

# Nevada Business

THE DECISION MAKER'S MAGAZINE

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Models Get a New Swing*

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# The Margin Tax Proposal:

## Initiative will Kill Business in Nevada

As a Nevada business owner or executive, you're probably hoping that 2014 will be the year our state finally climbs out of the depths of the recession, but the so-called "Education Initiative," which will come before the voters on the November 2014 ballot, could spell the end of any hopes for economic recovery. It has the potential to kill business in our state.

Here's a brief outline of the proposal, which is more commonly (and more accurately) known as the Margin Tax Initiative:

In 2012, the Nevada AFL-CIO and the Nevada State Education Association (the teachers' union) filed an initiative petition to institute a 2 percent tax on the gross receipts of most Nevada businesses. They got the necessary number of signatures by claiming that funds raised from this tax would be used to support education.

Unlike a corporate income tax, which taxes profits, the margin tax would be assessed on a company's revenues, regardless of whether it was making any profit. The tax would be assessed on all companies with more than \$1 million in revenue, and would take two percent of that revenue after a few allowable deductions. The easiest option would be to deduct 30 percent of your gross revenue, so you would be taxed 2 percent on 70 percent of your sales.

For example, if your annual sales total \$1 million, you would pay 2 percent of 70 percent of your revenue, or \$14,000, regardless of what your profit margin is, or even if you're not making a profit at all. If you operate on a 10 percent profit margin, your net profit would be \$100,000. So you would be paying \$14,000 out of your \$100,000 profit, an effective tax rate of 14 percent. This is much higher than California's corporate income tax rate of about 8.8 percent. If you're operating on a smaller profit margin, your effective tax rate would be even higher. The easiest way to figure out what your tax liability would be is to take your sales figure for the last 12 months (remember: sales, not profit) and multiply it by 1.4 percent. This is what you'd be paying to support the teachers union and their cronies, because there's no provision in the initiative earmarking any of these funds for classroom instruction.

The only other state with a margin tax is Texas, where small businesses complain of disproportionate costs because they don't have a staff of CPAs to handle all the paperwork required. Those who want to use the "cost of goods sold" calculation instead of deducting 30 percent of sales would be especially hard hit, according to the Nevada Taxpayers Association (NTA), because the margin tax calculates it differently than the IRS, so a business would have to keep two sets of records. The initiative also requires the Department of Taxation to post on its website the name of each taxpaying business and the amount of any tax paid, which has never been done before. Would you want your competitors to know what your gross receipts are?

According to the Tax Foundation, which publishes an annual list of business-friendly states, "Gross receipts taxes are distortive and destructive. Nevada should be careful about its options, as its ability to attract investment and capital depends greatly on its favorable tax climate." Adding the margin tax would substantially drop our business-friendly ranking and sabotage the state's efforts to diversify our economy. According to State Senator Michael Roberson, "The margins tax is a misguided, job-destroying tax. It will thwart economic development, drive existing businesses out of Nevada and put thousands of Nevadans out of work."

If you care about the financial health of Nevada businesses, and of the overall Nevada economy, you need to educate yourself NOW about this dangerous proposal so you can spread the word about it and start working to defeat it.

*By Whose Authority?*

*For more information on my Commentary and to see some of the backup research, or if you wonder why I take the position I take, go to [www.LyleBrennan.com](http://www.LyleBrennan.com).*



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Pacific Links International

**PHOTO BY:**  
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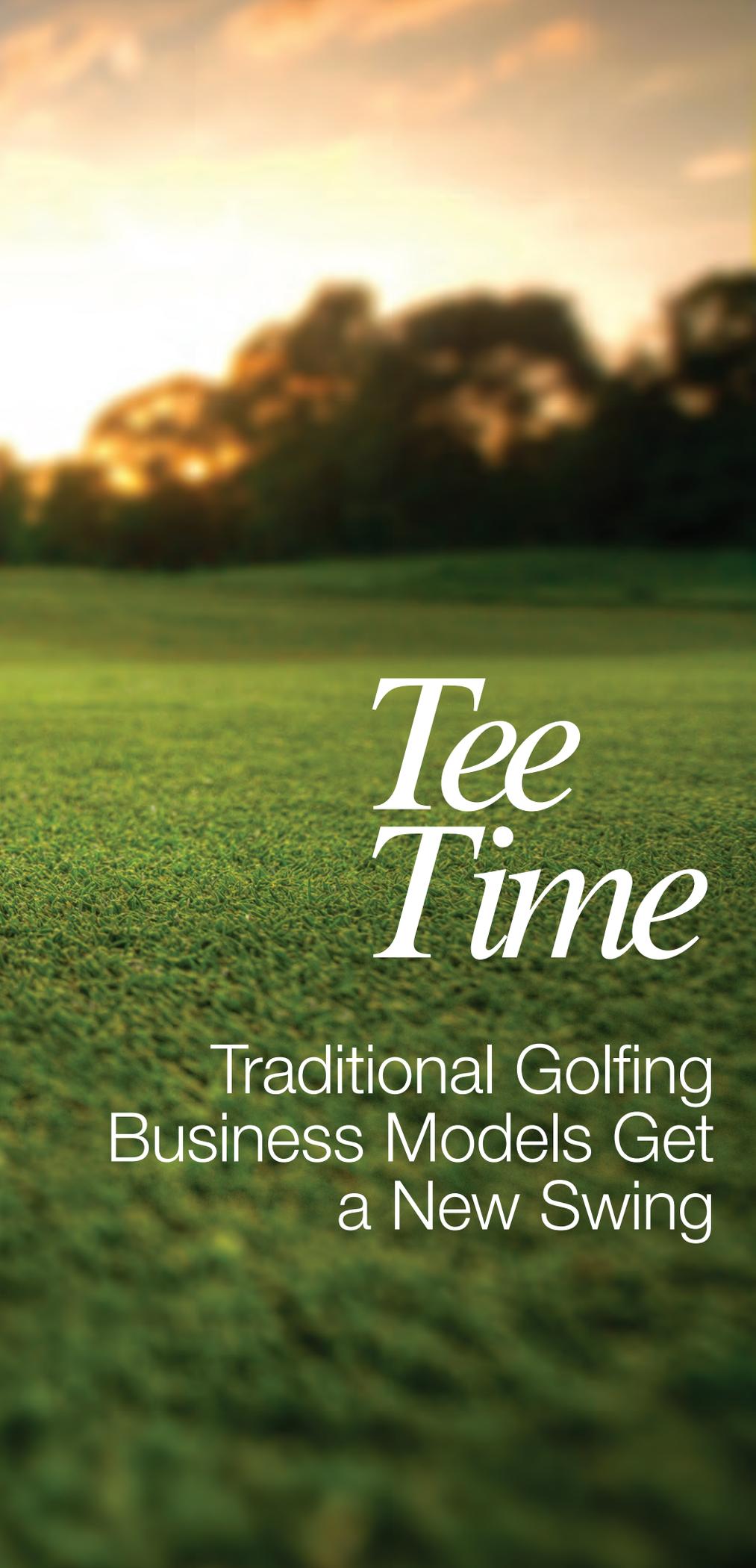


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# Tee Time

## Traditional Golfing Business Models Get a New Swing

*By Norman Bell*

**For** generations, golf and business have gone together like steak and red wine.

Business executives forged bonds as they stalked a golf ball on a four-plus-hour hike across a beautifully manicured countryside. They exchanged small talk and found time to talk a little business, if not on the course then certainly over a drink or a meal in the clubhouse.

But times are changing. The accelerating pace of business and daily life can make it tough to justify a half-day commitment to anything, much less a round of business golf.

“Golf is still a wonderful place to get business done,” said Harry Turner, regional vice president for the Mainland U.S. for Pacific Links International in Henderson. “Playing a round of golf tells a lot about a person’s style and integrity.”

But the new normal includes so many competing demands on time that a four-plus-hour golf outing has become a luxury fewer can afford.

Nevada’s golf operators – both private clubs and daily-fee courses – are feeling the pinch and adapting.

The prevailing headwinds have been strong. The National Golf Foundation estimates nearly 3 million golfers put down their clubs between 2008 and 2011.

Tough economic times spelled more hours at the office and fewer on the course. Corporate golf club memberships dropped sharply and about 150 courses across the nation closed in 2011 alone.

There’s unanimous agreement that Nevada is feeling the oversaturation of courses that plagues the industry, and corporate golf club memberships are unlikely to return to peak levels anytime soon.

Locally, foreign investors are seeing opportunity where others see only headaches.

Stallion Mountain Country Club in Las Vegas was sold in October to C-Bons International Golf Group, a Chinese outfit with a U.S. beachhead in Gilbert, Ariz. C-Bons has hired Reno golf management firm Borders Golf Group to operate the property. Borders handles a host of premium locations in Colorado’s ski country and in California. The same team of C-Bons and Borders plucked Moon Valley Country Club in Phoenix from bankruptcy in 2012.

## New Business Models

Pacific Links, a three-year-old Canadian company with an aggressive clustering strategy, is under contract to buy Dragon Ridge in Henderson. When the deal closes

this month, it’ll be the third course in Las Vegas’ Valley the company has bought since 2011. And it wants more.

What is emerging from the chaos is a study of contrasting business models – those weaving golf into a lifestyle, those leveraging brand cache and those tied to the resort trade.

From his office near Lake Las Vegas, Turner oversees a growing string of golf courses for Pacific Links International. There’s the Pete Dye Golf Club in Bridgeport, West Virginia and Dove Canyon in Southern California. Dragon Ridge will soon join Southern Highlands and South Shore in the Las Vegas area. Other divisions of

“I’m in the relationship business and it’s virtually impossible to get people in business to spend quality time with you.”

— Kevin Camper

the company handle a string of five courses in Hawaii, one in China and manage affiliate arrangements with dozens of clubs around the world. It’s quite a portfolio for a company that’s just three years old. And Turner confirmed Pacific Links is on target to add 50 courses – a mix of acquisitions and affiliations – by next summer. It plans to add another 100 within three years.

The credit goes to a business model that seeks to add value to the traditional golf club membership, Turner said, quickly adding that access to capital is a big help, too. Turner came on board in 2011 when Pacific Links bought the South Shore course from Textron Financial. South Shore is Turner’s baby, a quality course wrapped in a master-planned community of golf

course-oriented living. He was part of the team that built the course in 1992. It’s “a very, very special course,” he said, “perhaps the best course design work of golf legend Jack Nicklaus.”

Pacific Links International founder, Du Sha, agrees and plays the course every time he comes to Las Vegas, Turner reported. That joy of playing challenging courses is one of the driving forces behind Pacific Links’ strategy. The company is focused on adding value to the traditional golf club membership. That starts with access to dozens of clubs around the world for vacation and business use. Golfers don’t like being tied to one course; they love new challenges, he said.

And that extra value extends to entertainment options for the whole family – from a cycling seminar to cooking classes. There are swimming pools and tennis courts, dances and musical events. Southern Highlands has a well-developed day spa program. South Shore has The Lakes, which bills itself as ‘Las Vegas’ most elegant venue’ for weddings and banquets.

Then there’s Pacific Links’ unique approach to membership fees. In a traditional model, a membership

comes with a stiff buy-in and entails partial ownership of the club, with all the complications that implies. At Pacific Links, the non-refundable membership fee may be just 10 percent of the total. The rest can be financed over five to ten years interest free. If economic circumstances change, the membership is portable. And, worst case, a member can just walk away from the smaller investment. Turner described the approach as “removing roadblocks” to membership.

On the operations side, Turner said there are certainly economies of scale that come with the clustering strategy. And growth to six or eight Las Vegas area courses is in the plan, he confirmed.

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**MVP REIT TEAM:** (Left to Right) Dustin Lewis, Dalila Bueno, Craig Burr, Michael Shustek, Ira Levine, Jennifer Tsuneta, Shannon Haddow, Daniel Stubbs

## Potential Advantages of a Hybrid REIT

MVP REIT, Inc. invests in a diverse portfolio of direct investments in real property and income-producing real estate-secured loans. The firm is led by an experienced executive team that has originated and managed commercial real estate lending transactions valued in excess of \$2.5 billion. The team has experience in real estate, lending and in the management of public companies.

As a hybrid, MVP REIT seeks to provide its investors with a full range of potential benefits that investments in commercial real estate and real estate-secured loans may provide, including income from rents on commercial properties, a potential hedge against inflation, capital appreciation and portfolio diversification. Achieving these benefits will depend, to a significant extent, upon market conditions and the ability of MVP REIT to make prudent investment decisions. The mission of MVP REIT is to provide investors the potential opportunity to benefit from commercial real estate.



## Understanding Real Estate Investment Trusts

A real estate investment trust, or REIT, is a company that combines the capital of many investors to acquire or provide financing for a diversified portfolio of real estate investments under professional management. REITs are required by law to pay distributions to stockholders of at least 90 percent of their annual taxable income.

Congress created REITs in 1960 to allow individuals the opportunity to invest in large-scale commercial properties - expensive assets that typically had been owned by institutions and the very wealthy. The REIT industry has grown dramatically in size and importance since that time.

REITs allow the potential opportunity to diversify in a variety of property types. Choosing the right type of property to invest in may be the key to a successful investment.

## Investing in Opportunity

MVP REIT, as a company, seeks to build a portfolio comprised of income-producing commercial real estate assets. While the company invests broadly in commercial real estate, company leadership continually looks for opportunities in attractive asset classes including self-storage properties and parking facilities.

MVP REIT intends to employ a strategic diversification investment plan centered on opportunities in growing markets. The company searches for potential opportunities to acquire under-valued income-producing assets in these markets. The company's primary goal is to help clients tap into real estate opportunities historically only available to large institutions.

## Why Parking and Self-Storage?

Americans own more than 250 million passenger vehicles, or roughly two per household. For investors, parking may provide a host of benefits. A parking facility has low capital costs and limited maintenance

requirements. Many parking facilities have minimal labor expenses and as automated services grow, those labor expenses lessen. Tenant improvements and leasing commission costs are not an issue with parking facilities. Parking is estimated to bring in \$25 to \$30 billion in annual U.S. revenue. Additionally, should inflation rise, parking facilities can react more quickly than other real estate assets, as rates can be adjusted daily or even hourly.

Americans increasingly rely on self-storage. The industry is among the fastest growing and most popular commercial property types. Self-storage is an asset class that provides an opportunity to own income-producing real estate with low operating costs. Additionally, storage facilities utilize short-term leases, allowing for quick adjustments to rental rates to account for rising inflation.

Like parking, self-storage has low operating costs and often doesn't require expensive leasing commissions or tenant improvements. There is a demand in the U.S. for the industry as nearly every one in 10 households rent a unit and it has remained one of the fastest growing sectors of commercial real estate since 1977.

In 2011, the U.S. self-storage industry generated over \$22 billion in annual revenue and has been considered by Wall Street analysts to be 'recession resistant' based on the industry's performance. While rents may be adjusted to account for inflation, rents may still be affected by vacancies, changes in supply and demand for a specific property bankruptcies or insolvencies of tenants, operating expenses, uninsured losses, and other risks.

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## The Classics

At TPC Summerlin, Garfield Ogilvie, director of sales and marketing, sees a brighter future for the classic membership model.

TPC uses the cache of the Tournament Players Club brand and its role as the host of Las Vegas' sole pro tour event to attract a host of corporate clients and executives who regularly mix business and golf.

Kevin Camper, senior vice president at Las Vegas Speedway, plays TPC Summerlin about once a week. "I'm in the relationship business," he explained, "and it's virtually impossible to get people in business to spend quality time with you." Offering a memorable golf experience changes the calculation.

"People still want to do business with people they know and trust," he said, and providing a memorable golfing experience, "resonates really well."

Camper, who plays to a 14 handicap, said clients recognize the TPC brand and want to play where the pros play. He pays for a membership out of his own pocket, although the speedway does reimburse him for clients' greens fees.

Over the years, the aura of the 'in' course shifted as quickly and as often as skirt lengths. The Las Vegas Country Club has been the home to the PGA's Las Vegas Invitational and the LPGA's Takefuji Classic. Stallion Mountain hosted the Las Vegas Invitational as well as the Frank Sinatra Celebrity Classic.

But today, TPC Summerlin boasts it is the home to Las Vegas' sole pro tour event, the Shriners Hospitals for Children Open. Just as importantly, Ogilvie pointed out, it is the home course to the more than a dozen tour pros who maintain homes in Las Vegas. With that distinction comes an obligation to keep the course in top shape year-round, he said.

TPC Summerlin is one of more than 30 courses licensed by the Florida-based



Garfield  
**Ogilvie**  
TPC Summerlin

PGA Tour organization. TPC Summerlin members have access to all the TPC courses – a mix of private, daily fee and resort-style courses that includes the nearby TPC Las Vegas. TPC Summerlin is owned and operated as a private club by PGA Golf Management, a subsidiary of the PGA Tour.

TPC Summerlin's appeal stretches beyond the links. Ogilvie rattles off a list of major companies that have used the course for functions, from a holiday party for Howard Hughes Corporation employees, to training seminars for Cox Cable staff.

Not long ago, revenue from such business functions was treated as "found money," he explained. But today TPC Summerlin has a business development specialist who pursues such business, which has turned into "a significant revenue stream."

Ogilvie acknowledges corporate memberships have fallen and with that so have prices. A corporate membership that once went for \$55,000 is available for \$18,000 today, he said, adding it's a great opportunity for smaller businesses. At the same time, individual memberships are up. The total membership of about 490 is plenty to sustain the private club, he said.

## The Traditions

And then there's Shadow Creek.

Golf and Las Vegas resorts have been synonymous since the days of Bugsy Siegel and the early incarnations of the Flamingo.

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# BETTING ON GAMING IN NEVADA

by Jennifer Rachel Baumer

**Nevada** and gaming go together like peanut butter and jelly. The industry has been Nevada's foundation for so long it's hard to think of one without the other. However, as gaming changes, Nevada has found itself adapting and learning to find new ways to earn revenue in a market that, it would appear, everyone wants a piece of.

The bill allowing online poker in Nevada was signed into law in February, 2013. Two interactive sites are up and running, for less than six months, meaning there's not enough data to assess the impact of online gaming on the Nevada economy. Long-term effects remain to be seen.

"I think it's going to be an incremental increase; I don't think it's going to be huge," said David Schwartz, director, UNLV Center for Gaming Research. "It's going to be small at first because when you look at poker, it's only about 1 percent of the total gaming revenue. Online is going to be a subsection of that, so it's not going to be a huge, immediate game changer."

In fact, because the size of the online poker market isn't yet known, the Gaming Control Board didn't include estimates on revenue from it in the economic forecasts presented to the 77th Session of the Nevada State Legislature, according to A.G. Burnett, chairman, Nevada Gaming Control Board. Research from the Las Vegas Convention and Visitors Authority (LVCVA) indicates that the casino games played most often were slots (70 percent in 2009, 63 percent in 2011) while poker came in at 4 percent and 5 percent for those years.

"Many analysts speak to the small population in Nevada as being representative of the overall 'liquidity market' for online poker," Burnett said. But keep in mind that Nevada allows non-residents to sign up and play as long as they're within Nevada's borders, a fact verified by sophisticated geo-location techniques including everything from GPS to cell phone tower triangulation. Including non-residents in the mix creates a potential for tens of millions to play, given Nevada's visitor numbers.

## Games Changers

Online poker is one of the changes coming to the Nevada economy's mainstay – gaming. While diversifying the Nevada economy has been the battle cry for decades now, gaming remains a vital component of the state's income. The industry survived the economic downturn in part because Nevada remains a drive-to destination for visitors.

"They've survived. I think that's significant," said Virginia Valentine, president, Nevada Resort Association (NRA). The industry is recovering, though visitor lev-



David  
**Schwartz**  
UNLV Center for  
Gaming Research

els haven't returned to their pre-recession highs during 2006 and 2007. According to Valentine, recovery in Southern Nevada is somewhat stronger than recovery in the north.

Statewide, gaming revenues decreased for two consecutive calendar years, then increased for three years in a row (2010 through 2012), according to Burnett. However, total revenue in 2012 was \$2.0 billion, 15.5 percent below Nevada's peak level of gaming revenue, \$12.8 billion in 2007. Gaming saw a greater percentage loss during the recession than U.S. real gross domestic product, U.S. personal income and national U.S. gambling, according to research from UNLV Center for Business & Economic Research.

Since recovery began, U.S. gambling has increased 8.76 percent, U.S. GDP 12.23 percent, personal income by 11.28 percent and Las Vegas Strip gross gaming revenue remained down 9.4 percent in May 2013 from its peak; however, in Clark County gaming revenue was 8.7 percent higher in September 2013 than in September 2012, mostly due to increased baccarat play.

The gaming industry has come back very inconsistently, said Schwartz. In the North, Lake Tahoe and Reno gaming economies were suffering before the recession hit, and the recession exacerbated the situation; the decline in Northern Nevada gaming has only just stopped. "It's leveled out, but it's certainly not at the level it was several years ago."

The numbers showing visitor volume and room nights and recovery in general may be somewhat skewed – during the recovery period some 18,000 rooms have been added in Southern Nevada. In addition, the numbers of both domestic and international flights have increased into McCarran International Airport and occupancy rates are trending up. "In general the trends are all moving in the right direction," said Valentine. "But we still have a ways to go."

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## Chad Maze, AWMA®

**Practice Areas**

- Wealth and Estate Planning
- Investment Management
- Private Banking

Mr. Maze is Vice President and Senior Director for BNY Mellon Wealth Management's Nevada / Arizona region. His practice focuses exclusively on advising financially successful families, their family offices, business enterprises and non-profits on full balance sheet wealth and investment management. Mr. Maze serves as a local, single point of contact to coordinate the intellectual and investment insights of his BNY Mellon colleagues in 35 counties and more than 100 markets around the world.

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## David Dasari, CFA, CAIA

**Practice Areas**

- Investment Management
- Portfolio Management
- Wealth Management

Mr. Dasari is a Senior Portfolio Manager in the Henderson Office. He focuses on building and managing globally diversified custom portfolios for high net worth and ultra-high net worth clients. Mr. Dasari has elite and advanced industry credentials such as CFA, CAIA, FRM, CFP. His clients are limited to individuals and institutions with investible assets of \$3 million and above. Mr. Dasari's 15 years of experience in financial services and managing client portfolios through uncertain economic times is marked by focus on risk. He ensures clients take appropriate and timely risk and are adequately compensated for that risk to reach their individual financial goals.

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## Dr. Stephen Brown

Center for Business &  
Economic Research, UNLV

While visitors are returning to the state and Las Vegas is experiencing record-breaking visitor numbers of some 39.7 million, the numbers of visitors haven't returned to 2007 levels. And, says Schwartz, these visitors aren't necessarily gambling. "People are coming here; they're just not gambling as much as they used to." Which isn't to say they're not playing – they are, but not at the same levels. "They don't have the same amount of discretionary income as they did before the recession, and there's a lot of economic concern today."

Some of that economic concern is exacerbated by events like the federal government shutdown that happened in October 2013. Effects of the shutdown continue to ripple throughout the economy. September and October visitor numbers in Las Vegas were down in 2013 as compared to 2012, according to Dr. Stephen Brown, director, Center for Business & Economic Research, UNLV. Overall for 2013 visitor numbers are down from the banner year Las Vegas had in 2012, and September and October are lower than they were in previous years, showing a lack of consumer confidence around the time of the shutdown.

It's not just the government shutdown that caused the shift; there's been a shift in gaming expenditure away from Nevada and into other states. "If we look over all U.S. gambling or gaming numbers, they've been growing about the same pace as the economy overall and if you look at Las Vegas and Nevada gaming numbers, there was a big bite taken out during the recession. Even though it's growing pretty strongly, we're still be-

low where we were," said Brown. Gaming numbers haven't kept pace with the growth seen at national levels – there are simply more gaming opportunities elsewhere in the country and they're taking a bite out of Nevada gaming.

## Beyond Gaming

At both ends of the state, visitors and convention authorities are working to diversify the Nevada gaming experience, adding events and themed weekends to attract visitors to the area. "A lot of properties have undertaken large capital projects to refresh and create new attractions," said Valentine.

"Revenues from entertainment, which includes shows, food and beverage, and other sources, continue to rise and were somewhat stable throughout some tough times," said Burnett. "Gaming revenues are starting to follow."

Continued gradual growth in statewide gaming revenue remains intact, Burnett said, driven by sustained growth in baccarat revenue, new investment and projects on the Las Vegas Strip, which continue to drive not only visitor numbers but to create jobs.

One of the new attractions to The Strip is Caesar's LINQ, an open-air retail, dining and entertainment district on the Las Vegas Strip, which will feature a 550-foot observation wheel similar to the London Eye. Other properties are undertaking large capital projects to update and create new attractions as they reinvent themselves and their properties in an effort to continue to attract visitors.

## What Happens in Vegas

While numbers may not be back where they were pre-recession, it's working to some extent: the Las Vegas brand is known.

"In other places people talk about Las Vegas-style gambling, so it's a strong brand. The quality of that entertainment

creates an experience so strong they actually call it in other places Las Vegas-style gambling, Las Vegas-style resorts,” said Valentine.

Property owners continue to market the tremendous value of the Nevada experience, the cost of hotel rooms compared to other parts of the country and the wide range of entertainment. Nevada casinos strive to broaden their offerings.

At the same time, offerings are becoming broader. Part of the inconsistency in the gaming industry’s recovery is due to competition from California’s Indian reservation casinos and alternative locations for gaming. The impact from such competition is being seen more in Northern Nevada than in the south, though the entire state is feeling the pinch with global competition and regional expansion.

“I would say the impact of competition varies from local markets to regional markets to international markets and even within those sectors there are probably as many different impacts as resort operators,” said Valentine.

Research provided by the LVCVA indicates that there are more places to gamble outside Las Vegas. Only 25 percent of visitors said they were somewhat or much more likely to visit Las Vegas. That number is down from 39 percent in 2009 and 35 percent in 2010.

In an attempt to revitalize the Nevada experience, five to 10 years ago property owners began diversifying their operations, bringing in a larger share of retail, dining and entertainment options as part of their business models. Today these attractions are a much larger share of the industry than strictly gaming. In surveys, 65 percent of visitors in Las Vegas attended shows during their stay, down from 72 percent in 2008.

“It’s not a gaming-only industry anymore,” said Valentine. “It’s a very competitive environment and Nevada still has the most to offer in accommodations,



Virginia  
**Valentine**

Nevada Resort  
Association

entertainment, retail and dining.” Property owners work closely with regional convention and visitors authority agen-

cies to protect the brand of Nevada and Las Vegas-style gambling. It’s a market brand visitors have come to be familiar with and, despite the proliferation of gaming in other states, people still seek the Las Vegas experience. “There are a lot of people who still see the brand as adding value and quality to the visitor experience, and diversifying their business model has been a big part of that.”



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## Game Changers

One of the changes coming to Nevada gaming is regulatory change. Nevada is the gold standard for gaming regulations worldwide, with state officials having the history and experience with licensing, the challenge for regulators has been preparing the state for interactive gaming licensing and the technology for mobile devices. Requiring regulators to keep up with the rapidly changing technology industry has been an added burden. “The Gaming Control Board is working very hard to see what is coming in terms of new technologies in the gaming space, be they land-based or online,” said Burnett.

Having been in the gaming business much longer than most other states, Nevada’s in the forefront, looking at online gaming and regulatory concerns since 2001, giving our state a head start over other jurisdictions.

“We’re in a position to move forward when the time comes to interact with other states,” said Burnett. “We also want to make sure we enter into agreements with states that have taken a similar approach to ours as far as regulation; things like player protection, problem gambling, setting appropriate limits, making sure the technology has been vetted, making sure the regulators are fluent in understanding the technology, etc.”

## Setting the Standard

Many states look to Nevada as the regulatory benchmark and if an operator or owner can get a license in Nevada, he or she can probably get licensed anywhere. Nevada’s statutory requirements are rigorous. A full-blown, non-restricted gaming license requires the individual or corporate entity to meet stringent requirements and it takes a lot of time to complete the process.

There are several different types of licenses and each features different requirements. A non-restricted gaming license for a new resort hotel casino owned by a publicly traded company with layers of intermediary and holding companies along with all of the officers and key employees is a complex, expensive and time-consuming process, according to Burnett.

The rate of applications for newly constructed casinos has gone down, said Burnett; the last new resort hotel casino application was for the Cosmopolitan, in 2009. Despite the decline in new properties opening since 2007, new properties are coming online including a small casino in downtown Reno and the stalled Echelon project in Las Vegas, which recently sold and is slated to be completed.

With regard to whether or not there are many new casinos opening, growth has been steady but certainly not like it was in the 90s, Burnett said. “We are seeing new growth in both Clark and Washoe County, which is a very encouraging sign.”

“We’re not all the way back yet, but trends are moving in the right direction,” said Valentine. “There’s a lot of competition out there and the industry is responding to that, trying to keep it fresh and exciting and market the brand.”

### ? SAY WHAT

*University of Nevada Cooperative Extension offices and partner offices statewide are encouraging Nevadans to test their homes for a dangerous gas – radon – and have made free test kits available through the end of February. Radon is a radioactive, colorless, odorless and tasteless gas that comes from the ground. The U.S. Environmental Protection Agency estimates that 21,000 Americans die each year from radon-induced lung cancer. Cooperative Extension has been working since 2007 to raise awareness on the dangers of radon.*

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# Roseman University Advances Plans for Southern Nevada-based Medical School

**P**lans to develop a private, allopathic medical school in Southern Nevada are moving forward following completion last November of a merger between the Nevada Cancer Institute Foundation and the non-profit, Henderson-based Roseman University of Health Sciences.

Through the merger, the University gained the former Nevada Cancer Institute's 184,000 square foot Ralph and Betty Engelstad Cancer Research Building. The facility will serve as the home of Roseman's College of Medicine along with the university's advanced research programs, which will continue the two institutions' shared missions of advancing medical research and education.

Roseman, founded in 1999 as the Nevada College of Pharmacy, has experienced rapid growth over the past decade by addressing its communities' needs for health care professionals in the fields of nursing, dental medicine, and health care business. The University also has a campus in South Jordan, Utah, which became the home of Utah's first pre-doctoral dental program in 2010. According to President Renee Coffman, the creation of an allopathic medical school in Southern Nevada is Roseman's next step in responding to its communities' needs. It is also a logical progression in the institution's evolution as a transforming force in health care education in the Intermountain West region.

"Roseman completed a feasibility study over a year ago that demonstrated a need for expanded undergraduate and graduate medical education in Southern Nevada. Subsequent third-party studies reinforce the need," said Coffman. "Currently, Las Vegas is the largest metropolitan area in the nation without a locally-based allopathic medical school.



Roseman is well positioned to build a high quality medical school, with support from and the expertise of partners in the community."

The groundwork for Roseman's College of Medicine began more than two years ago when the university began building a medical research program in leased laboratories in the Engelstad facility. Roseman hired teams of world-class researchers focused on pressing health issues in the U.S. and beyond, including cancer, diabetes and obesity and their related neuropathies, Alzheimer's and Parkinson's diseases, and cardiovascular disease. By utilizing state-of-the-art equipment and through collaborations with renowned researchers around the globe, Roseman researchers hope to make important discoveries that will lead to new treatments for these diseases, says Coffman.

With robust research programs and a facility secured, Roseman's development timeline for the College of Medicine is expedited. The university's Board of Trustees gave administrators full approval to proceed with planning last December, allowing Roseman to submit an application with the Liaison Committee on Medical Education, the accrediting body for medical schools, to initiate the accreditation process.

Coffman says, "Roseman is engaging in conversations and exploring collaborations in the Southern Nevada community to con-

tinue the comprehensive planning required to launch a medical school, including curriculum development and designing its undergraduate clinical training structure. If plans progress as expected, Roseman may enroll its charter class of medical students by fall 2017."

As with the university's other programs, Roseman will implement its highly effective educational model in delivery of the College of Medicine curriculum. The model is immersive and incorporates mastery learning, problem-based and active learning, cooperative and team-based learning, and a block curriculum designed specifically to support learning outcomes and the highest level of achievement for all students.

Roseman also assesses students based on its mastery learning philosophy, rather than the traditional testing and letter grading system. Students are assessed regularly on their knowledge and skills, and must score 90 percent or higher on assessments of their programmatic knowledge and clinical skills in order to progress in their programs.

Throughout the institution's history, the Roseman educational model has been proven to produce successful graduates. The best evidence of this success is student achievement on board licensure examinations; Roseman students and graduates achieve passing rates that are consistently better than national averages, with individual exam scores that are typically much higher than national averages.

"The university looks forward to applying its unique and effective academic model to medical education in order to produce highly competent doctors to join the outstanding medical community in Southern Nevada," said Coffman.



**RENO**

**HOW DID YOU FIRST GET INTO YOUR PROFESSION?**

In the early 1980s, I was working in the civil engineering industry when I started to yearn for more excitement and challenge in my life. When I made the career change, my father laughed and my mother cried.

**WHAT BUSINESS ADVICE WOULD YOU GIVE SOMEONE JUST STARTING IN YOUR INDUSTRY?**

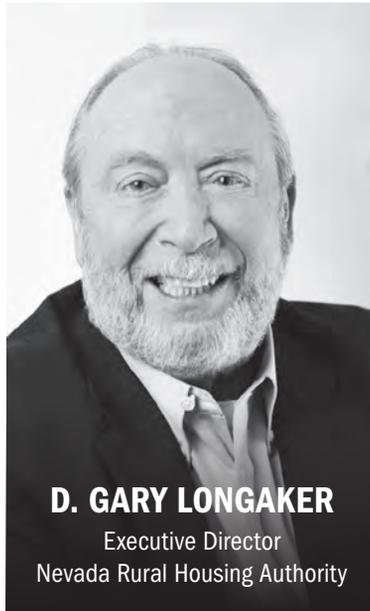
I would tell them to find a mentor and listen carefully to what they had to say. Also, to never underestimate the value of a post graduate degree regardless of age.

**WHAT DO YOU WISH YOU WOULD HAVE LEARNED AT THE BEGINNING OF YOUR CAREER?**

I wish I would have learned to be humble and appreciative; these are extraordinary and endearing traits for any leader.

**IF YOU COULD BE REMEMBERED FOR ONE THING, WHAT WOULD IT BE?**

I would like to be remembered for my involvement with Niagara Hospice while working in Niagara Falls, Canada.



**CARSON CITY**

**HOW DID YOU FIRST GET INTO YOUR PROFESSION?**

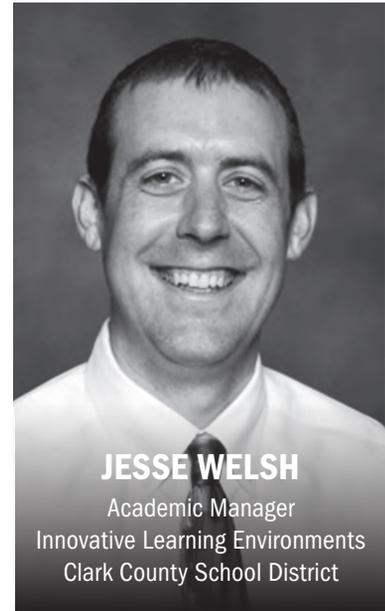
While attending college in 1973, I joined a National Guard unit. My Battalion Commander liked my organizational skills and hired me to work for a newly formed state housing financing agency in Oklahoma.

**WHAT WAS THE TOUGHEST LESSON YOU'VE LEARNED IN YOUR CAREER?**

If you don't have patience and take the long view, you might give up on things before you should. We started thinking about the Home At Last project in 2004, and got it off the ground in 2006. Since then we've helped more than 2,200 Nevada families into homes.

**WHAT DO YOU LIKE MOST ABOUT YOUR INDUSTRY?**

That we get to help people improve their housing conditions and their quality of life, whether that's through subsidies or helping families buy homes.



**LAS VEGAS**

**HOW DID YOU FIRST GET INTO YOUR PROFESSION?**

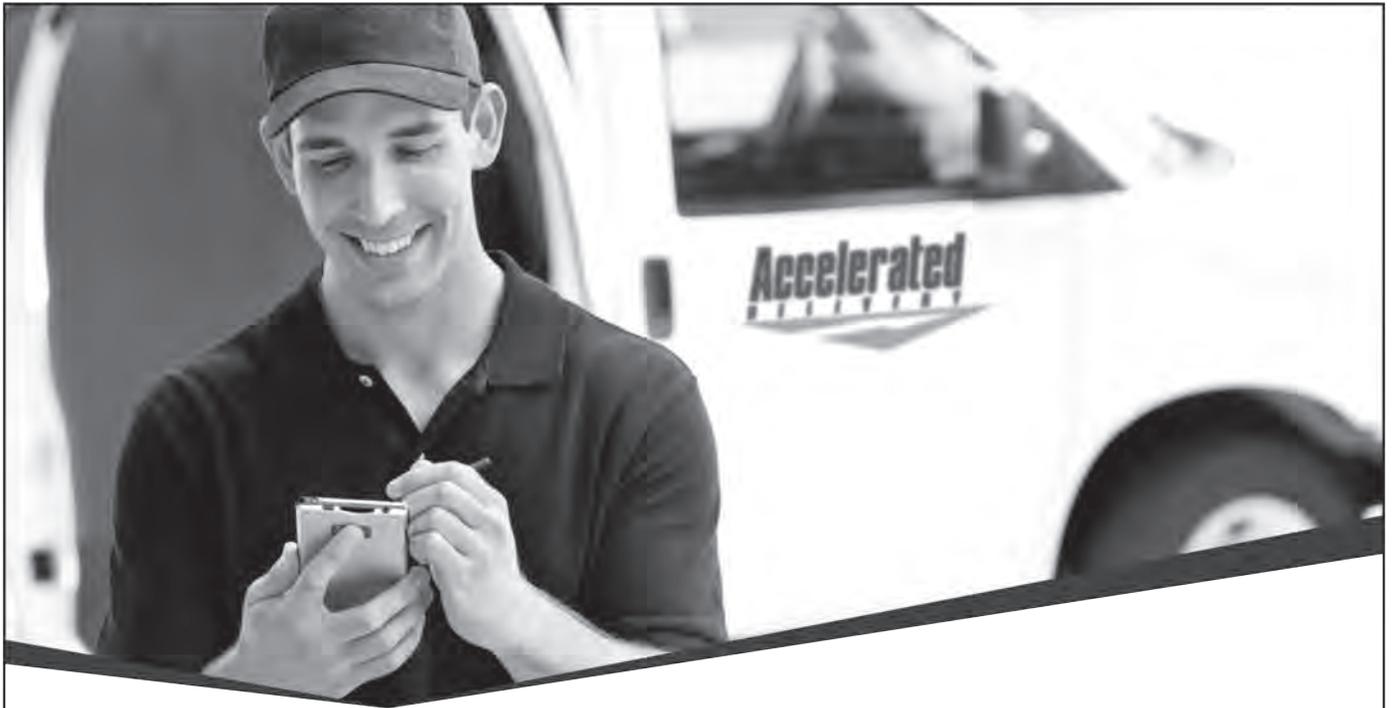
I realized during high school that I had an aptitude for helping my classmates in mathematics. I decided to become a teacher and make it my career.

**WHAT BUSINESS ADVICE WOULD YOU GIVE SOMEONE JUST STARTING IN YOUR INDUSTRY?**

Know that education is all about the intrinsic rewards that come with being able to make a difference, every day. If you ever feel like you are weary of working with children, it's time to find another line of work.

**WHAT IS THE BIGGEST CHALLENGE YOUR INDUSTRY IS FACING?**

Challenging budgets limiting the effectiveness of classroom teachers due to large classes is problematic. Additionally, the educational system is struggling to find a way to move from the industrial model of instruction to one that is able to meet students' individual needs. We need to innovate and transform what education looks like for the students of today to be prepared for the world of tomorrow.



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# Industry Focus



## Attorneys

LEFT TO RIGHT ► STANDING: **Alan Sklar**, Sklar Williams PLLC · **William Urga**, Jolley Urga Woodbury & Little · **Michael Bonner**, Greenberg Traurig, LLP  
**Gregory Garman**, Gordon Silver · **Jeffrey Burr**, Law Firm of Jeffrey Burr · **Patrick Byrne**, Snell & Wilmer LLP · **Daniel Hamilton**, UNLV Boyd School of Law  
**Samuel Schwartz**, The Schwartz Law Firm · **Karl Stephens**, Clark County Bar Association SEATED: **Mark Ricciardi**, Fisher & Phillips LLP  
**Barbara Buckley**, Legal Aid Center of Southern Nevada · **John Sullivan**, First Security Bank · **Aviva Gordon**, Ellis & Gordon · **Brad Boodt**, Holland & Hart LLP





the result. They don't know what goes into the product; they only see what happens at the end. Assuming they can get the same result from any lawyer, they just take the lowest fee.

**GREGORY GARMAN:** Until fairly recently, lots of law firms were chasing the same type of work and promising the same sorts of services. As we've been forced to become more mature, better businesses in this economic environment, we're diversifying what we do. There are large law firms at this table chasing transaction work on the lender side, and there are firms like ours that are looking to get borrowers, developers and different practice groups on the other side. That really is the biggest trend in the legal market as we move forward because it drives who our clients are, what our fees are going to look like, the types of staffing we have, the types of para-professionals we're going to have outside of traditional hourly billers and where we go from here.

**WILLIAM URGA:** More in-house counsel is being used. Where they draw the line is if it's a major corporation or something that may go beyond what an in-house counsel could really do. They usually have half a dozen other things they're being pulled across the board on all kinds of problems within the company, so they don't really have the ability to tackle bigger, more complicated matters. I don't see as much RFP, but what I see is they look at your billings to the point where they're questioning everything you do.

**PATRICK BYRNE:** I haven't necessarily noticed a growth in in-house legal partners. There's a lot of talk about alternative billing, but it continues to be mostly talk. Unless you're dealing with something that is, for example, loans where you can fairly well determine how much time you put into it.

**JEFFREY BURR:** The fixed fee only works in certain engagements but it seems to facilitate a greater relationship with the client. They're not concerned every time they call you if they're going to be billed for it. Obviously on the litigation side you can't

The Nevada legal industry has been witness to a multitude of changes in recent years and has had the difficult job of protecting their clients in trying times. From a recession to a slow recovering economy and the integration of new technologies, attorneys in the Silver State have learned to be ready for anything. Recently, a group of Nevada attorneys met at the offices of First Security Bank to discuss the trends and challenges facing their industry.

Connie Brennan, publisher and CEO of *Nevada Business Magazine*, served as moderator for the event. These monthly roundtables are designed to bring together leaders to discuss issues relevant to their industries. Following is a condensed version of the roundtable discussion.

## HOW HAS THE ECONOMY CHANGED THE LEGAL INDUSTRY?

**MARK RICCIARDI:** Both locally and across the country, companies of usually larger sizes, but even medium sizes, are doing

requests for proposals (RFPs). Sometimes it's your own clients asking you to submit a proposal to keep doing their work, treating legal services like any other commodity, outsourcing and looking for the lowest bidder. It's due to the way the economy impacted most companies. They are forced to look at the bottom line and expense each line item, not just give a free pass to personal services like they did for many years.

**MICHAEL BONNER:** Boards of directors instructed their executive teams to cut costs, and legal spend was just another item on the expense line they needed to cut. We've seen long-time corporate clients and newer corporate clients ask for proposals on either broad areas of practice or focused areas of specialty. It's definitely been on the increase.

**SAMUEL SCHWARTZ:** We're seeing more requests for fixed fees for work. Or success-based requests to be created for compensation and asking how confident are we in our work and the things we can accomplish, and will we take some risk in the upside, which is a hard thing to judge. You often see clients go for the lowest common denominator and that's just because the less sophisticated clients don't know how to gauge the work. They only understand

do something like that. Clients are not shy about paying a little extra, adding a premium in there, because they're very anxious to know what the final number is going to be.

**ALAN SKLAR:** Whenever we have a fixed fee, there's never a fight down the road. It cuts across the board, everybody is happy with a fixed fee. They will pay a little more than they anticipated it will cost if you can fix it. The problem is anytime there's a second side whether it's litigation or transaction, you just can't predict what you're going to get on the other side.

**BARBARA BUCKLEY:** In the last couple of months, Alan Lefebvre, the state bar president, has had a couple of intriguing columns in the *Nevada Lawyer [Magazine]* talking about trends and the recessions, and how private companies are looking at bills more closely. But there's never been a bigger gap of people who are unable to afford the legal system whether it's the middle class, lower income individuals, people starting out in small businesses, or just folks reeling back from the recession. The irony, [Alan] points out is while there's more and more pressure being put on top large firms, at the same time it doesn't equal the pressure that so many people are seeing being priced out of the legal system. So lawyers are needing more work because clients are looking more carefully at the bills, and yet there are so many people in need.

## HOW HAS TECHNOLOGY IMPACTED THE LEGAL PRACTICE?

**RICCIARDI:** In terms of computerized legal research, there's been a change because we've got two major players – West Law and Lexis Nexis are battling each other for dominance. Where we used to be able to use both because they both have unique



databases, we're now met with a stonewall that basically says you're a Lexis house or you're a West Law house.

**DANIEL HAMILTON:** Technology has changed the world of law school admissions in surprising ways. Now admitted students can talk via the internet on the kinds of negotiations they're having with law schools with respect to their tuition. A student admitted to UNLV will be in communication with someone who was admitted to Cal Western, UNLV and University of San Diego talking about the scholarship offers they're getting at each. The whole website is devoted to the best deal you can get. It's very school specific and it has definitely changed the game.

**BYRNE:** The most amazing thing is how our paper files have gone from enormous to almost nonexistent. Filing and maintaining our files are now being done predominately through electronic means. Additionally, the way we communicate has dramatically changed. In the old days you could send a letter out and you'd have a couple of days before you get a response back. Now we live in an instant world where you'll have three to four communications in the course of an afternoon that might have taken a whole week or two weeks 15 years ago. The days of working eight hour days and

closing up shop are over. You're available no matter where you go. Clients expect you to be available, they expect you to answer the phone or get back to them. Technology has freed us up in many ways and enslaved us in many other ways.

**AVIVA GORDON:** With the electronic communications there is a far greater concern now with respect to our obligations about maintaining confidentiality and how it is that we can truly make sure that we are protecting communications with clients. That is a tremendous concern as lawyers and for our clients.

**URGA:** Today, there is so much more information available immediately. We used to have to wait for the Supreme Court Advance Sheets to come out. Now you can get on there every Thursday and have someone reading the Supreme Court cases coming out of Nevada. That's the biggest difference is the way research is done, and how fast things are done.

**SCHWARTZ:** There are a few layers to break down here. The corporate clients are a bit more thoughtful about how they find their lawyers. The consumer is a far different animal when you talk about technology. They do almost all their research online. You'd be amazed at how people just pick their lawyers based on who has the best reviews online. On the communication side, you see a lot of the changes with email. We've been looking at it a little bit wrong. This is how to give certain clients access to their files remotely. Give them their own login and password so they can get to their own documents whenever they want. That way you don't violate the attorney-client privilege but you don't have to be making copies and having paper files.

**BUCKLEY:** One of the things that we're doing is researching across the country the best websites and the best form productions. Some of the technology that is now available allows you to answer a short questionnaire and then the forms self-populate. More and more of the middle class and low-income clients know how to work

computers and figuring out how to impart legal information to that group is a trend that we're seeing across the nation.

**BURR:** Using technology for marketing purposes allows us to really get a lot of data about the client such as occupation, wealth and, in our case, size of estate. It allows us the opportunity to send out information and market to our clients in a better way when changes to the law are made or some development occurs that might impact our clients.

## HOW IMPORTANT ARE BUSINESS DEVELOPMENT SKILLS FOR ATTORNEYS?

**SCHWARTZ:** It's a question of whether they want to do that. Those ambitious young lawyers will find a way to market so it's in your best interest to help them and make them feel like they're a part of the operation. The ambitious young lawyers who don't feel a part of the program will find some place to go where they think they are a part of the office. It's driven by the individual first.

**BRAD BOODT:** For a lot of law firms and lawyers, it doesn't come naturally. It's not what we go to law school for. You have a few who are just exceptional at it and they do very, very well. What a couple of these big firms are doing right now is making a real concentrated effort to teach these younger lawyers very early on.

**URGA:** The nature of the practice has changed, and the recession started it. Years ago we didn't want associates going out and getting business because usually the kind of business they bring in is the kind you have to filter out anyway. It wasn't economical. But in today's world, somebody is going to have to go out and do it.

**BOODT:** We had a sophisticated business community here so we got a lot of really great work that might not have otherwise come to Las Vegas lawyers from out of state developers and entrepreneurs that had their law firms back in New York or Chicago. Those days are gone. It's critical to start the young lawyers very early in learning business development.

**HAMILTON:** Our core services department is now training people how to network from the start of law school. That is one of the skills that can be taught. It's not just an art, it's a science. Effective networking is really something that we try to train our students to do from the first day of law school.

“Effective networking is really something that we try to train our students to do from the first day of law school.”  
— Daniel Hamilton

**GORDON:** We're a very, very small firm so if we don't market, we don't work. That's the truth of it. It's always an interesting balance having to deal with [the smaller cases] while simultaneously going after something that's more substantial to be able to get sufficient quality work.

**GARMAN:** It is very lawyer specific and practice group specific. There are lawyers who are incredibly successful because they have a large number of clients that do commodity work, and then there are the big game hunters who have a few files a year they go after that spin off a great deal of work. They are remarkably different and how you achieve success under those various models is different.

**BURR:** Each attorney has an individual marketing plan based on their strengths and what they feel comfortable doing. We tailor them for each individual attorney and encourage them to do something to try and market the practice.

## ARE THERE STIGMAS ASSOCIATED WITH MARKETING?

**BYRNE:** The bottom line is, if you're a firm of any size you are going to be promoting your people and pushing your people to develop your business. It's the only way that you're going to be able to grow a practice.

**SCHWARTZ:** There's a serious disconnect between the way that lawyers view marketing of their peers and the way the consumer of the product use the marketing. It really depends on who's your target audience and what do they respond to – is it the consumer or the corporate client? The consumer responds to things like commercials, billboards and Facebook, where the corporate client don't want their lawyers so out there and visible.

## ARE ATTORNEYS IN NEVADA HEAVILY INVOLVED IN PRO BONO WORK?

**BUCKLEY:** Here in Nevada about one-third of the attorneys do pro bono, about one-third will never do pro bono, the one-third we have left are lawyers who are too busy. Usually how we market pro bono is saying we have thousands of people waiting, but lawyers say they're too busy. In 2014 we're formally launching a new campaign called One Campaign, which originates out of Florida. The

new message is going to be, “take one case in 2014.” Justices Hardesty and Douglas are spearheading it from the Nevada Supreme Court. We’re visiting every firm, saying it’s a great way to train your associates by giving them trial experience. We have some firms that are extraordinary. Gordon Silver was our 2013 large law firm of the year, Hutchison & Steffen and Lee Hernandez Law Firm tied for the most hours. But we have a huge un-met need – we have 60 children in foster care right now waiting for a voice, 60-70 domestic violence victims, victims of fraud, foreclosure. You name it, we have it.

**GORDON:** Our clients are aware of our involvement in community outreach programs in lots of way, and we use it as part of our marketing. Just the pure involvement with the organizations helps to generate business in and of itself. When we serve as board members for whatever organization it may be, we have both the benefit of



feeding the nonprofit and our souls and also incur a lot of trust from the people we are working with there. They know we are committed to our community and providing service for our community.

## IS STAFFING AN ISSUE?

**BONNER:** We have no trouble whatsoever finding very qualified candidates. Generally speaking, we haven’t had any trouble hanging onto lawyers although there are so many opportunities for young lawyers to move around. It’s one of the great things about being a lawyer. People leave for a variety of reasons: grass is always greener, or they see an opportunity to pursue a type of practice. Right now I think it’s still a buyer’s market for law firms and there’s a great talent selection. One of the interesting things about our profession right now is the amount of quality unemployed lawyers out there all over the United States. We went through four to five years of just anemic hiring and a lot of larger firms downsized so you’ve got a lot of people out in the mar-

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ket that are looking for opportunities to get back in now that the economy is starting to turn around.

**HAMILTON:** The number one job for us is to make sure the Boyd student emerges with a good job and a chance for a very satisfying, good career. We have a terrific career services office that works with students from the first day of law school to well after they graduate. It's no longer a case of placing them in a job and moving on to the next. We have to make sure our students remain competitive in the increasingly national legal market. We have a new associate dean for experiential learning and their whole mission is to make sure our lawyers hit the ground as close to practice ready as possible. We need to make sure our students compete for those positions in Las Vegas when they come up and that we make the case that the Boyd student is the one you want. They are tied to this community and they are already trained how to network and build these relationships and we are very proud of the students we produce. We will have to shrink, as most law schools will have to do. That will take off some of the immediate pressure to place 150 students every year. This remains our fundamental challenge for legal education broadly.

**BYRNE:** There are far more qualified candidates than there are openings right now.

**KARI STEPHENS:** There's an opportunity for young attorneys to become sole proprietors and open up their own practice. More so than there used to be just because of the virtual offices, they can start out small. They can also get involved in the Clark County Bar Association and other organizations to network and get referrals from other attorneys who have those cases that they don't want to handle. The State Bar has started a solo or small practice section to address some of those issues.

**HAMILTON:** One half of law school graduates across the country are going to one- or two-person law firms. Teaching them how to be able to hit the ground running and open up a shop very quickly right out of law school is really a challenge. We're partnering with the State Bar to figure out ways we can better serve the roughly 40-50 percent of our class that's going to go into small firms.

**RICCIARDI:** We really want a diverse population of attorneys. Clients are very interested because one of the questions on the RFP is, tell us how diverse your attorney pool is and what diverse attorneys are you going to put on our cases. To recruit quality people of

all different racial and ethnic backgrounds is still not easy. The last thing you want to do is hire an attorney based on a diverse background who's not a quality attorney.

**URGA:** There's also a change in what students think as new lawyers. They don't think they have to spend 2000 hours working anymore. They'd rather work 1,400-1,500 hours and have more family time. Lawyers don't work from nine to five. You have to work all night because you're supposed to do the best for your client. A lot of people don't want to do that anymore.

**GARMAN:** That also fits in with our generational make up. Mandatory retirement ages and things like that have gone a lot by the wayside so we're seeing four full generations working together. Those are retention issues that we have to deal with; different generations have different expectations of what the work environment is supposed to be like.

**BUCKLEY:** On the pro bono side, we're really targeting lawyers offering Continuing Legal Education (CLE). For example, ten of the best family law attorneys have volunteered to be mentors to the newer lawyers. We have a full password-protected pleading bank on our website to anyone who would take the pro bono case, so you get free CLE credit, you get a pleadings bank and you get an expert to mentor you. That helps a lot with their practice later. 🌿

**IN BRIEF**

*Better Business Bureau (BBB) of Southern Nevada has launched a campaign to assist Southern Nevada business owners. The campaign is entitled "Ask George" and allows owners to ask BBB president and CEO George Cartwright business questions via a special email address, Facebook or Twitter. Cartwright has over 20 years of business experience in Southern Nevada.*

# AMPLIFY YOUR MESSAGE



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# SEVEN PITFALLS TO AVOID WHEN NEGOTIATING BUSINESS CONTRACTS

*Richard L. Galin, Shareholder, Gordon & Silver, Ltd.*

## 1) LETTERS OF INTENT

A “non-binding” letter of intent is commonly pursued when parties begin business discussions. Unfortunately, if one of the parties has a change of heart, the letter of intent may work against those who attempt to walk away. Certain phrases can cause the letter of intent to mean more than was originally intended. A court may interpret the letter of intent as meaning “agreeing to talk in good faith.” If both parties agreed to talk in good faith, they may be unable to walk away or ask for better terms later in the negotiations. A truly non-binding document must be carefully drafted to meet those requirements.

## 2) DUE DILIGENCE

“Due diligence,” the steps required to investigate and evaluate the details of an agreement, is a frequently-used term in business deals. Due diligence must be tailored to the needs and expectations of each deal. Too little, and the results can be devastating. Too much, and the involved parties may experience sticker shock when they get the legal bill.

## 3) NON-COMPETITION CLAUSES

The U.S. economic system encourages competition. The courts do not wish to place restrictions on people seeking to run a business or earn a living, in order to protect those that fail to secure the legally available restrictions. Attorneys who are well-versed in this complex area can advise on restrictions courts typically allow. And there are drafting methods to avoid having the restrictions struck down in their entirety, even if they are too broad.

## 4) AUTOMATIC RENEWALS

Many business contracts have an automatic renewal clause which keeps renewing unless one party gives written notice, in advance of the expiration date. This type of clause becomes a pitfall if a business has not calendared the notice deadline, or if the notice deadline is so early that it is difficult to make a timely decision.

## 5) SALES TAX

In a sale of the assets of a business, tangible personal property is generally subject to sales tax even if the transaction is an acquisition of the entire business. In a negotiated business acquisition, the parties involved should firmly detail who will pay the sales tax. In addition, they should not assume the buyer is the one who must bear this cost. Tax laws are complex, and silence may lead to disputes and possibly litigation if one party tries to spring liability on the other at the closing, instead of addressing this issue in the contract.

## 6) INTELLECTUAL PROPERTY

A buyer of a business might focus more on the physical condition of the assets and the title to the real property than about who owns the business’ intellectual property (“IP”). But the name, trademarks and logos of the business might be where the real value and future earning power lie. IP is an intangible, and often invaluable, asset that cannot be inspected like a physical asset. IP should be reviewed at an early stage of negotiations, with the assistance of an IP law specialist, making sure the contract clearly specifies what the seller owns, what the buyer is getting and how the seller will transfer it to the buyer.

## 7) “BEST EFFORTS”

When two parties agree in a contract to make “best efforts” to do anything, beware that “best” might mean investing both time and energy to the exclusion of everything else. After all, anything less than everything that can possibly be done or given is arguably not the “best” effort. Most parties really mean “reasonable” or “commercially reasonable” best efforts, in which case, their contract had better say so. To be on the safe side, “best efforts” should be thought of as the closest thing to a guarantee, and if a business person is not prepared to guarantee something, he should reduce the obligation. Otherwise, “best” might turn out worst. 



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## Saint Mary's Home Care Named in Top 25 Percent of Nation

Saint Mary's Home Care has been listed as a 2013 HomeCare Elite program which ranks the top-performing home health agencies in the nation. The home care program has been listed in the top 25 percent for providing quality healthcare service to the Northern Nevada community. Agencies in the listing are ranked by an analysis of publicly available performance measures in quality outcomes, best practice implementation, patient experience, quality improvement and consistency and financial performance. In order to be considered, an agency must be Medicare-certified and have data for at least one outcome in Medicare's Home Health Compare. 🌿

## The Federal Savings Bank Opens New Loan Production Office in Nevada

The Federal Savings Bank (TFSB) has expanded into a new loan production office in Southern Nevada. The office is in the process of recruiting bankers and has 10 other locations throughout the United States. Founded in 2011, TFSB's growth model has been to identify geographic areas where there is a gap in lending for individuals seeking home ownership. 🌿

## NV Energy Announces Completion of MEHC Merger

NV Energy has completed the merger with MidAmerican Energy Holdings Company (MEHC). The energy company has reiterated that customers will see no changes to operations and NV Energy will remain a Nevada company. 🌿

## Southern Nevada Home Prices Show Slight Dip

According to statistics from the Greater Las Vegas Association of REALTORS (GLVAR), Southern Nevada home prices cooled off in November after posting steady gains for nearly two years. The median price of an existing single-family home sold during the time period was \$183,000, down 1.1 percent from \$185,000 in October. November 2013's median prices remained 25.3 percent higher than the same period a year ago. Home prices bottomed out at \$118,000 in January of 2012 and reached a peak of \$315,000 in June of 2006. 🌿

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# ODDS FOR SUCCESS OF PERS PLAN: ROUGHLY 1 IN 12 QUINTILLION

## NEVADA RETIREES RISK SEEING THEIR BENEFITS REDUCED AS MONEY RUNS SHORT

*Victor Joecks is executive vice president of the Nevada Policy Research Institute.*

**A**side from death and taxes, there are no sure things in life. Everything we do involves an element of risk.

The question then becomes: How much risk is reasonable, given the stakes?

In the private sector, most entrepreneurs have risked tens of thousands of dollars — or sometimes even tens of millions of dollars — pursuing opportunities to grow their businesses.

They did so because they believed the reward outweighed the risk. Some have succeeded and earned back many times their investment. Some have failed and lost everything.

Because business owners and investors risk their own money, they carefully analyze the risk and reward for each venture. Even then, investments in some businesses that were reasonable risks at the time nevertheless end up failing.

In the public sector, however, government officials don't risk their own money. What they risk is the money of taxpayers. As a result, they're often inattentive to the risks they're running. After all, by the time reality comes calling, they well may be retired, in a new job or simply able to pass the buck.

That is what is happening with the Public Employees' Retirement System of Nevada (PERS).

If PERS used the accounting methods required of private companies — say, Wynn Resorts or Southwest Airlines — everyone would acknowledge that it faces an unfunded liability of around \$41 billion. That's \$41,550 per Nevada household — a funding ratio of just 34 percent.

But because PERS is a government-run and government-guaranteed plan, it is able to use laxer accounting standards. Even under these rules, PERS' unfunded liability is \$12.9 billion, with a funding level under 70 percent.

Given that Nevada's general-fund spending over two years comes in at around \$6.6 billion, either amount signifies a crisis.

That's why earlier this year, Gov. Brian Sandoval ordered a study on the financial health of PERS.

Aon Hewitt conducted the \$50,000 report and released it last November. The report shows that Nevada's pension system will be fully funded in 2033 — if PERS averages investment returns of 8 percent a year for the next 20 years.

That may sound adequate, but as any entrepreneur knows, the devil — and the risk — is in the details.

So how much risk is there in PERS' plan?

During the last five years, PERS' actuarial value investment return, which is assumed to average 8 percent, failed to break the 8 percent mark even once. Using that as a benchmark, PERS' plan has zero chance of success.

What if you go back nine years, to include the go-go years of 2005 to 2007?

PERS only broke the 8 percent mark once during that period. So, based on those last nine years, the odds of PERS achieving its investment returns in a given year are only 1 in 9, or about 11 percent.

What are the chances of PERS doing so each year for the next 20 years — as the report shows it doing? It calculates out to over 1 in 12 quintillion. That is: 1 in 12,000,000,000,000,000,000 — or one chance in 1 million times 1 million times 12 million.

That's like correctly and consecutively guessing the results of a coin flip every second for the next 190 billion years. Or pulling the ace of spades out of a shuffled deck of cards every second for the next 7.3 billion years.

Now while past returns are no guarantee of future results and the investment environment may change profoundly in the next 20 years, these numbers show how risky PERS' plan to get fully funded is.

So what happens when it doesn't work?

We're already seeing the first result: Taxpayers are already being increasingly squeezed, in the form of higher contribution rates for the pension system. As the Aon Hewitt report details, Nevada's pension contribution rates are some of the highest in the country.

Increasing pension contribution rates, however, can't go on forever, and rising pension contributions were a significant factor in the bankruptcy of cities like Stockton and Detroit.

The underlying legal question is: What happens to the benefits promised to government workers? Will they be reduced or eliminated or will future taxpayers have to foot the bill for past employees?

The risk to both groups is extremely high. Lawmakers should eliminate this risk for all involved by moving to a hybrid system that protects government employees and taxpayers. 

# ELKO'S ANNUAL BOOST

## NATIONAL POETRY GATHERING PROMOTES ECONOMIC DEVELOPMENT

*Darcy Minter, Director, Western Folklife Center*



As Nevada prepares to celebrate its 150th birthday in 2014, Elko's National Cowboy Poetry Gathering is commemorating 30 years of presenting the artistic traditions of ranching and cowboy culture of the American West. Held the last week of January each year, the event brings thousands of visitors to Elko.

From its inception, the gathering defied expectations. In 1985, the event's producer, the Western Folklife Center and other organizers assumed it would be a one-time gig. An event that started out with 40 performers, mostly poets, has grown to 53 performers in 2014, split evenly between poets and musicians. Another 85 exhibitors, workshop leaders and discussion participants are also part of this year's program. Close to 400 local volunteers make the effort possible.

In the early days of the gathering, Elko's hotels could not accommodate the demand for rooms. Elko has grown with the event, and hotels are plentiful now; for the four busiest nights of the gathering, they are filled almost to capacity. Hotels aren't the only Elko businesses that benefit from visitors. An economic impact study conducted by the Nevada Commission on Tourism in 1997 found that the total economic impact of the event in Elko was \$7 million during the week of the Gathering.

Many businesses support the National Cowboy Poetry Gathering as sponsors every year. In 2013, 90 local

businesses supported the event as sponsors. Major local sponsors included: NV Energy, Barrick Gold of North America, Newmont Mining Corporation and Blach Distributing.

Elko's event lit a fire in the art of cowboy poetry, spawning more than 200 events nationwide. Recognizing the cultural significance of the Cowboy Poetry Gathering in Elko, the United States Senate passed a resolution naming it the "National" Cowboy Poetry Gathering in the year 2000.

The event is a celebration of western people, their lifestyles and traditions. Those who care about the rural west gather together to listen to its native poetry and music, hear about cowboy culture in the U.S. and around the world and discuss issues important to people living in the rural west. The audience has grown from 1,000 people in the first year to roughly 6,000 people today, 40 percent of whom hail from urban or suburban communities nationwide. The international audience is also growing.

This year's gathering takes place January 27 to February 1, 2014 and is the 33rd anniversary of the Western Folklife Center. The center is focusing the programs at the National Cowboy Poetry Gathering on the future of the rural west and the health and vitality of its communities. One primary goal of this endeavor is to cultivate the next generation of people who will care for these communities and their cultural life. 🌿

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# BUILDING NEVADA

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# AN INDUSTRY REVIVED

## COMMERCIAL REAL ESTATE IN NEVADA

*By Doresa Banning*

**Nevada's** commercial real estate market has hit bottom and is recovering, albeit gradually and with some sectors stronger than others, experts said. Due to a confidence that the market is on the upswing, investors and tenants are willing to buy and lease. In fact, brokers completed some sizable deals in 2013, including the sale to Genting Berhad, a Southeast Asia casino operator, of the unfinished Echelon resort for \$350 million and the sale to Blackstone Group LP, a global investment and advisory firm, of the Hughes Center complex for \$347 million. In Northern Nevada, a significant 2013 deal was in the industrial sector, with the leasing to CustomInk, an online T-shirt seller, of a 51,240-square-foot building in the Reno Tech Center that's been 70 percent empty for many years.

"It's been getting better every single year," said Nelson Tressler, the executive managing director of the Las Vegas office of Newmark Grubb Frank Knight, a commercial real estate advisory firm with numerous locations worldwide. "The retailers are doing better. Rents

have leveled off. Concessions have leaned back a little bit. Vacancies have lowered. We're definitely heading in the right direction. It's definitely not skyrocketing but creeping up." Tressler previously worked for Grubb & Ellis, which filed for bankruptcy in 2012 and subsequently was purchased by New York-based BGC Partners. The previous year, BGC had acquired the brokerage, Newmark Knight Frank. Subsequently, the corporate owner merged the assets of both to create what's now called Newmark Grubb Frank Knight.

### Adapting to Change

During the transition out of the worst of market conditions and a depressed economy, brokers have faced numerous distress

sales, significant negative absorption, depressed rental rates, greatly reduced values and minimal new construction. Consequently, they've had to adapt and be flexible, said Cathy Jones, the president of the Southern Nevada Chapter of CCIM, a trade association for commercial real estate professionals. Jones is also the owner/president of Sun Commercial Real Estate Inc., a service brokerage firm, which specializes in investment sales. For one, brokers have had to learn how to sell bank-owned and distressed properties.

Then they've had to adjust to a changing clientele, Tressler said. In terms of sales, it's shifted from banks or special loan services back to conventional owners and landlords. With leasing, it's moved from people looking for low rent opportunities to upgrade their space to existing businesses wanting to relocate or expand in a different location.

Due to cautious and, what Jones describes as, "more educated" and "more conscious" investors and tenants, brokers have



Nelson  
**Tressler**

Newmark Grubb Knight Frank

had and continue to have the required knowledge and put more effort into potential transactions. This is because buyers and tenants are spending more time on the contracts and due diligence. For Jones, each prospective deal requires 50 percent more work today.

Tim Ruffin agreed. He's the senior vice president and managing director of Colliers Reno, which provides tenant and landlord representation in the sale and leasing of industrial, retail and office properties, investment brokerage and commercial property management.

"Every deal seems to be a little more complex than they were in the past," he said, "just to make sure they qualify for a loan. It's not easy. Lending standards are higher. You're not going to see a lot of naïve people getting into this."

Brokerages have had to run leanly and efficiently. At Colliers Reno, every employee is responsible for duties across positions. For instance, one individual might do graphics and research. Colliers Reno plans to add two employees in 2014—few people are entering the commercial real estate brokerage industry in Northern Nevada currently—and the firm is busy enough for more help, Ruffin said. In Las Vegas, Sun Commercial Real Estate is expanding, looking to add four to five agents, according to Jones.

## Remaining Obstacles

Today's struggles for the commercial real estate market and its agents include the condition of the state's economy, Ruffin said. While Nevada is creating lots of jobs that bolster the industrial market, it needs more higher-paying ones that, in turn, will increase the cost of housing and drive more office and retail occupancy.

Properly valuing assets is another difficulty, Jones said, although it has eased somewhat with recent transactions and the related comparables that can be used.

Another challenge is providing out-of-state, prospective buyers and tenants with solid information about Nevada's recovery



Cathy  
**Jones**

Sun Commercial Real Estate

and economic future, and, in many cases, reversing their unfavorable perceptions about the state, Jones said.

## Market Conditions

### SOUTHERN NEVADA

Today, the Las Vegas Valley commercial real estate market is "generally moving in a positive direction, suggesting that we're headed for more normalized conditions," said Brian Gordon, a principal at Applied Analysis, a Las Vegas-based economics and real estate consulting firm.

As of mid-December, in the Las Vegas Valley, the multi-family market held as the strongest of all of the commercial real estate sectors in terms of maintaining values and high sales volume activity. The vacancy rate, which has declined for three years straight, was 5.9 percent at the end of the second quarter of 2013, Colliers Las Vegas' Q2/13 Multi-family Market report showed.

The retail segment has out-performed the industrial and office markets. Vacancies, which had reached upwards of 11 percent during the economic downturn, now are trending at less than 10 percent, Applied Analysis statistics revealed. Several tenants are occupying previously vacant anchor spaces. For instance, in Rainbow Plaza, Goodwill signed a deal for the 31,600-square-foot former Ultimate Electronics, Ross is moving into a 31,800-square-foot space in Best on the Boulevard and Sprouts leased



Brian  
**Gordon**

Applied Analysis

25,400 square feet in Stephanie Street Power Center. As far as sales, Newmark sold The Shoppes at Harmon Square in Las Vegas for \$11.5 million, Sun closed the purchase of the Civic Center Plaza in North Las Vegas for \$13 million and the CBRE Private Capital Group brokered the acquisition of the Boulevard mall in Las Vegas for \$54.5 million.

Industrial is showing improvement, with about 3.2 million square feet of positive absorption in the previous 12 months. Vacancy rates had fallen from a high of about 17 percent to 14.8 percent by the end of 2013's third quarter, according to Applied Analysis. Leases included the coffee distribution company, Organo Gold International's 111,000 square feet in the Pacific Business Center in Henderson and the third-party logistics firm, Hand Air Express's 67,600 square feet in the ProLogis Sunrise Industrial Park. Also, a number of build-to-suit industrial projects are underway, such as the 525,000-square-foot structure for the data center, Switch; the 296,000-square-foot facility for FedEx; and the 193,400-square-foot expansion for Konami Gaming Inc., a creator of slot machines and gaming enterprise management systems.

"Investments are taking place in the industrial market more so by specific users as opposed to speculative users," Gordon said.

The market that continues to lag is office, currently with the highest vacancy rate—25.9 percent at the end of the third quarter. Bright spots are that some big players came into the market (The Krausz Cos. Inc., a California-based commercial real estate investment company, purchased the stalled former Manhattan West project, now called The Gramercy, for \$20 million), and the vacancy rate in the third quarter declined for the second consecutive quarter. Recovery is taking place "in pockets," Jones said, in the most desirous locations.

Throughout 2013, Las Vegas Valley commercial real estate attracted a significant amount of money from stronger markets, Jones said, due to bargains in the form of shrunken values.



“Every deal seems to be a little more complex than they were in the past, just to make sure they qualify for a loan. It’s not easy. Lending standards are higher. You’re not going to see a lot of naïve people getting into this.” —**Tim Ruffin**

#### NORTHERN NEVADA

In Northern Nevada, the multi-family market is active and strong. For instance, in 2013, the 230-unit Courtside Gardens, in Sparks, sold for \$9.8 million, and Reno’s Harvard Court apartments went for \$2.65 million, among many others.

The industrial market also is faring well, with a vacancy rate around 10 percent. More industrial transactions were done in the third quarter than in the previous three, pushing net absorption to 460,744 square feet, Colliers Reno’s Q3/13 Industrial Market Report showed. Examples of completed deals include the sales of the previous New West distribution facility in Reno for \$2.3 million and a 181,440-square-foot Reno building for \$6.5 million.

In terms of the office sector, several buildings were sold in 2013, double the number in a typical year. For instance, NAI Alliance represented the buyer in the sale of the old U.S. Bank building in downtown Reno for \$5.98 million to a local investor. NevDex Properties, a Reno landlord for class A office space, purchased the building at 10615



Tim  
**Ruffin**  
Colliers Reno

Professional Circle for \$4.65 million. The office vacancy rate has dropped from a peak of about 20.5 percent to 16.5 percent. In the first three quarters of 2013, more than 120 office transactions were made.

The retail segment is struggling to fill the smaller spaces. Additionally, some of the big-box spaces are difficult to fill as a number of companies have moved toward smaller brick-and-mortar formats. More activity is taking place in sales. Deals there include the sale of the 85,000-square-foot, former Woolworth’s building in downtown Reno for \$1.7 million and the acquisition of the prior Super K-Mart building in northwest Reno for \$4 million.

“It’s all cash, patient money,” Ruffin said. “They’re buying for half the cost to replace and will wait for the market to recover.”

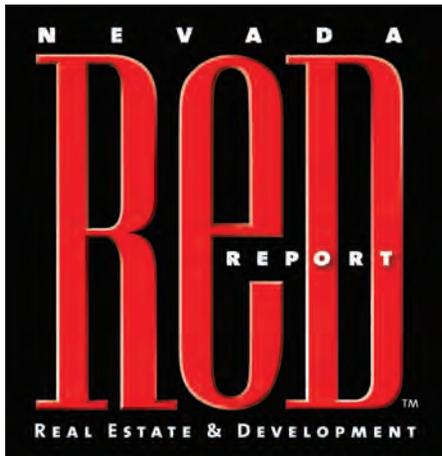
#### On the Horizon

What’s expected for Nevada’s commercial real estate market in 2014 is continued slow recovery and controlled growth.

“I think it will be a pretty active, good year,” Jones said. “I’m not expecting interest rates to take a dramatic turn, so I think we’re going to see an increase in stabilized investments as we continue to get these properties leased. We’re going to have more investors looking at the stabilized investments in our market. We’ll see some positive absorption.”

#### IN BRIEF

*National business brokers are expecting a big year for small business transactions, specifically because of retiring baby boomers, according to a BizBuySell.com survey. Findings from the report show that 68 percent of responding brokers reported an increase in business sales in 2013 and 83 percent expect even more businesses to sell in 2014.*



## NEW YEAR - NEW FORMAT

**The** ReD Report has a new, easier to read format. Commercial real estate professionals throughout the state have requested the report be categorized in market areas, as opposed to zip codes. The color-coded areas correspond to the map on the right and each deal is presented in a more concise manner.

We appreciate all the brokers who continue to send us their deals and look forward to publishing even more in the New Year. A special thanks to all the professionals who lent their expertise to the redesign of the ReD Report, especially Mike Mixer with Colliers International, Brian Gordon with Applied Analysis and Chris Richardson with the Equity Group. We wish you all a prosperous 2014 ... keep the deals coming!

E

### Sale, Industrial

**ADDRESS** 4460 E. Cheyenne Ave., 89115  
**BUYER** BMR Global Corporation  
**SELLER** 5 Stars Auto Shop, LLC  
**DETAILS** 12,900 SF; \$650,000  
**APN** 140-08-401-013  
**BUYER'S REP** C. Roger Jeffries III of Sun Commercial Real Estate, Inc.  
**SELLER'S REP** Mark Anthony Rua of Realty Executives

### Sale, Industrial

**ADDRESS** 4080 N. Pecos Rd., 89115  
**BUYER** Aloha Shoyu Inc.  
**SELLER** Grand Jen Realty Las Vegas LLC  
**DETAILS** 28,325SF; \$1,695,000  
**APN** 140-06-417-003  
**BUYER'S REP** Dean Willmore, SIOR and Eric Molfetta of Colliers International  
**SELLER'S REP** Mark Anthony Rua of Realty Executives of Nevada

H

### Lease, Industrial

**ADDRESS** 880 Wigwam Pkwy., Suite #100, 89014  
**TENANT** O'Hagin, LLC  
**LANDLORD** Harsch Investment Corp, Inc.  
**DETAILS** 24,079 SF; \$341,653 for 39 months  
**TENANT'S REP** Cathy Jones, CCIM and Paul Miachika of Sun Commercial Real Estate, Inc.

N

### Sale, Retail

**ADDRESS** 4600 W. Craig Rd., 89032  
**BUYER** Fenix Investment Holdings, LLC  
**SELLER** 4600 West Craig Road, LLC  
**DETAILS** 11,484 SF; \$875,000

**APN** 139-06-215-011

**BUYER'S REP** Pete Janemark of Commerce CRG  
**SELLER'S REP** Michael Campbell of Avison Young

### Lease, Industrial

**ADDRESS** 3837 Bay Lake Trail, Suite 111, 89030  
**TENANT** Amazon.com  
**LANDLORD** PAR Industrial LLC  
**DETAILS** 283,920 SF; \$4,915,081 for 5 years  
**LANDLORD'S REP** Dan Doherty, SIOR and Chris Lane of Colliers International

NW

### Lease, Office

**ADDRESS** 7455 W. Washington Ave., 89128  
**TENANT** Nevada Orthopedic & Spine Center  
**LANDLORD** COMM2006-C-8 7455 LLC  
**DETAILS** 32,508 SF; \$7,006,000 for 168 months  
**TENANT'S REP** Taber Thill, SIOR of Colliers International  
**LANDLORD'S REP** Jason Simon of Gatski Commercial

S



HOK Sports Arena

### Project, Industrial

**ADDRESS** Las Vegas Blvd. and Frank Sinatra Dr., 89109  
**ARCHITECT** HOK Sport  
**DETAILS** MGM Resorts International and AEG are planning a \$350 million, 20,000-seat

indoor events venue projected for completion in spring of 2016. The arena, designed to LEED Gold standards, will link the New York-New York and Monte Carlo resorts.



Las Vegas Carpenter's Union

### Project, Industrial

**ADDRESS** 6801 Placid St., 89119  
**CONTRACTOR** PENTA Building Group  
**DETAILS** Las Vegas Carpenters Union International Training Center completed their third expansion, adding 220,000 SF with projections of doubling their number of annual visitors. The \$43 million project includes an expanded millwright training area and scaffolding construction area, as well as 30 classrooms and two large meeting halls.

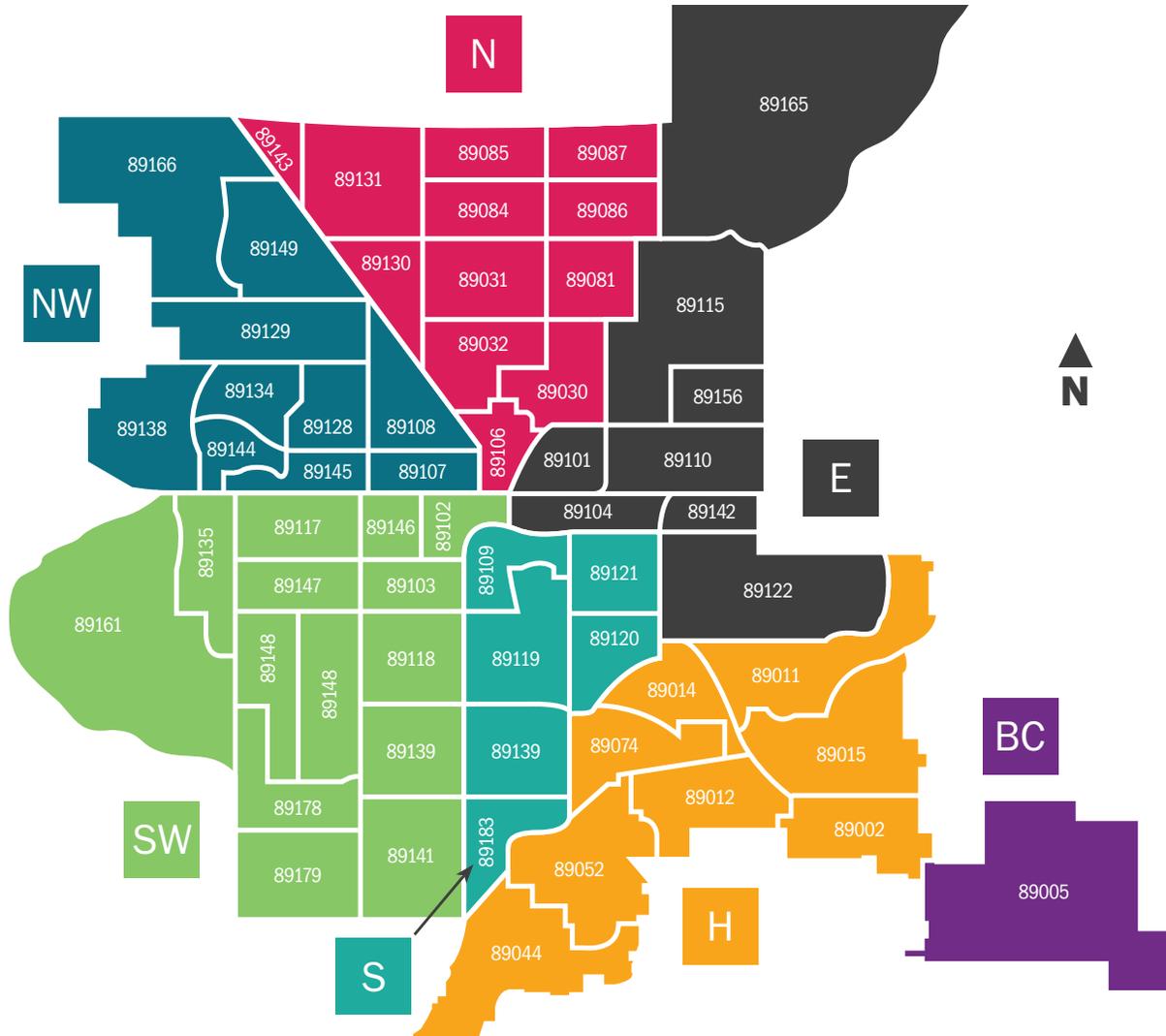
### Lease, Industrial

**ADDRESS** 750 Pilot Rd, Suite A, 89119  
**TENANT** Sitel Operating Company  
**LANDLORD** CIP Airport Industrial/Flex Portfolio LLC  
**DETAILS** 19,833 SF; \$964,360 for 4 years  
**TENANT'S REP** Barton Hyde of Avison Young  
**LANDLORD'S REP** Garret Toft of Voit

SW

### Sale, Office

**ADDRESS** 6050 S. Fort Apache Rd., 89148  
**BUYER** Milton I. Schwartz Revocable Family Trust  
**SELLER** Ritaveh LLC  
**DETAILS** 4,881 SF; \$366,075  
**APN** 163-32-212-000



**BUYER'S REP** Dean Willmore, SIOR of Colliers International

**SELLER'S REP** Michael Hsu of Newmark Grubb Knight Frank

### Sale, Office

**ADDRESS** 9340 Martin Ave., 89148

**BUYER** Rainey Legal Group, PLLC

**SELLER** TJJC LLC

**DETAILS** 10,638 SF; \$740,000

**APN** 176-05-115-003

**SELLER'S REP** Jeff Berg and Mica Berg of Sun commercial Real Estate, Inc.

### Sale, Vacant Land

**ADDRESS** Just north of the 215 beltway between S. Buffalo Dr. and S. Durango Dr.

**BUYER** Ryland Homes

**SELLER** NV Energy

**DETAILS** 38 acres; \$14,800,000

**SELLER'S REP** Derek Rafie of CBRE

### Lease, Industrial

**ADDRESS** 6630 Arroyo Springs St., Suite #900, 89113

**TENANT** Style Event Design LLC

**LANDLORD** EJM Arroyo North I Property, LLC

**DETAILS** 13,671 SF; \$268,227 for 39 months

**TENANT'S REP** Cathy Jones, CCIM and Paul Miachika of Sun Commercial Real Estate, Inc.

### Lease, Industrial

**ADDRESS** 6560 Tioga Way, Suite 130, 89113

**TENANT** Elite Foods LLC

**LANDLORD** EJM Arroyo North II Property LLC

**DETAILS** 8,535 SF; \$469,929 for 86 months

**TENANT'S REP** Rich Luciani and Jeff Barton of Newmark Grubb Knight Frank

**LANDLORD'S REP** Spencer Pinter of Colliers International

### Lease, Industrial

**ADDRESS** 7200 Montessori St., Suite 130, 89113

**TENANT** Blum Health and Fitness LLC

**LANDLORD** EJM Arroyo South I Property LLC

**DETAILS** 6,818 SF; \$261,932 for 62 months

**TENANT'S REP** Arlene Nehls of LSI Properties

**LANDLORD'S REP** Spencer Pinter of Colliers International



### Sale, Office

**ADDRESS** 621 Pyramid Way, 89431

**BUYER** TSD Rental Properties LLC

**SELLER** Reco Mortgage DBA

**DETAILS** 2,760 SF; \$240,000

**APN** 032-102-05

### Sale, Vacant Land

**ADDRESS** Park Highlands

**BUYER** KBS Strategic Opportunity REIT

**DETAILS** 295 acres; \$20,000,000

◀ CONTINUED FROM PAGE 13

Today, the Valley is rich in excellent courses catering to resort visitors.

The choices run the gamut from the turn-of-the-century upstart Bali Hai Club right on the Strip – and its popular power lunch restaurant Cili – to the 75-year-old Las Vegas Golf Club and the venerable Las Vegas Country Club that saw service as a hotel-owned course before settling in as a private club steeped in tradition.

But Shadow Creek plays in a different league.

In 1989, casino mogul Steve Wynn redefined the genre by turning 320 acres in North Las Vegas into one of the nation’s top rated courses.

In those days, Shadow Creek was described as a club with just one member – Wynn. Entertainment figures, sports stars, politicians, captains of industry and Friends of Steve played the course, as did many em-

ployees of Wynn’s properties. Everybody else was left outside the fence, wondering.

As a marketing tactic, it worked. The course redefined the “wow” factor of business-focused golf. Wynn used it to woo politicians and financiers and to establish a clear line of who mattered and who didn’t.

Today, almost 14 years after the course shifted to MGM Resorts as part of the deal for the Mirage, the course has lost little of its luster. MGM dialed back the exclusivity by opening the course to guests at its properties willing to pay the \$500 greens fee.

The course remains the host of the Michael Jordan Celebrity Invitational. The NBA great with a long history of losing big bets is a long-time friend of Wynn’s but had little trouble staying with Shadow Creek after it changed hands.

By some reports, fewer than two dozen rounds of golf are played there on an average day.

Wynn also moved on, building a highly regarded course at his new eponymous property. But in this incarnation, the course is public, open to resort guests, but still with a \$500 greens fee.

Such is the nature of the high-end resort-golf business.

Perhaps this fall’s Shriners Open offered a glimpse into the state of golf in Nevada. The event, newly endowed with points toward the Fed Ex Cup, drew a vastly improved field that included nearly a dozen players from the high-profile President’s Cup event. Yet attendance was disappointing.

For the golfing public, it seems a time of “Tiger (Woods) or nothing,” Ogilvie observed.

That may be increasingly true for golfers in general. As Las Vegas Speedway’s Camper explained, only the promise of a memorable outing justifies the time commitment.

The good news is that in a magical place like Nevada, many courses are up to that challenge. 

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■ LAS VEGAS

# preview

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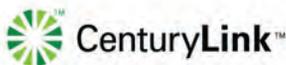
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# RETAIL SUMMARY

THIRD QUARTER 2013

## SOUTHERN NEVADA

During the third quarter of 2013, the Las Vegas retail market continued to witness increased demand, largely sourced to tenants occupying previously vacant anchor spaces. The overall vacancy rate fell to 9.6 percent during the quarter, representing a decline of 30 basis points (0.3 percentage points) from the prior quarter (Q2 2013). The rate is down 70 basis points (0.7 percentage points) when compared to the same quarter last year (Q3 2012).

The retail market reported approximately 181,900 square feet of positive net absorption during the third quarter, resulting in 234,500 square feet of net move-ins for the first three quarters of the year. A number of anchor tenants leased space in power centers throughout the valley.

Construction activity increased slightly in the third quarter with five anchored retail projects totaling 1.8 million square feet actively under construction by the end of the period. Aside from the 1.5 million-square-foot Shops at Summerlin that recently commenced construction after stalling during the recession, all of the retail construction activity is sourced to expansions of existing centers. Nearly 5,900 square feet of pad space broke ground during the quarter, while the 7,000-square-foot Fleming's continues to move forward in Town Square. In addition, a 25,000-square-foot Sprouts started construction, and Tivoli Village at Queensridge is moving forward on its 300,000-square-foot second phase.

The retail market vacancy rate reached its lowest level in nearly five years in the third quarter. While vacancies are materially higher than pre-recession lows, the market has been experiencing increased demand from anchor tenants. As overall spending continues to outpace population growth and inflation, demand for retail space appears to be returning.

## NORTHERN NEVADA

The Reno/Sparks retail market conditions slightly eroded during the third quarter of 2013. During the quarter, the vacancy rate increased modestly, and the area had a slight negative net absorption of 6,117 square feet. With this negative net absorption, the market had positive net absorption in only two of the last four quarters. Looking at the last few quarters, however, it appears that the market vacancy peaked in the second quarter of 2012.

During the quarter, there were 31 businesses moving into shopping centers consisting of 68,373 square feet while during the same period, 23 businesses moved out consisting of 75,553 square feet. Much of the negative net absorption during the quarter can be attributed to two larger tenants moving out of their retail space; the Welfare Department in the Viewcrest Center and Zephyr Books in the South Virginia Plaza. During the quarter, several new tenants opened including Buffalo Wild Wings in the Legends and Café De Manila in the Town and Country.

The line shop vacancy rate has increased to 23.46 percent this quarter from 23.42 percent last quarter. The anchor vacancy rate held steady at 13.52 percent. This is the lowest anchor vacancy quarter rate since the third quarter in 2010. The overall vacancy rate is 17.56 percent, which is noticeably lower compared to the record high from a year ago of 18.84 percent. As the market stabilizes and the vacancy rates continue to decrease, it is incrementally taking a little pressure off landlords. However, with a continuation of high vacancy rates in the market, it remains a good market for tenants to find deals.

## RETAIL THIRD QUARTER

| TOTAL MARKET              | LAS VEGAS  | RENO*      |
|---------------------------|------------|------------|
| Total Square feet         | 51,962,534 | 13,782,350 |
| Vacant Square Feet        | 4,963,766  | 2,419,809  |
| Percent Vacant            | 9.6%       | 17.56%     |
| New Construction          | 7,540      | 30,223     |
| Net Absorption            | 181,895    | (6,117)    |
| Average Lease sf/mo (nnn) | \$1.48     | 1.51       |
| Under Construction        | 1,837,928  | 69,016     |
| Planned                   | 2,967,878  | 0          |

### POWER CENTERS

|                           |            |           |
|---------------------------|------------|-----------|
| Total Square Feet         | 18,468,019 | 2,806,313 |
| Vacant Square Feet        | 1,051,658  | 524,888   |
| Percent Vacant            | 5.7%       | 18.70%    |
| New Construction          | 0          | 27,623    |
| Net Absorption            | 121,239    | 4,913     |
| Average Lease SF/MO (NNN) | \$1.65     | 1.65      |
| Under Construction        | 1,512,928  | 61,998    |
| Planned                   | 883,620    | 0         |

### COMMUNITY CENTERS

|                           |            |           |
|---------------------------|------------|-----------|
| Total Square Feet         | 13,359,412 | 5,820,509 |
| Vacant Square Feet        | 1,506,061  | 981,295   |
| Percent Vacant            | 11.3%      | 16.86%    |
| New Construction          | 0          | 2,600     |
| Net Absorption            | 16,094     | 2,084     |
| Average Lease SF/MO (NNN) | \$1.56     | 1.55      |
| Under Construction        | 300,000    | 0         |
| Planned                   | 1,479,503  | 0         |

### NEIGHBORHOOD CENTERS

|                           |            |           |
|---------------------------|------------|-----------|
| Total Square Feet         | 20,135,103 | 5,155,528 |
| Vacant Square Feet        | 2,406,047  | 913,626   |
| Percent Vacant            | 11.9%      | 17.72%    |
| New Construction          | 7,540      | 0         |
| Net Absorption            | 44,562     | (13,114)  |
| Average Lease SF/MO (NNN) | \$1.36     | 1.45      |
| Under Construction        | 25,000     | 7,018     |
| Planned                   | 604,755    | 0         |

## NEXT MONTH: INDUSTRIAL

### ABBREVIATION KEY

MGFS: Modified Gross Full-Service

SF/MO: Square Foot Per Month

NNN: Net Net Net

\* All numbers exclude regional malls

Southern Nevada analysis and statistics compiled by Applied Analysis, Northern Nevada analysis and statistics compiled by NAI Alliance Reno

The “second” estimate for third quarter 2013 shows U.S. real gross domestic product increasing at an annualized rate of 3.6 percent, an improvement over the 2.8 percent growth initially reported. Most of the revision was due to an acceleration of private inventory investment. Personal consumption expenditures, business fixed investment, residential investment, net exports and state and local government spending also made positive contributions. Housing starts were up substantially year-over-year, and housing prices continued to rise. Auto/truck sales and retail sales were also up year-over-year. Consumer confidence fell, while consumer sentiment rose for the most recent data.

The Nevada economy evidenced mostly positive signals with the most recent data. Seasonally adjusted, statewide employment increased by 7,400 (0.6 percent) jobs from September to October, and it was up 1.8 percent year-over-year. Taxable sales continued to show strong growth, up 9.0 percent from last year. Total air passengers were up 1.0 percent over the same period. Gaming revenue also experienced gains for the month, up 7.4 percent from September 2012.

For Clark County, seasonally adjusted employment rose from September to October by 2,200 jobs and was up 2.1 percent year-over-year. Total passengers at McCarran Airport were up 1.2 percent from a year earlier. September visitor volume was down 1.6 percent from a year ago. Gaming revenue was 8.7 percent higher in September than a year earlier. Clark County’s taxable sales for September were 10.5 percent above those from a year earlier. Residential construction permits increased from September to October. Commercial construction permits remained at a low level.

The most recent data show mixed signals for Washoe County. Seasonally adjusted, Reno-Sparks’ employment increased by 2,000 (1.0 percent) jobs from September to October. The seasonally adjusted Reno-Sparks’ unemployment rate remained constant at 9.2 percent. Compared to a year earlier, September visitor volume was down 4.1 percent. Total air passengers were down 2.3 percent over the same period. Gaming revenues for September were down 3.8 percent from a year earlier. Residential construction permits fell in September, while commercial construction permits remained low.

The U.S. economy experienced a pickup in growth for third quarter 2013. A weak national economy is affecting Nevada in the form of slowing growth in tourism. Despite the slowing tourism, taxable sales continue to make gains at the state level. Nevada’s employment is also showing relatively stable year-over-year gains.

Ryan T. Kennelly

UNLV Center for Business and Economic Research

| NEVADA                 | DATE    | UNITS             | DATA     |          |          | GROWTH |          | COMMENTS                        |
|------------------------|---------|-------------------|----------|----------|----------|--------|----------|---------------------------------|
|                        |         |                   | LATEST   | PREVIOUS | YEAR AGO | RECENT | YEAR AGO |                                 |
| Employment             | 2013M10 | 000s, SA          | 1,167.1  | 1,159.7  | 1,146.9  | 0.6%   | 1.8%     | Up Over Year Ago                |
| Unemployment Rate*     | 2013M10 | %, SA             | 9.3      | 9.4      | 10.3     | -0.1%  | -1.0%    | Reduced                         |
| Taxable Sales          | 2013M09 | \$billion         | 4.071    | 3.804    | 3.734    | 7.0%   | 9.0%     | Up Over Year Ago                |
| Gaming Revenue         | 2013M09 | \$million         | 958.81   | 955.28   | 892.75   | 0.4%   | 7.4%     | Up Over Year Ago                |
| Passengers             | 2013M09 | million persons   | 3.805    | 3.988    | 3.769    | -4.6%  | 1.0%     | Up Over Year Ago                |
| Gasoline Sales         | 2013M09 | million gallons   | 90.60    | 98.13    | 88.33    | -7.7%  | 2.6%     | Up Over Year Ago                |
| Visitor Volume         | 2013M06 | million persons   | 4.684    | 4.557    | 4.692    | 2.8%   | -0.2%    | Down from Year Ago              |
| <b>CLARK COUNTY</b>    |         |                   |          |          |          |        |          |                                 |
| Employment             | 2013M10 | 000s, SA          | 845.8    | 843.6    | 828.5    | 0.3%   | 2.1%     | Up Over Year Ago                |
| Unemployment Rate*     | 2013M10 | %, Smoothed SA    | 9.2      | 9.1      | 10.4     | 0.1%   | -1.2%    | Up Recently                     |
| Taxable Sales          | 2013M09 | \$billion         | 2.976    | 2.694    | 2.694    | 10.5%  | 10.5%    | Up Over Year Ago                |
| Gaming Revenue         | 2013M09 | \$million         | 827.05   | 816.75   | 760.55   | 1.3%   | 8.7%     | Up Over Year Ago                |
| Residential Permits    | 2013M10 | units permitted   | 637      | 569      | 595      | 12.0%  | 7.1%     | Up Over Year Ago                |
| Commercial Permits     | 2013M10 | permits           | 33       | 42       | 14       | -21.4% | 135.7%   | Low and Volatile                |
| Passengers             | 2013M09 | million persons   | 3.473    | 3.615    | 3.430    | -3.9%  | 1.2%     | Up Over Year Ago                |
| Gasoline Sales         | 2013M09 | million gallons   | 61.51    | 65.45    | 59.50    | -6.0%  | 3.4%     | Up Over Year Ago                |
| Visitor Volume         | 2013M09 | million persons   | 3.526    | 3.633    | 3.582    | -2.9%  | -1.6%    | Down from Year Ago              |
| <b>WASHOE COUNTY</b>   |         |                   |          |          |          |        |          |                                 |
| Employment **          | 2013M10 | 000s, SA          | 193.2    | 191.2    | 191.3    | 1.0%   | 1.0%     | Up Over Year Ago                |
| Unemployment Rate*     | 2013M10 | %, Smoothed SA    | 9.2      | 9.2      | 10.2     | 0.0%   | -1.0%    | Reduced from Year Ago           |
| Taxable Sales          | 2013M09 | \$billion         | 0.541    | 0.552    | 0.489    | -1.9%  | 10.7%    | Up Over Year Ago                |
| Gaming Revenue         | 2013M09 | \$million         | 66.23    | 73.80    | 68.84    | -10.3% | -3.8%    | Down from Year Ago              |
| Residential Permits    | 2013M10 | units permitted   | 63       | 176      | 60       | -64.2% | 5.0%     | Up Over Year Ago                |
| Commercial Permits     | 2013M10 | permits           | 18       | 23       | 20       | -21.7% | -10.0%   | Low and Volatile                |
| Passengers             | 2013M09 | million persons   | 0.284    | 0.322    | 0.290    | -12.0% | -2.3%    | Down from Year Ago              |
| Gasoline Sales         | 2013M09 | million gallons   | 13.84    | 15.53    | 13.80    | -10.9% | 0.3%     | Up Over Year Ago                |
| Visitor Volume         | 2013M09 | million persons   | 0.428    | 0.466    | 0.447    | -8.0%  | -4.1%    | Down from Year Ago              |
| <b>UNITED STATES</b>   |         |                   |          |          |          |        |          |                                 |
| Employment             | 2013M11 | million, SA       | 136.765  | 136.562  | 134.472  | 0.1%   | 1.7%     | Moderate Growth                 |
| Unemployment Rate      | 2013M11 | %, SA             | 7.0      | 7.3      | 7.8      | -0.3%  | -0.8%    | Reduced                         |
| Consumer Price Index   | 2013M10 | 82-84=100, SA     | 233.8    | 233.9    | 231.6    | -0.1%  | 0.9%     | Down Recently                   |
| Core CPI               | 2013M10 | 82-84=100, SA     | 234.9    | 234.6    | 231.0    | 0.1%   | 1.7%     | Up Moderately                   |
| Employment Cost Index  | 2013Q3  | 89.06=100, SA     | 118.4    | 118.0    | 116.3    | 0.3%   | 1.8%     | Up Moderately                   |
| Productivity Index     | 2013Q3  | 2005=100, SA      | 106.2    | 105.7    | 105.6    | 0.4%   | 0.5%     | Up Over Year Ago                |
| Retail Sales Growth    | 2013M10 | \$billion, SA     | 428.1    | 426.4    | 412.1    | 0.4%   | 3.9%     | Up Over Year Ago                |
| Auto and Truck Sales   | 2013M10 | million, SA       | 15.15    | 15.21    | 14.33    | -0.4%  | 5.7%     | Up Over Year Ago                |
| Housing Starts         | 2013M08 | million, SA       | 0.883    | 0.891    | 0.749    | -0.9%  | 17.9%    | Up Strongly Over Year Ago       |
| Real GDP Growth***     | 2013Q3  | 2009\$billion, SA | 15,819.0 | 15,679.7 | 15,534.0 | 3.6%   | 1.8%     | Up Moderately                   |
| U.S. Dollar            | 2013M12 | 97.01=100         | 102.202  | 101.812  | 99.025   | 0.4%   | 3.2%     | Up Over Year Ago                |
| Trade Balance          | 2013M10 | \$billion, SA     | -40.641  | -42.969  | -42.65   | -5.4%  | -4.7%    | Year-Over-Year Deficit Decrease |
| S and P 500            | 2013M11 | monthly close     | 1,805.81 | 1,756.54 | 1,416.18 | 2.8%   | 27.5%    | Up Strongly                     |
| Real Short-term Rates* | 2013M11 | %, NSA            | -2.83    | -2.95    | -3.01    | 0.12%  | 0.18%    | Less Negative                   |
| Treasury Yield Spread  | 2013M11 | %, NSA            | 2.65     | 2.57     | 1.56     | 0.08%  | 1.09%    | Up Over Year Ago                |

\*Change in percentage rate, \*\*Reflects the Reno-Sparks MSA which includes Washoe and Storey Counties, \*\*\*Recent growth is an annualized rate

Sources: Nevada Department of Taxation; Nevada Department of Employment, Training, and Rehabilitation; UNR Bureau of Business and Economic Research; UNLV Center for Business and Economic Research; McCarran International Airport; Reno/Tahoe International Airport; Las Vegas Convention and Visitors Authority; Reno-Sparks Convention and Visitors Authority; U.S. Department of Commerce; U.S. Bureau of Labor Statistics; U.S. Census Bureau; U.S. Federal Reserve System.

Note: NSA = Not Seasonally Adjusted, SA = Seasonally Adjusted

“New Year’s resolutions are made to be broken! Instead, I like to establish a New Year’s “theme” to help me refocus my priorities each year. I have declared 2014 the “Year of Breaking Boundaries!”

**Kelley Goldberg** | Shareholder, Intellectual Property Group Brownstein Hyatt Farber Schreck LLP

“The goal I have for 2014 is to step up one of my original goals when I first started my tax practice in 1983. My original goal was to change two people’s lives for the better each day. Changing two people’s lives for the better has not been that difficult; so this year I am stepping that up to 4 people a day.”

**Al Wagner** | President, Trinity Tax Consultants, Inc.

“I am committed to supporting the ongoing initiative of Reno’s rebirth. Our city has made huge strides in changing the perception of community and culture. As a Reno native, I will help drive this initiative through volunteer work.”

**Joe Kulikowski** | Vice President, LP Insurance Services, Inc.



## What’s your New Year’s Resolution?



**Gary Coward** | Senior Vice President, Concept Amenities

“In 2014 it is my hope to continue to build the Hospitality Industry’s respect and trust in Concept Amenities; our products and our staff. To be invited to bid on every guest amenity RFP and surpass the expectations of our partners and those of their guests.”

**Keith R. Brill, MD, FACOG, FACS** | President, Clark County Medical Society

“I am looking to 2014 with a healthy dose of anticipation and hope. It will be a great year to become healthier, by choosing healthy habits, and by having access to great Clark County Medical Society physicians and physician assistants.”

**Terrie D'Antonio** | President and Chief Executive Officer, HELP of Southern Nevada

“My New Year’s resolution is to secure additional funds for the development and design of HELP of Southern Nevada’s new Shannon West Homeless Youth Center. The new building would provide residential services for 110 youths aged 16 to 24.”



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