



**The Bybee-Swallow Connection**

PACKERCHRONICLE 5  
Spanning John Swallow's  
professional career: The  
Bybee/Swallow  
connection

*Plus: Zions First National  
Bank and the Winterfox Loans*

By Lynn Packer August 2, 2013

George Evan Bybee, 66, and John Edward Swallow, 51, share some common Nevada roots. Both spent a part of their childhoods near Ely Nevada. Swallow's stepfather was a cattle farmer. Bybee's was a skimmer at Kennecott's McGill, Nevada smelter.

In 1992, when Swallow was working for a Salt Lake law firm, he helped represent Bybee in a suit filed against Bybee's startup nutritional supplement company, Basic Research, LLC. Several years later, after Basic Research began bringing in millions of dollars in monthly revenue, Swallow joined Bybee and his company as in-house counsel.

In the early 90s Bybee and his partner Dennis Gay were transitioning their careers. Before they co-founded Basis Research and continuing while it got off the ground they worked together as Utah county real estate developers. Near the time they were co-founding Basic Research Bybee and Gay were sued in Utah's Fourth District Court for allegedly skimming in connection with a car wash they were running. Provo attorney Darwin Fisher and his wife Cheryl had sold Class Act Carwash on North University Parkway in Provo to a couple who eventually defaulted on their loan.. Bybee and Gay, operating under the umbrella of Summerhawk, Inc. and an entity they called Citioil took over payments and ran the car wash while the Fishers were repossessing the company. The Fisher's lawsuit alleged Bybee and Gay took receipts that were supposed to have gone to the Fishers and lied to the Fishers about loan payments Bybee and Gay were supposed to have been making.

The Fishers won their case but Bybee and Gay refused to pay the court-ordered judgment. That judgment remained on the books until 2008 when, according to Fisher, Bybee needed to clear the record because of some deal Bybee was doing in Mexico. John Swallow was the attorney who handled the matter. During the same time period, 2007 to 2010, Swallow was also the personal lobbyist for Bybee and many of Bybee's other ventures.

After raking in millions of dollars selling diet pills and miracle wrinkle creams at Basic Research Bybee disengaged and turned to other ventures creating a succession of companies to pursue them. He participated in four patents all having to do with coatings. One was for coating ammunition—like bullets— to protect them from contamination. (See PC article July 29) He formed Mirage Products to manufacture and sell a coating called Xylexin, purportedly better than readily available conventional epoxy paint.

In his interview with *Business Xcelerator* Bybee said his company had coated the siding of about 400 homes between Utah and southern California.

“...we get a better adhesion, better elasticity, and better sturdiness according to what we want for what application. We have also appended the friction capability that uses a nano size atom sufficient to get a better coefficient of frictions and still keep up the similar lucidity of the transparent product.

Bybee told the magazine one of his biggest clients was the Cheesecake Factory where they coated their tables and planned to move on to doing their floors, bathroom and kitchens. He said the Church of Jesus Christ of Latter-day Saints was another big client. He described plans to do cultural halls (gym) floors and to recoat the Mount Timpanogas LDS Temple.

In 2007 Swallow became a lobbyist for Xylexin and its parent company Armored coatings.

John Walter Horne, a painter whose name appears alongside Bybee's on the coating patent, said they had their product manufactured in Missouri. He said it went on in one coat rather than the usual two and was warranted for thirty years, but it was expensive (about \$400 a gallon) and, he said, most people during the building boom didn't plan to stay in their homes for thirty years. According to Horne the company coated part of the Mount Timpanogas Temple parking lot and bid on recoating the temple's tower. But he says they did not win the bid.

“I walked away two and a half years ago,” Horne says explaining that he did not like some of the people Bybee wanted to bring in. He thought the company formed to market the coatings, Mirage Architectural Products was now dissolved. But Utah's Division of Corporations shows it as still active. (A former Bybee partner, Gary Bishop of Pleasant Grove, says he is reviving the coating business and that Bybee had moved on.)

Horne said he met John Swallow at a few meetings but, unaware Swallow was a lobbyist for Xylexin, perceived him more as an attorney for Basic Research. He said the product was used to paint the deck at Swallow's house but they had some problems with it.

Today George Bybee is back in the herbal medicine business. More specifically, the brain food business. He has a new partner, new company and new product both named GungHo. It's an energy shot drink somewhat akin to 5-Hour Energy shots but, according to promoters, works on a different principle.

Bybee's new company cofounder, Danny Mason, says their formula builds neurotransmitters in the brain, improving mental sharpness in a way caffeine cannot. Company literature says:

**Research from the University of Utah led to a new company called GungHo, an energy gel shot for the brain. More than simple alertness, GungHo's proprietary blend of ingredients are proven to increase focus, concentration, memory storage, and memory recall, while avoiding the harsh rush, jitters, and crash common with other energy products. Dr. Perry Renshaw, director of Magnetic Resonance Imaging for The Brain Institute at the University of Utah, said, “GungHo is the only energy shot or drink that contains natural ingredients at proven effective doses to improve focus and concentration**

The company web site claims a patent is pending on the product. But he tells PACKERCHRONICLE that the patent has since been rejected for reasons he did not want to detail.

Mason tells us he met Bybee in his LDS ward in Alpine, Utah and that Bybee is a man of integrity having twice served as an LDS bishop. He said former Basic Research scientist Daniel Mowrey helped put together the formula for GungHo. But despite Bybee's and Mowrey's involvement, he says, Basic Research has no connection to the new energy drink company.

## Zions First National Bank and Winterhawk

Basic Research's now-president and CEO Dennis Gay decline comment on why Bybee and consultant Dennis Friedlander were eased out of the day-to-day running of the company. In 2007 Gay and Friedlander apparently put money into one of Bybee's Winterfox, LLC ventures. Neither Bybee nor Gay will discuss it and Friedlander could not be reached for comment.

It appears the venture went south. Evidence of the deal is found in a Uniform Commercial Code (UCC ) filing Gay and Friedlander filed with the state of Utah in 2007 to create a public record of a lien..It does not disclose the amount they gave Bybee. The fact it's still posted indicates Bybee has not repaid the loans. But it describes the collateral Bybee put up to secure the loans: His shares in the Utah companies GIGI Media, EB Enterprise, Inc, Winterfox, LLC and Western Slope Development, LLC. The amount of the loan to Bybee, Winterfox et al is undisclosed.

A year later, in 2008, Bybee and Winterfox borrowed an undisclosed amount from Zions First National Bank pledging assets of Winterfox LLC, the same company that partially collateralized the loans from Gay and Friedlander. Those assets were the trust deeds from loans Bybee had made to Brian Kitts (See PC July 30 and 31) and to another accused swindler Kent C. Bedingfield in the amount of \$500,000.(Bedingfield reached a plea agreement with the Utah Attorney General wherein he would make full restitution in exchange for no prison time or fine.) Zions, like Gay and Friedlander, filed a UCC notice encumbrance and collateral with the State of Utah.

Trouble is, not only was it possible the Winterfox assets were still backing the Gay/Friedlander loan, Winterfox's loan to Kitts was tied up in bankruptcy court and at the time worthless as collateral. Yet Zions accepted it. An attorney familiar with the bankruptcy proceeding said, "He got that loan while he was he was in litigation. when he went to Zions Bank we were right thick in the middle of the lawsuit. And there is no way Zions Bank would have lent him even five cents if knew it was in litigation."

Bybee, Winterfox and Zions were not finished doing business.

The next year, in early 2009, Zions First National Bank loaned Bybee individually and two of his entities, Shannon River LLC and Winterfox LLC, \$2.2 million. That loan was secured by three properties owned in whole or part by Bybee, homes at 9285 S. Burgundy St. in Sandy, 7469 S 700 E in Midvale, and 215 E 2<sup>nd</sup> Ave. in Salt Lake. The combined, assess valuation of the properties is \$960,000. It's risky business lending \$2.2 million with less than half covered by collateral. But, no harm-no foul, Salt Lake County Records show the loan was repaid in late 2009.

Zions Bank declined comment.