First Quarter 2010

The Voice of Nebraska Hospitality

Main Course

Year End Report

Knowledge is Power in the Facebook Age

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As we approach the end of fiscal year 2009, it’s clear that the economic recession has been affecting our Nebraska economy for about eighteen months now with the impact increasing during the last six months. The results vary depending on geography and type of restaurant operation and there are exceptions, but I expect that many of our members are experiencing at least a leveling off of sales over last year. This results in less income for restaurant members as well as suppliers to the industry. It has also had some adverse effect on our Association revenue.

Since July 2008 all revenue accounts except dues have experienced some decline, which we have offset by controlling expenses. This year’s Taste of Nebraska Reception and Awards Dinner was a great social success. Attendance exceeded last year, the menu was excellent, the entertainment well received and we had a number of outstanding nominations for the awards. From a financial perspective the event was not as successful. Sponsorships for Taste of Nebraska and Silent Auction receipts were significantly less than in previous years and contributions to the Hospitality Education Foundation have been below historical levels and much less than we budgeted for.

In anticipation of a tight budget year we made some adjustments in expenditures earlier in the year. At a recent meeting of the Executive Committee I proposed some adjustments to our spending accounts going forward, which they approved.

The net effect of these adjustments is that we are projecting to finish the year with a modest surplus and reduced, but adequate, cash reserves.

The mission of the Nebraska Restaurant Association is to represent, educate and promote the hospitality industry. The purpose of this report is to share with you some of the ways we have worked to accomplish our mission in 2009.

The Association, with the excellent support of Jim Otto, our chief lobbyist, was very effective in representing your interests during the 2009 Legislative Session. The following summary provides a review of the issues rising in the session which convened in January 2009, as well as some federal issues we have been involved with. We will continue to work with the Legislative Committee to develop a sound strategic approach to best represent your long term interests in dealing with these issues.

State Issues

Immigration - The body passed an immigration bill that requires state agencies and most state contractors to use E-Verify in their hiring practices. We worked to ensure that it has no negative impact on Nebraska restaurants.

Changes to Workers Compensation - We were successful in stopping changes to workers compensation that could have resulted in higher work comp rates for business owners.

Sales Tax Collection Allowance - In these very tight budget times, we were not successful in getting an increase in the sales tax collection allowance for Nebraska restaurants. We will continue this effort until we are successful.

Assistance for Rural Restaurants - Although it did not pass, we thank Senator Deb Fischer for introducing legislation recognizing that restaurants are vital to rural communities. Hopefully this discussion will result in favorable legislation over time.

Federal Issues

Health care reform has emerged as the issue of the year in 2009 and we have been working closely with the National Restaurant Association and our congressional delegation in an effort to modify some of the aspects of the legislation that could adversely affect our industry. The employer obligations under consideration in the legislation before the senate at this time represent a very significant challenge and burden for restaurateurs. In that regard, we have requested Senator Nelson to support amendments in the following five areas that have the most significant impact on restaurants.

A part-time worker exemption. Part-time employees are an essential component of the restaurant industry. On average, 43 percent of restaurant workers work more than 30 hours per week. Many of our employees...
The Nebraska Restaurant Association offers Farmers Insurance Group as its endorsed insurance provider for 2009. We are confident that Farmers Insurance Group will provide more comprehensive opportunities for our members.

The Nebraska Restaurant Association Health Program covers employees and their family members with medical, prescription drug coverage, dental, disability and life insurance in one convenient plan.

Fishbowl has proven that targeted email marketing will generate more sales and increase guest frequency. Through a partnership with the Nebraska Restaurant Association and the National Restaurant Association, Fishbowl provides savings to current members.

Specializing in employment and labor laws, Jackson Lewis offers members a significant discount for legal services.

Heartland Payment Systems offers a full line of payment acceptance and payroll processing options designed specifically for association members. Local representation. Flexible, one-stop solution.

Nebraska.Statepaper.com is the premiere online dining guide of the Nebraska Restaurant Association. In addition to a free listing, members of the Nebraska Restaurant Association may receive additional discounts with enhanced listings and websites.

Advertise job openings with the leading job board in the hospitality industry. The Nebraska Restaurant Association is pleased to present our partnership with Hcareers to assist our members with recruiting qualified candidates within the hospitality industry.
Tell us about your family.
My wife Barbara and I have three daughters, Jennifer, Kathleen, and Betsy, and five grandchildren. Jennifer Reeder lives in Lincoln with her husband John and two children, Aislinn and Ryan. Kathleen Hennagir also lives in Lincoln with her son, John, and Betsy Contreras lives in California with her two children, Madelaine and James.

What do you see as one of the biggest turning points in your life?
Getting married, attending Naval War College and retiring from the Navy were all major milestones in my life. Getting married is obviously a big event in anyone’s life. Prior to attending the Naval War College I focused mostly on flying airplanes and really had no interest in professional advancement. After graduating, I took a much more professional interest in strategy, economics, leadership and logistics, all of which are very important to a career military officer. After retiring from the Navy I had to find something else to do with my life. Instead of staying involved in the defense arena, like many of my retired military counterparts, I opted to get involved with a variety of small, entrepreneurial businesses and discovered that I really enjoyed this.

What is your greatest material possession?
The farm and winery I have is on the original family homestead, so it’s very important to me.

What are you most proud of?
My family.

What are your favorite things to do on a day off?
Farm work, sailing and skiing.

What is the most unique or interesting thing about you that most people probably don’t know?
My interest in mountaineering and rock climbing. I’ve spent quite a bit of time hiking and climbing in the Colorado Rockies and Sierra’s including the ascent of some 14,000 foot peaks.

Who has been the most important person in your self-development?
There have been many influential people over the years, but I would probably have to say my parents because they provided me with role models and support.

What is the one goal you would most like to accomplish?
I’ve already accomplished many of my goals, the most significant was helping to get the F/A-18 jet program approved by Congress when I worked in Washington D.C and then manage the transition of fleet squadrons to the new airplane.

My goal now is to get the Restaurant Association on a solid financial foundation, grow membership and provide better service, representation and value to our members.

What is your greatest regret?
When I was in the Navy, I was gone nearly half the time and I missed much of my children’s growing up years.

What groups or organizations are you involved with?
Lancaster County Food Advisory Committee, Nebraska Center for Excellence in Electronics, Lancaster County Planning Commission, Lincoln/Lancaster County Convention & Visitors Bureau and I’m a trustee of Excelsior College in Albany, New York.

What is a talent you have that you don’t use in your daily work life?
A talent that I have that I do not use daily is flying.

What is the talent you would most like to have?
Musical ability

If you could change one thing about yourself, what would it be?
I would like to be 45 years younger so I could start another career in Naval Aviation.

What is your favorite book?
For a biography I would choose “Undaunted Courage”. “Once an Eagle” would be the choice for a novel and for anyone interested in understanding our problems in the Middle East I would recommend “The Lexus and the Olive Tree.”

Favorite Movie
To Kill a Mockingbird.

Favorite TV Show
I don’t really have one.

Favorite Lincoln Restaurant
I have to remain professionally neutral on that question.

If you could have dinner with one person from the past or present, who would it be?
Benjamin Franklin
work for multiple employers, or receive coverage under another health plan. It is critical restaurateurs be allowed to set the criteria for offering health benefits to part-time workers.

**A robust small business exemption.** As an industry comprised mainly of small businesses, it’s critical that any reform have a robust small business exemption. Over 90% of eating and drinking establishments have fewer than 50 employees. With profit margins less than 4 percent, and industry sales down considerably over the last two years, our members are not in a position to bear the burden of additional costs.

**A 90-day waiting period** for new hires so that our members can provide committed full-time employees the highest quality benefits at the most affordable price. The restaurant industry is unique, with an extremely flexible work environment and higher than average turnover rates. According to the Bureau of Labor Statistics, 75 percent of our employees leave their jobs annually – a rate 25 percent higher than the overall private sector at 49 percent.

**A modified definition of a full-time employee** to 390 hours per calendar quarter (13 weeks) instead of the current 30 hours per week on average. The modified definition takes into account fluctuations in hours an employee works, and would help reduce the impact of employer requirements for restaurateurs.

**Preserve current ERISA protections.** The restaurant industry is a strong proponent of ERISA because it provides larger companies the regulatory framework to offer a uniform health benefits package across state lines. Preserving the ERISA framework allows employers to maintain the ability to offer competitive and more affordable coverage in part through the financial and administrative savings permitted by this uniform national standard.

**Employee Free Choice Act (EFCA)** - We have been actively opposing this federal legislation that would more accurately be titled the “Employee Forced Choice Act” as it would effectively eliminate the secret ballot for employees in the decision to unionize a workplace. Nebraska is a key state in this national battle primarily due to Senator Ben Nelson. Senator Nelson opposes the legislation but has not committed to vote against cloture when it arises next year.

**The LEAN Act** - We are supporting the National Restaurant Associations efforts in this reasonable answer to menu labeling. We encouraged both Senators Johanns and Nelson to co-sponsor this legislation. Senator Johanns is now a co-sponsor.

**Immigration Reform** - I attended an Immigration Works USA meeting in Washington, DC on June 15, 2009 and following the meeting met with the Nebraska congressional delegation on June 16th to discuss immigration, EFCA, menu labeling, health care and other federal issues of interest to our industry. Immigration reform will be the next front burner federal issue after health care is disposed.

The education part of our mission is fulfilled by the Hospitality Education Foundation. Beth Haas continues to improve the efficiency and effectiveness of the support provided to the ProStart® Program. ServSafe® Level 4 training throughout the state has maintained the positive growth trend established in 2007. This is the direct result of coordinated scheduling of classes with the University of Nebraska Extension Service and aggressive marketing of the program by the Association.

In 2008 the Nebraska Restaurant Association assumed responsibility for marketing and selling educational materials within the state. This revenue line declined in 2008 but is showing positive growth this year and the potential going forward is excellent.

Beth Haas has used her experience in the food service industry and education to provide consulting services for selected activities. This has been well received and provides an excellent source of revenue with growth potential which we will expand.

We have excellent training and education programs available. Our goal is to make these programs accessible to more employees throughout the state and to continue to maintain the highest standards of instruction as we expand.

One of our priorities is to be more proactive and aggressive in promoting the hospitality industry, Nebraska restaurants and our Association. Brandy Nielson has worked diligently to update our website and improve the quality of our publications and programs benefiting our members.

The Nebraska Restaurant Association continues to endorse Broadcast Music Inc. (BMI) to provide music licensing for commercial purposes. Nebraska Restaurant Association members receive a 10% discount for services and additional discounts for timely payment of fees. BMI offers assistance in meeting legal requirement in regard to music licensing.

Email marketing is a powerful way for restaurants of all sizes to target communications to their guests. Fishbowl, the leader in permission-based email marketing for the restaurant industry, has proven that such targeted
marketing will increase restaurant sales and customer loyalty. Through our partnership with Fishbowl and the National Restaurant Association, an email marketing solution for independent and small chain restaurants is now available to our members at special member pricing.

Our endorsed providers, Heartland Payments Systems and Farmers Insurance continue to provide excellent service to our members and actively support our association. We have expanded our endorsed insurance programs through an agreement with Farmers Insurance Corporate to include general business insurance as well as workers compensation in the dividend program.

We continue to participate, in partnership with Three Eagles Communication, the Nebraska Retail Federation and Marcus Theaters, in the “Lunch, Shopping and a Flick,” program. Members are offered the opportunity to promote their business with a donation of a lunch-for-two as a promotional give-away on KFOR 1240 AM. This exclusive member program aligns with our membership promotion goals, and we look forward to expanding this program into other areas of the state.

We have also partnered with Nebraska.Statepaper.com our new online dining guide. Nebraska.Statepaper.com provides an online list of NRA members at no cost, accessible on our website, and offers a discount for members for advanced listing services. In addition, we are continuously supplied a list of current clients for membership recruitment purposes.

Our plan to provide cost effective health insurance to our members through Trustmark Affinity Markets which we launched in 2008 was not well received, mainly because the products offered were not competitive. We have cancelled the agreement and will shut down the trust holding the policy. We still own Benefits Advantage, LLC, a licensed insurance agency, and will continue to offer a variety of health insurance options out of that company.

We are always looking for ways to expand existing service and develop more effective ways of delivering these services. Our primary focus for 2010 will be to:

- Effectively represent your interests to the Nebraska Unicameral and the Nebraska Congressional Delegation.
- Continue to expand food and alcohol safety training and consulting programs.
- Aggressively promote the hospitality industry, individual restaurants and the association.
- Recruit new members.
- Maintain more frequent and effective contact with existing members throughout the state.

All of us on the Staff appreciate your strong support and guidance as we navigate our way through the challenges of 2010.

SHOW YOUR PRIDE!
The Nebraska Restaurant Association has kicked off a “Show Your NRA Pride” campaign that encourages you to display your member decal to show customers your professionalism and commitment to your customers.

To participate, please email a digital photo of yourself with your member decal displayed prominently in your business. Please include a few reasons why you invest in NRA membership. We will select one photo each quarter to feature in the Main Course and you will also receive a $50.00 VISA gift card.

We will hold quarterly (March, June, September and December) drawings. Please email your photos to bnielson@windstream.net.

We appreciate your support and look forward to serving you in the upcoming year!

Online Marketing Strategies to Increase Sales & Guest Loyalty

Join us for a Webinar on February 1
Space is limited.
Reserve your Webinar seat now at:
https://www1.gotomeeting.com/register/529965424
Presented by Fishbowl Marketing

Learn how easy it is to maximize your online marketing efforts to increase sales and drive traffic to your operation. Fishbowl will guide you through how to navigate the online and social media marketing world and teach you how to implement innovative strategies to create an online marketing buzz for your business. This informative seminar will provide you with tried and true marketing campaigns that offer value to your guests and keep them coming back for more. Topics will focus on social media, online and email marketing. Don’t miss this customer traffic building opportunity!

For more information on Fishbowl, please visit: www.fishbowl.com/info/sramember

Title: Online Marketing Strategies to Increase Sales & Guest Loyalty
Date: Monday, February 1, 2010
Time: 3:00 PM - 4:00 PM CST

After registering you will receive a confirmation email containing information about joining the Webinar.
Are You Saving Money?

Are you taking advantage of the great money-saving benefits of membership in the Nebraska Restaurant Association? Our new Farmers Insurance program can more than pay for your annual membership dues in the NRA. As a member of the NRA you are eligible for Farmers most competitive rates and a superior dividend program.

With this program, the NRA members are not just dealing with a broker that represents a company; they are dealing with a very large, financially strong insurance carrier.

Since 1935, Farmers has insured businesses across the country and is one of the nation’s largest insurers of restaurants. The financial strength and stability of Farmers has made it stand out in the insurance industry, managing small-business premium of over $2.2 billion with more than 600,000 business customers. With Farmers, you also get a professional, local agent who can help you with all your Business, Business Auto, and Workers’ Compensation insurance needs. But Farmers doesn’t stop there, the company also offers coverage for your home, auto, life and financial services.

Combine this with Farmers award winning claims response and Loss Control expense reduction services and you have a winning menu of service choices. The NRA is your partner in cost savings, legislative support, and access to a wealth of products and suppliers. Let Farmers be your partner in making sure your business and everything you’ve worked hard to build are covered when you have a loss.

For more information on Farmers contact Professional Agent Ron Sladek at rsladek@farmersagent.com or 402.330.8911.
**Top 10 Trends**

1. Locally grown produce
2. Locally sourced meats and seafood
3. Sustainability
4. Bite-size/mini desserts
5. Locally-produced wine and beer
6. Nutritionally balanced children’s dishes
7. Half-portions/smaller portion for a smaller price
8. Farm/estate-branded ingredients
9. Gluten-free/food allergy conscious
10. Sustainable seafood

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You can change a student’s future...get involved in the Nebraska ProStart® Program today.

ProStart is a high school program designed to attract interested students to the hospitality industry. We need your help. Sponsorships, internships, job shadow sites, volunteers and judges are needed.

**Contact Beth Haas**

402.488.3999 or email Beth_Haas@windstream.net

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Sizzling Management and Culinary Affair — be there March 28, 2010

See our state’s hottest high school talent compete in management and culinary competitions! Attend the Nebraska Restaurant Association Hospitality Education Foundation annual ProStart® Invitational at Central Community College in Hastings, Nebraska on March 28th, 2010.

More than 200 ProStart Students will dazzle judges with their most spectacular management and culinary skills. In the management competition, teams must develop a plan to address staffing shortages, food safety issues, food shortages, theft, and customer complaints that occur in a case study. The culinary competition students have one hour to complete a three-course meal on two butane burners. Some of the categories teams are judged on are: professionalism, teamwork, organization, knife skills, basic culinary skills, presentation, costing, and menu review. This is a fun event to watch and the students love showing what they have learned in the classroom and at their intern site.

Come and support the next generation of restaurateurs!

Questions please contact Beth Haas at 402.488.3999 or beth_haas@windstream.net.

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**Chef Survey: What’s HOT in 2010**

1. Locally grown produce
2. Locally sourced meats and seafood
3. Sustainability
4. Bite-size/mini desserts
5. Locally-produced wine and beer
6. Nutritionally balanced children’s dishes
7. Half-portions/smaller portion for a smaller price
8. Farm/estate-branded ingredients
9. Gluten-free/food allergy conscious
10. Sustainable seafood
Restaurant Industry Mourns the Loss of Two Very Important Members

David A. Schrack

David A. Schrack, Vice President of family owned Hockenbergs. Preceded in death by brother, Donald Schrack. He was survived by wife, Kim; daughters, Hannah (T.J.) and Bailee; grandson, Noah Thomas; parents, Tom Sr. and Mary Schrack; brothers, Tom Jr. (Melanie) Schrack, Tim (Nancy) Schrack; sisters, Mary (Paul) Parr, Cheryl (Kris) Galas; sisters-in-law, Rosemary Schrack, Kelli (Don) Incontro, Kris (Kevin) Boucher, Kerri (Mike) Dokmonovich, Robyn Renner; nieces; nephews; many friends.

Darlene Marie Knudson


It is easy to underestimate the power of an ordinary life lived for Christ. Richness in the early days of marriage did not necessarily mean earthly treasures, but there was always enough to share at the Knudson home. Darlene routinely baked enough for strangers and travelers that Kal brought home for supper. Her cooking and homemade bread are still spoken of in reverent tones. Despite having a large family, hospitality was a gift they practiced. People were often invited into the Knudson home where Darlene lavished on them good food, clean sheets, love and prayer. This changed many hearts for the Gospel.

Darlene wore many hats over the years. She was a pastor’s wife, elementary school teacher, entrepreneur, daVinci restaurant owner/operator, counselor, and friend. The role she delighted in, though, was that of mother and grandmother. Darlene was in love with Jesus and spent many hours in prayer and intercession, seeing many miracles happen in her family and friends. Her prayers are not silenced with her death but continue to bear fruit that remain.

Jesus was the center of Darlene’s life. She was bright and tender, had a giving heart and a listening ear. Her counsel saved many from much grief and her prayers for her family and others will be greatly missed. She lived her life for God and her family. The world is a better place because of her life and legacy and we are poorer for her home-going.

She is survived by her four siblings, Richard, Russell and Robert Jensen and Rosalie Brenna. She is also survived by her six children: Shawn (Raun) Lohry, Eileen (Randy) Alby, Kent (Annie) Knudson, Kevin (Lynn) Knudson, Darla (Tim) Klopfenstein, and Kelly (Sabine) Knudson; 23 grandchildren; 10 great grandchildren.

Knowledge is Power: Hiring, Firing, and Fighting Back in the Facebook Age

In one cubicle, an employee posts updates to her Facebook page during work hours. In a neighboring cubicle, a supervisor uses a job applicant’s MySpace site to decide against hiring the applicant, while yet another employee uses his social networking site to post confidential company information to an industry blog. These days, the internet is simply not limited to off-the-clock use.

While Facebook and MySpace have collected over 250 million users, a Jackson Lewis survey shows that less than one-third of companies have a formal policy restricting or prohibiting the use of social networking sites during work hours. Even fewer have a policy addressing the evaluation of candidates using internet searches.

The intersection of technology and the workplace usually involves some risk, and with the fast-paced social networking online boom, companies are racing to keep up with their Twittering employees.

Hiring in the Information Age

Employers are increasingly turning to the internet for information about job applicants. Many employers consider a review of web-based information to be a sensible, and even essential, step to ensure a thorough evaluation of candidates. Individuals are likely to discuss more than their education, work history, career interests on various internet sites, including their “personal” social networking site. This information may provide insight into the characteristics of a potential employee.

Employers, however, must balance the need to obtain information against the risks associated with acting on it, especially if it contains an applicant’s protected characteristics. So long as the employer does not violate state or federal discrimination laws, nothing currently prohibits an employment decision based on information an applicant places in the public domain. Nevertheless,
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Contact me, Michael McCarville, Relationship Manager - NE, at 402.551.9832 and visit HeartlandPaymentSystems.com/Restaurant
BMI SIMPLIFIES MUSIC LICENSING PROCESS WITH ON-LINE DISCOUNTS FOR ASSOCIATIONS

Marking the first ten years of BMI’s successful partnership with trade associations, the program is moving on-line with simplified steps to receive discounts on licensing the world’s favorite music.

More than $8 million has been saved by participating associations and their membership since the program began ten years ago. The numbers continue to grow, with more than 58 associations in the food & beverage market currently participating, representing more than 13,000 licensed members. The original program has expanded to include more business categories such as the fitness industry, healthcare, bowling centers, and skating rinks.

“As the number of association partnerships has grown, BMI is even more committed to maintaining the longevity of the program for association members and our customers,” said Tom Annastas, BMI Vice President, Licensing.

Beginning January 1, 2010, participating association members will receive a 5% discount for their membership and another 5% discount when they license and/or pay in full online at www.BMI.com/ede. In addition, they will receive another 10% discount for timely payment. When licensing or paying online, customers will receive all of the applicable discounts as they move through the licensing process.

“We have learned that a growing number of our customers prefer doing business on-line at their own convenience,” said Annastas. “We’ve improved our systems to simplify the licensing process and assist them.”

Broadcast Music, Inc.® (BMI) is an American performing right organization that represents more than 400,000 songwriters, composers and music publishers in all genres of music and more than 6.5 million works. BMI has represented the most popular and beloved music from around the world for 70 years. The U.S. corporation collects license fees from businesses that use music, which it then distributes as royalties to the musical creators and copyright owners it represents.

Foodservice Management Professional® (FMP)
Set a New Year’s Resolution this year!

The Foodservice Management Professional(FMP) credential represents excellence across the industry. The FMP certification recognizes exceptional managers and supervisors who have achieved the high level of knowledge, experience and professionalism that is most valued by our industry.

The FMP credential not only signifies a professional’s mastery of competencies to potential employers, but it’s also an important tool that helps the industry recruit, retain and reward qualified employees.

How to earn the FMP credential:
Follow the four steps below:

Step One: Meet FMP Eligibility Requirements
To be eligible for the FMP distinction, candidates must meet the minimum work experience and training requirements before applying to take the FMP Exam.

Step Two: Complete FMP Application
All applicants must be approved by National Restaurant Association Solutions (NRA Solutions) prior to taking the Exam.

Step Three: Study for the FMP Exam
Upon acceptance of your FMP Exam application you can begin to study for the Exam.

The FMP Certification Exam is an un-timed two-section Exam that includes 175 multiple-choice questions. The Exam covers five core areas of management: operations, human resources, risk management, unit revenue and cost, and marketing. Applicants must pass both sections of the FMP Exam to earn the certification. Examinees must answer 59 out of 75 (78%) questions correctly on Section I and 76 out of 100 (76%) questions correctly on Section II. Examinees only need to re-take the Section of the Exam they did not pass.

Step Four: Schedule and Take the FMP Exam
Once you have been accepted to take the FMP Exam, you will receive an Exam Request Form and a list of Proctors you can contact to schedule your Exam.

To find out if you are eligible and to obtain an application contact the NRA Solutions Exam Administration Department at 800.765.2122 ext 5910.
employers should be mindful of the various risks and take proper precautions.

When vetting a candidate through the internet, an employer may risk becoming aware of an applicant’s protected characteristics, such as race, age, sexual orientation, marital status, and even medical information protected under the Americans with Disabilities Act. If an applicant is not hired, the employer may sue the employer, alleging that the decision was based on the employer’s discovery of a protected characteristic from a website. This is the precise reason many employers have stopped requiring applicants to submit certain information with their resumes or applications. However, searching social networking sites may reveal this information and open the employer to the very risk it tried to avoid. One practical option is to have someone who is not a decision maker conduct the search in order to filter out protected information. This person can then provide the “scrubbed” information in document form to a decision maker for review. All documents should be retained.

Another risk of using the internet to screen applicants is that a decision may be based on inaccurate or misleading information. A website seemingly run by, or affiliated with, a job applicant may actually not be related to, or even known by, the applicant. Additionally, false information may be posted on blogs and other social networking sites. Reputable news sources are continually coming under fire for relying upon, without fully checking, internet-based postings. The lesson is to carefully vet not only the candidate, but the source of the information, and try to independently confirm anything from the internet.

A search of social networking sites also may turn up information about an applicant’s arrest history, workers’ compensation claims, or bankruptcy. This information should not be used as the basis for a hiring decision. Many states protect against retaliation for workers’ compensation claims, and federal law prohibits employers from discriminating against an applicant based on a current or prior bankruptcy filing.

As with any employment practice, the rule of thumb is to do the searches consistently, fully document the searches (and retain the documents), and determine how relevant the information obtained is to the job for which the applicant is being considered.

**Risks of Unregulated Internet Use by Employees**

Employees may even use social networking sites to vent their workplace frustrations by posting discriminatory statements, racial slurs, or sexual innuendos directed at co-workers, management, customers or vendors. This not only disrupts the workplace, it may create liability for the employer. If a supervisor has made discriminatory statements on his or her Facebook page regarding an employee’s protected status and he is terminated or subjected to an adverse employment action, in a subsequent lawsuit or administrative claim, the supervisor’s discriminatory statements could be used as evidence that the employment action was motivated by discriminatory animus.

Another example: Consider an employee who left Company A to take advantage of more promising opportunities with Company B. Prior to starting with Company B, her supervisor at Company A posts false and damaging comments regarding her abilities and work habits on a blog. An employee at Company B stumbles upon these comments, and Company B withdraws its employment offer based on the false information. As a result of the comments posted in the blog, the former employee then may have a cause of action against Company A and the supervisor for defamation or interference with prospective economic relations. Of course, the employee would have to prove that the supervisor had the authority to speak on Company A’s behalf, which is a separate issue.

**What Employers Can Do to Minimize Risk**

Employees may not realize that they are exposing their employers to risk by posting information on their private social networking sites during work or non-work hours. Employees should be informed of the risks inherent in blogging and social networking sites.

Moreover, employers should amend their handbook policies to inform their employees of potential discipline that could result from improper postings. Handbook policies should provide a detailed explanation of what should not be posted on employees’ blogs or networking sites. Employees should be warned that postings regarding: (1) proprietary and confidential company information; (2) discriminatory statements or sexual innuendos regarding co-workers, management, customers, or vendors; and (3) defamatory statements regarding the company, its employees, customers or vendors will not be tolerated and will subject the individual to discipline.

Employees may be subject to discipline, including termination, for information posted on private blogs and social networking sites. Employers should treat similar conduct violations similarly to eliminate the appearance of discrimination. Employers should be mindful of disciplining employees for discussing wages, hours, or working conditions with their co-workers, as this could potentially violate protections in the National Labor Relations Act (NLRA). Further, employers should exercise caution to avoid disciplining an employee for blog/social networking content that may fall within the
“whistleblower” provisions of state or federal law. With these two exceptions, employers should fully investigate all claims of internet abuse and discipline employees, where appropriate.

In addition, policies should state that if the company is mentioned in an employee blog, the employee must include a disclaimer stating that those are the employee’s own opinions and do not represent the company’s positions, strategies or opinions.

Lastly, the policy should make clear that the prohibitions apply to postings and blogging occurring at any time, on any computer. Employers should also have a policy which reduces the amount of privacy employees expect in their work computer systems, e-mail, and internet use, including disclosure the internet use is monitored.

**Fighting Back**

Even when policies and procedures are in place for hiring, monitoring, and making employment decisions, do employers have any recourse when misleading or false information is posted about the company by employees? Yes. Employers can fight back. First, an employer can fight back against the website host. Upon discovering defamatory information, immediately put the host on notice of the employer’s claim for defamation or other wrongful conduct. This notice should be communicated through a forceful letter from either the company or its legal representative. The letter should assert that the host may be liable for knowing redistribution of false and defamatory statements.

In addition, it may be possible to serve a subpoena to have the host identify the poster. Once the poster is identified, the employer has a variety of potential legal claims at its disposal. Claims for defamation, tortious interference with a business relationship, breach of confidentiality agreements, breach of the duty of loyalty, and trademark or other intellectual property infringement are just a few to consider.

Hiring, disciplining, and firing are all critical parts of the employment relationship. An employer relying on web-based information to make these decisions should be aware of the risks, should fully document all, and consult with legal counsel to manage the risks inherent in any adverse employment decision.

Chad Richter, Attorney, Jackson Lewis LLP can be reached by email at richterc@jacksonlewis.com or by phone at 402.827.4233.

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**Expand Your Vocabulary**

**Oxford Word of the Year 2009: Unfriend**

*Unfriend* – verb – To remove someone as a “friend” on a social networking site such as Facebook. As in, “I decided to unfriend my roommate on Facebook after we had a fight.”

“It has both currency and potential longevity,” notes Christine Lindberg, Senior Lexicographer for Oxford’s US dictionary program. “In the online social networking context, its meaning is understood, so its adoption as a modern verb form makes this an interesting choice for Word of the Year.

**Other Words to Add to Your Vocabulary**

**Technology**

*hashtag* – a # [hash] sign added to a word or phrase that enables Twitter users to search for tweets (postings on the Twitter site) that contain similarly tagged items and view thematic sets

*intexticated* – distracted because texting on a cellphone while driving a vehicle

*netbook* – a small, very portable laptop computer with limited memory

*paywall* – a way of blocking access to a part of a website which is only available to paying subscribers

*sexting* – the sending of sexually explicit texts and pictures by cellphone

**Economy**

*freemium* – a business model in which some basic services are provided for free, with the aim of enticing users to pay for additional, premium features or content

*funemployed* – taking advantage of one’s newly unemployed status to have fun or pursue other interests

*zombie bank* – a financial institution whose liabilities are greater than its assets, but which continues to operate because of government support

**Politics and Current Affairs**

*birther* – a conspiracy theorist who challenges President Obama’s birth certificate

*choice mom* – a person who chooses to be a single mother

*death panel* – a theoretical body that determines which patients deserve to live, when care is rationed

*teabagger* - a person, who protests President Obama’s tax policies and stimulus package, often through local demonstrations known as “Tea Party” protests (in allusion to the Boston Tea Party of 1773)

**Environment**

*brown state* – a US state that does not have strict environmental regulations

*green state* – a US state that has strict environmental regulations

*ecotown* - a town built and run on eco-friendly principles

*Novelty Words*

*deleb* – a dead celebrity

*tramp stamp* – a tattoo on the lower back, usually on a woman
Money on the Table
By Michael McCarville, Territory Manager for Heartland Payment Systems

What is the most important part of running your restaurant? Not an easy question to answer, is it? Front-of-the-house? Back-of-the-house? Keeping the quality, preparation and presentation of your menu items consistent? Hiring the right people and keeping them motivated? Attracting new customers while keeping your loyal patrons coming back for more? I think most restaurateurs will agree that it is a combination of all of the above!

While all of the above mentioned priorities are foremost on your mind, we know there is a lot more than what meets the eye when running a successful business. At Heartland, we continually strive to make your life easier when it comes to the financial side of your business. We are here to help you streamline processes that are so very important to your bottom line.

Credit and debit card use continues to rise with ever increasing concerns about security. Gift and loyalty cards are great marketing tools when put to good use. Electronic payroll processing virtually eliminates the headaches of payday payroll distribution. POS systems are becoming a must have in the hospitality industry if only you can find a place for them in the budget.

Heartland Payment Systems has been dedicated to serving the hospitality industry since our inception in April 1997. We began as a card processor and in 1999 expanded to form a payroll company that brought big business tools to the small to medium sized business owner. We have kept our commitment to the industry by adding a gift marketing company and a POS company to our acquisitions in recent years.

Would you like to know if your processing is secure and guaranteed? Would you like to offer your employees a benefit that actually saves you money? Would you like to have gift marketing tools at your disposal to make changes daily if needed? Would you like to have a POS system that is always under warranty? All along the way, we at Heartland have maintained our commitment to our largest vertical market, Hospitality! We will continue to bring better solutions to help you grow your business.

At Heartland, we are NOT a one dimension processor. We come to your table with a multitude of value-added solutions for your business. Call or email your local Heartland Relationship Manager today. You can always reach me at michael.mccarville@e-hps.com or 402.551.9832. I will be more than happy to answer your questions with no obligation. We want to help you leverage all of your payment processing programs in order to put more **Money on your Table.**

Hand sanitizers: Not a replacement for hand washing in food service settings

Hand washing with soap and water is the single most effective way to prevent the spread of bacteria and viruses—the major causes of foodborne illness. Alcohol-based hand sanitizers are effective in killing bacteria and some viruses on clean hands. However, sanitizers may not be used instead of hand washing by food service employees. Why can’t hand sanitizers be used instead of hand washing in food service settings?

The hands of food workers are often wet; often contaminated with fatty material or with food high in proteins. The presence of water, food, fatty materials, feces and blood on the hands can significantly reduce the effectiveness of an alcohol-based hand sanitizer. Viruses such as norovirus are also a concern in food service settings. Norovirus is the leading cause of foodborne outbreaks. Hand sanitizers do not kill norovirus.

Soap and water washing is the most effective way to remove the types of pathogens that food workers have on their hands. In order for hand sanitizers to work properly, hands must first be washed with soap, rinsed with running water and completely dried.

The Nebraska Food Code requires hand washing with soap and water in food service establishments. The FDA Food Code and the Nebraska Food Code allow the use of hand sanitizers by food workers **AFTER** proper hand washing.

**How to use hand sanitizers after soap and water hand washing**

1. Wash hands in a designated hand sink. Wet hands with warm water. Apply soap. Lather and scrub for 20 seconds. Rinse. Dry hands with paper towel. Turn off faucet with the towel.
2. Select a hand sanitizer containing at least 60 percent alcohol.
3. Apply a dime-size amount of sanitizer on the palm of one hand.
4. Rub hands together vigorously for 30 seconds covering all surfaces of both hands. If hands are dry after only 10-15 seconds, not enough sanitizer was used and more must be applied.
5. Wait for the sanitizer to dry completely before touching food contact surfaces.

**NOTE:** Your employee hygiene policy should include handwashing procedures, plus guidelines for hand sanitizer use, and exclusion of food workers who have symptoms of diarrhea and/or vomiting.

**Can food establishments provide hand sanitizers for customers?**

Food service establishments may provide hand sanitizers for use by the public, in addition to regular soap and water handwashing facilities.

(Modified from the Minnesota Health Department website listed here www.health.state.mn.us/divs/eh/food/fs/index.html. View this website for other articles on food safety requirements)
Calendar of Events
Find updates online at www.nebraska-dining.org

January 1st, 2010
Happy New Year!
Offices Closed

January 28th
NRA Annual Meeting – open to all members
Governor’s Mansion, Lincoln, NE
Contact Brandy Nielson at 402.488.3999 ext. 2

February 1st
Fishbowl Webinar 3 p.m. – 4 p.m. CST
“Online Marketing Strategies to Increase Sales and Guest Loyalty”
Contact Brandy Nielson at 402.488.3999 ext. 2 to register

March 6th
Regional ProStart Competition
Southeast Community College, Lincoln, NE
Contact Beth Haas at 402.488.3999 ext. 1

March 27th
State ProStart Competition
Central Community College, Hastings, NE
Contact Beth Haas at 402.488.3999 ext. 1

April 19th
Taste of Nebraska
The Cornhusker Marriott, Lincoln, NE
Sponsorships now available!
Contact Brandy Nielson at 402.488.3999 ext. 2

April 30th
National ProStart Competition, Kansas City, MO
Contact Beth Haas at 402.488.3999 ext. 1

June 7th
Nebraska Restaurant Association HEF Golf Outing
The Players Club at Deer Creek – Omaha
Sponsorships now available!
Contact Brandy Nielson at 402.488.3999 ext. 2

Welcome
New Members

EMBASSY SUITES – LINCOLN
Mr. Bryan Sullivan
1040 P Street
Lincoln, NE 68508

LIED LODGE & CONFERENCE CENTER
Ms. Denise Munderloh
2700 Sylvan Road
Nebraska City, NE 68410

SERVSAFE Calendar

January
11 Lincoln Beth Haas 402.488.3999
18 Lincoln Beth Haas 402.488.3999
26&27 Omaha Cindy Brison 402.444.7872

February
8 Lincoln Beth Haas 402.488.3999
8&9 Grand Island Cami Wells 308.385.5088
22 Lincoln Beth Haas 402.488.3999
22 Sioux City Carol Larvick 402.987.2140

March
8&9 Omaha Cindy Brison 402.444.7872
8&9 Kearney Cami Wells 308.385.5088
9&10 Panhandle Jeanne Murray 308.762.5616
15 Lincoln Beth Haas 402.488.3999
29 Lincoln Beth Haas 402.488.3999

April
12 Lincoln Beth Haas 402.488.3999
19&20 North Platte Cami Wells 308.385.5088
20 Sioux City Carol Larvick 402.987.2140
26 Lincoln Beth Haas 402.488.3999
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Steak & Potato Gnocchi