

THE ORAL HISTORY OF PETER C. BERNHARD

CHAIRMAN OF THE NEVADA GAMING COMMISSION



I. INTRODUCTION

Mr. Bernhard has had an incredibly distinguished career in Nevada gaming. In 2001, Mr. Bernhard was appointed to serve as chairman of the Nevada Gaming Commission by former Governor Kenny Guinn.¹ By virtue of his talent and knowledge, Mr. Bernhard has retained this position having been appointed by three consecutive governors. His tenure is the longest in the history of the Commission. As chairman, Mr. Bernhard heads a gaming regulatory system that is used as a model throughout the world.² Moreover, his leadership on the Commission has been instrumental in a time of incredible technological advancement in gaming.

¹ See *About the Commission Members*, NEV. ST. GAMING CONTROL Bd., <http://gaming.nv.gov/index.aspx?page=213> (last visited Oct. 31, 2013).

² See Wang Wuyi, *Learn from the Nevada Model to Reform Macao's Casino Regulatory System*, in *MACAO & SINO-U.S. RELATIONS* 167, 168 (Yufan Hao & Jianwei Wang, eds., 2011).

Prior to his post on the Nevada Gaming Commission, Mr. Bernhard served as chairman of the Nevada Commission on Ethics.³ In his private law practice, Mr. Bernhard has extensive experience in commercial litigation, gaming law, and real estate transactions. He has been regularly recognized among the best lawyers in America and has played significant roles in the defense and reception of some of the largest liability claims in state history.⁴ Mr. Bernhard graduated from Harvard University prior to obtaining his law degree from George Washington University.⁵

The following is an interview in which Mr. Bernhard discusses his role as a gaming regulator and relates some of his favorite memories, life lessons, and thoughts on the future of Nevada gaming.

II. EARLY LIFE

Can you tell us about your life growing up?

I was born in a suburb of Chicago, Harvey, Illinois. My folks lived in Blue Island. I am the second born, with an older sister who was born two years before me. My mother was a clerical worker for a major encyclopedia company called Compton's, which, of course, now no one's ever heard of and it is something you don't need any more as long as you've got the Internet. My father had a variety of jobs after he served in World War II. My uncle, my mother's sister's husband, had been in the military stationed at Nellis Air Force Base⁶ and told everybody in Chicago about a wonderful desert community; a place where you could get away from the Chicago winters; a great land of opportunity. So by 1952, when I was three, my folks decided to make that move and came out here to Las Vegas.

We rode the train out here from Chicago and arrived right at the time of Helldorado Days⁷ in May of 1952. So I got to see, as a three-year-old, the horses and the bands and the rodeo and things like that and thought it was great. We moved into an apartment right across from Las Vegas High School, which was the staging area for the parade. I have some pictures of me sitting on the porch of the apartment across the street from the high school where the band was. I do remember over time, over the next couple of years living there, watching the Las Vegas High School marching band practice and march through the streets. So I thought there were lots of parades.

By the time I was school age, we had moved to a new subdivision on the west part of town called Hyde Park located near Charleston between Valley View and Decatur. That area was zoned for an elementary school called West

³ See *People: Peter C. Bernhard*, KAEMPFER CROWELL, <http://www.kcnvlaw.com/Details/Peter-C.-Bernhard.html> (last visited Oct. 31, 2013).

⁴ *Id.*

⁵ *About the Commission Members*, *supra* note 1.

⁶ Nellis is a U.S. Air force base located in southern Nevada, roughly eight miles northeast of Las Vegas. See *Factsheets: Nellis Air Force Base*, NELLIS AIR FORCE BASE (July 12, 2012), <http://www.nellis.af.mil/library/factsheets/factsheet.asp?id=4096>.

⁷ Helldorado Days is a civic event that encourages tourism in Las Vegas and has been running since 1935. See *About Elks Helldorado Days*, ELKS HELLDORADO, <http://www.elkshelldorado.com/about> (last visited Oct. 31, 2013).

Charleston Elementary on Pinto near Rancho, which is now known as Howard Wasden Elementary School. Mr. Wasden was the principal when I was there in elementary school.

We did a lot of playing in the streets as kids. And Hyde Park, being the western most residential subdivision, there was desert just down the street from us and we spent a lot of time playing in the desert, hunting lizards and other things, having explorations, building forts, playing cowboys and Indians or World War II-type games and things like that.

The neighborhood was full of young families, a lot of people coming after serving in the military in World War II and Korea and a lot of people starting their families, looking for areas where you would have neighborhoods. And the cliché was true that you stayed outside until the streetlights were on and then everybody came home. Everybody knew everyone else's kids and where they lived. So it was just a very, very normal community type of thing.

Bus service was something that we all took for granted. We'd take the bus and ride down to Fremont Street on weekends as we got a little older. The bus service was good. The bus stopped at Evergreen and Bedford, which was the main north/south street, and we'd take the bus and it would take you right down to Fremont Street, and then take a bus home at the end of the day on a Saturday. Nobody ever gave it a second thought with kids that were seven, eight, nine years old, just kind of hanging around downtown during the day.

The movie theaters were actually downtown at the time. There were three. One was called the Fremont, one was the El Portal, and one was the Guild, which was actually on Second Street at the time. That was something we'd do, as well as occasionally car pool to go down to the Huntridge,⁸ which was a little further away from downtown, but it was also the place where they had Saturday afternoon kid movies. So the whole neighborhood, not just our neighborhood but all over town—Crestwood, McNeil, places like that—would also show up and the whole town would be there.

There were a lot of things to do downtown. At that time the Union Pacific railroad station was at the corner of Main and Fremont and there was a nice grassy area there where you could hang out and play games in the grass. The city library was at Stewart and Fourth Street where City Hall is now, in that area. The old post office, now the Mob Museum, was there and then right next to it was a park called Squires Park, named after "Pop" Squires.⁹ That's where we had a lot of our Little League games, and other events were all down in Squires Park. Like I say, the library was right there. So you'd go in the library, spend time there. A lot of little shops and stores that now go to malls. You had a Sears and a JC Penney and Ronzone's, Allen and Hansen's Men's Wear.

⁸ The Huntridge was a historic building in Las Vegas that served as a theater, and later concert hall but has since been abandoned. There has been a push to have it kept as a historic Las Vegas landmark. *See generally* Hektor Esparza, *Introduction & Huntridge History*, THE HUNTRIDGE, <http://save.thehuntridge.com/about/intro-history/> (last visited October 31, 2013).

⁹ Sometimes called the "Father of Las Vegas," Charles "Pop" Squires was instrumental in the creation of the Colorado River Commission and the construction of the Hoover Dam. *See* K.J. Evans, *C. P. Squires*, LAS VEGAS REV. J. (Feb. 7, 1999, 7:50 PM), <http://www.reviewjournal.com/news/cp-squires>.

There was a department store called K and K Department Store on Third Street that had a lot of things that were very nice for kids. Trader Bill's was there. I think the Trader Bill's sign might even still be there or at the Neon Museum. But that's where the bus stop was, right outside of Trader Bill's. So you'd always wait for the bus in Trader Bill's.

And you didn't have to change buses. It was a hub system, the center was downtown and then the routes went all out like spokes in a wheel. Also, you had Woolworth's and a department store called Cornett's downtown, which were like your five-and-dime stores. Cornett's was at Fourth and Fremont and Woolworth's at Fifth and Fremont, Las Vegas Boulevard.

What are some early memories that helped to shape what you're doing today?

It's interesting that the teachers are the people that you remember the most, and there are several that stand out as teachers who really did broaden the little bit of knowledge we had living in what was a relatively isolated community at the time. I remember, of course, English and social studies were the two that seemed to get the most emphasis. And then there was also the friendliness of the neighborhoods, too, where when I was in junior high living up on Charleston Heights on the hill, I would walk to school, which was almost two miles. People have again the cliché of walking through snow and ice, but it wasn't through snow and ice. But it was always something that you just did and sometimes you'd ride your bike and park your bike. There were no bike locks, no bike helmets, nothing. But a lot of that was teaching you to be independent, teaching you responsibility.

One of my best friends as a fifth grader, I think it was, had a paper route with the Las Vegas Sun, and he had to give it up the next year, so I took it over. I was getting up early and having to be responsible and get the papers on the street by six o'clock so people would have it for their morning coffee. I would pack up the bike, put the paper bags on the handlebars of the bike and ride through the neighborhoods. That was quite a distance that we had to cover each day; there may be seventy or eighty newspapers over several miles. Sundays were very, very thick, heavy newspapers, and it was tough for those first few blocks of that. Then you'd have to go and collect from your customers. So every month you'd go door to door and knock on the door and collect money, and then you were responsible for paying your bill, and then you got to keep whatever was in excess of that. So you were learning responsibility and independence.

Everybody paid in silver dollars at the time. I hated silver dollars; they were so heavy. You had to carry them back to the house and sort them out. You couldn't get rid of them fast enough. But that was the reality at the time.

It was quite a job. The other irony with being a Las Vegas Sun paperboy was that I worked there when the Las Vegas Sun burned to the ground one night, back in 1963.¹⁰ Hank Greenspun¹¹ was the owner of the newspaper at the time and vowed to keep it going. We ended up having the paper printed in

¹⁰ See *Flames Gut Headquarters of Newspaper: Early-Morning Blaze Destroys Sun Building*, LAS VEGAS SUN (Nov. 21, 1963), available at <http://www.lasvegassun.com/news/1963/>

California and trucked to Las Vegas every morning. We would have to wait and wait and wait if the truck was delayed, and sometimes we didn't get the newspapers until seven o'clock or seven thirty and we were late delivering them and maybe late getting to school, but that was all part of it. We all felt like a team. He rewarded us by taking us, the paperboys, on a trip to Disneyland. So we got on a school bus early in the morning, we went to Disneyland. Got on the school bus at the end of the day and drove back to Las Vegas the same day. But that was all part of the same character building that we had.

Can you tell us what Hank Greenspun was like?

He was, to me, an idol, almost a godlike figure because he was so emphatic in his opinions. As a kid, I loved reading his column. It was called "Where I Stand."¹² I loved reading that. I always thought that his arguments, comments were so forceful, logical. I just thought the world of him. Part of my paper route job was to solicit new subscribers. So I knew which houses did not subscribe. So periodically, a couple of times a year, we would blanket the neighborhood and I'd have to knock on the door of the people I didn't know. I got doors slammed in my face. People would say, "I'm never going to read something Mr. Greenspun writes; I hate that man." I just couldn't believe it because I thought so highly of him, that people would actually say that, and I couldn't understand why someone would not want to read his newspaper and not want to be a customer of mine.

Can you tell us about high school?

At that time, Western was the third public high school in Las Vegas; Las Vegas High and Rancho were already established, Gorman was the private school, and then Basic, of course, in Henderson. But Western was the young school, the new school, and as such we were starting traditions. I was, I think, the fourth graduating class at Western; my sister was the second graduating class. So most of us had grown up in the same neighborhood for a long time. Western was kind of a combination of the Hyde Park, Charleston Heights and Twin Lakes subdivisions. A lot of our friends were from Twin Lakes, as well. Twin Lakes was the place where you'd go in the summertime and swim and play and picnic. You could ride your bike, again, from Hyde Park or Charleston Heights down to Twin Lakes.

Twin Lakes had a swimming pool, diving boards and everything. This was before Hyde Park Junior High was built with a swimming pool. That was the

nov/21/flames-gut-headquarters-newspaper/?framing=history (providing additional information about the 1963 fire at the Las Vegas Sun building).

¹¹ Herman "Hank" Milton Greenspun (August 27, 1909 – July 23, 1989) was the owner and publisher of the Las Vegas Sun newspaper. Embroiled in various controversies throughout his life, Hank Greenspun is one of the most well-known figures in Las Vegas history. See A.D. Hopkins, *H.M. 'Hank' Greenspun*, LAS VEGAS REV. J. (Sept. 12, 1999, 2:00 AM), <http://www.reviewjournal.com/news/hm-hank-greenspun>.

¹² See *Las Vegas: An Unconventional History, People & Events: Herman 'Hank' Milton Greenspun*, PBS (July 11, 2005), http://www.pbs.org/wgbh/amex/lasvegas/peopleevents/p_greenspun.html (providing additional information on Hank Greenspun's column).

big change; you didn't have to go to Twin Lakes anymore. You could just go to Hyde Park and swim closer to home.

But at Western there were interesting projects, one of which was raising money to build the stadium, because at the time the school was built there was no money for a football stadium, and we thought that was something we should do. At the time you had what were called trading stamps that stores issued, S&H green stamps.¹³

You put stamps in a book and could exchange it for things. Someone came up with the idea that you could collect those stamps and then turn it into the school district somehow—I don't know how the mechanics worked—and then that would go toward money raised for the stadium. We raised, I think it was—at that time we thought it was a tremendous amount of money—\$15,000. They actually built bleachers. Now, we talk about a stadium, we called it a stadium, but it was bleachers. The first game in the stadium was one that I played in. I think it was my senior year, in fact. It was the inaugural game at the Western High School football stadium. But that was quite an accomplishment.

Another typical event every year was the homecoming bonfire even though there were no graduates to come home; it was such a new school. We still would build bonfires, open-air bonfires, and each class would build its own bonfire across the street from Western where Gaudin Ford is now. That was all desert land. You'd build gigantic bonfires and then set them off. You had to stay all night to protect your bonfire from other classes who might try to set yours on fire too soon, but that was part of the high school experience during the fall season.

There was very little parental supervision, and you'd run in shifts. As part of that you'd have to organize who would be serving on what shift and that kind of thing. I remember very little parental supervision on any of that stuff. We were all pretty much doing it on our own—designing it, building it, setting up a structure in a way that would withstand the wind and people climbing on it and everything else.

Where did you decide to attend college and why?

It's one of those unplanned things that work out pretty well. Again, one of my teachers, an English teacher at Western, was from New Jersey and said that he always wanted to have a student who went to Harvard. So he said I should apply. I said where is Harvard? So he explained that to me. During my junior year there was a college admissions office person from Columbia in New York City who came out here, and it was publicized through the counselors that you could go meet this guy from Columbia. So he actually was going to be at Las Vegas High School, and I went down there for that meeting, only because it was also an Ivy League school, and met him. The local representative for Columbia at the time was a local attorney by the name of Terry Jones, who had been a Las Vegas resident and had gone to Columbia as an undergraduate and

¹³ See Melissa Nann Burke, *Remember: S&H Green Stamps*, YORK DAILY RECORD (Nov. 4, 2010, 10:28:36 AM), http://www.ydr.com/ci_13470567 (providing additional information about the green stamps program).

Harvard Law School for law school. So I met him at that point in my junior year in high school.

And then I applied to Harvard, applied to Columbia and applied to a school in Southern California; it was called Claremont Men's College at the time, as part of the five schools trying to set up an Ivy League-type atmosphere down in Claremont. The admissions policy on the Ivy League is the same as it is today, where the admissions office tries to get qualified students of any background, without regard to their ability to pay. They call it a "needs blind" admissions policy. If you are qualified to get in, they provide financial aid to allow you to afford it. My dad was by that time working out at the Nevada Test Site¹⁴ but not making a lot of money, and as such, I qualified for financial aid. When the admissions letter came and the package came for financial aid, it was cheaper for me to go to Harvard than to either Columbia or Claremont, so at least part of my decision was financial. My first bill at Harvard for the first semester was seventy-five dollars, by the time the financial aid had all come in and I had received a couple of regional scholarships. My dad was in the electricians union and the IBEW provided a scholarship for me, and a couple other scholarships were for one year only. So that first year, it cost me seventy-five dollars plus books.

But then the idea of going there was, of course, intimidating. But I also was told by the same English teacher if you don't go you'll spend the rest of your life wondering if you could have made it. He made the point that if you're the kind of person that I think you are, and you like challenges, why not challenge yourself with going to the best? So I did that, and I did not set Harvard on fire academically by any means, but I made it. I took on the challenge. I never thought of it this way before, but it may have been that discipline and responsibility and independence that was cultivated in me as a young kid in Las Vegas that helped me go back there by myself, without knowing anybody, and being able to at least adjust, not without a few hurdles to get over in the meantime, but to get through and enjoy it. Now I think very highly of it, and I encourage all of our local kids today to apply to top colleges and see if they can do well.

What made you decide to attend law school?

A couple aspects of my time at Harvard kind of give background for that. I went ahead and played football and baseball at Harvard. In my freshman year, I felt that I could compete with anybody. In football there was really a numbers game and I didn't get much of an opportunity. In baseball I was good enough that I just stepped right in and played and had a really good year. So I decided not to continue playing football in the fall and concentrate on baseball. I played baseball the rest of the time at Harvard. Harvard had an intramural program with full pad tackle football, and I loved the game so much that I went ahead and played tackle intramural football all three years that I was there. In my senior year, I had a terrible knee injury. So here I was an intercollegiate athlete and, during the off season, playing intramural football destroyed my knee and

¹⁴ The Nevada Test Site was a nuclear weapons testing site located 65 miles north of Las Vegas. See NEV. TEST SITE ORAL HISTORY PROJECT, <http://digital.library.unlv.edu/ntsohp/> (last visited Oct. 31, 2013).

had to undergo surgery. Today it probably would have been an injury that you could come back from and play. But back then you were in a full cast for six to eight weeks, on crutches, months and months of rehabilitation to build your leg strength back and things like that.

While I was at Harvard, college students were eligible for deferments from the military draft. You could get what was called a 2-S deferment,¹⁵ which was a student deferment while you were in college. But as soon as you graduated from college, then you were 1-A and ready to go. That again was the time of the Vietnam War. It was very much a labor-intensive effort by the military.

So a lot of things came together at the same time—my knee injury; that was the first year that the selective service system instituted the draft lottery, which is drawing birthdays out of a hat, and you were given a draft number based on your birthday. My birthday was the second one chosen. So I was number two in the draft lottery, which meant I would go. I think eventually the people with draft numbers up to seventy or eighty all were drafted into the service, which again is a great thing for the country, but at the time it was difficult to plan a future when you didn't know what was happening. So I had a number two draft lottery number, I knew I was going, but I had a knee that was so torn up with surgery and in a cast that I didn't know if I would be able to serve in the military.

When I was given my notice to report for a draft physical, I was still in Boston and went down to the Boston Army Base. They looked at my knee and did some tests and said that there was no way that I could serve, but that in a year with further rehabilitation I might. So they gave me what was called at the time a 1-H deferment, which was a medical or temporary deferment. But I couldn't really plan my future then, either, because I still didn't know if I could commit to anything.

So I decided to take a year off from school and see what would happen. I still had some good friends at UNLV where I had worked in the summer. At that time, UNLV was known as Nevada Southern University. I had a summer job out here. I got together with a friend, who is now my wife, Susie,—we'd been friends since we were ten years old but never really dated—and we decided to get married after each of us spent four years on opposite coasts in college. I got a job with the Clark County School District. I worked as what was called a community job developer as part of a federally funded program of President Lyndon Johnson's Great Society, where my job was to see if I could find employment for mentally and physically handicapped students in the community. We would work very closely with the special education teachers throughout the district, mainly with high school kids, find the ones that had particular aptitudes, and then try to find a job for them in the community.

At the same time, my two roommates from college had decided to go to law school. One roommate actually started law school that year and told me it was very, very challenging but interesting. So I took the law school admission test, again just keeping options open and still not knowing if I wanted to con-

¹⁵ See *Draft Classifications During the Vietnam War*, CALLED TO SERVE VIETNAM, <http://www.calledtoservevietnam.com/blog/information-about-the-vietnam-era-draft/draft-classifications-during-the-vietnam-war/> (last visited Oct. 31, 2013).

tinue with the school district and UNLV or whether I wanted to go ahead to graduate school.

I got my notice to appear for the draft physical that spring, a year after I had graduated from college. All of us took a bus down to Phoenix to get our draft physicals there. At that time, they looked at my knee and said no, and then gave me the 4-F, which was the permanent physical deferment.

Timing again was important. A year earlier, the Vietnam War was still going hot and heavy, but it was now the spring of 1972, and Nixon had vowed to bring the troops home, so everything was winding down.¹⁶ It took a couple more years before all the hostility stopped, but at that time they weren't drafting as many. So they were being more selective and taking people that were physically able to do it. I'm assuming they thought that if I had been inducted, I probably would have hurt my knee and been on disability the rest of my life. Anyway, at that point, then, I had the freedom to go ahead and decide what I wanted to do.

My roommate was in Washington, D.C. in law school. So I applied both to Georgetown and George Washington. Harry Reid was a George Washington graduate,¹⁷ as was a man named Roy Woofter. Roy was a district attorney, lawyer, city councilman, died about a year ago.¹⁸ But with that connection with George Washington University, I went ahead and got in there, went to George Washington. My wife moved with me back to Washington. She had her bachelor's in nursing and emphasis in public health. So she got a job in Arlington, Virginia, as a public health nurse. We had our son there, while I was in law school, and then spent three years living in Arlington and going to school in Washington while she worked in Virginia.

How did college and law school help shape your leadership style?

I hate going back to the same source, but my high school English teacher gave me some advice when I was going back to Harvard. He said don't try to be a "Vegas" guy; they're going to expect something from you just because you're from Las Vegas. And he said, believe me, you're not. You're just an ordinary guy. You're thoughtful, conscientious, efficient, whatever the positives were. But you're not a guy that's going to be a Vegas kind of guy and they will expect you to be that way. So don't try to do that. Just do what you're comfortable with. There were times, of course, when I'd be asked to play poker in the dorm at night and I didn't know how to play poker. They'd say, well, you're from Vegas?

The one story that I tell people—it's true, as naïve as I was—that I went to an upper classman's room and he offered me a drink. I said, "what have you

¹⁶ See President Richard Nixon, Address to the Nation on Progress Toward Peace in Vietnam (Apr. 20, 1970), available at <http://www.presidency.ucsb.edu/ws/?pid=2476#ixzz2iJLtHeqL>.

¹⁷ See *Biography of Senator Harry Reid*, HARRY REID OFFICIAL CAMPAIGN WEBSITE, <http://www.harryreid.com/ee/index.php/content/pages/biography> (last visited Oct. 31, 2013) (providing additional information on Senator Harry Reid).

¹⁸ See *Roy Woofter Obituary*, LAS VEGAS REV. J., <http://obits.reviewjournal.com/obituaries/lvrj/obituary.aspx?pid=162716978> (last visited Oct. 31, 2013) (providing additional information on Roy A. Woofter).

got?" Because I had no idea what drinks were. He gave me a whole long list of things and I pulled out of the list, I said, "Give me a Tom Collins mix and an orange juice." He said, "Do you want any liquor in that?" I thought Tom Collins mix contained liquor. And when I said, "Oh, Tom Collins mix isn't liquor?" He said, "No, are you from a dry town?" thinking that I had grown up in an area where alcohol was illegal. And I said, "No." He said, "Where are you from?" I said, "Las Vegas." I was the laughingstock of that group of people the rest of my time in college, but that's how far I was from being a Vegas guy. So it was very, very helpful advice.

In learning the law you learn the same type of thing; that to be believable in your leadership or your presentations you can't be someone you're not. You can't try to act. A lot of lawyers make that mistake of trying to be what the image of a TV lawyer is, someone who's shouting or pounding the table or whatever. And some people can do that and do it very well, because that's the kind of person he or she is. Others can't. I can't pull that off. If I tried I would be totally unbelievable to a jury or a judge, and I wouldn't be effective for my client. So I have clients that say you should do this differently or that and I say, well no, it's not going to come across.

So part of the leadership, I guess, is recognizing who you are as a person and staying true to that, and then assuming that people will recognize sincerity and be able to trust and leave their fate with you. That's really what lawyers do; we take the fate of a client and they entrust us with that whether it be a business, civil or criminal matter. They need to have that trust and confidence in you as a person who can advocate most effectively for them.

To what extent did your time at Harvard and George Washington affect who you are today?

I think probably to some extent, but I don't think it started then. Again, Harvard is a very intimidating place and I did not, as I said, set it on fire academically. To be in a place like that where people are incredible—the valedictorian credential is really nothing; these are national and international scholars—I learned very quickly that there were just incredibly bright people there. One of the anecdotes, again true, that when I took the reading comprehension test as a freshman, I was found to be so low that they set me up in a special study skills class. So I had to go to a 7 a.m. study skills class my freshman year because that test showed I wasn't prepared. Now, I don't agree with that. I think you have a lot of people there who were prep school students who had read a lot of the freshman college level work when they were in prep school, and we didn't have that here. But I still say that our top southern Nevada students and Nevada students in general can compete at any level, and we've had a lot of examples of those who have gone to Harvard over the last several decades. But you learn humility. If it's not in one area, it may be another area where you're going to find somebody that will stand out. That's an exercise that probably even dates back earlier than that. I don't think I was that much of a different person before I went to Harvard. I think it's just a culmination of my upbringing. Again, a single personal event that might have characterized that is that my mother died when I was very young. So in that sense, I didn't have a

normal upbringing. As such, then, I was different from everybody else, and maybe you learn then to be a little more humble instead of trying to stand out in the crowd.

To talk about our mentors, my baseball coach Rey Martinez, would always say to talk with your bat, not with your mouth. That says a lot; that your actions will speak louder than words, in the cliché. But don't just sit there and mouth off to people and brag about it and everything else. Go ahead and just beat them. So those are the types of lessons that I came from and probably have been reinforced over the years with all the experiences I had.

III. EARLY CAREER IN NEVADA

Can you tell us about your role in the gaming industry and how that started?

Neither my family nor my wife's family had any connection to the gaming industry. My wife's family was in education, all teachers and principals, administrators. And my dad worked at the Nevada Test Site for thirty years.

I did have two summer hotel jobs while I was at Harvard. One was at the Circus Circus working at the midway running the carnival games upstairs. So I ran the water race game, and the throw the dime in a jar game, things like that. I knew which guns in the water race game, where you shoot a water gun at a clown's mouth and it blows up a balloon until it hits a nail on the top and pops, I knew which guns had the most power. If I saw a young lady I thought was attractive, I could steer her to the best gun, and she could win a big stuffed animal. But that was the extent of my casino experience.

The second summer, Roger Barnson got me a job as a lifeguard at the Sands. At that time, of course, lifeguard jobs were some of the most coveted around. Still are, I think. But I worked half the summer at UNLV in a program called Upward Bound,¹⁹ which was another government program, as a counselor and then as the director. Then, the last half of the summer I went to the Sands and was a lifeguard where a lot of the celebrities who were performing at the Sands at the time would come out and get some sun. We had a little private area away from the crowds where we could put them when they were there. But that was great and we would act as if we knew what we were doing. We didn't have to have a water safety instructor certification; I didn't have that. I could swim but not very well. Our main job was to pass out the lounge chairs and towels and hope that we would get a tip for that.

The manager of the pool was a man from Acapulco who had been a diver for Mexico in the Olympics and also he had been an Acapulco cliff diver where you used to see them on TV. His dream was to turn one of us into a world-class diver but it never worked. We'd have our own diving practice every afternoon and the people that were there watching would take pictures of us at the time, home movies and cheer and applaud when we did a good dive. It was a lot of fun and not a very high-pressure job.

¹⁹ See *Upward Bound*, CTR. FOR ACADEMIC ENRICHMENT AND OUTREACH, <http://caeo.unlv.edu/UB.html> (last visited Oct. 31, 2013) (providing additional information on the Upward Bound program).

So that was my introduction to the casino business, and neither of those jobs had much to do with casinos.

The next event was when I had finished law school and came back out here. I clerked with Judge Roger Foley in federal court and after that was looking, of course, for a job in the legal field here in Las Vegas. One of the attorneys that had an opening was Terry Jones, the attorney who had met with me back in high school when he was the Columbia representative. It turned out at that time that they had a very small firm and they had a young lawyer who had gone to Las Vegas High School that I knew from high school. He had decided to go down to Tucson where he had gone to law school and practice there, so he was leaving. He called me and said great guys to work with; come on over and work here. He ended up coming back to Nevada and is now a judge up in Reno. So again, I like the stories of people who leave Nevada and then come back home again.

So I asked him what the job was, and he said that there was a former member of the State Gaming Control Board, who had just finished his term and joined the law firm. His name was Shannon Bybee.²⁰ He said that I could be Shannon's assistant and there's no better person that you could work for. So I met with Shannon and with Terry Jones. Frank Schreck²¹ was another attorney at the firm and Ty Hilbrecht,²² who at that time was a state senator. So it had been Hilbrecht, Jones, Schreck and Bybee, and then I was the fifth person and worked for Shannon for a couple of years. At that time he was just coming off his Gaming Control Board position and had a few gaming clients, including a young Steve Wynn²³ who had just bought the Golden Nugget. Shannon was doing a lot of his work and I was doing a lot of the non-gaming work with leases and real estate and things down there when Steve Wynn was consolidating all of that property for what's now the Golden Nugget. Shannon had a couple other gaming clients. I had a couple other clients of my own, just your basic uncontested divorces, some criminal, a lot of everything, which most Las Vegas lawyers did at the time.

And then a couple years later, Shannon was given an offer from Mr. Wynn to go to work as general counsel in-house with the Golden Nugget. He said he was going to do that. It was one of the saddest days of my career, because I had enjoyed working with him so much and learned so much from him, but the good thing was that he would need an outside lawyer to help out on things. So we kept the Golden Nugget as a client and Frank Schreck did most of the

²⁰ Shannon Bybee was a long-time casino regulator, executive, and educator. See Liz Benston, *Gaming Regulator, Teacher Bybee Dies at 65*, LAS VEGAS SUN (Sept. 22, 2003, 11:05 AM), <http://www.lasvegassun.com/news/2003/sep/22/gaming-regulator-teacher-bybee-dies-at-65/>.

²¹ Frank A. Schreck is a renowned gaming law attorney and partner at the law firm Brownstein Hyatt Farber Schreck. See *Profile of Frank A. Schreck*, BROWNSTEIN HYATT FARBER SCHRECK, <http://www.bhfs.com/People/fschreck> (last visited Oct. 31, 2013).

²² See Interview by Claytee White with Norman Ty Hilbrecht, Principal Attorney, Hilbrecht and Assocs., in Las Vegas, NV. (Aug. 29, 2000), available at <http://lasvegasrotary.com/OralHistory/Hilbrecht.html> (providing additional information on Ty Hilbrecht).

²³ Stephen "Steve" Wynn is an American businessman and developer. He played a vital role in the modern expansion of the Las Vegas Strip. See *Steve Wynn Biography*, BIOGRAPHY.COM, <http://www.biography.com/people/steve-wynn-201198> (last visited Oct. 31, 2013).

gaming work as such, but I did a lot of the other work in the real estate, property, labor contracts and things like that. So that was really my first entry into the gaming law practice, although I never considered myself a gaming lawyer, never appeared before the Control Board or the Commission, except on one occasion which came a few years later. But most of the practice at the time developed through Frank. I did a lot of the real estate on properties along the Strip. The old Castaways, which is where the Mirage is now, was a client of ours. The Castaways was right across the street from the Sands. Get an old map and you can see that.

What other properties were on the Strip at the time?

Well, Caesars Palace had opened in the late sixties.²⁴ One of my summer jobs in high school in 1965 was to clean up the construction debris on weekends. My buddy's father was a manager, construction superintendent. So they'd get all the debris and we'd shovel out what's now the casino floor with all the concrete debris and things and put it in a wheelbarrow and wheel it away. The company was MJ Dibaise Construction Company, which was one of the concrete companies in town then.

You had the Dunes across the street, across Flamingo. Flamingo only went west as far as Interstate 15; it did not extend further west at the time. So if you went on West Flamingo between Caesars and the Dunes, you had to get on the freeway either north or south. There were no major hotels south of the Dunes on that side of the street until you came to the Hacienda, which is now Mandalay Bay. Then of course, going north from Caesars you didn't have the Mirage; you had the Castaways, and then you had the Frontier, and the Silver Slipper, and then Circus Circus.²⁵ Then on the other side you had the Sahara, the Riviera, the Desert Inn. There was a Holiday Inn there, which became Harrah's ultimately, but it was just a Holiday Inn motel at the time. Imperial Palace hadn't been built yet. Bally's hadn't been built yet. There was a place, a small non-gaming property, the Tally-Ho that was next to that, then the Tropicana, and that was it.

Downtown was, of course, the big area then, much, much more dominant than it is now—the Golden Nugget and the Fremont and the Mint and the Horseshoe. The El Cortez is still down there, further down. The Plaza, called the Union Plaza when it was built, took the place of the railroad station there and that was the end of Fremont Street, and that was pretty much it.²⁶

²⁴ See Jeff Burbank, *History of Caesars Palace*, ONLINE NEV. ENCYC. (Feb. 25, 2010), <http://www.onlinenevada.org/articles/caesars-palace> (providing a history of Caesars Palace Las Vegas).

²⁵ See Jeff Burbank, *History of Circus Circus*, ONLINE NEV. ENCYC. (Mar. 24, 2009), <http://www.onlinenevada.org/articles/circus-circus> (providing a history of the Circus Circus Las Vegas).

²⁶ See *The Oral History of William S. Boyd*, 4 UNLV GAMING L.J. 145 (2013) (providing a history of the opening of many downtown Las Vegas casinos including the Mint and the Union Plaza).

What was the next step in your professional career?

In 1984, we decided to merge or group with a couple other lawyers, one of whom was a man named Mike Sloan.²⁷ Mike is well known in the casino industry and at that time had been a state senator and done other political activities. Then there was a firm out of Washington, D.C., which included at that time Senator Howard Cannon.²⁸ Senator Cannon, of course, wasn't actively practicing law but was part of the firm. A couple of other individuals from the Washington, D.C. side were former members of the Organized Crime Strike Force, prosecutors for the Department of Justice, very high-level people that we all decided would be a good combination to present a more national focus for gaming clients. The idea didn't work out the way we had planned, but it doesn't mean the idea was bad. I think had we been able to succeed in that national and even international venture, we would have been well placed to do legal work for the industry as it expanded into other jurisdictions. At that time it was just Nevada and New Jersey. But as it turned out, though, it worked out very well for all of us anyway. Mike Sloan stepped into the role with Frank Schreck as being the two main gaming guys, and I continued to play that same role of taking on work for their gaming clients in the non-gaming areas.

That was my one-time appearance before the commission; Mike Sloan represented the Utah Jazz, an NBA team, and they were talking about playing some games here in Las Vegas. So they were contracting with UNLV to have games at the Thomas & Mack, and they would play maybe ten, fifteen to twenty games a year here in Las Vegas and the balance up in Utah. So we had to go before the gaming commission on the contract side to explain what was happening. The issue was whether bets could be placed in the sports books on games that the Utah Jazz were playing in Las Vegas. There was a tremendous aversion from the professional leagues, including the NBA, to allow sports wagering at all. They would rather see Las Vegas go away. But there had to be some accommodations. So I ended up on the contract side, with Mike on the gaming side doing the presentation on why the Gaming Commission should allow betting on Utah Jazz games even though they were being played in Las Vegas. It all worked out fine; there were no scandals and no improper betting activity that we knew of or anybody knew of at the time. So I did that work with Mike.

Mike also had me work for a longtime client of his, a man by the name of Ed Torres, who had been a longtime Las Vegas casino executive. At the time that I was involved with him, he and Wayne Newton had partnered to buy the

²⁷ See *Veteran Gaming Executive Mike Sloan Joins Fertitta Entertainment*, CASINO ENTER. MGMT. (Nov. 11, 2011), <http://www.casinoenterprisemanagement.com/newswire/veteran-gaming-executive-mike-sloan-joins-fertitta-entertainment> (providing additional information on Mike Sloan).

²⁸ See David Stout, *Howard Cannon, 90, Senator Who Served Four Terms, Dies*, N.Y. TIMES (Mar. 7, 2002), <http://www.nytimes.com/2002/03/07/us/howard-cannon-90-senator-who-served-four-terms-dies.html> (providing additional information on Senator Howard Cannon).

Aladdin Hotel.²⁹ This again, is quite a bit of history. The Aladdin had been built on the site of the old Tally-Ho, which was a non-gaming property and was, I think for all reasonable minds to believe, controlled by St. Louis and Detroit organized crime figures. So in the late seventies, early eighties the state was very concerned about that and put a lot of pressure on those owners to sell. Wayne Newton always wanted to be a casino owner and Eddie Torres was a casino guy. Eddie had been at the Fremont downtown in Las Vegas when Wayne Newton got his start when he was, I think, twelve or thirteen years old. So Ed had known Wayne Newton from the beginning of his career, and the two of them decided to pool their assets together, and they were able to get a deal to buy the Aladdin.

As it turned out—and this is now getting into maybe 1983, 1984—they were having financial problems. One of the big issues at the time. . .very, very high interest rates in the economy, very difficult to collect markers, the Mexican government devalued the peso back in the late seventies, early eighties, and a lot of the market for the Aladdin had come from very rich Mexican citizens, anyway, a lot of factors went into that. So the Aladdin had to file a Chapter 11 bankruptcy.

At that time, then, I became a bankruptcy lawyer. I had not done it before. A little bit here and there, but suddenly I had a big education. I went to seminars and conferences, learning everything I could about the bankruptcy code and we ended up being Nevada counsel for the Aladdin in that bankruptcy. We had a bankruptcy law firm out of L.A. that was the lead counsel, and they handled most of the technical bankruptcy issues, but we handled all the state law issues, which were pretty significant there.

That became a very big case in terms of its legal issues. One of the concerns was whether union contracts would be followed and whether if you sold it out of bankruptcy you could wipe out labor contracts. Another issue was that there were a lot of foreign investors looking for ownership interests, and could a foreign company or a foreign individual get a gaming license in Nevada? Would there be sufficient control through the work of other governments in terms of financial reporting, payment of taxes, legitimacy of the source of the funds? All of those things become fairly routine with a corporate structured U.S. company, but when you start going overseas, you have a lot of different systems. So those all became very big issues, and finally the bankruptcy ended with the Aladdin being sold to a man by the name of Ginji Yasuda from Japan. He was the first Japanese owner of an operating casino. Those were some pretty knockdown, drag-out negotiations and discussions.

Wayne Newton had been a part owner, but both he and Ed Torres lost their interest through the bankruptcy when they sold it to Mr. Yasuda. So they ended up not making any money on the deal, but the creditors were paid. So that was the good result. In bankruptcy you hope to get creditors paid. And if the owners get anything after that, that's just gravy. In that case there was not much, if anything, left over for Mr. Newton and Mr. Torres.

²⁹ The Aladdin Hotel was purchased in 1980 for \$85 million. See *Wayne Newton Buys Aladdin*, N.Y. TIMES (Nov. 9, 1983), <http://www.nytimes.com/1983/11/09/business/wayne-newton-buys-aladdin.html>.

Then at the same time, Mr. Torres owned by himself what was the El Rancho, where the Fontainebleau is now. But the El Rancho before that was the Thunderbird, back in the fifties and sixties. I had forgotten that one earlier. So I did a lot of legal work for him over there.

The third major property that Mike Sloan represented was the Dunes, and that was owned, at the time, by Morris Shenker.³⁰ They had borrowed money from Valley Bank and Parry Thomas, who again is a well-known figure in the gaming industry.³¹ They were having troubles about the same time for a lot of the same reasons—with the international markets, the interest rates, inability to collect markers. And all the financing at the time was based on real estate; just like you buy a home, you get a mortgage and your home is collateral. You have a casino loan and it's all based on the value of the real estate and the building. The Dunes was deteriorating at the time. It had been there since the fifties, 1957 or 1958 I think. The other factor that kind of came together at the same time was the tragedy at the MGM fire in 1980.³² As a result of that, the county adopted the state of the art, most advanced fire code life-safety systems in the world, and all of our casinos were required to retrofit to meet those new standards, to prevent something like that from happening again, which was very good, very positive, very necessary, a very wise thing to do from the county commission standpoint, but it also was very expensive, especially with old properties like the Dunes.

When we went in there to look at retrofitting, the engineer looked at that tower, which you may remember the hotel tower, and he said it was just like a chimney, because it had so many holes in the side for air to get in to feed a fire that if that tower had ever gone up it would have been a tremendous disaster. It was almost impossible to retrofit, because over the years, when you have to put in a new cable, for example, you just put a hole in the wall and put the cable in. Well, that gives air and fire a pathway. Those were all difficult problems at the Dunes. Another problem was that you couldn't get people from the casino to an exit without a long, long walkway all the way across the property, and it would destroy the aesthetics of the property and everything else.

So Mr. Shenker sold the property to a man by the name of Jack Anderson. Mr. Anderson had been a very successful farmer and rancher up near Davis, California. He had acquired the Maxim Hotel on Flamingo just off the Strip. Then he bought the Dunes, but found that it was nowhere near as profitable as he thought it would be. Even though it was one of the glamour properties, it

³⁰ *Morris Shenker, 82; Hoffa Attorney, Ex-Dunes Owner*, L.A. TIMES (Aug. 10, 1989), http://articles.latimes.com/1989-08-10/news/mn-23_1_morris-shenker (“Morris Shenker [was] an attorney best known for representing Teamster boss Jimmy Hoffa, and [was] a former owner of the Dunes Hotel in Las Vegas.”).

³¹ Parry Thomas is a banker who helped finance the early Las Vegas casino industry. He is often credited with helping build Las Vegas into what it is today. See John G. Edwards, *E. Parry Thomas*, LAS VEGAS REV. J. (Feb. 7, 1999, 4:50 PM), <http://www.reviewjournal.com/news/e-parry-thomas>.

³² Dave Topliker, *Survivors, Witnesses Describe Chaos of MGM Grand Fire*, LAS VEGAS SUN (Nov. 21, 2012, 2:00 AM), <http://www.lasvegassun.com/news/2012/nov/21/survivors-witnesses-describe-chaos-mgm-grand-fire/> (“[T]he MGM Grand . . . caught fire Nov. 21, 1980. Eighty-five people died and about 700 were injured, making it the second-deadliest hotel blaze in United States history”).

just was not generating enough money to meet that debt service with the Valley Bank loan in particular.

So we ended up putting it into bankruptcy, Chapter 11 as well. Again, various events occurred over time and finally ended up with a sale of that property, as well. This is where I really met and worked with Burton Cohen³³ much more closely than I had ever worked with him before. Jack Anderson had set up Burton as its president during the bankruptcy. And he was acceptable to Valley Bank, of course, and all the creditors. He was a very well respected man in the gaming industry. To me, again, he was a mentor and someone from whom I learned a lot about casinos and how they operate. His job was to get as much value out of the Dunes as possible, so that creditors could be paid and maybe something would get back to Jack Anderson as the owner with his group.

And the Dunes had a lot of other legal issues that other properties didn't have. For one, it had the big golf course that ran along I-15 all the way to Tropicana. There was a considerable amount of water rights that were associated with that. So the Dunes had some of the most valuable water rights on the Strip; that made it a very valuable asset.

So we went through the same processes as with the Aladdin and solicited bidders, tried to get people to pay good value for that. It came down to the time when the court had ordered that it be sold, and we had three potential bidders. We had Hilton Hotels Corp, at the time a very major player in the casino business, which owned the Las Vegas Hilton. We had Kirk Kerkorian³⁴ who had owned the MGM—I'm sorry—the old MGM before the fire. There was a mystery investor from Japan, other foreign money coming in. We didn't know a whole lot about the Japanese investor, except that there had been some reports in the media that he was a billionaire and that he was going to buy the Dunes and all of that. So we didn't really know what to expect.

The most memorable story that happened at that time was the Sunday night before a Monday bankruptcy hearing, when Mr. Cohen, in-house counsel for the Dunes and I were meeting to go over the sale procedures and how we would handle the hearing in court the next day. A lawyer for the Hilton walked into the conference room. It's Sunday night at the Dunes. There's nobody else in the executive offices. I don't know how he got past security. And to walk into the private conference room where we were talking about very sensitive information, Mr. Cohen just blew up. The attorney was a young lawyer from a Los Angeles firm representing the Hilton and he was maybe 6'6" or 6'7"; he was a tall person, and Mr. Cohen, as you know, is 5'7", 5'6". Mr. Cohen jumped up from his seat, grabbed the lawyer by the lapel, and threw him against the wall and said, "Don't you ever come into my conference room." This poor young lawyer I'm sure had been sent there and he said, "But, but, the Hilton wants to tell you that if you don't take the Hilton's offer tonight we're not going to bid tomorrow; that's it; take it or leave it; we're gone." And Mr.

³³ Burton Cohen is a long-time casino executive and a current board member of MGM Resorts International. See *The Oral History of Burton Cohen*, 4 UNLV GAMING L.J. 175 (2013).

³⁴ Kirk Kerkorian is an American businessman and long-time casino executive, known as the "father of the Las Vegas mega-resort." See K.J. Evans, *Kirk Kerkorian*, LAS VEGAS REV. J. (Sept 12, 1999, 2:00 AM), <http://www.reviewjournal.com/news/kirk-kerkorian>.

Cohen in colorful language said, “Tell your client to do what it wants to do,” and threw him out, physically threw him out.

Now, I’m sitting there as a lawyer and my job is to make sure that the auction goes well with bidders bidding against each other to raise the price, and one of our best chances had just been thrown out in no uncertain terms. We were left with Mr. Kerkorian and an unknown Japanese investor. I was convinced that Mr. Kerkorian would buy the property for much less than he would buy it for if Hilton had been in the bidding, because then you’d have competitive bidding and it would go up and everything would be fine.

So we walked into the courtroom the next day and the courtroom was packed. The judge said, “I’m going to hold an auction; anyone who wants to bid, please have your representative identify yourself.” And the lawyer for the Hilton, a lawyer named Linda Riegler³⁵ who is now a U.S. bankruptcy judge—she became a bankruptcy judge soon after that—walked to the front and said, “We made a last best offer last night to Mr. Cohen and Mr. Cohen was very rude and rejected the offer and we said we would not bid and we’re leaving.” The whole slew of Hilton lawyers got up and made a big point of marching out of the courtroom.

I’m sitting there thinking this is really going to be a disaster. I looked at Mr. Cohen and he had this little smirk on his face, a little smile like the cat had just eaten a canary. He was not the least bit upset.

So the judge went ahead and began taking bids. Sure enough, Mr. Kerkorian stood up and his representatives bid, and so did the Japanese investor. His name was Mr. Nangaku. His lawyer stood up and they began bidding. Lo and behold, the number kept getting higher and higher and higher. The Kerkorian group asked for a timeout to go in the hallway and talk and they did. The conversation was mainly about if Mr. Nangaku was for real. Does he have the money? How high can we go? Is he going to bid higher? And we knew from some of our investigation that he did have money. But we didn’t know how high he would go, either.

So the bidding started at maybe \$120 to \$130 million. I think we had \$129 million in creditors that we were trying to get paid. So that was our magic number. And the bids went to 130, 135, 140, 145, 150. We’re all just sitting back now relaxing and watching as the events unfolded. Finally it got to \$155 million and the lawyer for Mr. Kerkorian stood up and said, “No more; I’m out.” And the judge confirmed the sale to Mr. Nangaku. The total amount was \$155 million plus \$2.7 million in a commission to a Realtor.³⁶

We ended up having the pleasant task of paying all the creditors a hundred cents on the dollar, asking them how much interest they were owed and paying them the interest, and then funding Mr. Anderson with many millions of dollars that he could take out of the property.

³⁵ See *Global Conference 2003 Speaker’s Biography: Linda Riegler*, MILKEN INST., <http://www.milkeninstitute.org/events/events.taf?function=show&cat=allconf&EventID=GC03&SPID=1002&level1=speakers&level2=bio> (last visited Oct.31, 2013) (providing additional information on Judge Linda Riegler).

³⁶ See *Company News; Japanese Bid Wins Las Vegas Casino*, N.Y. TIMES (Aug. 5, 1987), <http://www.nytimes.com/1987/08/05/business/company-news-japanese-bid-wins-las-vegas-casino.html>.

So after the auction I asked Mr. Cohen, “Why were you so calm and relaxed during this whole thing with losing the Hilton?” He said, “Well, Kirk Kerkorian called me last night.” Kirk Kerkorian, of course, had employed Mr. Cohen when he was running the Flamingo and they were long-time, excellent friends. They are even through today. And Mr. Cohen said to me, “I had a pretty good idea of what he was willing to pay for the property, so I didn’t care if the Hilton was gone.” And I just said to him, “How could you let me as your lawyer not know that? I would have slept last night if you had told me that.” He just laughed and said, “That’s the way things are; that’s your job and this is my job.”

But that was great exposure to those workings of the casino business on the sale side of how those assets can be valued and how they work. The gaming side of it was, of course, how do you get licensed? How do you have somebody licensed to operate it? Another long-time Las Vegas gaming person by the name of Dennis Gomes³⁷ came in and ran the property and was approved for licensing. He died maybe two years ago.

But again, as they say at the end of the story, Mr. Nangaku, like Mr. Yasuda at the Aladdin, was unable to make a go of it. All that money he overpaid for the Dunes, and then he ended up putting it up for sale. Steve Wynn bought it, tore it down, and built the Bellagio.³⁸

If my memory is correct, the purchase price for the Dunes by Mr. Wynn was in the \$70 to \$80 million-dollar range.³⁹ So Mr. Nangaku lost half of his investment—probably more by the time you talk about money he fed into the property during the time he operated it. The general consensus—don’t know if it’s true or not—was that the water rights themselves on the Dunes were as valuable as the property itself. The buildings on the property had no value at all. At least, in part, those water rights are what have prompted the Bellagio fountains to be so elaborate and so extensive.

So that was the experience I had with the casino business in the eighties. Mike Sloan went ahead and left to go in-house with Bill Bennett at Circus Circus. Same thing, when Shannon left and we kept Golden Nugget as a client, Mike left and the Circus Circus was a client. So over time, then, we had developed a fairly significant gaming practice. Frank along with Bob Faiss⁴⁰ at Lionel Sawyer were the two top gaming lawyers in the state. I continued to do a lot of that same non-gaming work for gaming properties.

The other two events of significance in my gaming background were when at one point, the general counsel at Bally’s—by that time it had been bought by a man named Arthur Goldberg out of New Jersey—fired his general counsel

³⁷ See Dennis Hevesi, *Dennis Gomes, Operator of Casino in Atlantic City, Dies at 68*, N.Y. TIMES (Feb. 25, 2012), <http://www.nytimes.com/2012/02/26/nyregion/dennis-gomes-atlantic-city-casino-operator-dies-at-68.html> (providing additional information on the life of Dennis Gomes).

³⁸ See *History of Dunes/Bellagio*, A2ZLASVEGAS.COM, <http://www.a2zlasvegas.com/hotels/history/h-bellagio.html> (last visited Oct. 31, 2013).

³⁹ The Dunes was sold to Steve Wynn in 1992 for \$75 million. See *id.*

⁴⁰ Robert “Bob” Faiss is a renowned gaming law attorney and partner at the law firm Lionel Sawyer & Collins. See *Profile of Robert D. Faiss*, Lionel Sawyer & Collins, http://www.lionelsawyer.com/index.cfm?page_id=5&page=attorney_profile&atid=16 (last visited Oct. 31, 2013).

New Year's Eve. I'm not sure of the details of that. But they needed somebody to sit in that chair while they did a search. So I went out and I became acting general counsel for Bally's during that period of time, handling all of the property-level stuff that crosses a lawyer's desk. That gave me some insights into the day-to-day workings of the legal department of a casino.

Then something similar happened out at what's now Bally Technology, which is a gaming manufacturer. I went out there during an interim time for about three or four months and sat in the general counsel's chair and got experience in a gaming technology company, to learn how things operated on the inside there, as well. I had a taste of the entire industry—without ever knowing how to play craps.

IV. ROLE AS A REGULATOR

Can you tell us how you became a gaming regulator?

In 1998, I believe it was, Kenny Guinn was running for governor.⁴¹ Kenny had been in the school district when I was a high school student. In fact, I've got a high school state basketball program where he's listed as the timekeeper. He was a referee and a timekeeper. So he had known of me; I had known of him back to the sixties and in the seventies after I was practicing law. He had been superintendent of the school district and had left that position. There was some animosity within the school district, and he was stuck in a position like I was when I was in high school.⁴² The zoning border between Western High School and Clark High School was changed. So his house where he had lived forever, where his son was zoned to attend Western High School, suddenly was changed and his son would have to go to Clark for his senior year. And Kenny believed until his death that that was personal; that the school district made an issue and was hurting his son because of him. So he hired me to be his lawyer to go to court and stop that. And we did. We showed that it was arbitrary and capricious and in violation of the school district's regulation, and we got the court to order that his son be allowed to graduate from the high school where he had spent his whole career.

Anyway, I had known Kenny in that capacity for a long time. Then when he was running for governor, my office was over in the Hughes Center, and he was subletting some space in our suite to run his campaign. So, on a day-to-day basis, we were in touch and talking about issues and everything else.

At that time my practice had moved into also representing some public officials when they were charged with violations of the ethics code. There was one particular case that had come up, a lot of publicity, called Airport Gate—everything was “gate”—where county commissioners were accused of awarding concessions at the airport to their friends. I had represented Commissioner

⁴¹ Kenny C. Guinn served as Nevada's 28th governor. See Brian Haynes et al., 'A Guy Who Really Loved this State', *LAS VEGAS REV. J.* (July 20, 2010, 11:59 AM), <http://www.reviewjournal.com/news/guy-who-really-loved-state> (providing additional information on the life of Governor Guinn).

⁴² *Id.*

Myrna Williams,⁴³ who is as dear and honest and straightforward a person as you'd ever want to meet. She had made a couple un-political comments she shouldn't have made, which got her in the middle of the fight. We fought that case before the Ethics Commission. There was a man at that time who would read the newspaper every day, and he became kind of a cult figure for filing ethics complaints. He would read the newspaper, he would sign an ethics complaint attaching the newspaper article, and then tell the newspapers what he had done. So the headline the next day was "Commissioner Williams Charged with Ethical Violation." I felt that there were some real problems with fairness to an elected official, where any person for any reason could go ahead and read something in the newspaper and then swear that they had read that in the newspaper; therefore, it was true and, therefore, there was an ethical violation. I felt that was a disconnect in protecting public officials, who have rights as well; they should be entitled to have real evidence against them, documents and witnesses, not some stranger who happens to read a newspaper article.

Of course, we went through that hearing and proved that Myrna was not in violation. And there was a little, tiny notation in the paper that said "Commissioner Williams was found not to have violated a state ethics law."⁴⁴ And I just felt that was unfair, that you have destroyed, damaged a person's career. For a person like Myrna Williams, she was emotionally destroyed by the allegations. The last thing she did was get into public service to make money or anything like that.

That was the gist of my discussions with candidate Guinn for governor at the time. When he was elected, he came to me and he said, "You know, you want to do something about the ethics laws, why don't you serve on the commission?" So he appointed me to the Ethics Commission, and I did have a chance to do some of that and try to streamline the procedures and make them fair to both sides, require evidence before a case could be prosecuted, insist on confidentiality by the complainer so that not only was the Commission bound by confidentiality, but so was the complainer, so you could at least have a hearing before it became public.

So at that point, Brian Sandoval was the chairman of the Nevada Gaming Commission. Brian was wanting to run for attorney general. So he told Kenny that he was going to resign from the gaming commission and he had about a year and a half left to go on his term. So Governor Guinn asked if I'd be interested, and a couple of other people I think told him that I would be a good candidate for that. I said sure, it's a year and a half; I'll do that. So he appointed me to finish now Governor Sandoval's term. Obviously, I was familiar with

⁴³ See *Myrna Williams*, WOMEN'S RESEARCH INST. OF NEV. (Apr. 25, 2011, 1:08 PM), <http://wrinunlv.org/research/our-history-profiles-of-nevada-women/myrna-williams-2/> (providing additional information on Myrna Williams); *Commissioner M Williams*, CLARK CO. NEV. (May 25, 2012 1:53:59 PM), <http://www.clarkcountynv.gov/Depts/parks/Documents/cenennial/commissioners/commissioner-m-williams.pdf> (providing additional information on Myrna Williams during her term as Commissioner).

⁴⁴ See *Ethics Panel Sweeps Out Old Rules*, LAS VEGAS SUN (June 29, 1998, 11:26 AM), <http://www.lasvegassun.com/news/1998/jun/29/ethics-panel-sweeps-out-old-rules/> (providing additional information on the string of airport ethics violations and the exoneration of Myrna Williams).

legal issues around the gaming industry, but I had no knowledge of gaming regulation.

So Governor Sandoval's resignation was effective August 1st, 2001.⁴⁵ September 11th, 2001 was the World Trade Center attack. My first meeting as gaming commissioner was the October meeting right after that. It was at a time of tremendous turmoil in the gaming industry, as well as the whole country. No one was flying on airplanes. No one was coming on vacation. No one was doing anything. So that was my baptism into the gaming regulatory role. Art Marshall,⁴⁶ who was also a gaming commissioner at the time, is a long-time friend of Burton Cohen and lots of other people and just another tremendous guy. He set up informal meetings periodically with casino executives, where we could just talk informally over lunch about issues that might come up. I told them at that meeting the old joke that you can always tell a Harvard man; you just can't tell him much. I said that is not me. So I went from not admitting I was a Vegas guy to people at Harvard, to telling Las Vegas guys that I was not a Harvard guy. We would do what we could to at least be open with issues. We wouldn't necessarily agree, but we'd be happy to talk about regulatory obstacles to the health of the industry.

There were several major projects that were being considered at the time. The 2001 legislature had approved a form of Internet or interactive gaming.⁴⁷ It had approved a form of what we call salon gaming, where you can have a private area for celebrities and high rollers to gamble away from the public. With competition in other jurisdictions, including the Indian tribes in California and the gambling in the Far East, privacy was important to a lot of these important people who were gambling. They didn't want, if they were government officials, for example, their constituents to hear that they were gambling in Las Vegas, the celebrities, whatever. So those were the big issues of the day that we had to deal with right away in addition to the fallout from the events of 9/11.

But we had a great commission at the time. We still have a great commission. But we had experienced people at the time that were able to work through all of that. I think we gave a sense of stability and continuity, predictability so that we could tell the people that were running the casinos, "don't worry about us; if you have a great idea, go ahead, implement, talk to us about it, and one way or another we'll get through this together."

The term on the Gaming Commission is four years. So I finished the year and a half for Brian Sandoval, and Governor Guinn was still the governor and said, "Look, things are going well, do you want to continue?" So I did; I re-upped for four more years. Then my term came up again. When would that have been? 2007. By that time, Jim Gibbons was governor and I didn't know him, never met him, never talked with him, but the reports that he got, I guess,

⁴⁵ See *Gaming Panel Chairman Resigning*, LAS VEGAS SUN (July 26, 2001, 11:08 AM), <http://www.lasvegassun.com/news/2001/jul/26/gaming-panel-chairman-resigning/> (providing additional information on the resignation of Brian Sandoval from the Nevada Gaming Commission).

⁴⁶ See JIM BICKFORD, LAS VEGAS DREAMS 117, (American Dreams, 2006) available at <http://americancomeback.com/art-marshall/>, for additional information on Art Marshall.

⁴⁷ See Mark Richtel, *Nevada Approves Online Gambling*, N.Y. TIMES (June 5, 2001), <http://www.nytimes.com/2001/06/05/technology/05GAMB.html>.

were that things were okay. Actually my wife got a call on a Friday night from him saying, “Hey, I’m going to appoint him again to the Commission if he wants to do it.” So I was reappointed from 2007 to 2011. That’s, of course, when Brian Sandoval had just been elected governor⁴⁸ and he and I reconnected. We had stayed in touch over the years; especially in my first year on the Commission, when I got a lot of advice from him on how to run the Commission. So that was very helpful. Then he asked if I would do it again. Internet gaming had become a much more important issue, and I really felt that not only did I have some background and experience, but I also wanted to kind of help guide the state through that process of regulation. So I agreed to go ahead and continue to this day, still battling those same issues on interactive gaming.

What are you going to do in 2015?

Well, as we say, the memory gets a lot hazier over time and it is the kind of thing where stability, continuity and institutional knowledge is important. I still feel that I have a lot to learn about the gaming regulatory process. But, on the other hand, it’s also the kind of thing where you need to have people trained, experienced and be able to come in and do it, and how do they do it unless these positions open up? So it goes back to the same argument and the political realm of term limits for elected officials; you lose a lot of good people, but you also open the door for opportunities for others. In a lot of ways the regulatory appointment process is the same.

The Commission is five people. We’re all part-time, so we all have other jobs. The theory is that the Commission is to provide everyday man-on-the-street type input with people from different professions who aren’t full-time regulatory cops with a police mentality. The Commission is bound by law not to have more than three from one political party, to keep political influence at a minimum. We’re all prohibited from not only having an interest in a casino, we also can’t gamble at a casino. There would be nothing more damaging to the state’s reputation as having tough but fair regulators, if one of us won Megabucks, for example. It would just look bad.

The preference by law is no more than two from the same profession. The idea is to get a divergence of backgrounds. So when I joined the Commission we had Art Marshall who was a businessman, he owned Marshall Rousso dress shops; Auggie Gurrola, who was a scientist, engineer, worked at the Test Site; Sue Wagner,⁴⁹ who was the former lieutenant governor of the state, former state senator and businesswoman; Radha Chanderraj, who at that time was an accountant, a CPA, so she had the finance background; and then I was a lawyer. So we melded nicely in bringing different skill sets to the Commission for the work that we were doing. Now it’s been stretched a little bit. We have three lawyers. It’s not a mandate from the statute, just a preference. There’s nothing illegal about the Commission. But three lawyers, a doctor and Senator Town-

⁴⁸ See *Governor Brian Sandoval*, NV.GOV, <http://gov.nv.gov/About/Governor-Brian-Sandoval/> (last visited Oct. 31, 2013) (providing additional information on Governor Brian Sandoval).

⁴⁹ See *Lt. Gov. Sue Wagner Biography*, NEVADA STATE LIBRARY AND ARCHIVES, http://nsla.nevadaculture.org/index.php?option=com_content&view=article&id=2081:lt-gov-sue-wagner-biography&catid=134&Itemid=418 (last visited Oct. 23, 2013).

send, who used to be a state senator who also has legal training but is not a lawyer. So we're kind of heavy on the legal side now, which I don't think is a good idea overall, but for a short period of time that's fine. But the benefit of people like Art Marshall and Augie Gurrola and Sue Wagner is they bring a lot to the Commission that you don't have when you all have the same basic college, law school, law practice background.

V. THE NEVADA GAMING INDUSTRY: PRESENT & FUTURE

What is the biggest challenge someone in your role faces in the gaming industry today?

The biggest challenge for quite some time has been technology. The old image of Las Vegas and the mob running casinos really is more myth than reality, at least since the early seventies or probably into the late seventies, early eighties maybe. But the sophistication of the industry from a technological standpoint. . . and it's not just the machines on the floor; it's the back-of-the-house stuff, as well. The accounting systems, the internal controls that are required to make sure that everything is accounted for properly, all of the computer reservation systems, the databases with customers has become such a significant factor in the gaming industry. If there is a scandal that I worry about as chairman of the Gaming Commission, it's that somebody is able to gaff, put some kind of a program into a machine to effect the randomness of the outcome or access the back-of-the-house records system and adjust the records that report on revenues, expenses, taxes to the state, things like that. Many of the reasons why people of organized crime or the mob influence are not able to compete is because they can't handle that increased technological burden and regulatory responsibility in that respect.

The Stardust is often cited as one of the big scandals where the slot operations resulted in the skimming of many, many millions of dollars, simply by adjusting the scales that weighed the coin.⁵⁰ Coin in the casino is just too voluminous to count; you don't actually have people counting them, so they are weighed and they know a certain number of quarters weigh a certain amount. So if you adjust the scales to show that there is less being weighed, then you will have a certain amount that appears correct from the scale, less than the total amount. The rest of it can be skimmed off or not reported, converted into dollar bills or twenties or hundreds and out the back door. So that's the simple way that the skim occurred. Today, there are more sophisticated scales that are accurate and tested and have to be calibrated all the time as part of these internal controls.

⁵⁰ See *The Oral History of William S. Boyd*, 4 UNLV GAMING L.J. 145, 155–57 (2013) (providing a firsthand account of the Boyd Group taking over the Stardust after the alleged skimming scandal was exposed); see also Jeff Burbank, *Stardust Hotel*, ONLINE NEV. ENCYC. (Mar. 20, 2009), <http://www.onlinenevada.org/articles/stardust-hotel> (providing information on alleged skimming operations at the Stardust Hotel).

How do you protect against hackers?

There are a couple different ways that the systems can be attacked and the internal controls are supposed to protect all those different ways. The most obvious would be someone on the casino floor being able to put something into what's called the EPROM, which is the chip that houses the random number generator that would force a number to come up more often than chance; it would not be random. Theoretically, it could be a magnet. There have been people who have used strings or metal coat hanger-type things when there was a manual clicker that counted the coin that came out, you could hold it open and more coin would come out. Electronically, that's more difficult to do. But again, if you have a computer program that you can use to affect that and tell the machine to come up with a particular outcome, then that kind of tampering can occur and even can occur remotely in today's day and age, so those are things that the casino is supposed to monitor.

The way they monitor it is the way that people have always monitored it, irregular activity; they know patterns and they know when patterns have been modified. When a machine diverges from the expected, you know that there's got to be some explanation. And you review surveillance and computer records of the data on that machine. And you have no substitute for the boots on the floor, the security guards who watch. If you see a group of people huddling around a machine, then they may be hiding what the player is actually doing to try to tamper with the machine. So that's always something that we hope to stop, and I think the industry is very effective in making sure those types of things don't happen.

The concept that illustrates that point most directly is that we have what's called the "Black Book," or the List of Excluded Persons in Nevada. Since I've been on the Commission, we have not—well, maybe one or two—almost all of the people we have considered for putting into the "Black Book" have been slot cheats, technicians, technical people that try to tamper with slot machines. The "Black Book" doesn't just have organized crime people, as you might think. It's people that have had multiple convictions for trying to cheat slot machines. They'll take their methods on the road to other states and try cheating there. One of the ways that they can be defeated or deterred is to be recognized. So they go to different places and wear disguises and things like that to try to use their systems to affect the outcome of a game.

A good part of that are the relationships we have with all of those other jurisdictions. As an example, we recently put a man in the "Black Book," and one of the grounds for it was his being placed in the comparable book in Missouri.⁵¹ So he had been convicted here, but then he went to Missouri and was convicted there. They put him on their list of excluded persons and that became evidence for us to do the same thing here. So there is a lot of coordination in that. The identity of people in the "Black Book" is widely disseminated among

⁵¹ In May of 2013, Roderick William Dee II was the first person in nearly four years to be nominated for inclusion in the "Black Book." Dee was convicted multiple times for using devices to cheat slot machines. See Howard Stutz, *Convicted Slot Cheat gets Black Book Nomination*, LAS VEGAS REV. J. (May 2, 2013, 2:15 PM), <http://www.reviewjournal.com/business/casinos-gaming/convicted-slot-cheat-gets-black-book-nomination>.

law enforcement. In Nevada the rule is that if you're in the "Black Book," you cannot set foot into a casino; and if you do, the licensee can be penalized for not kicking you out. So the burden is on each location to keep knowledgeable people at the supervisory level aware of who is in the "Black Book," and if they recognize them then they've got to throw them out or else we can discipline them.

If someone is in the Black Book, how do they go to a restaurant in a casino?

They don't. Unless, they have a very good disguise.

Do you think organized crime could still exist in Las Vegas given how the industry is regulated today?

A casino license has become more valuable than what you could get with mob ownership and skimming from a casino based on weighted scales. So the value of complying with regulation is much greater than not complying. If you lose your license, you don't get anything. If you comply and if everybody else plays by the same rules, you compete in the marketplace. So at the executive level, I think it's correct that the influence of what we call the mob is simply not there at those levels. Not just the value of the license, also the reporting requirements, the oversight, the various level of control that we as regulators have and that are within each property, the owners recognize the value of having people on site that can observe and find things before they become regulatory issues.

What we have seen, and it's a problem everywhere gaming goes, is there can be sidelines of criminal activity and a lot of that can be controlled or run by people that might be called organized crime or the mob. That could be anywhere from the people who pick up the garbage to the purveyors that sell food and beverage, even kickbacks and things like that. We think we have pretty good controls at the property level on that kind of activity, but I can't say it doesn't happen. Then you have the street crime level where narcotics and prostitution and muggings and things like that, extortion; there are those types of things that occur that tend to gravitate around cash businesses like the gaming industry. So those are issues that are not beyond our purview as regulators, but they fall into the category of general police work and crimes that are committed. So we are always working closely with police authorities—state, local and federal—to make sure that the best possible controls are made for the safety of people and properties. Almost every major event, crime, conspiracy, ends up having some tie to Las Vegas. I don't think that's a coincidence, not because of lack of regulation or lack of integrity at the management level, it's just that if people have a lot of money and need to do something with it, Las Vegas is a great place to be. All of that brings with it people who have generated their gains through ill-founded activities, and that's going to happen. We're not naive enough to think that there aren't those connections.

So in the broad sense, I don't think the mob could compete at the ownership level. It's not just a matter of sophistication; it's a matter of capital. If you can tap the Wall Street investment banks for money, then there's a lot more

money there to build the Bellagio. The Mirage is the big example, back as the first one that really showed this to be true. The mob could not go out and raise that kind of money in street rackets. So the financial capability, as well as the increased regulatory requirements and the sophistication of the technology, move those types of people into other sideline type nefarious activities.

What are the pros and cons of having gaming throughout the country?

I think we'd all be naive to think that it was a universal positive. It makes the competition much tougher from a business standpoint. From a regulatory standpoint, we worry constantly about whether a scandal—cheating or some players not getting paid—will affect the integrity of the games in those other jurisdictions. The more gaming is spread over the world, the more likely it is for something like that to happen. It doesn't have to be a Nevada licensee that is in trouble that would cause ramifications for us here in Nevada. So we worry a lot about that. On the other hand, the positive side is that it does expose other people to the gaming industry and in that sense it is more legitimate than it used to be.

The one thing that Gary Loveman⁵² at Caesars's and a lot of other executives have said is, why do we act like we have to be in a closed room with thick cigar smoke by having all these restrictions? Why not be open? We are a legitimate industry. We are travel. We are entertainment. We are people who will spend disposable income. Why are we acting as if this is some sort of a sin?

We're going against, of course, the long, long history of gambling being thought of as a sin, back to the days of Jesus and even before that when gambling was always one of those terrible things; if you commit that sin, then you're bound and determined to be condemned.

So it adds a lot of legitimacy and as such it has opened the door to increased capital investment where twenty years ago, as I said earlier, thirty years ago maybe, the only way you could get financing was through a mortgage on real estate. Now casinos have been able to show that cash flow is as predictable as it is in the shoe business, the retail business, the car business, and lenders can look at the cash flow generated from a property and say, hey, we have a pretty good idea of what the return is going to be. This is a business that's highly regulated, highly predictable. As long as people have disposable income, then you know what the results of the casino will be. So in a lot of ways the proliferation of gaming has added to the legitimacy and a lot of people have invested a lot of money—Wall Street investment banks, worldwide banking, institutional investors—and they've done very well investing in the gaming industry. So it's now in the portfolio of even the most conservative of the funds that are out there. So proliferation again has positives and negatives.

In a lot of ways, people say that we wish Las Vegas was the small town it was when I was a boy in the 1950s. But there's a lot more here now than there was then. I think the gaming industry has done well for the State of Nevada. If

⁵² Gary Loveman is an American business executive and academic. He is the current chief executive officer and president of Caesars's Entertainment. See *How to Survive in Vegas*, BLOOMBERG BUSINESSWEEK (Aug. 5, 2010), http://www.businessweek.com/magazine/content/10_33/b4191070705858.htm?ref_homepage.

anything, it's tried to and been successful in bringing gaming out of the back rooms and out of the areas of sin and condemnation into a legitimate profession.

The other example of a positive of proliferation is the quality of people in the industry, where we see applicants from all over the world who work in gaming companies. And we're finding people have to have education, they have to have technical knowledge, and they have to be able to prove with their track record a series of successes in their careers. So we have people now who are serving on the boards of our public companies who have been CEOs of major international companies. The quality and caliber of people that now serve on our boards, I think, are as good as any other industry. So it's not just your back room operations anymore, and people are recognizing that.

If you want to go into a career field that's challenging intellectually, gaming is something you have to consider. It's not just a bunch of guys that are throwing dice on the sidewalk. It's very sophisticated. You may know or have heard about or read about the conference that was held at UNLV in May, 2013, where you had academics from all over the world come present papers.⁵³ Those papers are very, very difficult to read, because of their sophistication and complexity. And the industry is, I think, taking its place throughout the world, with proliferation, as one of those where a young person can do a lot worse than becoming a career gaming executive.

Who do you think are the most influential people in the Nevada gaming industry?

The general answer is those that have been successful. If you look at the business plans of a Sheldon Adelson or a Steve Wynn or a Kirk Kerkorian, you'll see similarities and you'll see differences in how they have developed and how they have built their empires. I think you could go into any of the executive suites at any of the major properties and find influential people—again, just a couple of names like a Bill Boyd or Keith Smith at Boyd Gaming or Don Snyder at UNLV. Then you have people like Jim Murren and Bobby Baldwin and Bill Hornbuckle, mainly MGM related people. Glen Schaeffer who was at Circus Circus. Mike Sloan is a great resource. These are all people who have recognized the need for sophistication and also the opportunity with the availability of capital to really build something. Michael Gaughan at the Suncoast has a different method of doing business and has been very successful. The Fertittas have been very successful with their plans, as well.

You shouldn't leave out the technology gurus at IGT, Bally, WMS, Aristocrat, and Shuffle Master. As these companies move around, they combine. But the people in those industries have recognized not just how to build a slot machine, but how to build a slot machine that will be popular with the public. There are big differences there: you can have the most sophisticated machine

⁵³ The International Gaming Institute at the University of Nevada, Las Vegas, hosted the 15th International Conference on Gambling & Risk Taking in May 2013. *Gambling & Risk Taking Conference*, UNLV INT'L GAMING INST., <http://www.unlv.edu/igi/conference/> (last visited Oct. 31, 2013) ("The conference aims to develop knowledge about all aspects of gambling and to stimulate discussion and further research — bringing together top scholars to present and discuss the latest trends and findings on gambling and commercial gaming").

that nobody wants to play or you can have a very simple device that draws people all the time. There's a lot that goes into that side of the business, too, in terms of the systems like the player card systems and how you track play the same way retailers track purchases by their customers, the way Amazon identifies other products you'd like to have, and all of that. So those are, again, examples of the proliferation and the success that should be studied as part of almost a business school curriculum of how to set up a vibrant company in a competitive industry.

How do you see the role of women changing in the gaming industry?

From this point forward, I hope it's much better. We've had very few women executives getting through the glass ceiling. I think those that have made it have had to have incredible skills, more so than the good ol' boy network that you hear so much about, where if you know somebody then you move up in the ranks. We have some great examples of women executives here at this time, but the industry itself is still very male dominated.

I don't think that the industry has embraced the idea that people with divergent backgrounds and experiences can bring value. Bobby Siller, who was a member of the Gaming Control Board, which is the full-time regulatory body that recommends things to us, talked about how important it was, and MGM was the one example, where diversity—women, minorities, disadvantaged—is good business. It's not just the right thing to do; it's good business. He was always a very, very strong advocate for that. MGM has proved that that is a postulate that is correct. So it's not easy, and I think the next generation of executives will be much, much more receptive to women and minorities in the casino business.

Downtown Las Vegas is going through a revival. What do you see as the future of downtown?

I think the future will probably be driven by non-gaming ventures; in other words, the casinos themselves have their niche and I think they'll remain, but I think the overall revival of downtown has to be in the non-gaming areas, which is a function of bringing people to live, work and play, as the cliché goes.⁵⁴ And gaming is just one amenity on the play side. But to have a real downtown community, you're going to have to have people that are there and want to stay there for some reason. I think we have seen other communities, like in Boston, like where our daughter is in St. Louis, and you see people who just hang out and just enjoy associating with one another. And that type of atmosphere is coming, I think, but it's going to be a while and I think more non-gaming business ventures are needed to be able to add to the employment base and then that will make it more attractive for people to live there and make it a more vibrant place.

So I don't think you're going to see much gaming expansion, especially with the tourist-driven Strip and then the locals' casinos drawing on the population in outlying areas. You don't hear anyone say I'm going to go home after

⁵⁴ See generally DOWNTOWNPROJECT.COM, <http://downtownproject.com/> (last visited Oct. 23, 2013) (describing the non-gaming development of downtown Las Vegas).

work in Green Valley and then go downtown to spend the evening. No. If they want to gamble, they'll go to a property in that area. If they want to go out to eat, they have plenty of choices there. Same thing with Summerlin or North Las Vegas. So downtown, I don't think is going to attract casino customers other than what the tourist market brings, and then they're competing against the Strip. So you've got to revitalize downtown in my view with more non-gaming activities, businesses and amenities.

VI. FINAL THOUGHTS

Is Las Vegas still the gaming capital of the world?

The thing that makes me say 'yes' to that is the appeal of Las Vegas to the younger generation. I don't really understand that because, of course, I'm not a gambler, never have been, and I don't understand the allure of clubs that don't open until midnight or two a.m., but there is a real market for that. As younger people reinvent Las Vegas as customers, then they will continue to bring that kind of vibrancy. As they get to be older, then their kids will be able to listen to their parents talk about their experiences in Las Vegas. So I'm optimistic that it's self-perpetuating to some extent and it's not just the old-time, cigar-smoking gamblers whose wives play slot machines who come here anymore, and it's not just the shows. The shows help. But it's the retail, the dining, the entertainment, the shopping, the clubs and all of that that give Las Vegas a totally new facelift in some respects that attract a younger crowd.

Looking at the history of the Nevada gaming industry, what would you consider to be the "golden era?"

Today. There have been fairly precise delineations of different eras over time. As a foundation, the golden era would go back to the early seventies when corporate ownership was approved for licensing, and it allowed corporations to invest in Nevada casino properties. And then the Mirage and the post-Mirage era where there was so much money available, and at least part of that was from what's called the junk bond industry, these high-risk debt instruments where at that time, Drexel Burnham was the main investment bank in the market and saw the casino business as a place where you could invest money, get a high return, and you'd have some failures, but you'd also have some great successes. That changed the way that Wall Street looked at Nevada and looked at casino properties. So I think that's a golden era in terms of the entrepreneurial spirit and all of that.

The golden era for me was when I was a lifeguard at the Sands and Bill Medley and the Righteous Brothers and Pat Boone and his family, Solomon Burke, who was one of the great R&B entertainers, they would all come out by the pool and relax during the day. We'd all play flag football with the Righteous Brothers at the end of the day when everybody else went inside. That was the golden era for me.