

# THE Enterprise

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#### REAL ESTATE SECTION

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## Baggage handling equipment maker to move HQ to Salt Lake



G&T recently installed this remote screening facility improvement at Orlando International Airport.

**By Barbara Rattle**  
*The Enterprise*

G&T Conveyor Co., a Tavares, Fla.-based manufacturer of baggage handling equipment, plans to move to Salt Lake City, joining sister firm The Horsley Co., a material handling enterprise.

Mike O'Connor, who has led Horsley for the last 4.5 years as vice president and general manager, will oversee the restructured entity as its president and CEO. The two companies will be located at Horsley's current headquarters at 1630 S. 4800 W. Suite D, Salt

Lake City, where approximately 50 people are employed. The relocation of G&T should result in another 30 jobs being created here, O'Connor said.

"We're starting the consolidation," according to O'Connor. "It's a process that takes some time, because the business that we're in — serving the airport baggage handling market — has a number of projects that are ongoing for both companies. So the facility in Florida will finish out manufacturing components for

see G&T page 2

## Survey: majority of Utah employers positive about economy in 2013

The majority of Utah executives surveyed by The Employers Council are optimistic about the economy and project an increase in their own organization's sales/revenue numbers for 2013.

Utah employers continue to hire new employees, but a majority report they will maintain their existing staff size for 2013," said Monica Whalen, president & CEO of The Employers Council. "This is dramatically different from a few years ago, when we were fielding calls from Utah businesses seeking advice on furloughs, salary reductions and/or layoffs. In fact, 67 percent of the responding companies reported that they did not freeze or reduce wages/salaries in 2012, and better yet 68

percent provided their employees with increased wages/salaries in 2012 and 38 percent paid variable/bonus awards in 2012."

#### 2013 Projections

Sixty-eight percent of surveyed Utah executives expect the outlook for the overall 2013 economy to be about the same or better compared to 2012. Fifty-one percent have projected increases for their own organizations' sales/revenue for 2013 over their 2012 numbers. This 51 percent is down from the previous year's survey, when 70 percent of surveyed executives projected increases for their organization's sales/revenue in 2012 over 2011. The decline in the percentage of surveyed see SURVEY page 2

## Progressive Insurance to build 75-employee service center in Midvale

**By Barbara Rattle**  
*The Enterprise*

Progressive Insurance, a national provider of vehicle insurance, plans to break ground this summer on an approximately 21,300 square foot service center north of 7200 South between Bingham Junction Boulevard and River Gate Drive in Midvale.

Wadsworth Development Group, Draper, will build the center on 2.8 acres; Progressive will purchase the parcel from Wadsworth.

Progressive spokesperson Jeff Sibel said the Utah service center will employ 75 people and will act as a centralized location for customers who have been in a car accident or in an accident with a Progressive-insured vehicle.

**PROGRESSIVE**

"Any customer involved in an accident can take their vehicle there, report a claim, schedule an appointment and we take care of the rest," he said. "We do the estimates and arrange for repairs with a body shop in our network, and there is an option of picking up a rental car if that's in their policy. When the repairs are done, they return to the service center to pick the vehicle up. It takes the pressure off the customer, getting all those things done in a central place."

Sibel noted customers are

see PROGRESSIVE page 2

## Major roofing manufacturer eyes Utah as site for plant

**By Brice Wallace**  
*The Enterprise*

GAF, the largest manufacturer of commercial and residential roofing in North America, is considering Cedar City for a 50-job manufacturing and distribution facility.

The Governor's Office of Economic Development (GOED) board last week approved a \$886,712 tax credit over 15 years to help land the company.

"These are high-paying jobs, high-quality jobs" at "a well-recognized company," Jerry Oldroyd, chairman of GOED's incentives committee, told the board.

GAF has also been considering Nevada for the facility. In a telephone call to the board last week, Jim Murphy, senior vice president at GAF, said the company currently is working its way through the environmental permitting process in Utah. "We look forward to operating in Utah and Cedar City and are looking forward to serving the state and local communities with high-quality building products for their needs, as well," Murphy said.

Founded in 1886 and based in Wayne, N.J., GAF has nearly \$3 billion in annual sales. The company's 26 manufacturing



facilities in the U.S. employ more than 3,200 people.

The Cedar City project would represent a capital investment of nearly \$40 million. The state incentive requires that employees be paid at least equal to the prevailing average annual Iron County pay, but the new jobs are expected to pay an average of 70 percent above that county average. New-job wages are expected to total more than \$38 million over 15 years, with new state tax revenues being \$3.5 million during that period.

The company also has been offered a local incentive. Cedar City has approved a 10-year tax increment incentive. The company also would receive \$25,000 for hiring and training and the local applied technology college would

see GAF page 2



**G&T**

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the projects they have ongoing right now. We anticipate that will be complete by late spring or early summer; then all projects for G&T will be manufactured here in Salt Lake City as well."

The decision to move operations from Florida to Utah came as a result of a shift in business models at G&T.

"The Florida plant employs a lot of people, but their operations are different from ours [Horsley's]," O'Connor said. "We use business partners locally to do the painting of the conveyors, the metal bending and cutting of the metal that we use to manufacture our products. The Florida operation essentially took raw materials and did it all in-house, which is a lot more complicated. The business model at Horsley is more competitive and effective."

Salt Lake City was also chosen as the new home for G&T because Horsley's facilities here are newer than those in Florida. And it doesn't hurt that Salt Lake City is home to a major hub for Delta Air Lines.

The Five Star Airport Alliance, parent company to both Horsley and G&T, is the largest privately held turnkey airport baggage handling systems and terminal services provider in the United States. Another of its holdings, Star Systems, is a complete turnkey design, engineering and integration firm dedicated to the baggage handling industry. Yet another holding, Scanworks, can perform independently or in conjunction with its sister compa-

nies to produce high-definition 3D laser scanning to record real-world conditions within a quarter-inch accuracy. The manufacturing, implementation of controls/software and installation of baggage handling systems can be performed by either G&T or Horsley, depending on scope, location and specific product requirements. Both G&T and Horsley specialize in sortation and in-line explosive detection systems.

"Depending on the size of projects we get, we also install conveyors in airports in North America," O'Connor said. "We'll hire more electricians and millwrights to install them, if need be. We work with the TSA (Transportation Safety Administration) on a number of these projects. Almost every project we work on has some federal funding associated with it."

**GAF**

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apply some custom-fit training funds as well.

"This is a great project for the area," Brennan Wood, Cedar City/Iron County economic development director, told the board. He noted that GAF would use a 536,000 square foot facility that has been empty about four years.

"This is really a great project for Cedar City," Mayor Joe Burgess said in a prepared statement. "GAF is an outstanding company and a perfect fit for our community. They are bringing quality jobs and we have quality people in an ideal location."

**SURVEY**

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executives projecting an increase in 2013 over 2012 may be best explained by growing concern in increased government regulations. In the 2013 survey, 26 percent of the respondents indicated government regulation is their greatest barrier to business growth.

Sixty-two percent have projected increasing wages/salaries in 2013 and 36 percent report planning to pay variable/bonus awards.

As for hiring projections, 20 percent project their organizations will be hiring (including recalling from layoffs, hiring temps or contract workers and or hiring new employees) for 2013, and 62 percent said they will be maintaining their staff size but not hiring.

The two job groups that are the most challenging to recruit and/or retain as reported by these Utah executives are skilled production workers, followed closely by professional staff (non-managers).

To overcome recruitment and/or retention challenges, some reported strategies include: 51 percent report they are focusing on providing existing staff additional training/development and 42 percent report they are filling jobs with existing staff that lack job skills but have the potential. Other strategies to note: 33 percent indicated that they are broadening the geographic area when searching for candidates, 28 percent are increasing emphasis on employee referrals, 26 percent are starting/increasing use of social media for recruiting, and 26 percent are

increasing pay ranges and starting salaries (25 percent).

**2012 Actuals**

The majority of these surveyed executives reported that their companies performed well in the 2012 economy. When asked in November 2012, 63 percent expected their organizations to finish 2012 with an increase in sales / revenue over their organizations' 2011 numbers.

Sixty-eight percent of the responding companies provided their employees with increased wages/salaries (merit, general, COLA) in 2012 and 38 percent paid variable/bonus awards in 2012. Sixty-seven 67 percent reported that they did not freeze or reduce wages/salaries in 2012.

**Waddoups promoted to CEO at Liberty Safe in Payson**

Liberty Safe and Security Products Inc., Payson, has promoted Kim Waddoups to CEO, effective immediately. He succeeds Jeff Talley, who has stepped down from his role with the company to take a sabbatical.

Waddoups has approximately 10 years of experience at Liberty. Previously, he served as president. He joined Liberty in 2003 as CFO and was promoted in 2012 to president. From 1989 to 2003, Waddoups held various senior-level positions at Easton Technical Products, a sports equipment manufacturer and division of Jas D. Easton Inc.

**PROGRESSIVE**

from page 1

not required to use the services of Progressive's network of body shops; they can choose for themselves.

The Midvale service center should open in February 2014, he added. Progressive currently has 54 service centers nationwide and continues to expand. About 40 percent of the service centers are within 45 minutes of the firm's customers, according to Sibel.

Progressive dates back to 1937. Based in Mayfield Village, Ohio, the firm has 25,000 employees in more than 450 offices throughout the country. Long a leader in nonstandard, high-risk personal auto insurance, Progressive now offers standard-risk and preferred auto insurance as well as personal-use coverage for motorcycles, recreational vehicles and snowmobilies. The firm also offers commercial policies for heavy trucks, vans and light trucks. The company sells directly to customers online and by phone, and through more than 35,000 independent agents who account for roughly 60 percent of the company's business.

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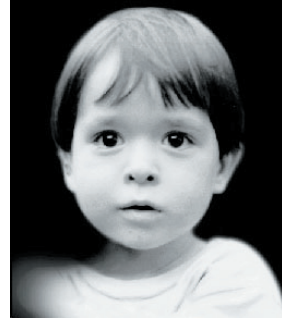
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# State to invest \$2.6 million to keep Outdoor Retailer through 2016

By Brice Wallace

The Enterprise

The Governor's Office of Economic Development (GOED) has approved spending more than \$2.6 million over four years to keep the Outdoor Retailer trade-show in Salt Lake City through 2016.

The GOED board last week approved the Industrial Assistance Fund economic opportunity grant, which will be combined with funding from Salt Lake City and Salt Lake County to pay for a 150,000 square foot pavilion north of the biannual shows' base, the Salt Palace Convention Center, to accommodate the tradeshow's growing space needs.

Contracts are in place with Nielsen Expositions, which owns and operates the events, to keep the shows in Salt Lake City through 2014.

Scott Beck, president and chief executive officer of Visit Salt Lake, told the board that the first show in Salt Lake City had 4,700 attendees and organizers needed only 100,000 square feet. The summer show now has 26,000 attendees and uses 725,000 square feet of space. The winter show attracts about 18,000 visitors.

"It's become a lot more than just a convention for our destination," Beck said. "It's really become one of the major identifiers for our community, from tourism to business to conventions. We have an opportunity now to secure them for two more years, through 2016, if we can put

this plan together to build these pavilions and create this ancillary space for them."

Studies have indicated that the summer show has about a \$25 million economic impact, with the average show attendee spending \$923 over six days.

Beck noted that the show's importance to the community is widespread, noting that one storage company stores many of the booths between shows. "So it's a lot more than just hotels, restaurants and rental cars that experience this," he said.

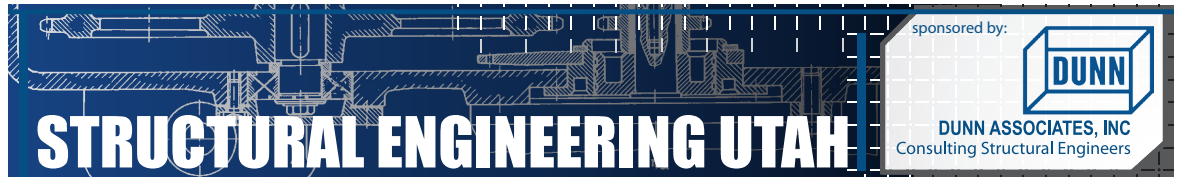
The economic impact is felt in other areas, where exhibit companies conduct product demonstrations prior to the shows and when visitors return to the state later. "We know that 28 percent of every attendee of the Outdoor Retailer show comes back to visit Salt Lake as a tourist and brings 2.8 people with them," Beck said.

GOED said last year's shows directly provided over \$16 million in wages for 611 jobs. The GOED grant will help the shows continue to provide roughly 550 jobs a year and will bring in nearly \$75 million in new state wages and over \$14 million in new state revenue over four years.

GOED, the city and county have pitched in for Outdoor Retailer pavilions in the past. City and council officials for several years have discussed the need for a convention center hotel that would better Salt Lake City's long-term chances of retaining the show.



Earle M. Jorgenson Co. (EMJ Metals), a leading supplier of steel and aluminum bar, tubing and plate to manufacturing companies in North America, plans to break ground this month for a new facility in the Bangerter Crossing Business Park, located at the intersection of Bangerter Highway and California Avenue in Salt Lake City. Bonneville Builders LC will construct the 35,000 square foot concrete tilt-up structure, slated for completion July 1. Architect is aeUrbia. EMJ has been in the Salt Lake area for a number of years and is currently located at 3763 W. 700 S. Based in Lynwood, Calif., EMJ has been in business since 1921. The company purchases more than 25,000 different metal products in large quantities from primary producers, including a broad mix of carbon, alloy and stainless steel and aluminum bar, tubular and plate products. EMJ is a wholly owned subsidiary of Reliance Steel.



## Is minimum enough

By Ronald Dunn

I believe we place less attention on life safety than we think. Maybe this statement is more accurately stated as our "own" life safety. Life safety decisions are paramount in the daily workings of a structural engineer. The results of our efforts are experienced by many more people than the few that employ us. Our buildings service countless people who were not a part of the decisions made during design. Building codes regulate the absolute minimum standards to protect life. When you deal with a minimum, you are assuming that everything will perform as predicted in a well-calculated pattern shown on paper.

Assumptions give us loads to work with. Building codes provide us forces to resist and engineering judgment selects the columns and beams to be built. This seems reasonable until the next large earthquake somewhere in the world causes all three of these components to change. It therefore seems unreasonable to walk so close to the "absolute minimum" line.

Economics sometimes trumps life safety. Engineers are sometimes requested to incorporate more engineering "safety" into buildings that house important equipment or costly stuff. These same owners may request that we provide only the basics for the office building that they or others work in. Maybe they figure that too many stars have to align for them to be in their office when an earthquake happens. Their expensive "stuff" is always there and will be there during that "big one."

This seems reasonable because we are always playing odds with our life. If not we would eat better, not speed in our cars and always use crosswalks.

Structural engineers often feel that we can do much more if you would only permit us. We know better ways to protect both the contents and people in a building as well as protect the building itself. Owners are shocked when we tell them the code requires us to design to life safety only and after an earthquake code minimum buildings may be destroyed beyond repair. To this end we have satisfied our job requirement and duty as a structural engineer. It is a great service to be able to provide a safe environment for people to be, but perhaps a greater service is to protect the structure as well.

Allow me to pose this: "if an airbag were a financial option when you purchased a car, how many would elect to add this option to the bottom line?" None of us ever expect or intend to be in an accident where this device may be required. The government does not trust that we would all make the appropriate decision. Should we wait until building codes make this decision for us?

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

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## InsideSales.com completes \$35 million funding round

Provo-based InsideSales.com has completed a \$35 million Series B round of financing led by U.S. Venture Partners and joined by existing investor Hummer Winblad Venture Partners.

InsideSales.com is a provider of cloud-based, sales automation and predictive analytics for inside sales professionals. The company is well known for its sales research and best practices, as published in the Harvard Business Review, Inc., Forbes, Fast Company, and the latest article in Bloomberg.

“Our technology is fundamentally changing the way people think about and interact with their prospects and customers. We apply science and statistics to sales, increasing productivity and results for our customers,” said David Elkington, InsideSales.com founder and CEO. “This funding will help us keep up with the demand in the market, add needed capacity, and to continue to innovate new solutions and technologies that will drive our customers success and growth.”

InsideSales.com clients include companies such as Cisco, Dell, Eloqua, Gannett, Groupon, NEC, Marketo and Seagate. In

the last year, InsideSales.com has grown more than 100 percent in sales and 120 percent in employee count. In that same timeframe, the U.S. Patent Office awarded InsideSales.com three patents of its many pending applications.

“We have seen the traditional sales model evolve,” said Mark Gorenberg, managing director of Hummer Winblad. “InsideSales.com is leading the way with an entire platform of software, telephony and predictive analytics solutions that put their clients in a position of leverage well ahead of their competition.”

InsideSales.com was recently recognized as No. 9 by *Inc.* magazine for employee growth in Utah and No. 347 of the 500 Fastest Growing Companies on Deloitte’s 2012 Technology Fast 500. The company was also named Service Provider of the Year by the American Association of Inside Sales Professionals

InsideSales.com research has been published in *Inc.* and the *Harvard Business Review*, and the company’s original Lead Response Management study has been downloaded nearly 50,000 times.

## Health Catalyst closes \$33 million funding

Health Catalyst (formerly Healthcare Quality Catalyst), a Salt Lake City-based health care data warehousing firm, has closed \$33 million in Series B funding led by Norwest Venture Partners with participation from Sequoia Capital (Series A lead investor) and Sorenson Capital.

Health Catalyst has more than doubled in size in each of the past three years while expanding its product line from eight stand-alone solutions to a platform of more than 40 integrated products.

The company’s agile, health-care specific data warehousing platform is used in the care of more than 20 million patients; clients include Allina Health, Indiana University Health, MultiCare Health System, North Memorial Health Care, Providence Health & Services, Stanford Hospital & Clinics, and Texas Children’s Hospital.

As part of this Series B investment, Promod Haque, managing partner at Norwest Venture Partners (NVP), will join the

## uGenius Technology acquired by NCR Corp.

uGenius Technology Inc., a Sandy-based provider of video banking software, has been sold to Duluth, Ga.-based NCR Corp., which will use the acquisition of uGenius will help it continue to grow its APTRA Interactive Teller solution, which lets consumers conduct remote, assisted-teller transactions over an ATM, speaking with a live teller who has control of the machine.

NCR anticipates that it will begin pilots for APTRA Interactive Teller with multiple top 10 U.S. banks in the first half of 2013.

uGenius has a staff of 55.

In 2011, NCR and uGenius collaborated to build the first ATM that lets consumers talk and bank with a live, remote teller, which will let banks deliver a face-to-face banking experience for longer hours and offer more services to their customers. In January 2012, NCR acquired a minority stake in uGenius.

NCR also anticipates leveraging other uGenius technologies such as SmartOffice and Online Video Banking to expand the delivery of video banking to

multi-channel solutions across NCR Financial Services and other industry verticals.

“Video banking — or, as we prefer to call it, remote assisted service — will continue to gain momentum in the U.S. and other countries in 2013. Remote assisted service is proving to help financial institutions grow revenues while at the same time reduce their operating and real estate costs,” said Peter Leav, executive vice president, NCR. “Through our development work with uGenius and the resulting purchases and pilots by banks and credit unions, we have definitively placed NCR in front of all other technology companies in this area.”

The primary product line at uGenius is its video banking system, which allows financial institutions to provide teller services remotely to customers by using video banking enabled devices. The firm was founded in January 2008. As of August 2012, 36 financial institutions have deployed 165 Personal Teller Machines in three countries.

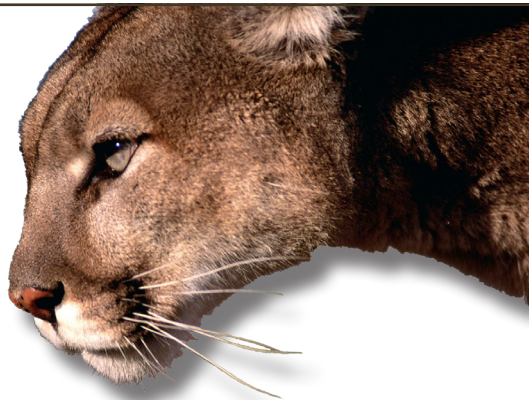
board of Health Catalyst, with Fraser Bullock, co-founder and managing director of Sorenson Capital, participating as a board observer.

“Almost every hospital and hospital system will need a data warehouse to organize, visualize and utilize its data to address the \$750 billion of waste in the U.S. health care system,” Haque said. “Health Catalyst not only offers a best-in-class solution to meet this growing need, but it boasts a stellar list of referenceable customers with quantifiable results and a pipeline of health systems

that are demanding the company’s solutions. The management team collectively brings more than 340 years of successful health care data warehouse experience to the table.”

Michael Dixon, partner at Sequoia Capital and a Health Catalyst board member, said the market has “reached a clear inflection point. While most large health care organizations have crossed the first hurdle to capture medical records electronically, many are still struggling to turn that information into real improvements.”

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# • Industry Briefs •

## ASSOCIATIONS

• The **Society for Marketing Professional Services** announced the winners of its **Marketing Communications Awards for 2012**. Marketer of the Year is **Cynthia Remine** of Ascent Construction. Rising Star of the Year is **Amber Craighill** of BHB Engineering. The Best Collateral award went to **Dana Sohm** of Sohm Photographx. Best Campaign was won by **Travis Wilson** of Layton Construction. Best Website honors went to **Reaveley Engineers**.

• The **Utah Valley Chamber of Commerce** has hired **John Whittaker** as its new director of events. Whittaker's career began when he was hired to work with the Osmond family on the Osmond concert tours for 10 years. His experience also includes being the CEO at the Utah State Fair Park for four years, the director of public events at Thanksgiving Point for six years, as well as being involved with the Stadium of Fire for 25 years as production manager and producer. He was senior production manager of the opening and closing ceremonies at both the Salt Lake City and Vancouver Winter Olympic Games and Paralympics.

• The **Utah Valley Chamber of Commerce** has selected **LaVell Edwards, Patti Edwards** and the late **Stephen R. Covey** as its **Pillar of the Valley Award** recipients for 2013. They will be honored March 29 at the third annual gala

to be held at the new Utah Valley Convention Center. Edwards was head football coach at Brigham Young University from 1972-2000. During that time, he won 257 games, the sixth-best all-time record among NCAA coaches at the time of his retirement. Patti Edwards was LaVell's wingman throughout his career. She has been active in the community and even wrote a sports column for the local newspaper. Covey died last July. He is the first person to receive the award posthumously. He was a world-famous educator, author, businessman and speaker.

• The corporate board of directors for **Executive Women International** has appointed **Wendy H. Cowley** as executive director/COO for the organization. Cowley brings 35 years of corporate experience from her positions at First Security Corp. and, most recently, Cambia Health Solutions/Regence BlueCross BlueShield of Utah.

• **Harris H. Simmons**, president, chairman and chief executive officer of Zions Bancorporation, and **A. Scott Anderson**, president and chief executive officer of Zions First National Bank, will both be honored as **A Giant In Our City** by the **Salt Lake Chamber**. The Giant In Our City event will be held the evening of March 27 at the Grand America Hotel. Registration for the event and sponsorship opportunities are available at <http://slchamber.com/giant>.

## BANKING

• **Brighton Bank** recently named **Alan Kay Tibbitts**, vice president and commercial loan officer, as area branch supervisor and business development officer. Tibbitts has been functioning as the branch manager at the South Salt Lake office. His new responsibilities include the supervision of two branch locations as well as business development and marketing. He will remain at the South Salt Lake office location; Tibbitts has been with Brighton Bank for 33 years.

• The **U.S. Department of the Treasury** released a new report showing that **Utah institutions receiving capital through the Small Business Lending Fund (SBLF) continue to increase their small business lending**, in total by more than \$127.7 million over their baselines. The Use of Funds report represents the sixth consecutive quarter in which SBLF participants have increased lending to small businesses.

## COMPUTERS/ SOFTWARE

• Lehi-based **AtTask**, a provider of in software-as-a-service (SaaS) enterprise work management solutions, announced the following new members to its board of directors: **Richard Allen**, former CFO of JD Edwards (acquired by Oracle Inc.), **Susan Carstensen**, former COO of RightNow Technologies (acquired by Oracle Inc.) and **John Avirett**, principal

at Greenspring Associates.

• **TA Associates**, a global growth investor based in Boston, has made a "significant" investment in **DigiCert Inc.**, an 80-employee enterprise solutions company based in Lindon. The amount was not disclosed. In 2010, the Utah Fund of Funds made a \$7.5 million commitment to private equity fund TA XI. The DigiCert investment marks the 61st Utah-based company to receive investment from Utah Fund of Funds' partners. Prior to TA's investment, 15 Fund of Fund portfolio funds invested in 60 Utah companies, which have combined to create more than 2,000 jobs in the state. The Fund of Funds is a \$300 million public-private partnership with the state of Utah aimed at providing access to alternative or non-traditional capital for Utah entrepreneurs. It invests in venture capital and private equity funds that commit to establishing a working relationship with Utah's start-ups and business community and will commit to reviewing investments in qualifying companies.

## CONSTRUCTION

• The editors of **Engineering News Record** have awarded top honors in the category of government/public buildings to the **Natural History Museum of Utah**. David Brems, a principal with **GSBS Architects**, the architects of record for the project, said the new building's design reflects the museum's mission to illuminate the natural world through scientific inquiry, education outreach and human encouragement. **GSBS Architects**, Salt Lake City, with **Ennead Architects**, New York, designed the building. **Big-D Construction** was contractor. The project will be featured in the Feb. 11, 2013, issue of **ENR**.

• **Marc Shields** has joined **Calder Richards Consulting Engineers**, Salt Lake City, as an engineer in training. He received his B.S. degree in civil engineer-

ing in 2011 and his M.S. degree in civil engineering (structural emphasis) in 2012 at Utah State University. Shields formerly was an intern at Utah Department of Transportation, where he performed nuclear density testing for soils, data entry of test results and oversaw the construction of roadway embankments.

• **Russell P. Naegle**, a technology systems engineer with **Spectrum Engineers**, Salt Lake City, has earned the designation of **RCDD (Registered Communications Distribution Designer)** through **BICSI**, having demonstrated expertise in the design, implementation and integration of telecommunications and data communications systems and related infrastructure. The RCDD status is recognized and mandated by many private and state organizations. It is a noted mark of design expertise valued internationally. Naegle is a registered professional engineer with more than 16 years of experience specializing in security systems, fire detection and other low-voltage electronic systems design.

• **V. Jay Wadman**, 86, founder of Ogden-based general contractor **Wadman Corp.**, died Jan. 5. Wadman, which dates back to 1951, has built thousands of buildings throughout the Western United States, including many of in Weber County. Wadman Corp. is currently building the Payson LDS Temple. Wadman served in many civic organizations and received many awards for his service and charitable giving, including an honorary doctorate degree from BYU. He served for many years as a chairman of American Indian Services, an organization that provides thousands of scholarships to Native American Indians.

## DISTRIBUTION

• Salt Lake City-based **Industrial Supply Co.**, one of the Intermountain region's largest privately held distributors of safety and personal protection equipment for the mining industry, has opened a **new distribution center in Elko**. The company joined forces with local company **3R Distributors** in October 2012 as part of its efforts to better serve the Northern Nevada region.

## ECONOMIC INDICATORS

• The **Better Business Bureau of Utah (BBB)** has compiled the list of **top 10 industries for customer complaints** in 2012. For the year, the BBB provided more than two million total







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# Legal Matters

## Creating value in difficult economic times

In the best of times, legal expenses are considered a “necessary evil.” When times get tough, that necessary evil tends to lose its “necessary” moniker. As a practicing attorney, I try to be sensitive to the fact that legal fees are extremely expensive, running anywhere from \$150 to \$450 an hour (or more) in a relatively small market like Utah. Individuals and business can get the most value for their money in three ways without abandoning the protections sound legal advice can provide.

First: Attorneys want your business and want to help your business succeed.

Just like any commercial endeavor, attorneys need business. Attorneys want your business and are willing to negotiate the cost of services. I received a call from a lady who was starting a small business looking for help in drafting a contract. Although the contract was not extremely complex,

there were several unique issues that needed to be addressed. I quoted her a price at which I believed I could draft her contract. She replied that she had gotten a lower quote from another attorney. I agreed to match that quote and drafted the contract for the agreed upon price. It worked for both of us to agree on a set fee. Our expectations were explicit and we both ended up satisfied.



Jacob Briem

Most attorneys want to provide good legal advice and services so that the client has a positive experience and feels like their needs and expectations were met by the attorney. Set clear expectations about price and work to be done with your attorney.

Second: Ask your attorney for limited representation.

If you have a specific issue that needs to be addressed, ask your attorney to represent you only with respect to that issue. Such limited representation can

provide the necessary legal protection within the areas of most concern. Most attorneys want to establish good, long-lasting relationships with individuals and will be flexible by tailoring their representation to the individual client’s needs. Be aware of the attorney’s desire to build a solid foundation with clients and take advantage of it.

A few years ago I represented a company run by two sophisticated businessmen. Both had started and run several successful businesses. I represented them in a multi-million dollar transaction. When they asked me to become involved, they had already signed the asset purchase agreement, essentially agreeing to the operative terms of the deal, and asked me to help them complete the sale, negotiate a royalty agreement and transfer title of the remaining assets.

The asset purchase agreement included a reimbursement provision for certain costs. Subsequent to the closing of the sale, the buyer

negotiated an acceleration of payment directly with my client, opting to pay off the full purchase amount in one lump sum. As a result of the decision, the buyer required that my client sign an addendum to the original asset purchase agreement. In that addendum, my clients unknowingly negotiated away their right to reimbursement of certain costs. When their reimbursement request was denied, they asked me to review the signed purchase agreement and addendum. Unfortunately, at that point there was little that could be done because they had already signed the new addendum. In order to avoid legal fees of less than a thousand dollars, they lost six figures in reimbursable costs by not asking for a review of the addendum, a very limited representation.

Third: Do the legwork yourself.

Providing your attorney a written narrative of important facts, events and points cuts down on the time spent on the phone

and e-mailing to confirm facts, and increases your attorney’s efficiency. This is especially true for litigation matters, but also helps in transactional matters. It also helps your attorney be efficient if you do some background research to help provide a roadmap.

At a social function about a month ago, I was speaking with a friend who has successfully started several Internet-based companies. As we talked about the value that legal advice adds, he expressed his dissatisfaction about his attorneys charging an exorbitant amount for legal documents for simply just changing the names and contact information to represent their various clients on the documents. While one may argue that those documents took time to prepare in their original form, my friend would hear nothing of it. Instead, he stated that his current company had begun to use various legal websites to craft their own legal documents without the aid of any attorney and at a fraction

see *VALUE* page 17



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instances of service to the public, a new record. The BBB's business reviews were viewed more than 1.9 million times, nearly a 15 percent increase over the previous year. The top 10 industries were loan (mortgage audits), health and medical products, training program companies, billing services (primarily gym-related), exercise equipment and machines, computer hardware/software/services, credit repair services with no advance fee, emergency disaster preparedness equipment and sales, and new auto dealers.

## EDUCATION/TRAINING

• Provo-based **VitalSmarts**, a provider of corporate training and organizational performance services, recently hired **Stephen Wunderli** as senior IP partner and **Andrew Maxfield** as the first director of the Influencer Institute, VitalSmarts' newly organized private operating foundation dedicated to enabling the social sector to influence human behavior more effectively. Wunderli has worked in marketing communications for more than 30 years, writing and directing pieces for organizations with needs for emotion-based messages such as The Salvation Army, A Foundation for a Better Life, Random Acts of Kindness Foundation, The Huntsman Cancer Institute, The Church of Jesus Christ of Latter-day Saints and Rotary International. Maxfield previously managed the technology development and communications of the Consensus Building Institute, a negotiation training and research firm based in Cambridge, Mass.

## FINANCE

• **Murphy Business & Financial Corp. - Utah LLC** has hired **Gavin Forthergill** as an agent. He began his career in the senior care industry in 2002 with Infinia Health Care and \$80 million firm where he eventually worked as controller. He later founded Magna Carta Investments to acquire and operate multiple health care investment opportunities. To date, Forthergill has acquired more than 12 properties. Murphy Business & Financial is a national business brokerage firm with more than 140 franchise offices in North America.

• **InnoVentures**, a Salt Lake City firm that serves as the manager for the Utah Technology Finance Corp. family of funds, is **raising capital for its third fund** because the positive economic prospects for 2013 make this a good time to do so. The firm has received notification from the SBA that InnoVentures Capital Partners has been preliminarily approved for the Fast Track application process

for a license as a Small Business Investment Company. This will be the third time that InnoVentures has partnered with commercial and industrial banks to create a source of capital for small businesses. Past investors include Morgan Stanley, American Express, Zions Bank, Wells Fargo Bank and Key Bank.

• **GPS Capital Markets Ltd.**, a South Jordan-based corporate foreign exchange (FX) brokerage firm, has been approved by the Financial Services Authority to operate as an Authorised Payment Institution and has officially **opened its European head office in London**. Founded in 2002, GPS Capital Markets has grown into one of the U.S.'s leading independent providers of foreign exchange management services to businesses with international operations or supplier networks. GPS's additional offices are in Boston, Phoenix, Los Angeles and Dallas.

## GOVERNMENT

• **Thomas A. Brady** has been selected as the new deputy director of the **Utah Department of Commerce**, effective immediately. Brady replaces Thad LeVar, who recently was appointed by Gov. Gary Herbert to serve on the Public Service Commission. Brady has been with the Utah Division of Securities, part of the commerce department, for more than three years as a securities analyst and most recently as director of enforcement. He has served as an expert witness in securities cases and is a special prosecutor designee for the Utah and Summit county attorneys. He also has served as an administrative law judge for various commerce department boards. In addition to his law degree, he earned an undergraduate Bachelor of Arts in Political Science degree from Brigham Young University.

## LAW

• **Mark O. Morris**, a partner in the Salt Lake City office of **Snell & Wilmer**, has been elected chair-elect of the **Utah State Bar Construction Section**. He will serve as chair-elect in 2013 and as the chair in 2014. The Utah State Bar Construction Section is comprised of members of the Utah State Bar who practice or are interested in construction-related law. The section sponsors events that serve to communicate recent developments and current issues in federal and state construction laws to section members and other interested members of the Utah State Bar. In addition, Snell & Wilmer has **Michael A. Gehret** as a partner in its Salt Lake City office. He represents commercial and residential developers, ski resorts, contractors, purchas-

ers, lending institutions, landlords, tenants, homeowners associations and political subdivisions in all manner of disputes involving real property.

• **Holland & Hart** has added **Aaron Murdock** to its corporate practice group in Salt Lake City. He focuses on the representation of technology and emerging growth companies, venture capital firms and investment banks. Murdock received his law degree from Harvard University and his B.A. from the University of Utah.

• **Jones Waldo** has added **Lewis Miller** and **Clinton T. Stewart** to its Salt Lake office and **Robert P.K. Mooney** to its Provo office. Miller and Stewart both join the firm's Real Estate Department, focusing on retail development and commercial real estate transactions. They come to Jones Waldo from their previous firm, Miller, Geyer & Stewart. Miller has more than 25 years of experience working with major drug and grocery retail companies, beginning with his time as an in-house attorney at American Stores in the 1990s. Miller formed Miller & Geyer after Albertsons acquired American Stores, and continued to build his practice around commercial lending, property acquisition, development and management, real estate finance, owners' associations and both residential and retail development projects. Stewart also worked for American Stores and later joined Miller in private practice. He brings additional experience to Jones Waldo in the areas of grocery and drug retail development.

• **Matthew S. Bethards** and **Joshua G. Gigger** have been named partners in the Salt Lake City office of **Stoel Rives LLP**. Bethards, a partner, becomes a capital partner. He focuses his practice on patent-related matters for life science and chemical technology firms. Gigger helps businesses and individuals develop, protect and utilize intellectual property rights.

• **Clyde Snow & Sessions** has **opened offices in Los Angeles and in Bend, Ore.** **Mark L. Smith**, a lawyer with extensive experience in commercial and white collar litigation, including antitrust, securities, intellectual property, class actions and unemployment, joins the firm as a shareholder and will divide his time between the Los Angeles and Salt Lake City offices. **Reagan Desmond**, who was formerly affiliated with the firm and has since focused her practice in the areas of natural resources, water and environmental law, rejoins the firm of counsel in Bend.

## MANUFACTURING

• **The Queen of Wraps**, a West Valley City printing and

vehicle wrap company, is setting the goal to **increase total company full-time employment by 15 percent** in 2013. The firm plans to expand its current workforce of about 30 employees to around 35 with the new jobs being a mix of sales and production positions.

• **Steve Thomas** is the newest regional director for the **Utah Manufacturers Association**. He will serve the southern half of Salt Lake County, as well as Utah, Duchesne, Uintah, Carbon, Juab, Sanpete and Sevier counties. Thomas has more than 30 years of customer service experience. The other regional directors are Steve Seegmiller, over the northern half of Salt Lake County and also Weber, Cache, Summit, Daggett, Box Elder, Rich, Morgan, Davis, Tooele and Wasatch counties; and Bette Arial, over Emery, Grand, Millard, Beaver, Piute, Wayne, Iron, Garfield, San Juan, Kane and Washington counties.

## REAL ESTATE

• **Green River Capital (GRC)**, a provider of REO asset management and loss mitigation services for mortgage servicers, investment firms, credit unions and banking institutions, has **created a component servicing division** in response to a growing demand for individual, customized services. GRC's component servicing division supports institutional investors and lenders involved in various REO-to-rental initiatives. GRC provides pre- and post-acquisition services including collateral underwriting, property and market level due diligence and transaction management services including, title searches, title curative activities, escrow administration and repair oversight. The division currently provides these services on more than 4,000 properties each month.

• **NAI WEST** has facilitated the \$47.5 million sale of **Westport Distribution I & II**, Salt Lake City, consisting of two bulk distribution buildings totaling over 750,000 square feet. NAI WEST executive vice president Bryce Blanchard represented the buyer, Industrial Income Trust. NAI WEST president and CEO Mike Falk and co-founder Steve Condie represented Buzz Oates Real Estate, the seller. Tenants include Sephora and Sun Products. Industrial Income Trust is a non-traded real estate investment trust that acquires and operates high-quality distribution warehouses and other industrial properties that are leased to creditworthy corporate customers.

## RESTAURANTS

• **Edge Steakhouse**, a new fine-dining establishment at Westgate Park City Resort & Spa, has **opened for business** in the

village at The Canyons Ski Resort. Executive chef is Kyle Smith. The focal point of the Edge Steakhouse interior is the glass-enclosed wine cellar in the center of the restaurant that boasts what Westgate says is one of the most comprehensive wine lists in Park City, with more than 1,000 bottles from around the world.

• **Kneaders Bakery and Café**, a Utah-based restaurant franchise, opened its **newest location in Spanish Fork** on Jan. 11. The restaurant is located at 531 E. 1000 N. and its hours of operation are Monday through Saturday from 7 a.m. to 10 p.m. Colleen and Gary Worthington are the founders and franchisors of Kneaders Bakery and Café. The first Kneaders opened in Orem in 1997. Shortly after opening, James Worthington and David Vincent joined the Worthingtons and they all continue to operate as the Kneaders franchisor. The brand now consists of 22 operating locations in Utah, Arizona and Idaho.

## SCIENCE

• Gov. Gary R. Herbert, along with the State Science Advisor and the State Advisory Council on Science and Technology, announced the 2012 winners of the **Governor's Medals for Science and Technology**. This year's recipients are **Dr. Thure Cerling**, professor of geology and geophysics at the University of Utah, who has greatly advanced geological, hydrological and nuclear waste science in Utah; **Dr. David Kieda**, University of Utah professor and department chair of physics, who pioneered techniques for observing high-energy cosmic rays; **Dr. Geraldine Mineau**, investigator and research professor in the department of Oncological Sciences at the University of Utah and the Huntsman Cancer Institute, who developed a one-of-a-kind genetic research tool for human disease; **Dr. Adam Johnston**, professor of physics at Weber State University and founder of "Science Education at the Crossroads;" **Amy Pace**, chair of the Department of Science of the Open High School of Utah, who is the science curriculum developer for the Open High School of Utah; **Dr. Theodore Stanley**, managing director of Upstart and founder of Anesta and ZARS, whose Stanley Research Foundation has donated more than \$5 million to the University of Utah and other universities; **Ceramatec**, a pioneer in research and development in oxygen and hydrogen generation systems; **Ted McAleer**, executive director of Utah Science Technology and Research initiative, who, in six years has grown USTAR from an idea to a fully

*continued on page 17*



## • Calendar •

• Jan. 16, 11:30 a.m.-1 p.m.: **Power Connections Luncheon**, sponsored by the Sandy Area Chamber of Commerce. The event will consist of a pre-legislative session luncheon with local representatives discussing transportation, education, health care reform and tax reform. Location is Christopher's Steak House and Grill, 1122 E. Draper Parkway (12300 South). Cost is \$15 for chamber members, \$20 for non-members. Register at <http://business.sandychamber.com/events/details/power-connections-networking-luncheon-1016>.

• Jan. 17, 8 a.m.-5 p.m.: **"Business Writing for Professionals,"** an open-enrollment course presented by Salt Lake Community College (SLCC). Course will feature proven techniques that apply to any business writing situation. The participatory class will be presented in two eight-hour sessions one week apart. Location is SLCC's Miller Campus, 9750 S. 300 W., Sandy. Details are available by contacting Donna Smith at (801) 957-5256 or [donna.smith@slcc.edu](mailto:donna.smith@slcc.edu).

• Jan. 18, 6-10 p.m.: **Davis Chamber of Commerce annual awards banquet.** Awards will be

presented in three categories, plus the Legacy Award. Location is the Davis Conference Center, 1651 N. 700 W., Layton. Open to the public but reservations are required. Cost is \$75. Details are at [www.davischamberofcommerce.com](http://www.davischamberofcommerce.com) or by calling (801) 593-2200.

• Jan. 23, 11 a.m.-1 p.m. **Business Marketplace**, presented by the Sandy Area Chamber of Commerce. The event is open to all business professionals and owners, both chamber members and nonmembers. Location is the South Towne Expo Center, 9575 S. State St., Sandy. Free. For more information, contact Jevine Lane at [jevine@sandychamber.com](mailto:jevine@sandychamber.com).

• Jan. 23, 11:30 a.m.: **Chamber Benefits 101**, presented by ChamberWest, the chamber of commerce serving West Valley City, Taylorsville and Kearns. Location is the Arbor Manor Reception Center, 2888 W. 4700 S., West Valley City. Free. RSVP at [www.chamberwest.org](http://www.chamberwest.org) or by calling (801) 977-8755. Lunch included.

• Jan. 24, 7:30-9:15 a.m.: **Economy Review**, presented by ChamberWest, the chamber of commerce serving West Valley City, Taylorsville and Kearns.

Local economists will consider Utah's economic high points and low points. Attendees will receive the 2013 Utah Economic Outlook, a consensus view of where the state's economy is headed over the next 12 months. Location is the Hilton Salt Lake City, 255 S. West Temple. Cost is \$45. RSVP online at [chamberwest.org/economyreview](http://chamberwest.org/economyreview) or by calling (801) 977-8755. Breakfast included.

• Jan. 24, 11:30 a.m.: **Lunch and Learn**, presented by ChamberWest, the chamber of commerce serving West Valley City, Taylorsville and Kearns. John Bradshaw of Business Performance Group will discuss secrets of both finding and closing sales. Location is Embassy Suites, 2800 W. 3500 S., West Valley City, Promenade Meeting Room. Cost is \$20. Register at [chamberwest.org/rsvp](http://chamberwest.org/rsvp) or [rsvp@chamberwest.org](mailto:rsvp@chamberwest.org).

• Jan. 25, 4-6 p.m.: **"Can B Corporations Boost Responsible Business in Utah?"** sponsored by Net Impact Utah. Speakers will include Salt Lake City Mayor Ralph Becker, community development manager Anay Fyfe, Vincent Stanley of Patagonia, Mandy Cabot of Dansko and Brian Linton

of United by Blue. Location is Harmons at City Creek, cafe mezzanine level, 135 E. 100 S., Salt Lake City. Free and open to the public. Sign up at [eventbrite.com/event/3676079552#](http://eventbrite.com/event/3676079552#) or contact Steve Klass at [steve@netimpactutah.org](mailto:steve@netimpactutah.org).

• Jan. 30, 6 p.m.: **South Jordan Chamber of Commerce Vision Dinner.** South Jordan Mayor Scott L. Osborne will deliver the State of the City and the guest speaker will be Amy Rees Anderson, founder and managing partner of REES Capital, a mentoring and angel investing firm. Location is Megaplex at the District in South Jordan. Cost is \$60. For more information contact Shelley Potts at (801) 253-5200.

• Feb. 1, 7:45 a.m.-1:30 p.m.: **Fourth annual Enterprise Risk Management Symposium**, presented by KPMG, Marsh and Stoel Rives LLP. Event is titled "Expecting the Unexpected" and will feature breakfast keynote speaker Dwight Kartchner, response consultant at Control Risks, and lunch keynote speaker Greg Miller, chief executive officer of the Larry H. Miller Group of Companies. Other speakers will address issues affecting enter-

prise risk management programs. Location is Salt Lake City Marriott City Center, 200 S. State St., Salt Lake City. Cost is \$99, which includes breakfast, lunch, symposium and parking. Details are available by contacting Melanie Williamson, program coordinator, at (801) 715-6662 or [mwilliamson@stoel.com](mailto:mwilliamson@stoel.com).

• Feb. 6, 7:30 a.m.-4:30 p.m.: **29th annual Information Technology Conference**, part of Utah State University's "Partners in Business" program. Keynote speakers include Steven John, strategic information officer for Workday; Narayan Desai, principal experimental systems engineer in mathematics and computer science at Argonne National Laboratory; Rick Velasquez, core services application manager for the Church of Jesus Christ of Latter-day Saints; Nicole Forsgren Velasquez, assistant professor in the Jon M. Huntsman School of Business at USU; and Alan Hall, founder and chief executive officer of MarketStar Corp. Location is the Eccles Conference Center at USU. Cost is \$325. Details are at [partners.usu.edu](http://partners.usu.edu).

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## Every success revolves around one word — what's yours?

My friend Andy Horner and I were eating lunch at Chick-fil-A last Friday. My three-year-old daughter, Gabrielle, was with us.

The minute we walked in the door, we were all handed a sample of their new tortilla soup. A bit spicy, but absolutely excellent. I should note the person serving the soup was a smiling young woman who seemed both happy to see us and happy to serve us.

We placed our order, and it was ready before I got done paying. I should also note both the cashier and the food server seemed both happy and happy to serve us.

When we got to our table we had a dilemma. Our food was hot and ready to eat, but Gabrielle wanted to go to the playground. So we compromised. After she ate three pieces of chicken, she got to go on the slide. The playground is a major kid's attraction at Chick-fil-A.

Meanwhile, as we were eating our lunch, not less than three people came by our table to offer us service of one kind or another. When is the last time that happened to you in a fast food restaurant? Never? I thought so.

These weren't just people

who asked us if we needed anything else. They were also smiling at us, chatting just a little bit, and suggesting things they might do to help, such as asking, "Would you like a refill?" or making a comment about how Gabrielle was enjoying her lunch. I should

further note each person was both smiling and exceptionally sincere.

I put one of them to the test. I gave him my credit card and asked him for a small bowl of their new soup. "Right away!" he said. And two minutes later the soup arrived.

I could not tell if the people who stopped at our table were managers or janitors. It didn't matter. They all acted exactly the same way, as if they owned the place and their life depended on our happiness and gratification (not our satisfaction, rather building loyalty).

Andy and I began to talk after Gabrielle returned for a second visit to the playground.

"What is it about this place?"

"Why are we so enthralled with it?"

"Is it the service?"

"Is the playground?"

"Is it the friendly people?"

Certainly all of the above are contributing factors to the overall ambience and experience. But we decided it's the quality of the food! We agreed that all of these extra elements would fall short of the mark if the quality of the fast food was inferior.

What Chick-fil-A has done is add amazing services, conveniences and happy people to a core of quality food. It sounds pretty simple, but their competitors, including the Burger King next door — which was almost empty at lunchtime — have failed to understand that *quality is the attractor*, not price.

Chick-fil-A's ad campaign of "Eat Mor Chikin" is immortal. The fact they're closed on Sunday, and all holidays, has created a new standard in business, not just in restaurants and not just in fast food restaurants.

They're dedicated to family, and prove it by offering excellent benefits, total diversity and the opportunity for their employees to spend quality time at home.

For some reason all the people at Chick-fil-A seem both happy and bright. Not just happy to serve, rather happy as people.

Whatever they do to train their people *is working*.

Whatever their competitors

do to train their people *is not working as well*.

Whoever creates the menu *is on the money*.

Whoever creates the recipes *is also on the money*.

Whoever is in charge of consistent quality *is really on the money*.

Whatever their competitors are doing *is not nearly as effective*.

Many people have told me, "Chick-fil-A is the only fast food restaurant I'll go to." That's a pretty powerful statement considering the fact there are hundreds of options. I cannot make the same statement because I also frequent In-N-Out Burger when I'm in California, and I have a very difficult time resisting the seasoned fries at Bojangles.

Your turn. Think about this story as it relates to your business. What's the centerpiece at your place? Is it quality? I challenge you it's most likely not.

Most businesses focus on the ridiculousness of customer satisfaction.

Or try to sell things at the lowest price.

Or put things on sale to attract one-time buyers.

Or have weekly specials.

Or present some other message that does not focus on the central issue that has put Chick-

fil-A at the top of the fast food empire: "Customers will pay more for quality, and return if the experience was great."

If you're focusing on experience, and your quality is not superior, you will lose to someone one cent cheaper. If, however, your focus is on superior quality, and you add superior service, or *should I say superior, friendly service*, you will not just dominate your marketplace, you will also dominate your bank account.

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

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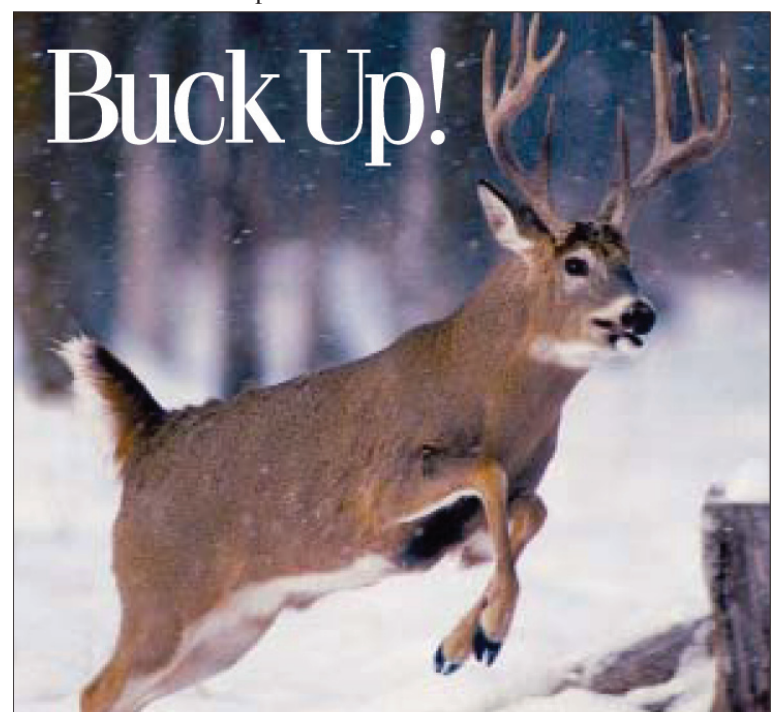
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# The impact of the American Taxpayer Relief Act

By Parr Brown Gee & Loveless

On Jan. 1, Congress passed, and on Jan. 3, the president signed, the American Taxpayer Relief Act of 2012. The act reverses many of the federal tax increases that were scheduled to go into effect in 2013 and retains certain favorable tax benefits that were scheduled to expire. However, it also increases income taxes for some high-income individuals and slightly increases transfer tax rates. The following summarizes certain key provisions of the act applicable to individual taxpayers:

**Individual Ordinary Income Tax Rates.** Except for certain "high-income taxpayers," the federal income tax rates on the ordinary income of individual taxpayers that were in effect in 2012 will remain in effect for years after 2012 with no sunset provision. A new, higher 39.6 percent federal income tax rate will apply, however, to the ordinary taxable income of individual taxpayers in excess of a certain threshold amount — \$450,000 in the case of married taxpayers filing jointly, \$225,000 for married taxpayers filing separately and \$400,000 in the case of single filers. The applicable threshold amount for application of the new 39.6 percent rate will be adjusted for inflation.

**Long-Term Capital Gain and Qualifying Dividend Rates.** For tax years after 2012, the regular federal income tax rates on long-term capital gains and qualifying dividend income of individual taxpayers will remain at 2012 levels (e.g., a maximum 15 percent rate for most long-term capital gains), except that:

- Under the act, the maximum regular federal income tax rates on long-term capital gains and qualifying dividend income of individual taxpayers will increase from 15 percent to 20 percent for taxpayers with incomes exceeding \$400,000 (\$450,000 for married taxpayers); and

- The ObamaCare 3.8 percent additional net investment income tax will continue to be imposed on all or a portion of the capital gains, dividends and other forms of net investment income (e.g., interest, net rents) of taxpayers with modified adjusted gross income over \$200,000 (\$250,000 if married filing jointly and \$125,000 if married filing separately).

**Reinstatement of Limitation on Itemized Deductions.** Beginning in 2013, the phase-out limitation on itemized deductions, which had previously been suspended, is reinstated with a starting threshold of \$300,000 for joint filers, \$250,000 for single filers, and \$150,000 for married taxpayers filing separately. The dollar amounts are inflation-adjusted for years after 2013. The otherwise allowable itemized deductions of individual taxpayers subject to the phase-out limitation are reduced by three percent of the amount by which their adjusted gross income (AGI) exceeds the applicable threshold amount, with a maximum reduction of

80 percent of their allowable itemized deductions. For example, a married taxpayer filing a joint return with 2013 AGI of \$500,000 and otherwise allowable itemized deductions of \$50,000 would lose \$6,000 in itemized deductions and only be allowed the remaining \$44,000.

**Reinstatement of Phase-Out of Personal Exemptions.** For tax years after 2012, the personal exemption phase-out (PEP) is reinstated with a starting AGI threshold of \$300,000 for joint filers, \$250,000 for single filers and \$150,000 for married taxpayers filing separately. As a result, taxpayers will lose two percent of their otherwise allowable personal exemption amount for every \$2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold. Thus, a married taxpayer filing a joint return with 2013 AGI of \$425,000 or greater would be unable to claim any personal exemptions. The applicable PEP dollar thresholds are inflation-adjusted for tax years after 2013.

**Additional Payroll Tax.** The employee portion of payroll taxes for 2013 will revert to pre-2011 levels. As a result, employees will pay an additional 2 percent payroll tax on wages up to \$113,700. Additionally, under ObamaCare, an additional 0.9 percent Medicare tax on employees will apply to wages and other compensation income over \$250,000.

**Alternative Minimum Tax Relief.** The act increases the alternative minimum tax (AMT) exemption amount for 2012 from \$33,750 for unmarried taxpayers, \$45,000 for joint filers and \$22,500 for married persons filing separately to \$50,600 for unmarried taxpayers, \$78,750 for joint filers and \$39,375 for married persons filing separately. In addition, for tax years beginning after 2012, the act indexes the AMT exemption amounts for inflation.

**Transfer Tax Provisions.** The act reverses increases in estate, gift and generation-skipping transfer taxes that were scheduled to occur for individuals dying and gifts made after 2012 by continuing without any sunset provision the inflation-adjusted exemption level at \$5 million. It also continues the portability feature that allows the estate of the first spouse to die to transfer his or her unused exclusion amount to the surviving spouse. The act, however, does increase the tax rate on transfers in excess of the exemption amounts from 35 percent to 40 percent.

Parr Brown Gee & Loveless is a law firm based in Salt Lake City that provides corporate clients and individuals with transactional, litigation and regulatory assistance on a local, regional, national and international basis. Formed in 1975, Parr Brown is comprised of 75 attorneys who are consistently recognized by The Best Lawyers in America, Mountain States Super Lawyers, Chambers USA and Benchmark Litigation.

# Make your business more sustainable in 2013

Now is a great time to move forward on your resolution to make progress on the triple bottom line of your business. Remember, way back during the holidays, how you were thinking about how you can do more to improve your community? If each business took small steps, our global quality of life would be significantly improved. To help you get started, I offer the following recommendation: choose one item from each of the three lists within the next few days, pat yourself on the back and keep moving forward.

## Governance and Accountability.

(1) Sustainability plan. Do you have one? If not you can adopt one. If you have a sustainability plan, how can you strengthen it? (2) Sustainability report. Do you report your sustainability outcomes? You can commit to publishing a sustainability report by the end of the year or work to measure more challenging but important aspects of your sustainability efforts. If you have a report, how can you improve your outreach to stakeholders, broadcasting your improved outcomes? Can you show more on your website or in your online communications with customers, vendors, suppliers, community partners? (3) Green team. Do you have an employee committee that works on suggesting and taking steps to improve social and environmental outcomes of your operations? If you have one, can you improve its representation or encourage higher performance targets for it? (4) Certifications. Is there a "green" certification specifically designed for your industry or type of business that you don't have yet that you can reach for this year? Ready to go all the way? Check out the comprehensive triple bottom line benchmarking process available in the benefit corporation certification offered by B Lab (covered in this column on Nov. 5, 2012).

**Social Impact.** (1) Employee engagement. Do you have a formal strategy for connecting employees and their creativity to improving social and environmental impact in your business operations? If you do, make sure there are goals and a monitoring process to support progress over the coming year. If you don't have a green team, learn how by sending an employee to Utah's second GreenEx green team exchange, being held in the afternoon at the Intermountain Sustainability Summit at Weber State University March 7-8. (2) Work/life practices. Successful businesses all have a talent development or human resource strategy. Tapping into this ongoing mechanism is a great way to advance the more internal aspects of your employees' work environment. Improving air quality in buildings, health care and other benefits, skill development and continuing professional education support and productivity incentive programs are just some of the many areas where a small investment in employee well-being pays off not just for the environment, but for productivity and the bottom line through increased career longevity, workplace innovation and reduction of absenteeism. (3) Community engagement. How does your business connect to more general stakeholders that contribute to your success, beyond customers and suppliers? How can you strengthen an appreciation of what your business produces by residential and commercial neighbors? Are there opportunities to strengthen relationships with public services in the area? It is especially important to think about schools adjacent to

your property. The competitiveness of all our businesses depend more than ever on the success of schools, particularly public schools. Checking in with neighbors of all sorts, showing that your business cares about their well-being and success and asking what you can do to support them, can do a lot to motivate them to help your business succeed.

**Environmental Impact.** When business leaders think of sustainability or being green, they usually think of this part of the triple bottom line. If you are large enough to have environmental management staff or even a green team, you can outsource a lot of the planning to these folks. Your annual plan to boost the triple bottom line must feature annual goals in this area. (1) Energy. A lot of what we try to do better in business greening is related to energy. Simply put, the less of it we use, the more money we save and the less

somebody else has to generate for us to use. Increasingly, we are hopeful that businesses can use more renewable and lower-impact sources of energy when power is consumed. Your business should consider purchase of Blue Sky renewably sourced power to offset the power needed to run the business. Is your business in a position to generate its own solar, geothermal or wind power? Some of the best low-hanging fruit is in the area of transportation. In employee commuting, are you doing all that you can to reduce single-occupancy vehicle trips, such as supporting carpooling, use of public transit and allowing work from home? If your business uses work or delivery vehicles, have you considered converting the fleet to compressed natural gas, and do you employ an idle-reduction policy? (2) Water, other resources and waste. Start with conservation. Can you set targets for less waste of water and other resources used in your business? If your business makes products, how can you take better advantage of lean manufacturing techniques over the next year? Waste reduction goes directly to your financial bottom line. (3) Engaging directly connected stakeholders. Your suppliers, customers and distribution partners all can have an impact on your impact. How can you challenge suppliers to bring in materials and products that are created with less waste, such as packaging, and delivered to you with less and cleaner energy? Can you make similar sorts of progress on these same issues with the products and services you are shipping out the door, through distributors or directly to customers?

Don't be overwhelmed, just get started by picking just *one* item to address in governance and accountability, social and environmental impact. Engage appropriate employees, set some quick attainable goals, and you are on your way. By the end of 2013, your business will be more sustainable and be recognized as more valuable to our community. *And*, you will have boosted profit through reduced operating costs. Please let *Enterprise* readers know of your success!

Steve Klass is founder and president of Net Impact Utah. He is principal of Klass Strategies, serving responsible Utah organizations since 1993, providing triple bottom line-boosting services concerning governance and accountability, stakeholder engagement and community building. Contact him at [steve@netimpactutah.org](mailto:steve@netimpactutah.org).



Steve Klass

# RUNNING OUT OF BREATH RUNNING OUT OF TIME



## She is too young to have a fatal disease...

Thousands of young women are living with a deadly lung disease called LAM — and don't know they have it. LAM is often misdiagnosed as asthma or chronic bronchitis. There is no known cure.

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[thelamfoundation.org](http://thelamfoundation.org)

## Manners, etiquette and protocol

Do you know the difference between manners, etiquette and protocol? Do you use them to your advantage in all aspects of your life?

Proper manners, etiquette and protocol are as important today as they were when first established in writing by Ptahhotep, in 2400 BC, extolling such civil virtues as truthfulness, self-control and kindness towards one's fellow beings. Confucius followed, emphasizing personal and governmental morality, correctness of social relationships, justice and sincerity. Then Louis XIV in the 1700s tamed the nobility and impressed foreign dignitaries by using entertainment, ceremony and a highly codified system of etiquette to assert his supremacy and proper upbringing.

In 1745 George Washington's *Rules of Civility and Decent Behavior in Company and Conversation* was printed and is still in print today, extolling 110 rules to follow for behavior in a civil and respectful manner.

1922 gave us Emily Post's book on etiquette, which is in its 19th revision; her books and teachings are still used today and have created very successful careers for three generations of Posts.

Judith Martin, also known as Miss Manners, is considered America's foremost etiquette expert and is widely read throughout the world with columns in many major newspapers, most notably the *Washington Post*.

Manners, etiquette and protocol change with each generation and country, but the basics remain the same and are expected by all societies in all walks of life.

It is not unusual to hear someone say that etiquette is old-fashioned and no one practices etiquette anymore. That is a great out for many people and allows them to be less than courteous, especially with technology. Many people confuse manners, etiquette and protocol and often think etiquette is only about table manners. This is simplistic, inaccurate, and misses a great opportunity to utilize each of these soft skills to their advantage.

In today's highly competitive world, it's all about being better than the competition. It is about making people feel valued and comfortable each and every time they interact with us.

Manners are **what** you must do.

Etiquette is **how** you do it.

Protocol is **when** you should do it.

Example: shaking someone's hand

Manners tell you, you must shake hands.

Etiquette tells you how: always stand to shake hands, both men and women, their entire hand with a firm grip, while looking the other person in the eye and smiling.

Protocol tells you when: shake hands when you meet and leave someone's presence.

It is simple, but it is important to know the difference and understand the aspects of professional presence and gracious behavior. Our personal and business success depends upon each of us knowing the basics of gracious behavior.

Knowing what, how and when gives our behavior meaning and tells us why it is important, expected and universal. People expect our behavior to reflect our upbringing, education and our company culture.

The holiday season has just ended and we have all sent out handwritten thank-you notes for gifts or special invitations. That is good manners. A thank-you note should be hand-written and make the gift giver feel special and their gift unique and valued.

Standard sample, sent two weeks after the gift was received:

*Dear Bill,*

*Thank you for the bottle of wine. We plan to drink it on Mary's birthday.*

*Sincerely,*

*John*

This is good manners, but etiquette and protocol were not included.

Gracious sample sent the next day.

*Dear Bill,*

*Your taste in wine is exquisite and I am pleased you chose your favorite as a gift for us. It is Mary's birthday next week and we will celebrate with your wine. It will make the occasion even more special.*

*Thank you for the wine and your valued friendship.*

*Warmest Regards,*

*John*

The goal is to build long-term quality relationships. How we make people feel makes a difference to them and that is why we use manners, etiquette and protocol in our lives. We need to be gracious people, making everyone in our presence feel accepted and comfortable.

You don't need to agree with the established rules but we all need to respect them. Your manners matter to others and they bring quality to our own lives.

Your voicemail greeting tells people a lot about you. How many people do you call and hear: "I am sorry I missed your call."

Apologizing for things we aren't really sorry for, or things we didn't do wrong, i.e. "I'm sorry I missed your call" is not only insincere, it's poor phone etiquette.

When a person starts their voice message with, "I'm sorry I can't take your call ..." the tone of the message is negative. Do you think people really want to call and immediately hear you apologize? Present yourself in a better light by starting with something positive.

*"Hi, this is Ellen Reddick and thanks for calling.*

*Please leave your name, number, a brief message and I will return your call as soon as possible.*

*If you need to speak with someone immediately,*

*please press 0."*

Short, sweet and positive. Now, carry this over to all of your phone interactions. Our phone presence is so important because it speaks volumes about us and our company.

I called a local law firm this week because I need a patent attorney. I was given the lawyer's direct number by a friend who is also a lawyer.

I called the number and when answered heard "hello." I had to ask if I had reached the correct person. That is not a good first impression, especially for a lawyer. He went all through law school and never learned to answer his phone with his name?

I then called another firm directly, reached the receptionist and asked if they had patent attorneys at their firm. I was transferred without notice to a lawyer, whose voicemail greeting did not present his name clearly and who told me he was out of the office until Jan. 10; I was not offered any alternative. I called back to the receptionist and told her that whoever she transferred me to was out of the office until Jan. 10. She then corrected me and told me I was wrong, he was in the office somewhere.

Both exchanges left negative impressions. It literally takes no more effort to be gracious and mannerly than it does to be less than professional.

Every interaction, in person or through technology, gives you the opportunity to present yourself and your company in the best possible way. Our friends, family, co-workers and clients expect no less from us, nor should we accept less of ourselves.

Give people something of value when they interact with you, make them want more of how you make them feel.

Manners, etiquette and protocol are good solid ground rules for all areas of our lives. These include business attire, business communications, business dining, client entertaining, business culture, cross-cultural differences, international protocol, basic workplace etiquette, netiquette and more.

How we behave is actually our personal philosophy that we demonstrate each and every day. If we choose the road to success, we do so with intent and planning.

We know what we must do, how we must do it and when we must do it.

Gracious, civil and respectful behavior should be our foundation.

Ellen Reddick is principal and managing partner of Impact Factory Utah, which assists clients in achieving their performance and revenue objectives through leadership development, process improvement, teamwork and customer focus. As the national director of process planning and improvement for Lucent Technologies, she managed development of quality and process improvement, led major customer focused teams and functioned as an internal and external consultant and resource professional. In addition to consulting and writing, Reddick's qualifications include expertise with facilitation, process and quality improvements, the International Institute for Facilitation and Best Practices for Emotional Intelligence. She can be reached at 801-581-0369 or [ellen@impactfactoryutah.com](mailto:ellen@impactfactoryutah.com).



Ellen Reddick

# The Salt Palace Convention Center

Nestled in the heart of downtown Salt Lake City, the Salt Palace Convention Center, with its 64 breakout rooms and more than 650,000 square feet of exhibit space, is the perfect place for meetings of any size or occasion. From our delicate snowflake chandeliers to our gorgeous five-story main concourse and centralized location, the Salt Palace is part architectural showpiece, part modern art sculpture and all business.

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# The South Towne Exposition Center

The South Towne Exposition Center is centrally located in the heart of Salt Lake's residential community, providing easy access to visitors along the entire Wasatch Front. From free on-site parking and large loading docks to individual hall concessions and meeting rooms, the South Towne Exposition Center makes hosting any event easier and more effective than ever.

9575 S. State Street  
Sandy, UT 84070  
385-468-2260



# Top Meeting Facilities in Utah

Ranked by Number of Breakout Rooms

Page 1

Company Name	Address	Phone Fax Web	# of Breakout Rooms	# of Usable Square Feet	# of Days in Service in 2011	# of Events Hosted in 2011	# of Utah Employees	Services Offered	Top Local Executive	Year Founded
<b>The Salt Palace Convention Center</b>	100 N. West Temple Salt Lake City	385-468-2222 DND saltpalace.com	64	679,000	DND	174+	125	Full service convention center including 10 exhibit halls	Dan Hayes	1969
<b>The Grand America Hotel</b>	555 S. Main St. Salt Lake City	801-258-6000 801-258-6911 grandamerica.com	35	75,000	365	1,500	750	Concierge, valet parking, complimentary WiFi, spa, business center, Jou-Jou, La Bonne Vie	Bruce Fery	2001
<b>Miller Motorsports Park</b>	2901 N. Sheep Ln. Tooele	435-277-8000 435-277-8008 millermotorsportspark.com	32	55,000	365	625	75	Team building, meeting space, catering, driving/riding school programs, off-road programs, go-karting, zipline	Bryan Detweiler	2006
<b>Snowbird Ski and Summer Resort</b>	Highway 210 Snowbird	1-800-882-4766 DND snowbirdmeetings.com	32	50,000	365	395	fluctuates seasonally	Indoor/outdoor locations, banquets/ catering, restaurants, lodging, skiing/ snowboarding/snowshoeing, event tent, wireless internet, spa, shopping	Bob Bonar	1971
<b>Deer Valley Resort</b>	2250 Deer Valley Dr. S. Park City	800-424-3700 435-645-6939 deervalley.com	31	47,379	365	1,771	2,600	Lodging, banquets, meetings, weddings, reunions, skiing, ski lessons, equipment rental, licensed daycare, children's programs on and off slope, ski races, private First Tracks, snowmobiling, on-site shops, lift served mtn bike and hike, rental bikes, concerts and events	Dirk Beal	1981
<b>Sheraton Salt Lake City Hotel</b>	150 W. 500 S. Salt Lake City	801-401-2000 801-531-0705 sheraton.com/ saltlakecity	22	33,000	300	700+	165	Conveniently located in the heart of downtown, 24-hour front desk service, complimentary airport shuttle, free WiFi, Free PC work station	DND	2009
<b>Little America Hotel</b>	500 S. Main St. Salt Lake City	801-596-5700 801-596-5911 littleamerica.com/slc	21	25,655	365	1,500	7,500	Valet parking, complimentary WiFi, 2 swimming pools, including indoor/ outdoor pool	Ed Box	1945
<b>Provo Marriott Hotel &amp; Conference Center</b>	101 W. 100 N. Provo	801-377-4700 801-377-4708 provomarriott.com	20	28,000	335	800+	145	Full service hotel and conference center. Only Utah IACC approved location	John Garfield	1983
<b>Hilton Salt Lake City</b>	255 S. West Temple Salt Lake City	801-328-2000 801-238-4888 hiltonsaltlakecity.com	19	24,000	365	DND	350	PSAV Audio/Visual Equipment, 24- hour business center, complimentary printing service, express mail, video conferencing available, event services managers organizing your event, catering services, etc.	Melissa Deveraux	1984
<b>Ogden Eccles Conference Center</b>	2415 Washington Blvd. Ogden	801-689-8600 801-689-8651 oeccutah.com	16	80,092	352	201	74	Conference, meeting, exhibits, exclusive catering by SAVOR by SMG	Ross Reeder	1997
<b>Salt Lake Marriott City Center</b>	220 S. State St. Salt Lake City	801-961-8700 801-961-8704 marriott.com/slccc	14	15,119	365	697	197	Food and beverage, audiovisual, certified meeting planners, marriott reward points	Doug Koob	2000
<b>South Towne Exposition Center</b>	9575 S. State Street Sandy	385-468-2260 385-468-2275 southtowneexpo.com	14	258,000	314	205	30	Space for expos, meetings, etc., set up of tables, chairs, equipment, banners, event manager, cleaning, in-house food service and concessions, in-house AV company	Dan Hayes	2000
<b>Hilton Salt Lake City Airport</b>	5151 Wiley Post Way Salt Lake City	801-539-1515 801-539-1113 hiltonslc.com	11	13,000	365	DND	130	Full service	DND	DND

# Top Meeting Facilities in Utah

Ranked by Number of Breakout Rooms

Company Name	Address	Phone Fax Web	# of Breakout Rooms	# of Usable Square Feet	# of Days in Service in 2011	# of Events Hosted in 2011	# of Utah Employees	Services Offered	Top Local Executive	Year Founded
<b>Joseph Smith Memorial Building</b>	15 E. South Temple Salt Lake City	801-539-3130 801-539-3117 templesquare hospitality.com	11	18,000	305	4,500	110	Wedding ceremonies, receptions, lunches, dinners, business meetings, social events and take out	Dianne M. Theurel	DND
<b>Lion House</b>	63 E. South Temple Salt Lake City	801-363-5466 801-539-3256 templesquare hospitality.com	8	5,000	305	1830	78	Wedding lunches, dinners and receptions; business meetings, social events and children's birthday parties	Dianne M. Theurel	DND
<b>Red Mountain Resorts</b>	1275 E. Red Mountain Circle Ivins	435-673-4905 435-652-5777 redmountainresort.com	3	3,000	365	100	250	Outdoor venues, outdoor group adventures, catering-health conscious	Tracey Welsh	1998
<b>Devereaux Mansion</b>	340 West South Temple Salt Lake City	801-539-3130 801-363-5466 templesquare hospitality.com	DND	DND	305	DND	110	Wedding ceremonies, receptions, lunches, dinners, business meetings	Dianne M. Theurel	DND
<b>Hampton Inn Sandy</b>	10690 Holiday Park Dr. Sandy	801-571-0800 801-572-0708 sandyut.hamptoninn.com	DND	900	365	DND	36	Catering, AV equipment staff	DND	1991



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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**Natural History Museum of Utah:**

- Received \$40,770 in incentives
- Saves \$22,040 in energy costs annually
- Saves 314,280 kwh of electricity a year

## Paleontology, anthropology and energy efficiency.

The Natural History Museum of Utah at the Rio Tinto Center boasts some pretty impressive numbers: 135,000 plant specimens, 30,000 fossils and \$22,000 in annual energy savings. Our Energy FinAnswer® and FinAnswer® Express programs offer cash incentives for installing high-efficiency lighting, HVAC, food service equipment and more. Lighting standards changed in July 2012, but incentives for T12 lighting retrofits are still available. To learn more, call our energy experts at 1-800-222-4335 or visit [wattsmart.com](http://wattsmart.com).



*Let's turn the answers on.*



**VALUE**

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of the cost. The cost-saving allure of such practices is completely understandable. But, as a litigator, I am painfully aware of the pitfalls that await those who do not draft complete and comprehensive documents. I have litigated numerous cases in which documentation exists, but is incomplete. Without fail, it is within those incomplete areas that litigation is born.

It is for that reason drafting legal documents without an attorney can open up legal pitfalls. However, researching legal documentation to get a sense of what you would like to see within your documents can be helpful. Just like a roadmap of facts and salient issues, providing example

documents can increase efficiency and reduce expenses, thereby providing greater value with a little legwork on your part.

Legal services will likely remain expensive. However, following these three suggestions can help you get more value from legal services, save money during difficult economic times, provide a stronger foundation for the success of your business and give you a much better understanding of the services that attorneys can provide to you individually and your business.

Jacob Briem practices commercial litigation and business law in the Sandy office of Strong & Hanni. He represents individuals and businesses in transactional matters and litigation of complex corporate disputes. Briem can be reached at (801) 323-2197 or [jbriem@strongandhanni.com](mailto:jbriem@strongandhanni.com).

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functioning innovation driver for Utah's economy; **Nicole Toomey Davis**, CEO of Enclavix LLC and former director of the Centers of Excellence Program/Technology Commercialization and Innovation Program, who was instrumental in the enhancement of the Centers of Excellence Program and the development of the Utah Fund of Funds; and **Scott Anderson**, president and CEO of Zions Bank, who has worked diligently to create more high paying jobs in Utah and led the vision and charge to create the Utah Science Technology and Research Initiative.

**TRANSPORTATION**

• **ProStar Trucking LLC**, Salt Lake City, has chosen **TAB Bank**, Ogden, for a \$1 million

credit facility. The new facility is based on accounts receivable and has been extended through a multi-year agreement. ProStar, founded in March 2011, specializes in the hauling of water, both completions water and production water, in the North Dakota Bakken region.

• **Stallion Tank LLC**, Salt Lake City, has been sold to Tampa-based **QualaWash Holdings LLC**, which bills itself as North America's largest independently owned provider of commercial cleaning and maintenance services to the portable bulk container industry. Stallion Tank president Troy Taylor joins QualaWash as its regional manager, overseeing operations in the mountain region.

**TRAVEL & TOURISM**

• **Visit Salt Lake** recently won the bid to host the **2015**

**Annual Meeting for the Society of Environmental Toxicology (SETAC)**. Scheduled for November 2015 at the Salt Palace Convention Center, the citywide convention will attract approximately 2,500 attendees and generate more than \$2.3 million in direct attendee spending. SETAC is a worldwide professional society focused on the study, analysis and solution of environmental problems.

• The **Ogden/Weber Convention and Visitors Bureau** has partnered with **Get Away Today Vacations** to make ski trips more affordable this winter. The partnership has created exclusive packages with the area's top hotels and ski resorts. Affordable options range from a weekend getaway to a destination experience in the recently ranked number one U.S. ski town (*Powder* magazine).

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## Non-competition agreements and the non-signing spouse

Almost every franchise agreement and similar agreement contains a non-competition provision or separate agreement. Depending on the jurisdiction, these non-competes have varying enforceability. The well drafted non-compete will be written to protect the franchisor's brand, goodwill, product and/or service and trade secrets, while not overly restricting the franchisee's ability to work in the field in which he or she has been trained.

In Utah, the non-compete will typically be enforced if a balance is struck between protecting the franchisor and its legitimate business interests and protecting the franchisee's ability to find gainful employment. Utah courts have held that the enforceable non-compete will meet the following four criteria: (1) the agreement is supported by consideration; (2) the agreement is negotiated in good faith; (3) the agreement is necessary to protect the goodwill of the business; and (4) the agreement is reasonable in its restrictions as to time and geographic scope.

The likelihood of enforcing the non-compete increases substantially when these requirements are met. However, the question often arises as to whether that same non-compete is enforceable on the non-signing spouse in the franchise or other business relationship. This question has been the source of much litigation over the years. Nationally, the courts are divided as to whether or not a non-signing spouse can be held to the terms of the non-competition agreement. Utah remains unclear. But business owners and their advisors need to be aware of a recent Wisconsin ruling which has brought this issue to the forefront as to whether a non-signing spouse can be held liable for under the terms of the non-compete.

In *Everett v. Paul Davis Restoration Inc.*, Sept. 18, 2012, the Wisconsin court held that the non-signing wife had not directly benefited from her husband's franchise agreement and therefore could not be bound. The court wrote, "in order to hold Ms. Everett to a contract she did not sign, PDRI must show that she benefitted directly from the contract, not the business that the contract made profitable." This case is particularly egregious to many in the franchise industry due to the fact that the signing husband "sold" the business to his wife. He stopped being a franchisee, but his wife took the concept and began operating a competing business.

However, several other courts have held exactly the opposite. Tennessee, Indiana and Massachusetts all have cases that hold in favor of the franchisor or the business being harmed by the violation of the non-competition agreement by the non-signing spouse.

If you are a franchisor or business owner, how can you know if your non-compete will be upheld against a non-signing spouse? Ultimately, the courts finding a violation of the agreement against a non-signing spouse examine the issue on three levels.

First, did the spouse benefit from the agreement at the heart of the non-competition agreement? If a spouse worked in the

business (franchise or otherwise) then there is a more likely argument that the spouse received an actual benefit from the agreement. Depending on the franchise system, there may be a greater likelihood of finding this spousal benefit.

Second, is the non-signing spouse acting as the alter-ego of the signing spouse? Similar to a corporate veil argument, many courts will look at who is actually running the business and how much information from the prior business is being used to make the current business successful. One Illinois court put it this way: "there must be evidence that she aided or operated in concert with the covenantor to breach the covenant or that she was the alter ego of the covenantor."

Third, how much confidential information did the non-signing spouse have access to? This is difficult to prove, but the greater the access to confidential information, the more likely the non-compete will be enforced. If the non-signing spouse attended conferences or trainings, or participated with the franchisor on operational matters, the franchisor will have a less difficult task in proving this.

As a franchisor and other business owner, the safest way to move forward if you are worried that a spouse might try and circumvent the purposes of the non-competition agreement is to have every spouse sign a non-compete. This presents problems in and of itself including the fact that many spouses will refuse to sign, but it does give the protection that many courts fail to provide to franchisors and other business owners.

Kara K. Martin is an attorney with the Franchise Business Law Group, a part of the law firm Thompson Ostler & Olsen. Her practice areas include franchise law, business opportunity law, trademark law, contract law, business law, and related fields of law. Martin is also the current vice chair of the Franchise Section of the Utah State Bar.



Kara Martin



Mark Lund

## SEP IRAs — useful savings plans for the smallest businesses

Do you own a small business with a few employees? Are you self-employed? In either case, the SEP IRA may be the ideal low-cost, easily administered retirement savings plan for you.

This is a simple pension plan using a traditional IRA. (SEP stands for Simplified Employee Pension.) It lets you put aside money into individual IRAs for you and your employees, with lower administrative fees and less paperwork than other types of retirement plans.

Tax-deferred compounding of pre-tax dollars. You contribute pre-tax dollars to a SEP IRA, and that has the effect of lowering your tax bill. The money in the IRA grows tax-deferred, and your business doesn't pay any taxes on the IRA earnings. The assets can be invested in myriad ways.

The traditional IRA rules apply. When you take the money out of a SEP IRA for retirement, you pay ordinary income taxes on it. (Should you withdraw SEP IRA assets before age 59.5, you'll likely be assessed a penalty, with some exceptions.)

Contributions are discretionary. Each year, you can contribute or not contribute to the IRA(s) involved. The amount you put into the IRA(s) can also vary. In 2012, you can contribute up to 25 percent of an eligible employee's compensation, up to a limit of \$50,000 (\$51,000 in 2013). No catch-up contributions are permitted for older employees.

A three-point employee eligibility test. Generally, employees of a small business are eligible for a SEP IRA if they (1) are older than 21, (2) have worked for the business in at least three of the five years preceding the year in which the IRA contribution is made, (3) have received \$550 or more in compensation from the business in 2012 (this can rise with COLA

adjustments in future years). However, the IRS states that an employer "may use less restrictive requirements to determine an eligible employee."



Employees covered by a union contract may be excluded from a SEP, as well as nonresident aliens who have not earned income from your business.

All eligible employees must participate in the SEP, including part-time and seasonal workers and employees who die, quit or get laid off or fired during the year.

Starting up a SEP IRA is easy. You can open up one of these plans with the help of almost any financial advisor or financial institution. In fact, you can even have other retirement plans at your business in addition to SEP IRAs, and you can set up a SEP IRA for your small business even if you are already participate in another retirement plan at another company.

Sole proprietors, partnerships and corporations can all create SEPs. In fact, they may qualify for annual tax credits of up to \$500 during the plan's first three years, which can be applied toward the plan's start-up costs. So if you have a small business or work on your own and you want a retirement plan that works for your future without a lot of hassles, a SEP IRA may be right for you.

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


  
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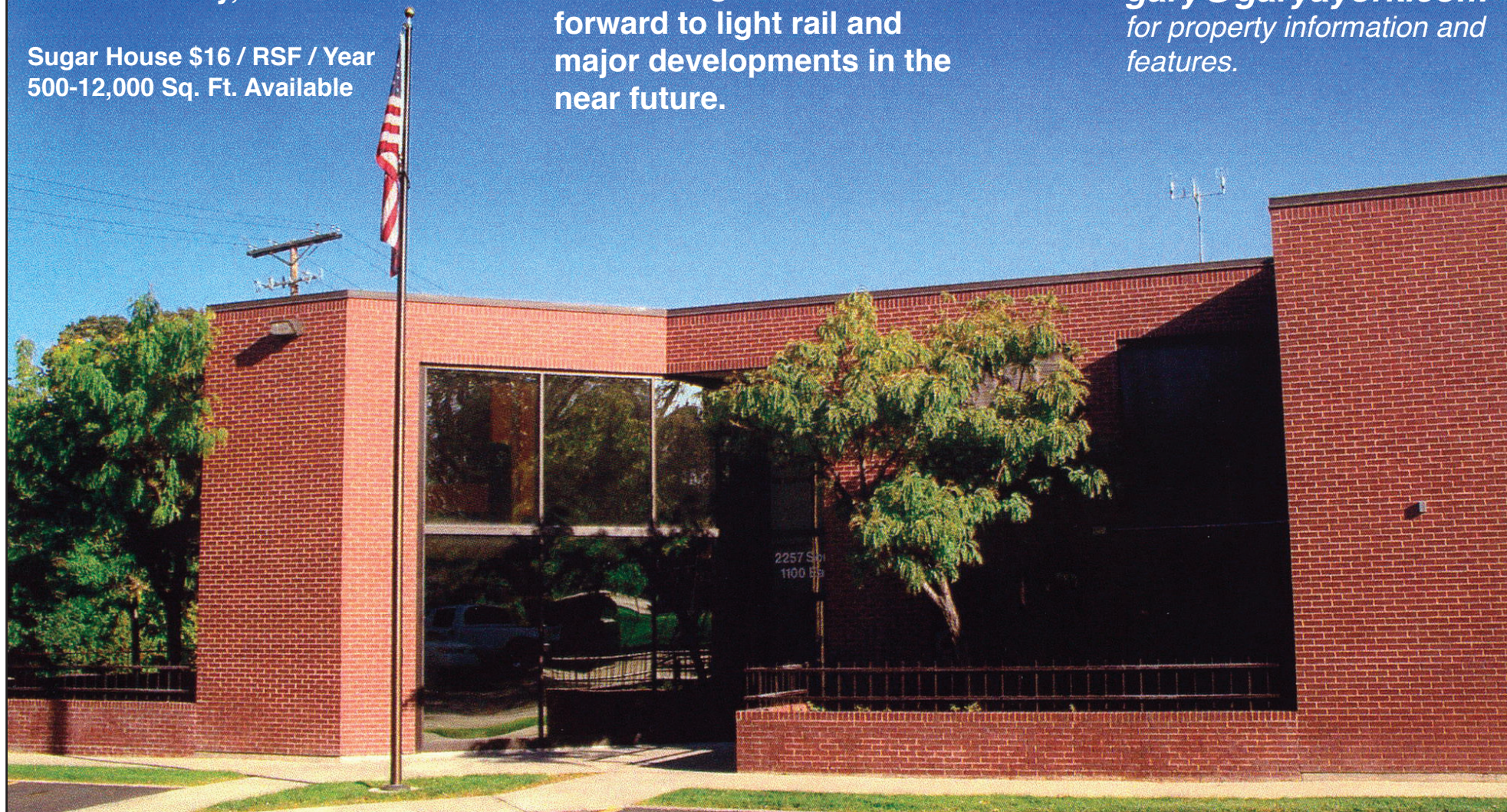
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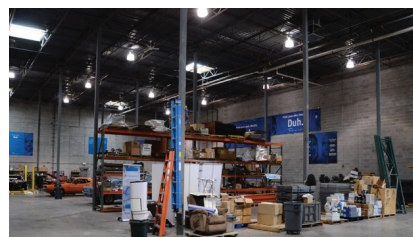
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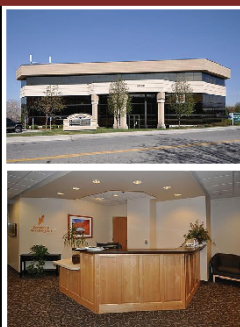
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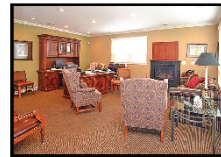
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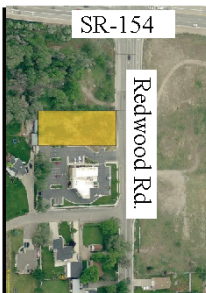


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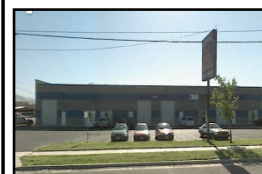


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## Fiscal deal passes as House GOP clown car crashes, again

Observing the Congressional Republicans repeatedly stumble in and out of their caucus clown car, blowing loud kazoos and muttering angry threats, should be painful, embarrassing and highly instructive to any American voter with the patience to watch.

When their latest performance concluded late Jan. 1 with a 257 to 187 vote passing the stopgap fiscal deal negotiated by the Senate and the White House, an unavoidable question lingered: What is wrong with those people?

The simple explanation is that the House of Representatives has increasingly been dominated over the past two decades by a coterie of tantrum-prone extremists, who lack the probity and steadiness required for democratic self-government. Their diminished capacity is reflected in the low quality of leadership they have chosen during this long twilight, from Newt Gingrich, Dennis Hastert and Tom DeLay to John Boehner and Eric Cantor, even as their politics have grown more and more extreme.

Under the stress of their incoherence, the Republican caucus is

unable to escape one humiliating mess after another. The damage they routinely inflict on the country's economy and future is reaching incalculable levels — and is almost certain to grow worse when they again hold the debt ceiling

hostage next month.

By the end of the current episode, which is only an interlude rather than a true resolution, the top Republicans in the House had split, with Boehner casting a rare vote in favor, and House Budget Committee chair and former vice presidential nominee Paul Ryan voting yes, along with 84 fellow Republicans and almost all of the House Democrats, while House Majority Leader and would-be Speaker Eric Cantor voted no. On the floor, House Ways and Means chair Dave Camp tried to claim that this bill is “the largest tax cut in history,” although he might have difficulty explaining why more than 150 Republicans voted against it.

The Republicans' incompetence in government is inextricably connected with their ideological extremism, as the latest events

demonstrate. Hogtied by the craziness of the ultra-right Tea Party faction, the House GOP leadership cannot even cooperate with other Republicans in the Senate — who overwhelmingly voted for the “cliff” deal negotiated with Vice President Joe Biden — let alone conduct serious discussions with the White House.

Having refused to support the leadership's “Plan B” scheme to raise taxes only on households making \$1 million or more annually — despite confident claims by Boehner and Cantor that they had counted the necessary votes — the Republican caucus made both themselves and their leaders look ridiculous. It was a dreadful right-wing plan, but still much too liberal for too many of them. Tacitly acknowledging that he could no longer manage his restless wingnuts, Boehner insisted that the Senate and White House should come up with an emergency measure on their own.

Yet when the Senate leadership, including Minority Leader Mitch McConnell, offered a bill negotiated with Vice President Joe Biden — just as Boehner had urged — the House Republicans

descended into crisis. Their leaders couldn't endorse the bill, fearing that the GOP caucus crazies would defenestrate them. But they could hardly employ their usual partisan tactics to keep the bill off the House floor, after the Senate had passed it by a vote of 89-8 with only five Republican defections. They might have noticed as well their declining numbers in every public poll, with the latest Republican-leaning Rasmussen survey showing a Democratic lead in the generic congressional contest of 11 points and climbing.

Astonishingly, they nevertheless wasted several hours debating whether to amend the bill with new spending cuts and then send it back to the Senate, where leaders of both parties would have surely and justly rejected such tardy handiwork. Consistent only in their ineptitude, the House Republicans were reportedly unable to agree among themselves on exactly how to change the bill, in any case.

Finally, they folded — or at least their leaders did — and proclaimed that they were girding themselves for the battles to come over the budget and the debt ceiling, which have now been post-

poned for another month or so.

The deal itself is not a bad one, from the Democratic perspective, raising significant new revenues from the wealthiest taxpayers and excluding any “grand bargain” (or raw deal) to weaken Medicare, Social Security and Medicaid. Its specific provisions are still far too generous to the highest-income taxpayers and will not, in the long run, raise enough revenue to sustain decent government, rebuild the nation's infrastructure, and prepare for the future.

The struggle over what government should do and how to pay for its functions continues, almost immediately. And perhaps soon the president and his party will explain, without hesitation, what this brief tumble over the “cliff” has shown us, and what we may hope they have finally learned: That there is no negotiating partner among the House Republicans, who must be defeated if progress is to be possible.

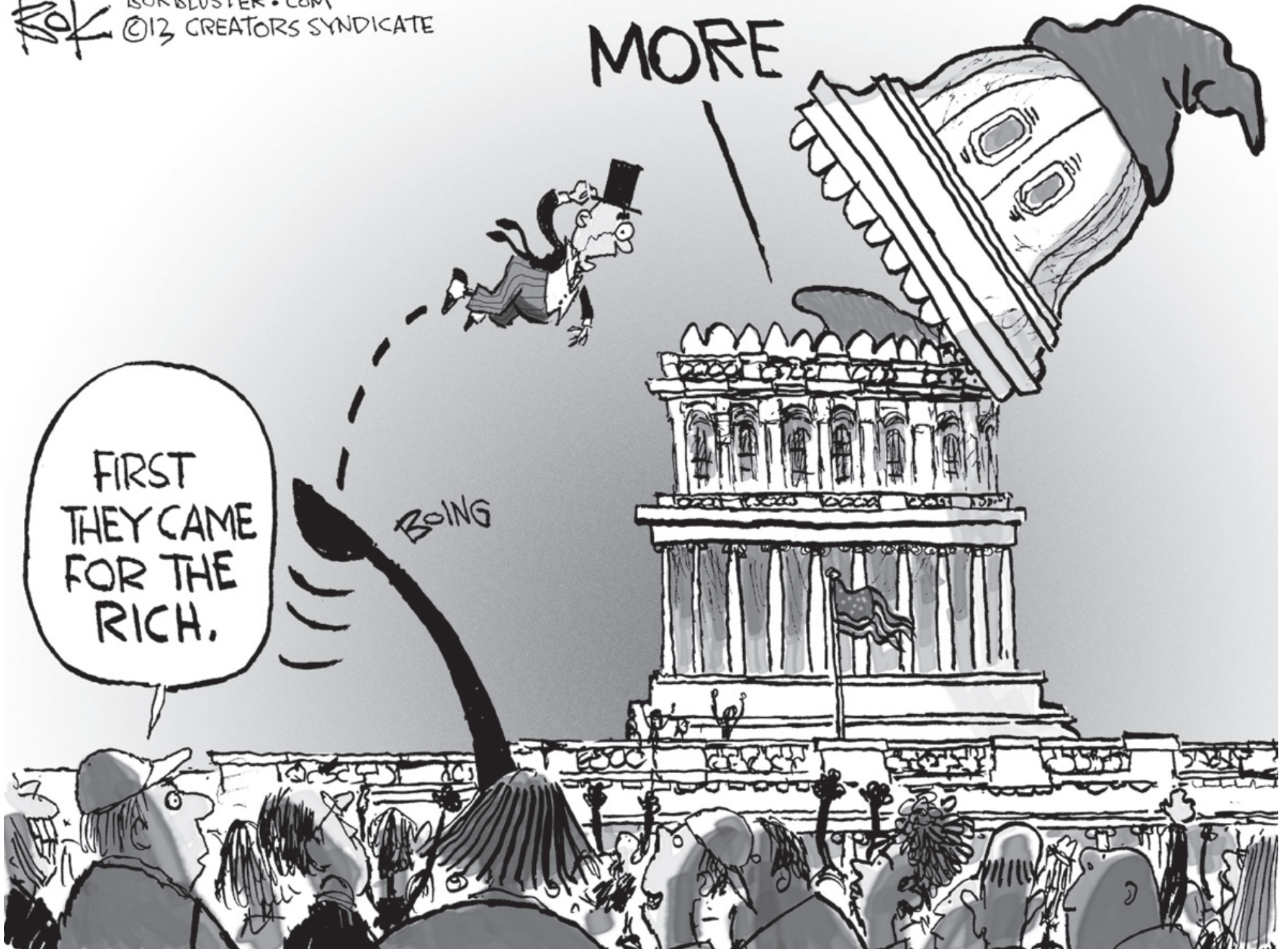
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## The role of 'educators'

Many years ago, as a young man, I read a very interesting book about the rise of the Communists to power in China. In the last chapter, the author tried to explain why and how this had happened.

Among the factors he cited were the country's educators. That struck me as odd, and not very plausible, at the time. But the passing years have made that seem less and less odd, and more and more plausible. Today, I see our own educators playing a similar role in creating a mindset that undermines American society.

Schools were once thought of as places where a society's knowledge and experience were passed on to the younger generation. But, about a hundred years ago, Professor John Dewey of Columbia University came up with a very different conception of education — one that has spread through American schools of education, and even influenced educa-

tion in countries overseas.

John Dewey saw the role of the teacher, not as a transmitter of a society's culture to the young, but as an agent of change — someone strategically placed, with an opportunity to condition students to want a different kind of society.

A century later, we are seeing schools across America indoctrinating students to believe in all sorts of politically correct notions. The history that is taught in too many of our schools is a history that emphasizes everything that has gone bad, or can be made to look bad, in America — and that gives little, if any, attention to the great achievements of this country.

If you think that is an exaggeration, get a copy of *A People's History of the United States* by Howard Zinn and read it. As someone who used to read translations of official Communist newspapers in the days of the Soviet Union, I

know that those papers' attempts to degrade the United States did not sink quite as low as Howard Zinn's book.

That book has sold millions of copies, poisoning the minds of millions of students in schools and colleges against their own country. But this book is one of many things that enable teachers to think of themselves as "agents of change," without having the slightest accountability for whether that change turns out to be for the better or for the worse — or, indeed, utterly catastrophic.

This misuse of schools to undermine one's own society is not something confined to the United States or even to our own time. It is common in Western countries for educators, the media and the intelligentsia in general to single out Western civilization for special condemnation for sins that have been common to the human race, in all parts of the world, for thousands of years.

Meanwhile, all sorts of fictitious virtues are attributed to non-

Western societies, and their worst crimes are often passed over in silence, or at least shrugged off by saying some such thing as "Who are we to judge?"

Even in the face of mortal dangers, political correctness forbids us to use words like "terrorist" when the approved euphemism is "militant." Milder terms such as "illegal alien" likewise cannot pass the political correctness test, so it must be replaced by another euphemism, "undocumented worker."

Some think that we must tiptoe around in our own country, lest some foreigners living here or visiting here be offended by the sight of an American flag or a Christmas tree in some institutions.

In France between the two World Wars, the teachers' union decided that schools should replace patriotism with internationalism and pacifism. Books that told the story of the heroic defense of French soldiers against the German invaders at Verdun in

1916, despite suffering massive casualties, were replaced by books that spoke impartially about the suffering of all soldiers — both French and German — at Verdun.

Germany invaded France again in 1940, and this time the world was shocked when the French surrendered after just 6 weeks of fighting — especially since military experts expected France to win. But two decades of undermining French patriotism and morale had done their work.

American schools today are similarly undermining American society as one unworthy of defending, either domestically or internationally. If there were nuclear attacks on American cities, how long would it take for us to surrender, even if we had nuclear superiority — but were not as willing to die as our enemies were?

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

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