The Utah Banker

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UTAH BANKERS ASSOCIATION
A Century Of Service
The Official Publication of the Utah Bankers Association

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THE BOTTOM LINE

By Howard Headlee, UBA President

Everyone wants to know about the future. When will the economy recover? Will my money be safe? When will housing prices recover? Who will be the winners and who will be the losers? The questions go on and on. However, the only answer that works for almost every question is this: Things will never be the same.

The fact is, this answer has always proven to be accurate. Things never stay the same. However, the degree to which they will be different this time around will be much more significant. Bank regulators are already implementing practices and procedures that will change the landscape of the banking industry. And bank regulators themselves face wholesale restructuring as a result of the current disorder in the financial markets. Some of this change is necessary, but as we embark on changes intended to ensure this never happens again, it is just as important to remember and retain the keys to our industry's past success as it is to affix blame for the current failures.

As we are about to inaugurate the first African-American President in the history of the United States, I hope it will serve as a reminder of perhaps the single most important guiding principle driving the success of the U.S. banking system—DIVERSITY!

Thus far the intense pressure to centrally plan a more "efficient" and "effective" financial regulatory scheme has yielded proposals that I believe could drastically damage the type of innovation and diversity that has made our banking system great. Additionally, many of the knee-jerk reactions of our current regulatory bodies have been disproportionately difficult for our smaller institutions to endure. I suspect that there are those regulators that look at the vast number of small community banks and see "a thousand points of risk" even though these institutions never strayed from and continue to apply traditional underwriting standards to meet the needs of their local communities. Most of these smaller banks were far too "unsophisticated" to get wrapped up in all the complex instruments that have now devastated the financial markets.

As secondary markets disappear, there is no way the banking industry as currently constituted can absorb the tsunami of credit demand that is upon us—not even with the infusion of capital by the Treasury. The fact is, a lot of un-

Our Bottom Line is You

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Ready and Empowered
to Face Challenges in 2009

CHAIRMAN'S MESSAGE

By LeeAnne Linderman, UBA Chairman

The Utah Bankers Association will kick off the New Year facing continued challenges, but we are well-equipped to weather the storm of this economic period. That's because our membership and our combined expertise provides us with advantages and opportunities.

Working together, we can continue to help restore consumer confidence in 2009. We can leverage our critical mass to help support businesses and families with their financial needs. It's a tough job, but we have talented bankers working for our many strong institutions. These bankers are ready and willing to help ease worries and share wisdom with clients.

As Utahns, we are still enjoying some relative economic strengths that continue to attract new businesses. Although the nationwide economic slowing has spread into the state, we're also lucky to boast some unique economic characteristics. The latest figures from the U.S. Census Bureau show Utah leading the nation in population growth by percentage, at a solid 2.5 percent. This demonstrates our state's vibrancy, and reflects how Utah is attractive to in-migration as well as current residents growing their families.

This past year was a tumultuous time for the industry. But we're also seeing some positive economic trends from recent months. For example, the middle and lower-middle class had stronger income gains in the most recent year than did the top one-fifth of households, according to Thredgold Economic Associates. In addition, Thredgold notes that in 1967, only one family in 25 earned today's equivalent of $100,000 or more. Today, one in six families does. The share of families earning more than $75,000 annually in real dollars has tripled from 9 percent to 27 percent, while the share of families earning between $5,000 and $50,000 in real dollars has fallen by 19 percent since 1967, according to Thredgold. Although the media keeps harkening back to the Great Depression era, we need to remember that our nation's economic gains in recent years have been significant and meaningful for our nation.

In 2009, I challenge us all to make the resolution to work together as an industry and continue supporting our communities, our neighbors and our businesses. As bankers, we can serve as leaders in the call for economic recovery and renewal.

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regulated, non-banks got into the credit business over the past few years. While this played a significant role in our economic growth, the absence of uniform regulation proved to be a fatal flaw. So what's the solution? Should we try to move forward with less available credit exclusively provided by the remaining highly regulated institutions? Or, should we bring these un-regulated, non-bank providers and their capital under our regulatory tent? Undoubtedly, a broader range of credit providers will pursue the banking charter and FDIC insurance. This has already begun.

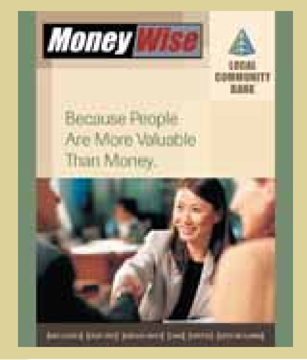
We have always espoused the notion that we welcome competition so long as everyone is playing by the same rules and paying the same taxes. Therefore, it seems to me that we should welcome anyone who is willing to subject themselves to the same regulations and the same taxes especially if it means providing the necessary credit to keep our economy moving forward.

I believe that the coming change will be positive for the banking industry and our country if we remain committed to maintaining diversity in the banking industry and continue our fight for a level regulatory playing field for all credit providers. This may mean new competition, but at least it will be fair competition. The fact that the credit union lobby is doing everything in its power to avoid being pulled under the same regulatory umbrella as everyone else is a clear indication that we are moving in the right direction. If credit unions were forced to trade their current cheerleader regulator for a *real* regulator, most of the disputes between banks and the large bank-like credit unions would never even happen.

The key to a bright future for the U.S. banking industry and the American economy is diversity combined with equal opportunity and uniform regulation. There are already those seeking to take us in a different, centrally planned, less-diverse, European direction. The only way we will be able to turn them back is to stand united in our diversity and commit ourselves fully to these guiding principles. I guess it could mean more competition, but fair competition has never been a problem for a good banker.

"The future isn't what it used to be."

— Yogi Berra



- The average U.S. bank has a customer loss ratio of about 15%
- 68% of banking customers who leave one bank for another do so for dissatisfaction related to customer service
- Decreasing the customer loss ratio by 5% would result in an 85% increase in profits for most banks

It used to be that a good product, reasonable fees and a convenient location were enough to be successful. Today, the business of being competitive involves mixing warm and fuzzy with business logic and a marketing plan that keeps your customers loyal to you.

Communicating with your customers makes a lot of sense.

Media Myths

About Banks and the So-Called Bailout

By Howard Headlee, President of the Utah Bankers Association

As the economy has faltered over the past several months, there are many voices in the media that have emerged as economic experts, especially in the area of banking. I am sad to say that much of the reporting, especially at the national level is consistently unreliable.

It is critical for bankers and their staffs to have access to the facts. Here are a few of the more important clarifications.

1 **The term "bank" can only legally be used by an institution that has applied for and received a charter from the Federal Deposit Insurance Corporation (FDIC).** Banks can offer their depositors FDIC insurance on money their customers place in deposit. All year long, the media has erroneously used the word "bank" to describe institutions that are financial in nature, but NOT banks. For example, Bear Stearns was NOT a bank. In a recent issue of *The Deseret News*, the AP ran story about salaries and bonuses at "banks" and nearly every example noted was NOT a bank. Basically the media refers to any institution that is involved in financial services as a "bank."

2 **FDIC insured banks were generally NOT involved in making sub-prime, risky, and ill-advised mortgages to people who could not afford them.** There were a couple (not in Utah) and they have failed, but for the most part, Utah banks were not involved and have not been directly impacted by the default of these mortgages. Indirectly, Utah banks have been impacted by the resulting downturn in housing as we did finance much of the building and development of homes in Utah.

3 **Utah banks are very strong and continue to lend as aggressively as is prudent in this environment.** Contrary to public statements, lending at many Utah banks is actually higher than last year. Banks are aggressively pursuing credit worthy lending opportunities; however, it is not in anyone's interests that they begin to make imprudent loans.

4 **Real FDIC insured banks were not bailed out by the U.S. Treasury!** Initially the Treasury intended to use the TARP money to buy "toxic" mortgage assets. Because most Utah banks had nothing to do with these assets, they would not have been directly involved in this plan. However, the Treasury changed its mind shortly after Congress approved the measure. At first the Treasury DID make loans (termed Bailouts) to troubled financial companies (such as AIG- not a "Bank"!) but then the Treasury decided to try to "stimulate" the economy by investing the TARP monies in HEALTHY BANKS. Troubled banks need not apply for this

money, because the Treasury made it clear they would only invest in banks that are healthy and ready to use the additional capital to make loans in their local communities. We are still in the application and review stage. Even the earliest recipients (the largest banks) have only had this capital for less than 30 days.

6 Banks do not lend the capital they receive from the TARP. Instead banks leverage this capital up to 10-12 times by collecting deposits which are lent in local communities. The full impact of the TARP will not be felt until we are able to collect more deposits and then have the time to identify and underwrite prudent loans.

> It is not in anyone's interest for banks to use this capital to hastily make bad loans.

5 The TARP monies are an investment and must be paid back with interest. Because they are only being invested in healthy banks, it is highly likely taxpayers will be made whole. It is not in anyone's interest for banks to use this capital to hastily make bad loans. This plan might work if Congress and regulators demonstrate the appropriate discipline to invest the money and then let the banks do what they do best: deploy the capital to its highest and best use in our local communities over the next few months and years (not days and weeks.) But if they use this investment as a foothold to start telling banks how to do their job, it will be a disaster.

Rest assured, Utah's banks are well prepared for this downturn. Despite all the rumors, we are still talking about earnings being lower than previous years, not losses. Nonetheless, Utah's banks are at the "Heart of our Community" and we are centrally connected to the struggles and challenges faced by all Utahns. As you know, Utah is performing relatively well compared to many other states, even most of our neighbors. So when I see the strength in our banking community, I am confident that we will continue to out-perform as we proceed through our recovery.

Government Receivables as Collateral? Proceed with Caution!

By Brian D. Cunningham and Nicole W. Skorupka, Snell & Wilmer, L.L.P.

Current economic troubles have caused bankers to closely examine the quality of their borrowers' accounts receivable that secure asset based loans. As account debtors delay paying invoices and the overall financial strength of account debtors weakens, borrowing base availability under a bank's typical commercial loan documents declines and the overall value of the bank's collateral diminishes.

Bankers are routinely finding that foreclosing upon accounts in the current environment provides the bank with far less of a return than was originally contemplated.

As part of the overall review of a borrower's accounts, if the borrower has receivables from the United States Government, it is imperative that the banker ensure that the loan and loan documents comply with the Federal Assignment of Claims Act (Act). The Federal Assignment of Claims Act is often misunderstood. The Act, found at 41 U.S.C. § 15, applies to all obligations owing by the federal government or any agency or department of the federal government. It is supplemented by the Federal Acquisition Regulations (FAR) found in Title 48 of the Code of Federal Regulations. The Act only governs notices of assignment and payment instructions. If the Bank does not comply with the Act, it may still have a valid assignment or security interest and prevail against junior security interests, judgment creditors and bankruptcy trustees. *However, if a bank does not comply with the Act and the government agency pays someone other than the bank, the bank has no claim against the government agency.*

The Framework

Prior to 1940, federal law prohibited the assignment of accounts receivable from contracts with the federal government, which greatly diminished the value of such receivables as loan collateral. Although these anti-assignment laws were implemented to protect the government from the administrative burden of investigating the validity of each assignment and any corresponding claim, the laws effectively reduced the ability of private contractors that supply goods or services to the federal government to secure financing by granting lenders an interest in their accounts receivable. The Act addressed the impact of the anti-assignment laws by exempting certain assignments to "financing institutions." When financing government contractors, banks must proceed with care when navigating the extensive statutory and regulatory framework applicable to assignments of proceeds from contracts with the federal government.

The Act encourages lenders to finance government contractors by permitting the contractors to assign the right to payment from receivables as loan collateral. Despite the name of the Act (The Assignment of Claims Act), permissible assignments only capture the right to receive payments due under the contract rather than the contract itself or claims other than for payment arising under the contract. In short, if the bank complies with the Act, the government will pay contract payments directly to the bank.

Conditions and procedures for assignments under the Act are prescribed in the FAR and are supplemented through regulations promulgated by federal agencies contracting under the Act. Under those rules, an assignment of money due or to become due under a government contract as security for a loan is valid if:

- The contract specifies payment of at least $1,000;
- The contract does not prohibit an assignment;
- The assignment is made to a bank, trust company or other financing institution (i.e., institution that deals in money as the primary function of its business activity);
- Unless otherwise expressly permitted in the contract, the assignment:
  - Covers all unpaid amounts payable under the contract;
  - Is not subject to further assignment;
  - Is made to one party, and such party participates directly in the financing, except that any assignment may be made to one party as agent or trustee for two or more parties participating in the financing of the contract; and
- Lender sends an original plus three copies of the notice of assignment and a true copy of the assignment instrument to (a) the administrative contracting officer performing all contract administrative functions, (b) any surety on bonds applicable to the contract, and (c) the disbursing officer authorized under the contract to make payments.

The administrative contracting officer is given a reasonable time after receipt of the notice of assignment to determinate if the assignment is valid.

There may be additional requirements applicable to assignments of amounts owing by certain federal departments or agencies. The provisions of the Code of Federal Regulations for the applicable department or agency should be reviewed in each instance.

The Risks and Rewards

Even after full compliance with the Act and FAR, lenders' collateral may be exposed to certain claims from sureties or the contractors' employees. Pursuant to the Miller Act, contractors must furnish certain payment and performance bonds for federal government contracts pertaining to the construction, alteration or repair of a public building or public work. A lender taking an assignment of proceeds from such contract is imputed with knowledge of the Miller Act's bond requirements. Any surety required to perform under a bond will have superior rights to proceeds from the underlying contract, regardless of an earlier assignment. Additionally, a lender's rights to assigned payments may be suspended if a contractor fails to comply with certain federal laws protecting employees, such as federal wage and hour statutes.

It should be noted that some courts have held that the Act requires that the bank must show that it loaned money or at least made money available for the performance of the government contract.

Regardless of the foregoing, financing government contractors may still be attractive to banks because of the continuous stream of timely payments available to pay down any outstanding balances. The federal government is subject to the Prompt Payment Act, which incentivizes the government to make payments when due by applying interest to late payments at a rate set by the Secretary of the Treasury. Additionally, with the federal government as the account debtor, lenders do not assume risk of non-payment due to insolvency as with non-government account debtors. Unless payments were made as a result of fraud, the federal government may not recover proceeds once paid to lenders.

How to Proceed

Thoroughly review government contracts. Government contracts must meet the conditions prescribed by FAR. Check to ensure that assignment is not prohibited by the contract. Additionally, the contracts should contain a "no-setoff" commitment to prevent the federal government from reducing assigned receivables to setoff the contractor's indebtedness to the government.

Take care drafting assignment instruments. Assignment instruments must grant the lender ownership in the proceeds; a collateral assignment granting a security interest

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will be insufficient. Additionally, the assignment should only cover "moneys due or to become due" under the contract and should identify the contract by number. Blanket assignments capturing all assignable rights under the contract are not permitted under the Act and may be rejected by the administrative contracting officer.

Confirm appropriate form and delivery instructions for notices of assignment. Lenders must strictly comply with the notice requirements prescribed by FAR, including the form of the notice. Courts have consistently invalidated assignments for non-compliance with the notice requirements.

Perfect security interest in accounts receivable. Security interests must be perfected in accordance with the Uniform Commercial Code as is done when financing a non-government contractor. The Act does not apply to disputes between private parties (i.e., lenders and their borrowers) so compliance with the Act does not perfect a security interest and vice-versa.

Ensure compliance with applicable state laws. This article summarizes federal laws regarding assignments of claims. If the contract is with a state agency or department, lenders must review and comply with any applicable state assignments of claims' laws.

Although the foregoing article is not a comprehensive summary of the Act, lenders should be able to begin assessing whether credit facilities secured in whole or in part by government receivables are feasible and can be administered in a cost efficient manner. With careful consideration of the risks and rewards, and diligent observation of the legal framework, lending against government receivables may provide lenders with a substantial source of business.

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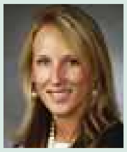

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U.S. Treasury's Go Direct Campaign Urges Banks to Stand Up and Be Recognized for Promoting Direct Deposit

Whether your bank serves a small town, a large city or an entire region, customers in your community look to you for sound advice about their money. The U.S. Department of the Treasury's **Go Direct** campaign is announcing a new recognition program for financial institutions that go the extra mile in promoting direct deposit to senior citizens, people with disabilities, veterans and other members who receive federal benefits.

The six-month **Go Direct** Community Ambassadors Program launches in January and is aimed at community- and medium-sized financial institutions. The program is simple to implement and provides banks with a flexible way to demonstrate their commitment to the community's financial health while gaining recognition from Treasury's **Go Direct** campaign. All banks are invited to register online at www.GoDirect.org by January 31, 2009.

Banks that successfully participate in the Community Ambassadors program will receive a letter of recognition and certificate from **Go Direct.** Participating banks will be offered a variety of options for sharing information about the benefits of direct deposit with their customers, including ordering free **Go Direct** materials.

The simple act of switching to direct deposit can have a meaningful, positive impact on the lives of your customers and on your community. Consider the following:

- Direct deposit is safer and easier than paper checks—in fact, when there is a problem with a Social Security payment, nine times out of 10 it is with a paper check, not a direct deposit payment.
- Direct deposit also provides "green" benefits by reducing the paper and energy required to distribute checks.
- And direct deposit saves taxpayers money. Since it was launched in 2005, the **Go Direct** campaign has generated more than two million enrollments in direct deposit representing significant savings to taxpayers in printing, mailing and other costs.

Raising awareness about the benefits of direct deposit is a community effort. More than 1,200 **Go Direct** partner organizations engage in direct deposit education efforts across the country—including financial institutions, non-profits, and community-based groups.

For more information about the Community Ambassadors program or **Go Direct,** call 952-346-6055, or visit www.GoDirect.org.

Prevent Loan Defaults

Using Online UCC Services

By Margarita Guerra Terrell, Marketing Executive with Utah Interactive on behalf of the Utah Division of Corporations and Commercial Code

Could you have prevented a loan default by checking UCC filings? For several years the Division of Corporations and Commercial Code within the Utah Department of Commerce has made it possible for individuals to file Uniform Commercial Code (UCC) statements electronically though the UCC Filing System. It has also offered online searches through UCC Search the UCC and Central Filing Search (CFS) system to view active filings.

Recently, this online search system reached a higher level by offering online access to copies of original documents, thus providing access to the full collateral description. This serves as a key step in verifying and protecting your priority in debt collection.

The UCC Filing System allows users to file initial UCC Financing Statements, "In Lieu of" Statements, Continuations, and Terminations online at https://secure.utah.gov/ucc. Statements can also be submitted in person or by mail; however, due to the convenience of electronic filing, last year over 50% of UCC statements were filed online. The fee for filing UCC statements is the same if submitted in person, by mail, or online, which makes the efficiency of electronic filing an attractive option.

"Online filing is a goal for all Divisions within the Department of Commerce," stated Commerce Executive Director Francine A. Giani, "[The Division of] Corporations is ahead of the curve. They recognize business needs and are transforming the way they meet those needs."

At no charge, the UCC Search system, available at https://secure.utah.gov/uccsearch allows users to Search UCC & CFS records by filing number, debtor name, or debtor ID. The search results include filing number, filing dates, debtor and secured party information, and abbreviated collateral descriptions. Once the record is retrieved, users have the option to certify the UCC search or to download an image of the original document through the UCC Imaging service for a small fee.

The UCC Imaging service is an essential tool for lenders, creditors, bankruptcy trustees, and attorneys since the scanned image contains full collateral information, versus the abbreviated information listed on the online search results. Prior to the availability of this new service, the only way to retrieve copies of original UCC documents was in person at the Department of Commerce. With full information now available online, users can save time by instantly downloading the image from the UCC Search website.

This exciting new Imaging service offers a comprehensive repository of all UCC records, including initial Financing Statements, Continuations, Terminations, and Amendments dated through 1965. Filings can be retrieved online regardless of how the statements were filed—in person, by mail, or online. There may be a delay of a couple of days in viewing the records online if the documents were submitted in person or by mail. Filings submitted online are immediately available.

To begin using the various features of the UCC Search or Filing systems, visit the Division of Corporations at http://www.corporations.utah.gov.

Aggressive Banking Advocacy

Speaking at our annual convention in San Francisco, new ABA Chairman Arthur Connelly, chairman and CEO of South Shore Bancorp MHC, Weymouth, Mass., issued a call for bankers to get involved and stay involved when he said: "I want the letters ABA to stand for aggressive banking advocacy."

WASHINGTON UPDATE

By Edward L. Yingling,
President and CEO,
American Bankers Association

Given the current uncertainties with our economy, a new Congress and a new presidential administration guiding departments and regulatory agencies, we need more bankers to get involved in grassroots advocacy than ever before. Our industry will need to make its voice heard early and often on a number of critical issues before us.

We are in a very difficult environment. Our economy is wounded and the public is mad as hell and not discriminating as to who deserves their wrath. We can expect to face more issues than we can count—including Treasury's Troubled Assets Relief Program, regulatory restructuring, the future of Fannie Mae and Freddie Mac, limits on interchange fees and many more.

Throughout all this, there will be more ideas for additional regulations than you can imagine; and we have some ideas of our own for less regulation.

2009 will truly be a year that determines our industry's future. It's a year that also calls for your constant engagement and involvement.

We know that a strong banking industry is critical to our country's success. We need to tell our story so that together we can create a new and better financial system—one that has at its core the bankers across the county who did not engage in toxic subprime lending or in selling investments no one understood.

Connecting bankers and their communities to lawmakers in Congress is the goal of our Direct Contact Banker Program. The program is designed to leverage relationships that local bank officers have (or should have) with their elected officials in Washington.

These relationships enable bankers to educate lawmakers about the effects that legislation can have on the banking industry and their local constituents. The expectations for those bankers who participate in this program are high because the stakes are so high.

Direct Contact Bankers serve as the front line for the banking industry, and we need to continue to grow participation in this program, so more members of Congress will know their hometown banker, and be eager and willing to take that banker's call when time is of the essence.

To learn more about this program, visit http://www.aba.com/Grassroots/

DCBankers.htm. We also have resources and to-do items for our bankers posted on our Grassroots Advocacy Resource Center at www.aba.com/Grassroots.

One key set of dates to highlight—now—on your calendars is March 30–April 1. That's when our annual Government Relations Summit takes place in Washington at the Renaissance Washington Hotel.

This event provides another opportunity for bankers to make their voices heard in personal meetings with their lawmakers and their congressional staffs. Participating bankers also get to hear first-hand what's on the minds of House and Senate leaders and regulators.

Our summit is open to any and all bankers, and we want to continue to grow participation in this once-a-year opportunity. Talk to your colleagues and encourage them to attend with you, so your state delegation can make a thundering presence felt in the halls of Congress.

To learn more about the ABA Government Relations Summit, go to http://www.aba.com/Events/GRS.htm.

It's more important than ever before to get involved and stay engaged. Together, we can speak for, and effectively advocate on behalf of, the entire banking industry and its over two million employees.

Reach **Ed Yingling** by e-mail at ed.yingling@aba.com

5 Tips to Make Your Environmental Assessments More Effective

By William Ranaudo, Environmental Data Resources

As any seasoned lender knows, environmental risks can impair deals. Contaminated property securing a loan transaction can expose a bank to direct liability for cleanup costs as well as probable litigation. It can cause buyers to default if they're forced to divert cash flow to pay for cleanup, and in the case of foreclosure, it can leave the bank with property that may be difficult to sell.

Environmental issues can also damage a bank's reputation. If you make loans secured by real estate, the following tips, gleaned from leading environmental professionals, will help ensure that you're getting the most out of your environmental due diligence program.

1 Keep your environmental policy current.

A formal environmental policy is the best way to protect your bank from issues caused by environmental contamination. A written policy will also appease regulators like the Federal Deposit Insurance Corporation, the U.S. Small Business Administration and the Office of the Comptroller of the Currency, all of which require banks to screen properties for environmental risk. Because bank goals and regulations change over time, though, it's not enough to have a policy—you must also keep it current. If you make 7(a) or 504 loans, for example, it's imperative that your policy incorporates the new SBA guidelines that took effect August 1, 2008—they're far more stringent than the agency's former environmental protocol. If you're unsure whether your policy is in line with all applicable laws and regulations, seek input from an environmental professional or attorney.

2 Be careful who you hire.

Fortunately, Utah has an abundance of highly qualified, highly skilled environmental professionals. But, like any other service industry, the environmental industry contains its share of unqualified providers. Recognizing this, the U.S. Environmental Protection Agency set minimum qualifications for environmental professionals (EPs) in its All Appropriate Inquiry (AAI) rule, the federal regulation that governs Phase I environmental site assessments. Although the rule allows for consultants who do not meet the definition of an EP to conduct AAI-compliant Phase I ESAs provided they are under the supervision of someone who does, many lenders now require that every element of the inquiry be performed by a qualified consultant. Whether or not your bank adopts this policy, know that it can take years of practice before an EP is proficient in assessing recognized environmental conditions and can make sound recommendations that fit with specific situations and risk tolerances. Tempting as it may be to choose a consultant based on price, saving a few hundred bucks isn't such a bargain when you later face thousands of dollars in cleanup costs. Ask for resumes, references and project summaries.

3 Don't overlook the past.

A property's past uses provide important clues to its current environmental status. After all, that Taylorsville donut shop or Provo pet store may look benign, but if they sit over the site of a former gas station or dry cleaner, they are probably anything but. Historical research is considered by many Phase I professionals to be the most important part of the inquiry. Don't skip it.

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BANK KUDOS

Bank of American Fork presented over 6,000 teddy bears to two family support centers on Dec. 17. The presentation was part of the bank's ninth annual Project Teddy Bear, which collects stuffed animals for at-risk children who use services at the Family Support & Treatment Center in Orem and the Family Support Center in Midvale. The stuffed animals are used in play therapy and to comfort children in times of trauma. Employees and customers at Bank of American Fork's 12 branches helped bring in the record number of stuffed animals.

Bank of American Fork recently donated $5,000 to Alta High School to jumpstart fundraising to improve the school's football stadium. Additionally, the Bank has pledged to match every donation dollar for dollar up to $20,000. "We are excited at this opportunity to partner with Alta High," said Rick Beard, Bank of American Fork president. "As a community bank, it is a top priority to work with local organizations that positively impact our communities."

Chase Bank's upscale HQ combines lines of business—with 24 stories of glass and granite that reach upward from the city streets, the One Utah Center is a prominent Salt Lake City landmark—and Chase Bank's new Utah headquarters.

On November 17, nearly 100 Chase employees from all lines of business moved in to the newly-renovated third floor of the One Utah Center located at 201 S. Main Street in Salt Lake City.

Chase Bank's new Utah headquarters

"This move was a great opportunity for us to bring the different lines of business together into a really great environment," says Utah president, Craig Zollinger. "It's nice to see everything finally come together."

The bank's new headquarters features a large boardroom with integrated presentation technology, where clients can view business presentations on a 50" flat-screen television. Marble floor tiles and custom woodwork add to the upscale look and feel of the office environment.

"It was a long time coming, but it's worth it," said CEO Jamie Dimon of the move during a visit to Salt Lake City in 2008. This move gives Chase the feel and presence that a world-class financial institution seeks in every market.

First Utah Bank is establishing a Business Resource Center at its International Office at 3123 South Redwood Road in West Valley City. This Resource Center will make available to potential or current small business owners materials to assist them with various aspects of business start-up or growing and marketing their existing business. The Bank is partnering with SCORE and the SBA to hold seminars on such topics as How to Start a Business, Recordkeeping & Taxes, and Marketing. During these seminars breakout sessions will be arranged to hold discussions in the native language of the participants (i.e. Chinese, Vietnamese, Korean, etc.). Visitors to the Office will be able to view pertinent magazine articles, printed materials published on the associated topics, as well as internet access with links to the many resources available in our community (SCORE, SBA, Utah Microenterprise Loan Fund, etc.).

Heber Valley National Bank has converted its national banking charter into a Utah charter. The bank has three Utah branches in Heber, Vernal and Midway, and has four Colorado branches in Grand Junction, Fruita and Collbran. The bank was organized in 1983, and has done business as Heber Valley National Bank and Grand Valley National Bank. It will now be known as Heber Valley Bank (Heber and Midway) and Grand Valley Bank (Vernal and all Colorado branches).

Zions First National Bank, to celebrate its 135-year birthday in branches throughout Idaho and Utah, invited community residents to submit service-oriented "wishes" employees could grant. The result was a huge birthday celebration from August through October that benefited the communities where Zions Bank operates.

Employees of Zions Murray Office show off items donated through 135 Wishes Campaign

"At a time when it is so critical for our employees to be active and visible in their communities, the '135 WISHES' program gave branches the opportunity to reinforce the bank's longevity and stability while also emphasizing the valuable service it provides to our local neighborhoods," said **Lee-Anne Linderman,** EVP and director of Branch Banking.

Some projects benefited clients, such as a Logan woman who needed help removing trees in her backyard. Though the services provided were as varied as the bank's geography, all helped demonstrate employees' creativity and selflessness.

The Eden Office's "wish" nomination box was filled with suggestions to help offset the medical bills for a local family after a tragic accident left 18-year-old Josh Pack paralyzed. So, employees decided to run with the suggestions—literally—by organizing a 5K run to benefit Pack. On Aug. 16, dozens of community members met at the Eden Park to participate in the 3.3-mile run. Organizers were impressed by the turnout that exceeded expectations and the generous donations that poured into the donation account set up to help pay for Josh's medical bills.

"Our close-knit town really bands together during times of tragedy like these, so we wanted to help find a way to galvanize the community support for the Pack family," said branch manager **Deana Allen.**

Zions Women's Financial Group recently honored seven women from Idaho and Utah with "Smart Women Grants" for their contributions to their local communities. The recipients were selected from 144 applications reviewed by the group's community advisory board, a team of non-bankers with diverse backgrounds in a variety of business fields. The

Tom Morgan, Rachel Hardin, Cece Mitchell

panel awarded seven grants totaling $18,547.

This marks the fourth year that Zions Bank has offered a series of micro-grants to recognize women who excel in a variety of categories: small business startup and expansion; community development; continuing education and teacher support; child and elder care; health and human services; and arts and culture. Over the past four years, the grant program has provided nearly $100,000 to 34 talented individuals or organizations.

"We developed the Smart Women Grants to help bolster the efforts of everyday heroines who strengthen our communities in so many ways through their various talents," said **Cece Mitchell,** senior vice president and manager of the Women's Financial Group. "The grants are an extension of our ongoing commitment to empower women in achieving financial independence."

Applications for 2009 Smart Women Grants will be available in February.

5 Tips - continued from page 16

4 Add non-scope issues when necessary. While an AAI-compliant Phase I ESA and its equivalent, an ASTM E 1527-05 Phase I, are widely recognized as the environmental due diligence industry standard of care, a Phase I is not all-inclusive. Remember, the purpose of the Phase I is to help users obtain CERCLA liability protections—not to evaluate every environmental risk that may impact a business. Issues like vapor intrusion, mold, asbestos, and lead-based paint, for example, are outside the scope of a Phase I. But these issues can cause problems for lenders and investors if left unaddressed. For example, the presence of asbestos could cost the borrower a great deal of money if renovations are planned. Consult with your EP to determine which additional screens may be necessary.

5 Don't rush. A Phase I ESA typically takes three to four weeks to complete—rush it and you might miss critical information. Your EP needs sufficient time to visit the site, interview past and present owners and operators, and request and receive site information from government agencies and data providers. Demanding a too-short turnaround may compromise your EP's ability to obtain information, especially on properties with regulatory issues. And resist the temptation to rely on old reports. New issues can crop up at any time, drastically changing a property's environmental status. For this reason, the AAI rule assigns a one-year shelf life from the date of property purchase for the environmental inquiry, with a 180-day shelf life for certain components. If you're in a hurry and the deal doesn't require a Phase I, consider ordering an environmental database report from a commercial information vendor. The report will be on your desk in a day or two—or less if ordered online.

William Ranaudo is a Regional Manager with Environmental Data Resources. He can be reached at branaudo@edrnet.com or at 800-265-2322. For more information on environmental due diligence, visit www.edrnet.com/lenders.

BANKERS
ON THE MOVE

Eric Blanchard, Bank of Utah, has been named Assistant Vice President & Branch Manager at the Brigham City location.

David Brindley, Heber Valley National Bank, was hired as Assistant Vice President and Commercial Lender.

Tim Carfi, GE Capital Financial Inc., has been named President and CEO, Salt Lake City.

Rob Carpenter, Chase Commercial Banking, was hired as a Middle Market Banker in Salt Lake City.

Carolyn Damon, GE Capital Financial, Inc., has been named Chief Information Officer for Salt Lake City.

DeLynne L. De Temple, Bank of Utah was promoted to Vice President & Commercial Loan Officer at the 711 South State Street in Salt Lake City.

Dean Edwards, Heber Valley National Bank, has returned as Vice President after a three year term as mission president for the Church of Jesus Christ of Latter-day Saints in Lansing Michigan.

Mike Galbraith, Chase Bank, was hired as a Business Banker at the Bountiful Branch.

Katrina Holt, GE Capital Financial, Inc., has been named Senior Audit Manager, Salt Lake City.

Laura O. Houston, Wells Fargo, has been promoted to regional manager for The Private Bank in greater Utah.

Karl Kieffer, GE Capital Financial, Inc., has been named Chief Risk Officer, Salt Lake City.

Jack Mangum, Bank of American Fork, has been hired as a loan officer in the American Fork Branch.

Michael Meehan, GE Capital Financial, Inc., has been named General Counsel, Salt Lake City.

Rob Millard, GE Capital Financial, Inc., has been named Chief Financial Officer, Salt Lake City.

Shannon Minch, Chase Bank, was promoted to a Proposal Writer/Product Analyst for the Commercial Card Group in South Salt Lake.

Aaron Nelson, Chase Bank, was promoted to a Branch Manager at the Bountiful Branch.

Blake Ostler, Bank of Utah, has been hired as a commercial loan officer for the Layton Branch.

Jeff Pero, Chase Bank, was hired as a Business Banker in the Salt Lake Business Banking group.

Terrie Petersen, Bank of American Fork, call center manager, has been promoted to assistant vice president.

Craig Peterson, Chase Bank, was hired as a Business Banker in the Orem Business Banking group.

Martin Ralya, Chase Bank, was hired as a Proposal Writer/Product Analyst –Sr. for the Commercial Card group in South Salt Lake.

Brian Runkle, GE Capital Financial, Inc., has been named MD, Operations, Salt Lake City.

B. Nicole Sherman, Far West Bank, A Division of AmericanWest Bank of Spokane, has be named as Executive Vice President & Chief Banking Officer for Utah

Jeff Stitt, GE Capital Financial, Inc., has been named Chief Compliance Officer, Salt Lake City

Quinton VanWeerd, Bank of Utah has been hired to serve as a mortgage loan originator for the Bank's Brigham City office.

John Wonnacott, Chase Bank, was hired as a Technical Writer/Product Analyst–Sr. for the Commercial Card group in South Salt Lake.

Chadd Young, Chase Bank, was hired as a Business Banker at the South Salt Lake Branch.

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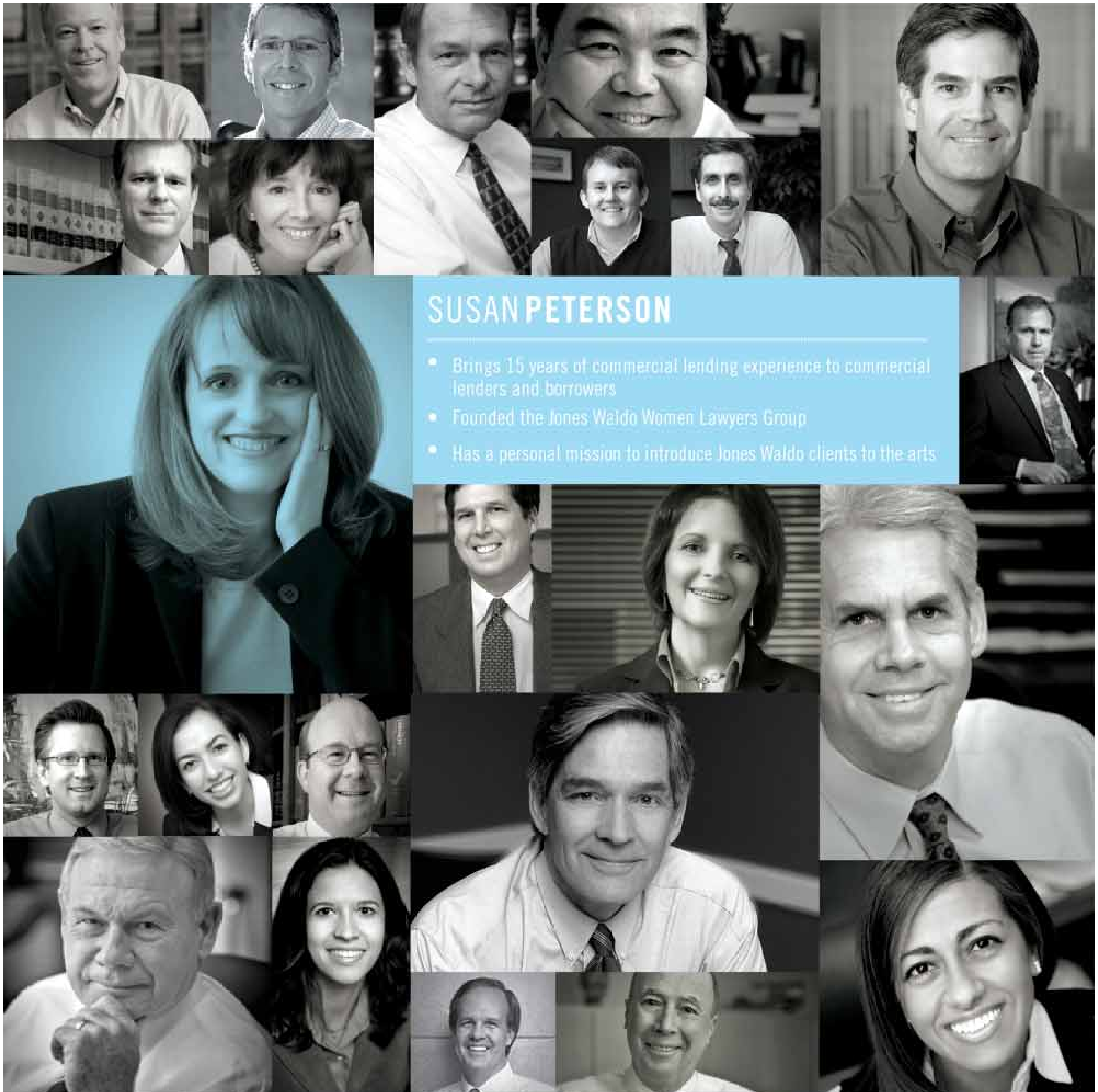
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