browse the Web in a language other than English, and many say they only buy products online in their native language. Consequently, companies seeking growth and stability from international markets are expanding their web presence into other languages. Unfortunately, not all such websites are providing a positive user experience for potential international customers. The location of the event has not yet been chosen, but it will be

free for UTC members and \$30 for nonmembers. To register and for more information, visit www.utahtech.org.

• April 24, 11 a.m.-2 p.m.: **Building Owners and Managers Association (BOMA Utah) 12 Point Program to Business Continuity.** The three-hour class will cover areas such as creating a planning team/continuity of authority, communications, risks and hazards, workplace evacuation and sheltering plan, vital records and more. Location is 3 Triad Center, 345 W. North Temple, Salt Lake City. Free to BOMA members, nonmembers pay \$10, lunch and parking included. Register online at www.BOMAUtah.org.

• April 24, 12-1:30 p.m.: **Sandy Area Chamber of Commerce Women in Business Luncheon.** Guest speaker will be Sen. Pat Jones, who will present a 2012 Legislative recap. Location is the Asian Star restaurant, 7588 S. Union Park Ave., Midvale. Cost

is \$20 for Sandy Chamber members, \$25 for nonmembers. For more information visit www.sandychamber.com or contact Jevine at (801) 727-4503.

• April 25, noon: **Utah Genius Awards,** presented by Bateman IP Law Group, KSL and Zions Bank. The event will recognize creative individuals and companies from across the state whose patents and trademarked products and services help drive the Utah economy. Awards will be presented based on concrete achievement based on objective data from the United States Patent and Trademark Office. Location is the Little America Hotel, 500 S. Main St., Salt Lake City. Cost is \$59. An honoree showcase opens at 11 a.m. Register at www.utahgenius.com or by calling (801) 533-0320.

• May 1, 11 a.m.-1 p.m.: **Utah Innovation Awards Luncheon,** presented by Stoel Rives LLP and Utah Technology Council. More

than 300 representatives from Utah’s technology, business and academic communities are expected to attend the Awards Luncheon to honor and recognize the finalists and winners in the categories of biotechnology, clean technology and energy, computer hardware/electrical devices, consumer products, consumer software and Web services, enterprise software and Web-enabled B2B solutions, mechanical systems/chemicals, manufacturing, and medical devices. Location is the Marriott City Center, 200 S. State St., Salt Lake City. Cost is \$50 for UTC members, \$70 for nonmembers. Register at www.2012utahinnovationawards.eventbrite.com.

• May 8, 8 a.m.-1 p.m.: **Parsons Behle & Latimer’s 24th Annual Employment Law Seminar.** Breakout sessions will include classifying workers as independent contractors, social media in the workplace, immigration compliance, health care reg-

ulations, update on employment laws, protecting trade secrets, new legislation affecting employers, sex discrimination laws, issues with co-employment and creating a total rewards package for employees. Keynote speaker will be Spencer P. Eccles Jr., executive director of the Utah Governor’s Office of Economic Development. Location is the Little America Hotel, 500 S. Main St., Salt Lake City. Cost is \$150, lunch and handbook included. Registration deadline is April 30. Register with Jeremy Jones at (801) 536-6626 or jjones@parsonsbehle.com.

• May 15-17: **Ninth Annual Utah Tourism Conference.** Location is the Utah Valley Convention Center, Provo. The conference is co-sponsored by the Utah Office of Tourism and the Utah Tourism Industry Coalition. Activities include sessions on domestic and international marketing, research trends, public relations, social media, a legislative

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Grilled on site
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Marinated Grilled Chicken Breast

Hamburger/Grilled Chicken
Meier's own quarter pound
Hamburger w/all the condiments
Marinated Chicken Breasts
Grilled on site
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update and other topics. Entries and nominations are being accepted for the Utah Tourism Hall of Fame Awards and the seventh annual Utah Tourism Marketing and Advertising Contest. Details on the Hall of Fame can be found at <http://travel.utah.gov>. The awards will be presented during the conference. The Marketing and Advertising Contest is accepting entries for the best-of-industry marketing, promotion and advertising efforts. The entry fee is \$25 for up to four entries in the categories of print, broadcast, web and special promotions. Details are at http://travel.utah.gov/tourism_conference/2012UtahTourismConference.html, or by contacting Rebecca Katz at the Utah Office of Tourism at rkatz@utah.gov. Individual conference registration is \$175. Two or more representatives from the same company can register for \$150 per person. Student registration is \$50. Details and registration are at www.utahtourism.org, by calling UTIC at (801) 505-5266 or by contacting the Utah Office of Tourism at www.travel.utah.gov or (801) 538-1900.

• May 23, 8:15 a.m.-1:30 p.m.: **Zions Bank 11th Annual Trade and Business Conference.** Keynote speaker will be Carly Fiorina, former chairman and CEO of Hewlett-Packard from 1999 to 2005. She will speak about global competitiveness and innovation. During her tenure at HP, Fiorina doubled revenues to \$88 billion and generated 11 patents a day, with significantly improved profitability and cash flow. Despite controversy and

opposition, she successfully acquired and integrated Compaq Computer, in what is now seen as one of the most successful high-tech mergers in history. Fiorina is co-chair of the U.S. Leadership in Development at the Center for Strategic and International Studies as well as on the Leadership Council of the Initiative for Global Development. She is a founding supporter of the African Leadership Academy and a founder of the One Woman Initiative. She has also served on the Defense Business Board, as the chairman of the CIA's External Advisory Board and on the Advisory Group for Transformational Diplomacy for the Department of State. Location is the Downtown Marriott, 75 S. West Temple, Salt Lake City. Cost is \$35 and includes lunch. Register at www.zionsbank.com/conference.


• May 30, 3-4:30 p.m.: **Solar Photovoltaic Energy Course**, sponsored by Hunt Electric. The instructor will be Brok Thayn, a certified National Center for Construction Education and Research electrical and core curricula instructor. He is also Hunt Electric's Energy Division manager. Location is the Hunt Electric Training Center, 1863 W. Alexander St., West Valley City. Cost is \$15 and includes refreshments. Register at <http://events.constantcontact.com/register/event?llr=mjlluajab&oeidk=a07e5mmmqwn749953aa> or by calling Jill Lewis at (801) 975-8844.

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What's the reason beyond blame? Maybe it's you

I overheard sales dialog on the airplane this morning. "He (the customer) has never responded to one of my e-mails, and never calls me back. The ONLY time he calls me is when he needs something." Then back to devouring this week's edition of *US Weekly* magazine.

Sound familiar?

Why do salespeople blame other people and/or other things for their own ineptitude? Why didn't this salesperson say, "I gotta work on my voice-mails and e-mails. They're not getting any traction and they're costing me major money. I'm going on an all-out effort to improve my writing skills, my voice-mail skills and my creativity to generate better response."

I'll tell you why: It's easier to blame others for your shortcomings than it is to take responsibility for them. It's easier to blame than admit you're not that good. It's easier to blame than it is to improve. It's easier to blame than face your own reality.

And I'm certain this message applies to you.

You blame the customer when something goes wrong, something didn't happen as planned, someone didn't respond or you lost a sale to a competitor — especially at a lower price. Wrong. Very wrong.

I have been helping salespeople sell more and sell better since 1976, and during the time no one has ever come to me and said, "Jeffrey, I didn't make the sale, and it was all my fault!" Interesting statistic.

Rather than blame, I have some answers that will help you. Actually, I have some questions. Questions you MUST ask yourself BEFORE you blame. These questions will give you a brand new perspective, and they automatically shift blame to responsibility. They will bring you a new sense of reality. And they will make you a better salesperson.

Ask yourself "WHY" to get to the truth.

- Why was my call not returned?
- Why did they cancel my appointment?
- Why did they delete my e-mail?
- Why did they not respond to my e-mail?
- Why did they say, "Not interested"?
- Why did they say, "We're happy with our present supplier"?
- Why can't I set an appointment?
- Why can't I get through to the decision maker?
- Why are they meeting with other vendors or suppliers?
- Why did they take the lowest bid?
- Why did they buy from the competition?
- Why did they tell me that my price is too high?

Why are you blaming others (especially customers) for your inability to attract, engage, connect and create value that leads to a sale?

One of the weakest and least exposed

shortcomings of salespeople is how they use time. If you're allocating too much time to watching TV, or other nonsense activities, you're wasting valuable career-building opportunities.

Whatever you're doing with your non-business, non-family time, ask yourself these reality questions:

- Will this help me double my sales?
- Will this help me build better relationships?
- Will this help me become better known?
- Will this make me be perceived as a person of value?
- Will this help me build my reputation?
- Will this help me build my sales and personal development skills?



Jeffrey Gitomer

Work on these elements of your sales and business life:

• **Message leaving.** Are your messages in any way impacting your standing and status with the customer? Is there an ounce of value or creativity, or are you just begging for some news about the proposal you sent (and calling that a follow-up)?

• **Be available.** Your prospect will call you when they are free. This may be before or after business hours.

• **Be easy to do business with.** Customers want everything NOW!

• **Leave value messages.** Something short and sweet that they can use.

• **Study creativity.** Your competitive advantage is to be perceived as different. Read a book on creativity as a starting point.

• **Be more friendly than professional.** Sales is a profession, but salespeople (you) must be perceived as friendly.

• **Build your business social media presence.** Are you tweeting value messages? Interacting with customers one-on-one on your business Facebook page? Looking to make new connections on LinkedIn? Creating a YouTube channel with customer testimonial videos? Or are you watching the six o'clock news?

• **Use meals to build relationships.** You'll be amazed how much more available customers become once you get to know them personally. Breakfast or lunch prospects and customers at least three times a week.

SIMPLE SELF-EVIDENT FACT: If you want customer response, you have to EARN it.

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

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New union poster requirement for small businesses

Barring a last minute court intervention, on April 30, 2012, almost every business in America will be required to post a new notice in their workplace that outlines employee rights in regard to unionization. The mandated poster is large, 11 x 17 inches, and is very eye-catching. Unlike many federal mandates, this poster impacts even the smallest businesses.

The poster is titled "Employee Rights under the National Labor Relations Act." This act, also known as the Wagner Act, is a Depression-era law encouraging the practice and procedure of collective bargaining, or unionization. As a practical matter, the law covers the great majority of non-government employers with a workplace in the United States, including nonprofits, employee-owned businesses, labor organizations, non-union businesses and businesses in states with "right to work" laws, such as Utah.

What does this law mean to small-business owners? It is likely the new poster will raise employee curiosity regarding unions and collective activity. For example, the poster highlights that it is illegal for employers to prohibit the discussion of individual pay amongst employees. If your organization is already being targeted by organized labor, failure to have this poster displayed may be considered an unfair labor practice and brought to the attention of the National Labor Relations Board (NLRB).

Although the NLRB does not audit workplaces or initiate enforcement actions on its own, this new requirement may present an opening for other enforcement agencies to audit your workplace. Once there, it has the right to review employment practices under its jurisdiction such as Immigration, Wage and Hour and Workplace Safety.

The easiest way to obtain the notice is to download it from www.nlrb.gov/poster and print it on a single 11 x 17-inch page or two 8 x 11 pages taped together. Employers can satisfy the rule by purchasing and posting a set of workplace posters from a com-

mercial supplier. Therefore, this will also give many poster vendors an opportunity to sell replacement "all-in-one" posters. This is a convenient solution, but like many things, one size does not fit all. Many posters contain information you may not be required to post. Conversely, depending on your industry, they may lack required information as well. You should conduct a knowledgeable source before relying on the salesperson pitching their particular version.

According to the NLRB "The Notice should be posted in conspicuous places, where other workplace rights notices and company notices concerning personnel rules or policies are customarily posted." If you have remote jobsite or telecommuting employees, your company should have a process, well documented, for these employees to see this and similar required notifications. If you typically post personnel rules and policies on an Internet or intranet site, you should also post this new poster there, in addition to a physical posting. It is also advised that you record the place, date and method of posting.

The larger questions that come up due to this requirement are evident. Is my workplace vulnerable to becoming unionized? What is my process for employee communications? Am I in compliance with this and other legal requirements? Sometimes a new federal mandate such as this poster can be a benefit if we take the opportunity to take a look at current practices and make the right corrections.

Russell Lookadoo is the president and chief strategist for HRchitecture, a consulting firm specializing helping business leaders accomplish their goals by effectively using their teams. He owns The Alternative Board practice locally, which establishes and facilitates peer advisory and coaching solutions to leaders of privately held businesses in the Salt Lake area. He is a TAB-Certified Facilitator and SBL-Certified Coach.



Russell Lookadoo

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How to stop driving customers away

By John Graham

It takes a website visitor less than two-tenths of a second to form a first impression, according to recent eye-tracking research conducted by the Missouri Institute of Science and Technology.

But the study, involving college students, doesn't stop there. It indicates that it takes about 2.6 seconds for a visitor's eye to focus on the portion of the website that most influences a first impression. In descending order, the sections of a website that drew the most interest were these: logo, main navigations, search box, social networking links, main image, main text content, and then bottom of the website.

As to the value of the research, Dr. Hong Sheng, an assistant professor of business and information technology at the university, said, "As more people use the Internet to search for information, a user's first impression of a website can determine whether that user forms a favorable or unfavorable view of that organization."

How consumers evaluate websites applies to the way they make other types of decisions. Their opinions do not necessarily agree with what we think is most important. In other words, we can be driving customers and prospects away and not realize we're doing it. Here are danger signs that may alert us to trouble ahead:

- Failure to respond to customer complaints. The attractive bar and restaurant was a welcome addition to the neighborhood. But it quickly drew negative comments, particularly about service, on Yelp. As the complaints accumulated on Yelp sites, seemingly ignored by the owners, their "message" has a way of seeping into the minds and conversations of others.

According to two analyst firms, Chadwick Martin Bailey and iModerate Research Technologies, only 35 percent of the complaints are answered. Two-thirds are missed opportunities to engage customers or resolve a complaint.

The lesson is simple: when customers contact a business or post a complaint, they expect a prompt response. If they are ignored, the impression is both indelible and viral as they "spread the bad word."

- Not taking "no waiting" seriously. While businesses worry about customers pilfering merchandise, shoppers are equally distressed when companies steal their time.

Waiting intolerance is quickly moving into the "danger zone" for many customers, with 52 percent saying they "hated" waiting in line in grocery stores and 51 percent at mass merchandisers.

A recent study of 1,000 smartphone users raises the ante even higher, with 40 percent of users saying they will abandon their "real world" shopping carts at checkout counters because of long lines and another 21 percent will walk away from their cart if no register is open.

Everyone can recall in detail incidents that occurred when they were "trapped" while "waiting in line" in a store, a restaurant, on the phone or downloading something to a computer. Yet, try to recall the times when a business answered on the first ring. The negative experiences take on a life of their own.

Here's the point: Today any waiting can result in not only a lost sales but a lost customer as well. To offset the negative effects of waiting intolerance, eliminating delays should be a top priority. When they are inevitable, letting customers know the estimated wait time is essential.

- Failure to recognize the fragility of customer relationships. Although the problem is painfully pervasive and constantly discussed, many companies don't take it seriously.

Customer relationships can "snap" at the very slightest provocation — or for seemingly no reason at all. And when it breaks, we're often caught off guard and puzzled why it happened. But there's no turning back and no opportunity to repair it.

What's going on? Recently, while taking a regular walk along a busy road, people seemed to drive differently on their way to work than they did going home. Overall,

the driving is far more orderly in the morning. But in the afternoon, it's quite a different story — horns honking, cutting in and out, speeding, slamming on the brakes — much more impatience on the way home. You might think it would be just the opposite — not wanting to be late to work.

The difference results from what Dr. Roy F. Baumeister and John Tierney call "decision fatigue" in the book, *Willpower*. They observe: "... ordinarily sensible people get angry at their colleagues, buy junk food at the supermarket and can't resist the car dealer's offer to rustproof their new sedan." Baumeister's various experiments point to the conclusion that stressful experiences, making countless daily decisions and enduring myriad aggravations can sap our willpower. And even those who may be good drivers in the morning have less self-control in the afternoon.

If "decision fatigue" is the culprit, then there is what we can do about it: everyone in the company needs to be super sensitive to customer feelings and respond with understanding.

- Lack of appreciation for what customers value. At a time when business is focused on customer satisfaction issues, it's strange that this is a problem. It may be that it's the wrong focus, as two Princeton social psychologists, Drs. Susan T. Fiske and Nicholas O. Kervyn point out. When studying more than 5,000 adults and 41 leading brands they concluded that features and benefits tell only part of the story.

They found that we judge brands the same way we judge people. We "repeatedly judge others when we interact with them, assessing them along the same two key social dimensions that our ancestors did: warmth and competence." Then they add, "People also make the same judgments about brands — spontaneously assessing them for warmth and competence."

When something goes wrong (for example, the alleged overheating of the new iPads), why do Apple customers tend to shrug it off while Dell customers "prepare to do battle" when they have a problem? Apple customers have faith in the company to the point that they aren't worried, while Dell customers may lack that same level of confidence.

It's no minor point that the specially manufactured glass used in every Apple storefront sends a crystal-clear message: nothing gets between Apple and its customers.

The researchers point out that Southwest Airlines avoids the usual industry fees that drive travelers crazy. Bank of America learned that lesson quickly when it was faced with a customer revolt in early 2012.

The two social psychologists suggest that when features and benefits alone are used to market products, it's difficult to predict "large portions of customer purchase and loyalty behavior." Yet, when warmth and competence perceptions become part of the mix, "an incremental 15-40 percent of the variance in customers' behavior is explained, highlighting their significant impact on purchase and loyalty." It's what they call the Principle of Worthy Intentions.

There's a powerful lesson in all of this: When genuine warmth and competence are components of a sales message, there's a significant competitive advantage, as companies such as GEICO, Progressive Insurance, Southwest Airlines, Ford and Wegmans Food Markets have discovered.

All this suggests that the red flags are flying and that far too many companies are preoccupied with how they view themselves. Unfortunately, what they see in the mirror is an image that has little room for customers, no matter what they may say. Their behavior betrays them as they drive customers away.

John R. Graham of GrahamComm is a marketing and sales consultant and business writer. He publishes a monthly e-newsletter, "No Nonsense Marketing & Sales" and can be reached at grahamarticle@gmail.com and (617) 774-9759.

Knowledge applied is power. Seek first to know and then to do

To become the best salesperson possible, you must first learn the principles and skills of sales and then properly apply them. Consider this question: "How much time do you spend each week studying the principles and techniques of sales in order to help your prospects and to increase your income?"

The typical medical doctor spends on average 11 hours each week in personal study and clinical observation in order to stay on the cutting edge of their profession. A CPA will spend an average of nearly eight hours each week in preparation and learning to stay abreast of the most current tax laws. Amazingly, salespeople earning a six-figure income spend, on average, less than three hours per week studying the principles and skills of sales.

Unfortunately, there are very few colleges and universities that offer degree programs in sales. A few classes are offered that deal with some aspects of sales, but the typical college program does not offer a concise and specific sales program. Weber State University offers one of the only sales related degrees in the country, but it is still limited in the curriculum that it can offer. Unlike other professions, salespeople are on their own to learn and apply the correct principles and skills. Sales training is a multi billion-dollar industry. There is no shortage of knowledgeable trainers or excellent materials. The issue is whether salespeople or employers take advantage of what is available. During the course of our lives we will deal with more salespeople than all the doctors, lawyers, CPAs and other professionals combined. And yet, the salespeople we conduct business with will be by far the least educated and least prepared to solve our problems.

Several years ago I was working with the president of a local company. We had been doing an excellent job training his salespeople. His son was about to enter college and he decided to enroll at a local college where I had been teaching a course on sales. The idea was to receive some of the same training in a classroom setting that I had offered his employees in our regular corporate training pro-

gram. Unfortunately, I didn't teach that semester so my client decided to hire his son as a salesperson so he could receive sales training and coaching along with the other salespeople in the company. This young man has diligently (sometimes not happily) applied the principles and skills he has learned.

His performance has been greater than any other salesperson in the company prior to engaging their salespeople in a training program. His first year's commission income at age 25 was \$51,000. Second year income at age 26 was \$97,000. Third year income at age 27 was \$126,000. When salespeople study, learn and apply, there is no limit to their income.

A typical salesperson may believe they don't have time to study their profession. Nothing could be further from the truth. There is always time to do what you want to do. If you believe spending time each day studying and learning your profession would increase your income, I'm sure you would spend the time. As an example, during this past year the salespeople we have trained have increased their gross profit sales on average 260 percent. That translates into more than a two-and-a-half times increase in their commission income. Studying, learning and applying the correct sales principles and skills is the answer to increased profitability and sales and increased income. Salespeople can't afford not to spend the time to learn. Imagine what your income could be if you spent 10 hours each week learning and perfecting your sales skills. Knowledge is power, the power to determine your own financial destiny. Discover the many resources available for learning the profession of sales and commit the time to become the best salesperson possible.

Tim Huffaker is the president of The Business Performance Group, a sales training and coaching firm headquartered in Salt Lake City. The company teaches core sales principles and skills, allowing clients to double their sales. Huffaker is the author of hundreds of sales articles and can be contacted at (801) 557-4571 or tim@bpgutah.com.



Tim Huffaker

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO,
SITTING AS THE
JUVENILE COURT

In the Matter of:
TYSON FRANK
Minor(s) born: 7-8-97

Case No(s): 229557
PUBLISHED CITATION
WELFARE AND
INSTITUTIONS CODE
SECTIONS 294 & 366.26

THE PEOPLE OF THE
STATE OF CALIFORNIA

TO: TYSON LEFRANCE AKA TYSON
LAFRANCE, FATHER, DATE OF BIRTH
IS August 25, 1980 aka August 21, 1980, OR
ANYONE CLAIMING TO BE THE FATHER
OF THE ABOVE-NAMED CHILD BORN TO
TRASHHELL FRANK AKA TRACHELL FRANK,
MOTHER, DATE OF BIRTH March 14, 1982

PUBLISHED NOTICE OF HEARING AND
NOTICE
TO PARENT OF RIGHTS AND PROCEDURES
PURSUANT TO WELFARE AND INSTITUTIONS
CODE
SECTIONS 294 and 366.26

1. YOU ARE HEREBY NOTIFIED THAT on May
29, 2012, at 8:30 a.m. in Department 134 of the
Sacramento County Juvenile Court, Superior Court
of California, located at 3341 Power Inn Road,
Sacramento, CA 95826, a hearing will take place
pursuant to Welfare and Institutions Code, Section
366.26, to either terminate your parental rights or to
establish a guardianship for your child or to place
your child in long-term foster care.

2. You are further notified that the Sacramento
County Department of Health and Human Services,
Petitioner, will recommend the following action:
termination of parental rights permanently and a
court order that the above-named minor be placed
for adoption.

3. You have the right to personally appear in court
and be heard in this matter.

4. On the above date the Court will determine the
best permanent plan for your child. Evidence will
be presented. After hearing the evidence presented
by the parties, the Court will make one of the fol-
lowing orders:

a. Terminate your parental rights permanently and
order that the child be placed for adoption;

b. Without permanently terminating your parental
rights, identify adoption as the permanent place-
ment goal and order that efforts be made to locate
an appropriate adoptive family for your child for a
period not to exceed 60 days;

c. Without permanently terminating your parental
rights appoint a legal guardian for your child and
issue letters of guardianship; or,

d. Order that your child be placed in long-term
foster care, subject to the regular review of the
Juvenile Court.

5. You may have the right to have an attorney rep-
resent you at the hearing. If you cannot afford an
attorney, the Court will appoint an attorney for you,
unless you knowingly and willingly waive your
right to representation by an attorney. You have the
right to present evidence at the hearing.

6. You have the right to request a trial on the issue
of what permanent plan is best for your child.
You have the right to present evidence. You have
the right to use the Court's power to compel the
attendance of witnesses to testify on your behalf.
You have the right to confront and cross-examine
any adverse witnesses. You have the right to
confront and cross-examine the preparers of any
reports submitted to the Court by the Sacramento
County Department of Health and Human Services,
Petitioner. You have the right to assert the privilege
against self-incrimination.

7. Any order of the Court permanently terminating
your parental rights shall be final and you shall
have no legal rights to the care, control or custody
of the child.

8. Ten (10) days prior to the hearing, the Sacramento
County of Sacramento Department of Health and
Human Services will prepare an assessment report
containing its recommendation in this matter. You
have the right to read the report and obtain a copy
of the report. You should immediately contact the
social worker assigned to your child dependency case
or your attorney if you have any questions
or if you would like to read and obtain a copy of
the report.

9. If you fail to appear at the hearing, the Court will
proceed in your absence to adopt one of the above-
mentioned permanent plans. Such proceedings may
include the termination of your parental rights so
that your child may be placed for adoption.
If you have any questions regarding this procedure,
please contact the specified below or an attorney.

DATE: March 29, 2012

ANN EDWARDS,
DIRECTOR DHHS
by, Hans A. Gregerson Paralegal
Department of Health and Human Services
Paralegal Services
(916) 875-4136

At O.C. Tanner company headquarters, employees dead-serious about Great Utah Shakeout drill

By Linda Milne
Contributing Writer

On April 17 at 10:15 a.m., a 7.0 earthquake, lasting 60 seconds, shattered our valley and decimated our way of life. Numerous aftershocks followed and will continue long into the future.

Gratefully, this scenario — created for The Great Utah ShakeOut — was a mocked-up event to give individuals and organizations the opportunity to practice and evaluate disaster response.

Ham radio networks reported. CERT teams assembled at Incident Command Posts. Fire and police units scrambled to assess damage/needs. Red Cross, government agencies and faith-based groups practiced their collaborative responses.

In reality, 2,300 deaths and 30,000 injuries did not occur. No freeway bridges collapsed, no roadways became impassable. No anticipated fires erupted. Water and sanitation systems were not compromised. No disabling, long-term power outage was set in motion.

How did our business community fare in the ShakeOut? Did your company practice a response plan?

At O.C. Tanner's world headquarters in Salt Lake City, this FEMA-sponsored drill was viewed as an opportunity to practice extensive response to an earthquake.

At 10:15 a.m. and again at 5:45 p.m., first and second shift workers at O.C. Tanner practiced the basic drill by carefully DROPPING to the floor, seeking COVER under a sturdy table/desk and HOLDING ON. For most Utahns, this was the full extent of participation. Not so at O.C. Tanner.

Occupational health nurse Connie Kirkpatrick, manager of the on-site clinic, moved into her disaster response role as the medical officer of the firm's internal hazmat team. That team, under

the direction of Annette Gertge, aided by Joe O'Neal, simulated worst case scenario spill exercises in both the refinery and manufacturing divisions.

Security professionals Juan Becerra, formerly with the FBI, and Scott Morrill practiced appropriate actions to safeguard on-site company assets and oversee facility security.

Dennis Smith and the facilities team, who assess structural safety on an ongoing basis, reviewed their role had this been an actual, and potentially disabling, quake. Would they need to use other buildings on campus to support business continuity?

The Ham Radio Team participated in events coordinated with ARRL SL County ARES and the SLC Net that extended to April 19.

While the general staff teams responded, the Executive Command Team, under the direction of CEO Dave Petersen and liaison Mike Tanner, discussed some of the vital steps in their business continuity plan. Their goal: reduce the length and severity of business interruption for client service and employee welfare. Some continuity functions could be supported by O.C. Tanner's Canadian and British offices, and in some cases, U.S. sales offices. Dispersal and redundancy are essential.

The company leadership team is fully aware that 40 percent of companies crippled in disasters never again open their doors for business.

Following the drill, company-wide discussion took place to underscore positive observations and present any opportunities for improvement.

Leading up to the event, several small trainings, with discussion and hand-outs, took place in the daily huddles and through e-mail distribution. Self-learning is a featured component of all training.

Additionally, specific training and practice will continue.

Internal CERT team drills will go into May. Hands-on training will include search and rescue skills such as cribbing, correct use of fire extinguishers, utilities shut-off walkthrough, multiple medical refreshers, etc.

In mid-May another "Drop, Cover and Hold-On" drill will take place, followed by a full-scale evacuation and accountability process, managed by Beth McClelland, for all Salt Lake buildings and work shifts.

In June, emergency preparedness will become an integral part of the company wellness program by encouraging, recognizing the need for and sponsoring employee creation of emergency preparedness kits for both the workplace and car.

As these exercises are completed in the weeks ahead; lessons learned will be thoroughly vetted in regular debriefings.

Workplace safety, in the form of collaborative planning, emergency preparation and disaster response, is not limited to earthquakes. In fact, response teams have identified and planned for more than 30 different vulnerabilities that could affect their company's ability to conduct business.

The O.C. Tanner focus upon safety is seasoned. In fact, it began in the late 1970s with soil stabilization, the result of lime and cement injections into the ground. As building additions were made to the original building, each expansion was progressively more

reinforced, relying upon support pillars, some as deep as 35 feet, to bypass the liquefaction level and reach bedrock. Rebar standards exceed those required for earthquake resistance. All glass has been replaced by tempered or laminated product, assuring that breakage will result in small pieces, not large, dangerous shards.

Today, O.C. Tanner headquarters occupies 350,000 square feet on State Street.

High workplace standards are a reflection of employee value and customer care put in place by founder Obert C. Tanner and faithfully carried on as an integral part of the firm's corporate culture.

Safety and response know-how is as much a part of employee training as individual job descriptions, and begins in new-hire orientation. "Bite-sized" training huddles routinely take place weekly, with the exception of the manufacturing division, which huddles daily.

There are some take-away messages from the O.C. Tanner policy and protocols: (1) General safety education, emergency preparation and thoroughly practiced response is an investment in your employees and adds value to your company; (2) A disaster response plan starts at the top and requires involvement of your entire firm; (3) A business continuity plan is your best chance for successful disaster recovery; and, (4) Redundancy, redundancy, redundancy.

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FOCUS

TRUCKING & LOGISTICS

Pages 17-25

Mandated rest times, limits on hours worked are among the challenges facing truckers, says Utahn who now heads the nation's trucking association

By Andrew Haley

The Enterprise

Dan England, chairman of C.R. England-Global Transportation, is the current chairman of the American Trucking Associations (ATA). England was elected by the ATA board at its annual meeting in October 2011. In an e-mail interview with *The Enterprise*, he said new hours of service regulations slated to take effect July 1, 2013, are expected to hamper trucking companies still recovering from the recession.

"The most significant provisions of the new rules don't take effect until the next summer. However, projections are that fleet

productivity could be negatively impacted as much as 5 to 15 percent depending on the specific trucking niche," he said.

U.S. Department of Transportation Secretary Ray LaHood announced the final rule creating the new hours of service regulations in December 2011. The new regulations reduce drivers' permissible number of hours worked in a week from 82 to 70 and stipulate that drivers take a 30-minute break for every eight hours behind the wheel. The final rule maintains the 11-hour workday limit.

"Trucking is a difficult job, and a big rig can be deadly when a driver is tired and overworked. This final rule will help prevent

fatigue-related truck crashes and save lives. Truck drivers deserve a work environment that allows them to perform their jobs safely," LaHood said in a press release.

But England said regulations intended to promote safety would backfire as companies seek to make up lost productivity.

"If fleets become less productive they will need to add more trucks and drivers to do the same job. This will drive up the cost of transporting goods in the U.S. With more trucks on the highways, more congestion will be created and more collisions will occur," England said.

"The trucking industry fails to understand why the rules were changed when truck-related deaths and injuries have dropped so dramatically under the existing rules. For this reason the American Trucking Associations have filed suit against the Federal Motor Carrier Safety Administration, seeking to overturn the new rule."

England is one of five Utahns to hold the top spot at a national association recently. Although Salt Lake-based C.R. England is the nation's largest refrigerated carrier, England said Utah owes its prominence in the industry to geography rather than to market share.

"By no means does Utah rank at or near the top in terms of number of trucking companies domiciled in the state, but Utah does have a very active and effective trucking association that represents the interests of Utah carriers along with the interests of all carriers that travel through the state," he said.

"Utah's prominence in trucking stems from the fact that it is strategically located. It is literally the 'Crossroads of the West' with I-80, I-15 and I-70 crossing the state. Because of its location, virtually all of the nation's largest carriers have facilities in the state. The presence of these facilities necessitates the hiring of many Utahns, which is a very good thing for Utah."

But those interstates, the arteries of motorized commercial transport, are in desperate need of maintenance and repair, England said. He said horror stories of crumbling bridges and roads were "resounding[ly]" true. The problem, he said, is the inability of politicians to push through unpopular gas tax hikes, which are the principal means of funding highway maintenance and repair.

"As our country rebounds from the deep recession, highway traffic will increase dramatically. It appears that virtually every state is struggling with the issues of funding new highway construction and maintaining existing

highways," he said.

"The historical funding mechanism is the gas and fuel taxes. In the majority of states these 'user fees' have not been increased at a rate to keep up with the need to build new infrastructure. States are hesitant to increase these user fees because tax increases are not well received and the politicians who propose them are often not reelected."

Paradoxically, the unpopularity of gas tax increases is leading to a surge in tolling, often at a higher cost to users.

"We see many states turning to tolling as an alternative. This is done for political expediency. The politicians can say they didn't vote for tax increases, yet the cost to the motorist actually goes up because tolling simply costs more than traditional highway funding through gas taxes," England said.

"If fleets become less productive they will need to add more trucks and drivers to do the same job. This will drive up the cost of transporting goods in the U. S. With more trucks on the highways, more congestion will be created and more collisions will occur."

"I don't know what the solution to this dilemma will be but it would help tremendously if elected officials could do a more effective job of informing the public of the advantages to increasing fuel taxes over tolling. Fortunately, Utah has been very forward thinking in providing funding for highways — at least to this point. The future is still uncertain."

Adding to the dilemma is the high cost of fuel, driven up by uncertainty over the bellicose standoff with Iran over its nuclear program and refining shortages in domestic markets. Market pressures created by rising fuel prices are leading to increased transportation prices in the short term, but also driving carriers to search for alternative, *see ENGLAND next page*



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ENGLAND

from previous page

cheaper fuels.

"Ultimately, the consumer must pay the high cost of fuel. If trucking companies failed to pass this cost along, they wouldn't be in business very long. As an industry, we support the study and use of alternative fuel sources," England said.

Long a pioneer in the refrigerated trucking industry, C.R. England, a fourth-generation, family-owned, legacy Utah company, is conducting its own research and development studies into alternative fuels. Taking advantage of a recent superabundance of natural gas supplies made possible by new advancements in drilling technology, England said the freight carrier is looking at various models of natural gas-powered engines that might one day haul its clients' goods. In October 2011, Carl Galbraith, director of business development at Questar, told *The Enterprise* that the gas giant is pursuing plans to build a network of natural gas fueling stations for commercial carriers along the Interstate network.

"C.R. England is currently testing five natural gas tractors at one of our facilities in Southern California. We think natural gas, whether LNG (liquid natural gas) or CNG (compressed natural gas,) will play a significant role in the future of our industry. Costs of conversion of diesel engines to natural gas need to come down, but the price differential between diesel fuel and natural gas provides a major incentive for fleets to explore conversion," England said.

A bank's perspective on the state of trucking

At TAB Bank (formerly known as Transportation Alliance Bank), we keep an eye on the trucking industry. In 2011, TAB's trucking portfolio purchased over \$2.4 billion of invoices, and we constantly stay in contact with customers through surveys and our TAB 25 Index of core customers' key performance indicators.

As we move into the second quarter of 2012, we continue to see gains in the trucking industry. The American Trucking Association's tonnage index jumped 5.9 percent in 2011 — the largest annual increase since 1998. The monthly year-over-year increases have continued in 2012 as February's 5.5 percent increase marked 27 straight months of increases. And, according to TransCore, a leading load matching service, spot market freight rates rose 7.4 percent overall in 2011. This is on the backdrop of previous depressed years, but these are still considerable gains.

We are seeing even greater increases than the national average. In our index of core customers KPIs, we saw a 14 percent increase in total billing in first quarter 2012 compared to first quarter 2011. These increases are the combination of a couple factors — increase in rates and organic growth of carriers taking on more freight. One negative statistic to note is the stretching of payment by our trucking clients' customers. Days to pay an invoice increased from an average of 27.71 days in February 2011 to 29.79 days in February 2012, and by March 2012, it hit 30.4 days.

TAB's quarterly survey of business conditions also shows our customers expect to see increases in both rates as well as the need to increase the size of their fleets. Along with other questions, we ask carriers whether they expect rates to increase, decrease or remain the same in the next 60 days. A large majority of respondents expect rate increases to continue into the second quarter.

TAB's vice president of transportation and finance, Curtis Sutherland, talks with fleets daily and he is hearing comments that reflect some of the statistics.

"The fleets I am talking with are saying some pricing power has returned with their customers and they are concentrating on lane optimization or getting rates where they can make money in the lane for their customer. And they have been successful," he said. "The good carriers have rebounded and are profitable again. The carriers we had issues

with before the economic downturn, we are still having issues with."

Growth is expected to be sustained in 2012 through solid profitability and truck tonnage growth. While that is good news for trucking fleets, the industry is keeping watch on potential driver shortages as well as maintaining aging equipment. According to ACT Research, the current average age of class 8 trucks is now at 6.7 years, the oldest since it was tracked beginning in 1979. We are seeing fleets address this issue as February marked the 26th straight month that sales of heavy duty trucks increased.

At TAB, we are expecting trucking to continue on the road to strong performances for the remainder of 2012.

Tim Valdez is TAB Bank's chief lending officer. He has been in commercial finance for nearly two decades and has spent several years structuring working capital for trucking companies. Valdez has been with TAB for nine years.



Tim Valdez

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Federal ban on truckers using cell phones has little effect on Utah trucking companies

By Andrew Haley
The Enterprise

Several industry insiders say last year's ban by the Federal Motor Carrier Safety Administration (FMCSA) on handheld mobile phone use in large trucks and buses has had little impact on carriers with similar regulations already in place.

Department of Transportation Secretary Ray LaHood announced a new administrative ruling in November 2011 prohibiting drivers from reaching for, or even holding, cell phones, saying in a press release, "when drivers of large trucks, buses and hazardous materials take their eyes off the road for even a few seconds, the outcome can be deadly."

Drivers caught violating the new rule face a \$2,750 fine for each offense, while repeat offenders can be banned from driving commercial vehicles. The new rules force states to suspend the commercial driver's license (CDL) of drivers with two or more serious traffic violations. Trucking and bus companies that permit drivers to use handheld phones face \$11,000 fines.

But several prominent members of the Utah trucking industry said the ruling has had little effect because insurance liabilities and traffic tickets in states where handheld cell phone use in trucks is already banned led them to make company rules against cell phones years before.

"The truth of the matter is it's very confusing. Typically your large fleets, they're going to have rules that drivers can't use cell phones anyway," said David Creer,

"We've been using headsets for years. If a driver calls us, we can tell by the noise if he's driving. We don't want him to get a ticket and we don't want the insurance exposure."

executive director of the Utah Trucking Association.

He said truckers resented the manner in which the new rules had come about. By making an administrative ruling on the matter, they felt LaHood cut short debate and public comment about the issue. The rule took effect Jan. 3, 2012.

Kelle Simon, founder and president of Kelle Simon Trucking, West Valley City, said the new rule has had little effect on his company.

"We've been using headsets for years. If a driver calls us, we can tell by the noise if he's driving. We don't want him to get a ticket and we don't want the insurance exposure," he said.

Kelle Simon Trucking has no problem with drivers chatting on the phone while they drive, he said, so long as they are doing so safely. For many drivers working 11-hour days, the only time to stay in touch with their families is while they are behind the wheel. Ultimately, the decision about when to talk and in what circumstances falls to the driver, Simon said.

"If they're on a headset we don't mind

[if they're on the phone.] You never know the situation. They could be in rush hour in LA or out in the middle of the desert. I guess it's the person's judgment. There's going to be thinking. We're all adults," he said.

In 2010, Kelle Simon's drivers logged 14 million miles. The same year, the company saw \$27 million in gross sales. In 2010, it had 145 Utah employees.

Larry W. Miller, president of L.W. Miller Companies, Logan, said his company has been installing high-tech wireless communications in all its cabs for several years.

"We have Bluetooth in all our trucks. That's legal. We've done that for truckers' convenience," he said, referring to the wireless technology that connects electronic devices, like headsets, over short distances.

Rustin Walker, who works in the L.W. Miller safety department, said the new FMCSA rules are focused less on the communications aspect of cell phone use, such as actually talking, and more toward any activity that breaks a driver's visual connection to the road or leads to momentary distractions, such as reaching for a ringing

phone. With that in mind, L.W. Miller has customized its rigs to permit drivers a full range of communications opportunities that a driver can use while sitting upright, with both hands on the wheel, and eyes on the road.

"It's kind of the appearance of evil thing. We want to get away from anything like reaching for a phone," Walker said.

"If they'd have introduced this rule five years ago, there would have been an outcry. But it's not that big a deal because Bluetooth is so inexpensive," he said.

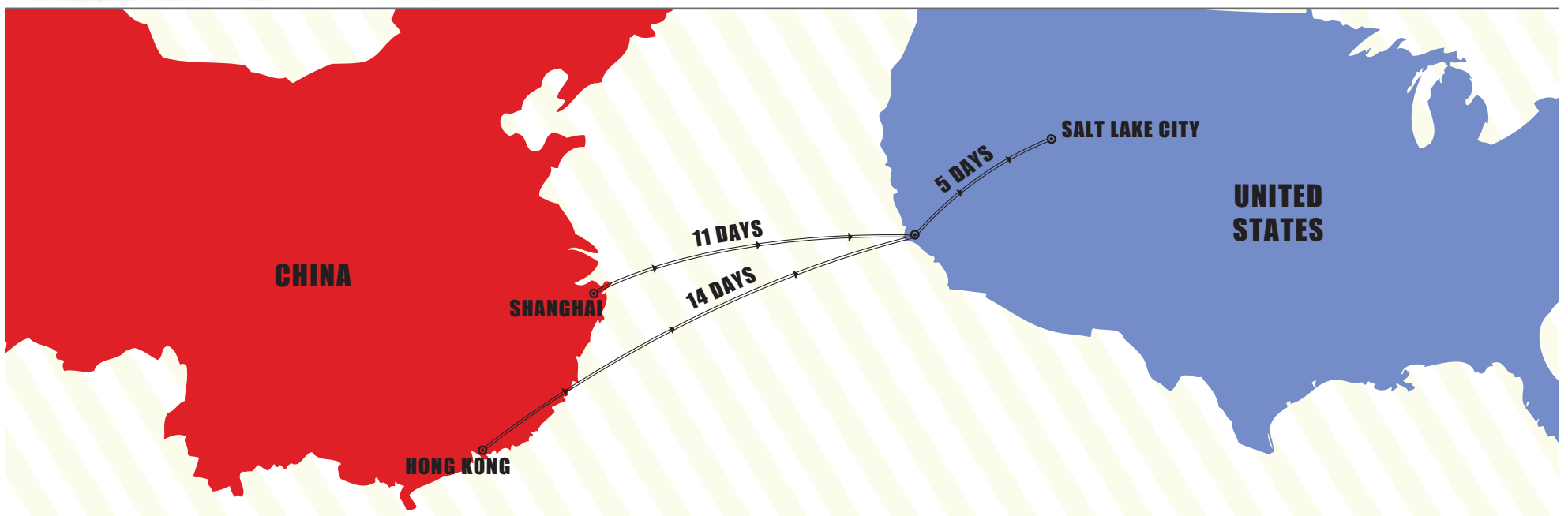
In 2010, L.W. Miller's drivers logged 17.2 million miles, while the company saw \$118.7 million in gross sales. That year, it had 425 Utah employees.

The new rules may not upset trucking company owners, but they are having an effect on the daily lives of drivers, according to Creer. He said the handheld mobile phone ban, and new hours of service regulations, interfere with drivers' personal lives. He said that drivers are ordinary people, with wives and families, as well as doctor appointments and other humdrum affairs that require phone calls during business hours, a time when drivers are behind the wheel, usually six days a week.

"In the old days you had a log book and you could pull over to make a call. But [with the new hours of service rules] they don't have the opportunity to pull off to the side of the road and make a call. There's a whole other story to be told, that of the American truck driver," he said.



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International freight forwarding: an important part of the logistics puzzle

International logistics has evolved greatly since 25 years ago, when the first third party logistics providers, commonly called 3PLs, began to appear. The fine art of tuning a supply chain and having goods where needed had become a matter of how well a company could organize all the resources at hand. 3PL providers and their affiliated freight forwarding divisions stepped in to meet this need.

All products consumed are transported at one point as well as the materials needed to produce them. Distribution costs are now recognized as a key component of profitability for both small and large corporations. This importance has brought logistics center-stage and companies increasingly turn to a specialized logistics provider to bring all the various resources together. We now live in a global marketplace where both suppliers and customers are around the world, not around the block or across the country.

Time-definite scheduling is now com-

monplace and it requires coordination of all the various resources. A 3PL or freight forwarder will now arrange services from a supplier's door to end user using all modes of transportation, including ocean, air, truck or rail. The necessary coordination with the smaller local transportation companies at both origin and destination are also be part of this overall responsibility. The average international transaction will normally have as many as seven or eight transportation companies involved in the process. The freight forwarder coordinates the interface with these entities.



Scott Ogden

For international requirements a good 3PL will either be an established International Freight Forwarder and Custom House Broker or have strong ties or arrangements with a good partner to provide this service. With the advantage of large volumes they control on behalf of their many customers, they are able to negotiate favor-

able rates with the steamship line, airline or truck providers involved in the supply chain. The International Freight Forwarder will also utilize their connections throughout the world with a network of agents or company-owned offices. They will work directly with the overseas vendors and provide all communications necessary to arrange shipments through the channels of that forwarder. Forwarders utilize the services of many different steamship lines or airlines, depending on the time-sensitive needs of the customer, while also keeping in mind the overall goal of reducing the total door-to-door transportation costs. The forwarder will also assess risk management and can provide cargo insurance to make sure that a client's goods are covered when they have exposure to loss and damage in a transaction.

Custom House Brokers are a part of the solution for international shipments. As a broker on behalf of the import client or 3PL, they advise and guide the client through a maze of government require-

ments. They provide appropriate documentation and interface with U.S. Customs on behalf of importers. The broker can research duty rates, compliance issues and keep the customer from incurring penalties and fines for lack of compliance. For export customers they also provide appropriate international documentation as needed, as well as advice for requirements of exporting into the markets their clients are working to sell.

A final key element of necessary service of an International Forwarder or 3PL is their ability to provide transparency — where a client's shipments are in the supply chain process. The ability to give information down to the product SKU number is within the ability of most 3PL providers; their investments in technology are made available to clients. This information can be made available 24/7 via the Web with all the necessary people across an organization having access to this data.

In summary, the use of a qualified International Freight Forwarder or 3PL provider and their familiarity with all the players in the supply chain, makes the ultimate goal of a dependable supply chain a reality. A dependable and well-tuned supply chain will increase profits and market penetration to make a company more successful.

Scott Ogden is president/CEO and founder of Cargo-Link International. Cargo-Link was started in 1976 providing Customs Broker services, airfreight and ocean forwarding services. Cargo-Link is headquartered in Salt Lake City but has a worldwide network of agents in all parts of the world comprised of more than 1,500 companies.

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U.S. General Services Administration

England Logistics grows into top 50 third party logistics company

By Andrew Haley
The Enterprise

England Logistics, a wholly owned subsidiary of C.R. England-Global Transportation, is reaping the benefits of a new business model called third party logistics (3PL). Joe Stevens, director of national sales at England Logistics, called 3PL “a non-asset-based approach” to trucking and freight shipping. While Stevens said he disliked using the term “broker” because “anyone can hang up a shingle and call himself a broker,” England Logistics is essentially a brokerage firm that custom-crafts transportation solutions for its customers.

Founded in 1997, England Logistics has grown into a top 50 3PL company that is now the 10th largest freight brokerage in the country. With offices in China, possession there of the exclusive Wholly Owned Foreign Entity status and what Stevens called a “very robust” container and transoceanic shipping division, England Logistics is poised to expand into a global freight company. That spectacular growth is made possible by the strange nature of 3PL, an industry that provides much greater flexibility than a traditional “asset-based” transportation company principally because it is not encumbered by the trucks, drivers, warehouses, timetables, contracts and traditional clients that are the flesh and bone of businesses like parent company C.R. England.

“Logistics, for lack of a better word, is a facilitator. England Logistics is a facilitator from soup to nuts,” Stevens said.

While 3PL has been around over a decade, the industry has taken off in the last three to five years because of problems with asset-based transportation companies, Stevens said.

“Given the economic volatility of the last several years, it’s really come to the forefront,” he said.

3PL had arisen as a market solution to supply unsatisfied customer demand. Additionally, the rise in 3PL mirrors recent changes in the military that have followed advances in communications and computing technology, and which enable large, complex digital networks to radically shrink communications time while significantly expanding the complexity and leveragability of available data. The theorists of so-called network-centric warfare contend that complex digital networks, linked by computers, allow for the translation of an informational advantage into an operational advantage, which is easily translatable into the business world by substituting operational advantage for market competitiveness.

To illustrate the benefit of 3PL solutions to a potential consumer, Stevens gave the example of a hypothetical shipping scenario where a long-time client of a transportation company had a sudden increase in productivity, either as a result of ramped up production or because it released a new product. If this hypothetical client approached his or her long-time transportation provider and requested 100 additional trucks worth of volume for the coming month, in the majority of cases that asset-based provider would be unable to meet the demand because of prohibitive capitaliza-

tion costs for a temporary volume surge. The very nature of asset-based transportation requires traditional shipping companies to maintain a minimum of unproductive capital, meaning they simply do not have the flexibility to meet temporary or sudden changes in clients’ shipping needs.

A company like England Logistics, on the other hand, has a network of 14,000 carriers to draw from, and the ability to do so on a temporary basis, Stevens said. Odds are one of those 14,000 carriers can meet the need of the hypothetical client with an unexpected demand for a 100 trucks. As a “soup to nuts facilitator,” England Logistics would handle the entire transaction, from ascertaining the client’s exact needs to finding and customizing the right solution for them.

“Don’t tell me what you need. Tell me what you want,” Stevens said.

In a sense, 3PL is the cloud computing of shipping and transport. Its rise parallels similar trends in computer collocation that,

like 3PL, provide the benefits of intensive capital as a fee-based service rather than an investment. To a degree, these modern approaches to business, made possible by computing, allow for something like the crowd sourcing of capital acquisition, granting a customer the production capacity of a heavily capitalized company with none of the inherent inflexibility of an organization built on large buildings and heavy machines.

“Me and my staff go into an operation and kind of fit and mold and customize a transportation solution for them. We’re very flexible. I have multiple resources to pull from, whereas an asset-based [company] may be fixed. I’ve got a multitude of avenues to pull from. Multiple avenues and multiple price points,” Stevens said.

By tapping into carriers with available, provisional capacity, England Logistics is able to provide shipping at lower costs, much as online airfare providers do. Its flexibility allows England Logistics a nuanced

range of operations. The company has six divisions handling anything from parcel delivery to the 2010 transport of a 400-ton electric transformer from China to New Hampshire via container ship, intermodal railroad, Schnabel car — a specialized type of railroad freight car — and Goldhofer trailer, a specialized heavy-haul trailer.

The company’s six divisions are Truckload Sourcing, its largest division; Less Than Truckload, which handles parcel shipping; Global Sourcing, an international freight forwarding operation; Intermodal Transportation, which handles rail; Supply Chain Management, which helps lower costs and improve systems efficiency; and England Carrier Services, which works with C.R. England to provide carrier services. The company’s Special Projects Engineering team handled the 400-ton transformer job, devising complex solutions for a unique problem. The different divisions allow England Logistics to reach as wide a market share as possible.



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Top Trucking Firms in Utah

Ranked by Number of Power Units in 2011

Company Name Address	Phone Fax Web	# of Power Units in 2011 Gross Sales in Utah in 2011	# of Flat Beds # of Dry Vans	Full Load Carriers Less than Truck-load Carriers	Annual Miles # of Utah Employees	Owner/Managing Principal
C.R. England, Inc. 4701 W 2100 S Salt Lake City	801-972-2712 801-974-3800 crengland.com	4,331 \$1.1 billion	0 834	Yes Yes	531 million 1,729	Dan England Dean England Wayne Cederholm Chad England
Pride Transport, Inc. 5499 W 2455 S Salt Lake City	801-972-8890 801-972-1450 pridetransport.com	398 \$103 million	0 153	Yes Yes	\$45.4 million 507	D. Jeffrey England Jay England
LW Miller Companies 1050 W 200 N Logan	435-753-8350 435-750-6022 lwmillers.com	220 \$88.7 million	0 0	Yes No	\$20 million 377	Larry W. Miller
Parke Cox Trucking Co., Inc 4250 S River Road St. George	435-628-0886 435-628-9324 coxtrucking.com	65 \$11.75 million	16 100	Yes Yes	\$6.6 million 82	Parke Cox
Geodyne Transport 1235 S 3200 W Salt Lake City	801-575-1110 801-575-1101 geodyne.net	29 DND	0 0	Yes No	\$2.6 million 32	Judd Kemp
DST Distributors, Inc. 444 W Spring Creek Place Springville	801-491-3781 801-491-6989 dstdistributorsinc.com	25 \$ 8.3 million	0 400	Yes Yes	DND DND	D. Scott Tollestrup

DND= Did Not Disclose N/A= Not Available
Please note that some firms chose not to respond, or failed to respond in time to our inquiries.
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Utahn who led nation's truck dealers says industry has yet to recover from pre-recession levels

By Andrew Haley

The Enterprise

Kyle Treadway, president of Kenworth Sales, stepped down as chairman of the American Truck Dealers association (ATD) in February. One of five Utahns to recently chair prominent national associations, Treadway said his tenure in ATD's top slot was informative and productive, and that while his industry has yet to recover to pre-recession levels, those levels had created oversupply problems that ultimately were bad for business.

"Trucking is usually a bellwether for the general economy, and our fortunes have greatly improved over the past 18 months. Disrupting our usual pattern has been a series of federal regulations artificially raising and lowering our customers' demand for products and services. All in all, life is much better, but we're facing continued federal disruption in the next decade. The Utah market is better positioned by our geography, frugal state government and well-established customer base," he said in an interview conducted by e-mail.

"We are seeing dramatic improvement, but not to the peak levels pre-recession — and that is a good thing. We over-produced and created a glut of trucks. This made for a freight overcapacity situation that drove down freight rates and financially damaged our customers. It's taken years to reach equilibrium between freight demand and capacity, thus allowing carriers to raise their rates back to sustainable levels," Treadway

said.

As a predictor for the general economy, the trucking business took the brunt of the downturn head on. Even for an industry used to operating on a boom-bust cycle, the depth and duration of the recession proved too much for some companies.

"Demand for trucks dropped 60 percent on a national level. Fuel prices monopolized our customers' budgets, so they postponed maintenance and repairs. Ten percent of dealers went out of business as two brands folded, and the remainder struggled," Treadway said. "Commercial truck dealers are used to cycles of profitability and loss, so we gear our businesses for the 'rainy day.' But this prolonged storm drowned many. The survivors are the strongest and now are well positioned to see their conservative strategy pay off."

Treadway said he expects to see "a tempered and gradual improvement, peaking in 2014 when the first round of new fuel economy standards kicks in." Other federal regulations, notably new Department of Transportation rules prohibiting truck drivers from reaching for, or even holding, a cell phone, have led to market adaptations such as the installation of wireless headsets powered by Bluetooth technology. While he said original equipment manufacturers (OEMs) were "late to the game," something which created a "significant aftermarket," OEMs are now tapping in to demand for those and other high-tech hands-free communications technologies.

"All the OEMs are offering factory installed, sophisticated communication equipment. This includes vehicle diagnostics, GPS, cellular connections, Internet, etc. And these technologies will be restricted when the vehicle is in motion. Carriers are demanding more control over the operation of their valuable equipment and increased productivity. The two goals are not incompatible and we're seeing this evolve rather quickly," Treadway said.

Though a flurry of new federal trucking rules has raised the hackles of many in the trucking industry, the back-and-forth has garnered scant public attention. Treadway said that was a sign that the industry is performing as it intends.

"We are a silent giant. You may only think of trucks when one is right in front of you, but chances are 90 percent of your food, clothes, appliances, fuel, vehicles, building materials, etc. were transported by truck at some point. If you're not aware of us, we're doing our job efficiently and quietly. That means we are safely operating on the nation's highways, making delivery deadlines and keeping costs down," Treadway said.

Beyond the day-to-day logistics of tractor and trailer sales, the ATD allows the nation's truck dealers to coordinate policy and strengthen the overall industry through effective communication.

"My goal on joining the board of ATD was to meet other dealers outside of my own OEM network and learn from them.

Through the chairmanship I was able to accomplish that, as well as meet car dealers and study their business model. The study in contrasts and similarities between commercial and consumer markets was striking. Just as you learn so much about American culture when you visit a foreign country, I learned much about my industry by studying car dealerships," Treadway said.

Among the highlights of his chairmanship were programs to help groom future industry leaders and to promote those currently excelling in the field, while ramping-up lobbying efforts in Washington.

"We launched a 'next gen' program for the dealers, general managers and senior OEM executives of the future. I'm proud of this effort to smooth the pathway for our industry leaders of the future. We also created the first commercial truck of the year award that has been touted by the industry. More importantly, we organized a legislative coalition of industry stakeholders to advocate for our interests on the federal level. This helped improve relations between various trade associations in our nation's capital," he said.

But those efforts were not an unequivocal success. Echoing statements by Dan England, current chairman of the American Trucking Associations, and another of the five Utahns heading national associations, Treadway said ineffective policies are causing a serious funding shortfall for key national transportation infrastructure.

see TREADWAY next page



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GLOBAL TRANSPORTATION

EPA report highlights advances in clean diesel technology

A new EPA report on black carbon — a form of particulate air pollution most often produced from biomass burning, cooking with solid fuels and diesel exhaust — highlights advances in clean diesel technology and options to upgrade older engines.

The United States will achieve substantial BC [black carbon] emissions reductions by 2030, largely due to controls on new mobile diesel engines, according to the report. Diesel retrofit programs for in use mobile sources are a “valuable complement to new engine standards for reducing emissions.”

Allen Schaeffer, executive director of the Diesel Technology Forum, issued the following statement regarding the report:

“While there may still be some debate about the role of black carbon on the earth’s climate, this report assures that there is no doubt about the benefits and importance of clean diesel technology in reducing black carbon emissions in the U.S. Thanks to the switch to ultra-low sulfur diesel fuel, coupled with advances in diesel engine design and emissions control technology, fine particulate emissions have been virtually eliminated from new diesel vehicles and equipment in the U.S.

“Today diesel engines are responsible for less than 6 percent of all particulate emissions in the U.S.

“In the past decade, emissions from heavy-duty diesel trucks and buses have been reduced by 99 percent for nitrogen oxides (NOx) — an ozone precursor — and 98 percent for particulate emissions which include black carbon. Today, clean diesel technology with near zero emissions is standard equipment in nearly all off-road diesel vehicles and equipment such as construc-

tion equipment, agricultural vehicles, stationary generators, locomotives and marine vehicles.

“Not only are the clean diesel engines near zero emissions, they are also achieving important gains in fuel efficiency of anywhere from 2 to 10 percent, bringing valuable savings to owners and operators of new clean diesel engines.”

According to the report, the U.S. currently accounts for about 8 percent of the global black carbon emissions, with 52 percent of that coming from mobile sources and 93 percent of the mobile sources attributed to diesel engines. On top of the 32 percent reduction from 1990-2005, EPA projects this percentage will decline by 86 percent by 2030, largely due to controls on new mobile diesel engines. As clean diesel technology continues to advance, these improvements may be even more significant.

The report also highlights the far greater role of other sources of black carbon in developing countries such as Asia,

Latin America and Africa, where residential cooking and biomass burning are the primary sources of black carbon. It also recognizes the challenges in reducing emissions from both mobile and stationary diesel engines in these developing countries since they typically do not have ready access to cleaner low sulfur fuels that are required for most advanced emissions control technologies.

“Beyond the new technology advancements in reducing particulate emission, the opportunities for modernizing and upgrading existing diesel engines and equipment are also highlighted in the report.” Schaeffer said. “We are continuing to work with national environmental and health organizations to increase funding for the highly successful voluntary and incentive-based Diesel Emissions Reduction Act, which is helping to modernize and upgrade older diesel engines in school and transit buses, commercial trucks, construction and agricultural equipment, and marine vessels.”

The Diesel Technology Forum is a

nonprofit national organization dedicated to raising awareness about the importance of diesel engines, fuel and technology. Forum members are leaders in clean diesel technology and represent the three key elements of the modern clean-diesel system: advanced engines, vehicles and equipment; cleaner diesel fuel and emissions-control systems.



TREADWAY

from previous page

England said stories of crumbling bridges and roads are resoundingly true and that the root cause of the problem is the inability of politicians to successfully argue for higher taxes on gasoline.

“We have yet to see passage of key legislation to fund our nation’s highways. Our infrastructure needs are overshadowed by the larger political movements and rhetoric monopolizing our elected leaders’ attention,” Treadway said.

So many concurrently held leadership positions have given Utah increased clout on the national stage. Despite its relatively small market share, compared to states like New York, Texas and California, Treadway said the Utah contingent is proving itself right along with the big dogs.

“There is surprise at the ‘coincidence’ of so many Utahns on the national scene, but we are well-received and quickly get past any preconceptions,” he said.

“Utahns have recently led the National Auto Dealers Association, the American Trucking Association, the National Trailer Dealers’ Association and our American Truck Dealer Association — all at the same time. We all share a long-term commitment to trade association strength through networking, education and advocacy. That is not unique to our industry, as the presence of Utahns in senior leadership positions in several industry associations evidences,” Treadway said.

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George W. Bush regrets dubbing those 'Bush tax cuts'

When George W. Bush made his first public appearance in many months to discuss economic policy in New York recently, his utterances may have revealed more than he intended. "I wish they weren't called the 'Bush tax cuts,'" he said of the decade-old rate reductions that bear his name. But does he really believe, as he seemed to suggest, that Americans want to let those cuts expire from a desire to spite him? Or is there a deeper Bush somewhere within who would prefer not to be associated with fiscal profligacy and ideological overreach?

Whatever his motives, Bush's curious remark draws a sharp contrast with his predecessor Bill Clinton — who often speaks proudly of the tax increase that was so central to his first

budget as president two decades ago. Clinton, who talks publicly far more often than Bush, often notes that the 1993 tax increase, supported only Democrats, was the first step toward balance and growth after a dozen years of Republican irresponsibility and stagnation.

It isn't clear that Bush actually understands the indelible effects of his tax and spending policies. Someone should explain to him what is so painfully obvious when the numbers are added up: Not only should the tax cuts be named after him, so should the deficit and the debt.

The simple math is worth keeping in mind when Bush turns up to advocate maintaining the cuts he passed and legislating still more, which he claims will stimu-

late the private sector. "Much of the public debate is about our balance sheet ... or entitlements," he said, but the solution in his view is to focus on private sector growth. "The pie grows, the debt relative to the pie shrinks, and with fiscal discipline you can solve your deficits," said Bush at a Manhattan conference sponsored by his George W. Bush Presidential Center on "Tax Policies for 4 Percent Growth." Bush Center founding director James Glassman was present to repeat all the usual Republican bromides about incentivizing growth by cutting taxes on the wealthy, preferably to zero.

But as Clinton points out in *Back to Work*, the book he published last fall, it was his tax increases on the upper brackets (along with spending cuts) that propelled the country toward fiscal balance and a vanishing debt before Bush assumed office in

2001.

"When I was president," he wrote, "we passed the 1993 budget to reduce the deficit by \$500 billion, roughly half from spending cuts, half from tax increases, with only Democratic votes. The bill produced a much greater reduction in the annual deficit than experts predicted, eliminating roughly 90 percent of it even before the balanced budget bill was enacted, because it led to lower interest rates, more investment and higher growth."

The economic narrative of the Republican presidential campaign will blame increased deficits and debt on President Obama — and argue that cutting federal budgets while reducing taxes on the wealthy will somehow restore growth. Certainly that is what Bush tried to suggest in New York when he spoke so wistfully of his endangered tax cuts. But the

math undercuts him. According to the Center on Budget and Policy Priorities, Bush's tax cuts and war spending will account for nearly half of the \$20 trillion in debt that will be accumulated by 2019. (That doesn't include his misconceived and costly Medicare prescription drug benefit.) The Obama stimulus and financial bailouts, including the auto revival, will be responsible for less than \$2 trillion of the total debt by then, or less than 10 percent.

With due respect to the former president, public revulsion over his failed policies long ago transcended him. Those Bush tax cuts, by any other name, would smell no sweeter.

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

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Mixing and matching

Apparently the soaring national debt and the threat of a nuclear Iran are not enough to occupy the government's time, because the Obama administration is pushing to force Westchester County, N.Y., to create more low-income housing, in order to mix and match classes and races to fit the government's preconceptions.

Behind all this busy work for bureaucrats and ideologues is the idea that there is something wrong if a community does not have an even or random distribution of various kinds of people. This arbitrary assumption is that the absence of evenness or randomness — whether in employment, housing or innumerable other situations — shows a “problem” that has to be “corrected.”

No speck of evidence is considered necessary for this assumption to prevail at any level of government, including the Supreme Court of the United States. No one

has to show the existence, much less the prevalence, of an even or random distribution of different segments of the population — in any country, anywhere in the world, or at any period of history.

Nothing is more common than for people to sort themselves out when it comes to residential housing, whether by class, race or other factors.

When there was a large Jewish population living on New York's lower east side, a century ago, Jews did not live at random among themselves. Polish Jews had their neighborhoods, Rumanian Jews theirs, and so on. Meanwhile German Jews lived uptown. In Chicago, when Eastern European Jews began moving into German Jewish neighborhoods, German Jews began moving out.

It was much the same story in Harlem or in other urban ghettos, where blacks did not live at random among themselves.

Landmark scholarly studies by E. Franklin Frazier in the 1930s showed in detail how different neighborhoods within the ghettos had people of different educational and income levels, with different male/female ratios and different ways of life living in different places.

There was nothing random about it. Within Chicago's black community, the delinquency rate ranged from more than 40 percent in some black neighborhoods to less than 2 percent in other black neighborhoods. People sort themselves out.

None of this was peculiar to blacks or Jews, or to the United States. When emigrants from Scotland went to Australia, the Scottish highlanders settled separately from the Scottish lowlanders. So did emigrants from northern Italy and southern Italy.

Separate residential patterns that are visible to the naked eye, when the people are black and white, are also pervasive among people who physically all look

alike. Charles Murray's eye-opening new book, *Coming Apart*, shows in detail how different segments of the white American population not only live separately from each other but have very different ways of life — and are growing increasingly remote from one another in beliefs and behavior.

None of this matters to politicians and ideologues who are hell-bent to mix and match people according to their own preconceptions. Moreover, like many things that the government does, it does residential integration more crudely than when people sort themselves out.

Back in the days when E. Franklin Frazier was doing his scholarly studies of the composition and expansion of black ghettos, he found the most educated and cultured elements of the black communities living on the periphery of these communities.

It was these kinds of people who typically led the expansion of the black community into the

surrounding white communities. By contrast, government programs often take dysfunctional families from high crime ghetto neighborhoods and put them down in the midst of middle-class neighborhoods by subsidizing their housing.

Whether these middle-class neighborhoods are already either predominantly black or predominantly white, the residents are often outraged at the increased crime and other behavior problems inflicted on them by politicians and bureaucrats.

But their complaints usually fall on deaf ears. People convinced of their own superior wisdom and virtue have no time to spare for what other people want, whether in housing or health care or a whole range of other things.

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