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Midwest Roofing Contractors Association

Feb 2018

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Providing Quality MRCA Membership Benefits

Greg Sprague, MRCA President

It is an honor to have the opportunity to lead the MRCA in 2018. When 2017 President, Mark Langer, handed me the gavel last October at the membership meeting in Saint Louis, I stated that my goals were to boost attendance and improve the quality of the 2018 MRCA Conference next October 24th through the 26th in Omaha, Nebraska. I also stated my desire to increase MRCA Contractor Membership by 5% from the previous year, all the while, still providing quality MRCA membership benefits and maintaining fiduciary/financial responsibility of this association.

Some days, I think I am in over my head for having said all of that at the membership meeting. However, when I stop, reflect upon the generosity and donation of time and money by the MRCA Executive Committee, Board of Directors, Committee Chairs, Committee Members, and all MRCA Volunteers who are helping me realize those goals, I find it to be one of the most humbling experiences of my life. These men and women are all volunteers. They receive no financial compensation. They do it for the benefit of the Roofing Contractor and they think it's the right thing to do. They want to raise the level of professionalism of all Roofing Contractors in the Roofing Industry! All I can say is, "Thank You."

I also want to recognize the value and importance of the MRCA's Advisory Counsel and MRCA Associate Members. The Advisory Council is comprised of non-contractor associate member companies who make recommendations, provide input, and support MRCA's efforts in producing the annual MRCA Conference and Expo. The Advisory Council meets three times a year during the MRCA Winter, Spring & Summer Board meetings to help with this effort. This past fall, I asked the Advisory Council to attend a special meeting in Chicago to do a post review of the 2017 MRCA Conference & Expo. Thank You Advisory Council Chair, Greg Bloom, and all Advisory Council members who attended that meeting!

When you read this President's message, the MRCA will have completed its Winter Board & Committee Meetings in Tucson, Arizona. I want to recognize the efforts and preparation by MRCA Staff and Legal Counsel to help make those Board & Committee Meetings successful. The Winter Board & Committee Meetings in my opinion are the most important Board & Committee Meeting of the year.

The MRCA Membership Committee has embarked on a 2018 membership drive that will provide the first twenty companies to join the MRCA, a Silver membership for \$400.00. The standard price for that Silver membership is \$795.00. If interested, please contact Morgan Arwood, the MRCA Membership Director at (800) 497-6722 before those twenty memberships are gone!

Discover the Benefits of MRCA Membership. Just a few of those member benefits include:

- Electronic distribution of monthly Toolbox Talks & Monthly Meeting Topics in English & Spanish that help meet OSHA's safety & training requirements.
- Complimentary legal advice on OSHA issues, contracts & applicator agreements.
- Ready to use business templates and forms for Contracts & Warranties.
- One of kind technical updates and on-demand technical advice from the renowned MRCA T & R Committee.
- Member-only educational scholarships for employees and their families from the MRCA Foundation.

At the membership meeting in Saint Louis, I stated that I would hold myself, MRCA staff, Executive Committee and the Board of Directors accountable to achieve the 2018 goals. I leave you with this final thought... the MRCA was, is, and will remain, the Roofing Contractors Advocate!

Sincerely,

Greg Sprague
2018 MRCA President
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TekCollect specializes in early intervention on delinquent accounts. Their persistence, professionalism and pricing are unparalleled and it is completely Web-based for the most convenient, accessible, real-time account management solution available.

They cater specifically to small and medium-sized businesses, enabling them to establish long-term relationships, provide personalized service and generate aggressive results. They successfully manage a portfolio of 30,000 clients around the country and recovery ratios are three times the national average.

MRCA Member Benefits

All MRCA members receive key account status. A designated TekCollect Account Manager will contact you on a monthly basis to review the status of your accounts receivable, implement custom solutions, and provide ongoing personal attention and support.

MONTHLY SERVICES INCLUDE

- Ensuring consistent account placements
- Evaluating skips and running them through databases free of charge
- Examining the monthly contact ratio to determine if additional phone campaigns are necessary

TekCollect also offers MRCA members additional advantages:

- Account recovery specialists
- Discount pricing per account
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- Prompt online verification of debtor payments to preserve ongoing customer relations
- Secondary Contingent Recovery Division for hard-to-collect accounts
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For all MRCA members, TekCollect's custom program includes two phases of aggressive collection efforts. The Primary Phase involves a series of professional contacts beginning with an Audit/Balance Verification notice. They follow up with strategic telephone campaigns, plus up to six high-impact written contacts, the final being an Attorney Demand. All delinquent accounts are reported to the credit bureaus, and for any debtors they are unable to contact, TekCollect will conduct electronic database skip tracing. Payment is directed to the MRCA member for immediate account reconciliation to help preserve and maintain the customer relationship.

Please contact Diane Schumm directly to get started:

Diane Schumm, Vice President Corporate Services
TekCollect Debt Collection Service

(866) 652-6500

Diane.Schumm@tekcollect.com

tekcollect.com

TekCollect



LEGAL SERVICES PLAN



WHAT IS IT?

The Midwest Roofing Contractors Association has entered into an agreement with the law firm of Auman, Mahan, and Furry to provide the MRCA membership with this unique service.

HOW DO I USE THE PLAN?

Auman, Mahan, and Furry specializes in labor and employment law, discrimination, wage-hour, prevailing wage, workers' compensation, unemployment compensation, construction law, construction claims disputes, government contract disputes, occupational safety and health, pensions, fringe benefits, collective bargaining, litigation, and business law; including taxes and securities. The firm represents numerous business clients and various associations throughout the Midwest, including MRCA.

WHAT IF I NEED ADDITIONAL HELP?

Additional legal services will be offered to members at a preferred hourly basis. Court costs, filing fees, and miscellaneous disbursements would be paid for by the member, and itemized by the firm.

WHAT DOES IT COVER?

The primary purpose of this service is to provide MRCA members the opportunity to discuss and identify legal problems, and to resolve general questions and concerns quickly through convenient access to specialized and qualified legal counsel. Each MRCA member is entitled to one 30 minute consultation per month either by telephone, email, or office conference, at no charge. It is understood that these consultations and conferences will be based on existing knowledge of the attorney without further research and analysis. When calling Dunlevey, Mahan, and Furry, please ask for Gary Auman and identify yourself as a MRCA Member calling under the Legal Services Plan.

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Foundation Scholarship

The MRCA Foundation is a non-profit organization established by the Midwest Roofing Contractors Association (MRCA). One purpose of the Foundation is to provide financial assistance to MRCA member company employees and their families pursuing higher education at an accredited university or trade school.

ELIGIBILITY

Candidates must be an undergraduate or graduate student enrolled in a trade school, college, or university, or a high school senior provisionally accepted at an educational institution and expressing intent to pursue a degree or certified trade program with at least a 3.0 GPA or B Average Equivalent.

APPLICATION REQUIREMENTS

Candidates must submit the following to be considered for a scholarship award:

1. A fully-completed application.
2. Proof of being associated with an active MRCA member company.
3. A written statement from the educational institution where the trade-related, undergraduate or graduate work will be undertaken, indicating provisional acceptance of the student at the institution.
4. Official transcripts from current high school or college showing at least a 3.0 GPA
5. Two letters of recommendation, submitted by persons at least 18 years of age who are not related to the candidate. Only one letter of recommendation may come from a Director of MRCA, however, none may come from a Director of the MRCA Foundation.
6. A typed essay of no more than one page, explaining why the applicant is interested in pursuing a degree in the construction industry or related field and any steps that have been taken to pursue this goal including relevant honors, activities, or employment.

SCHOLARSHIP AWARDS

The number and dollar amount of scholarships awarded by the MRCA Foundation will be determined by the MRCA Foundation Board of Directors.

SELECTION

Scholarship recipients will be selected on the basis of academic performance, employment experience, financial need, letters of recommendation, and a demonstrated desire to pursue higher education. All applicants will be notified in writing by the Directors and the award will be mailed to the specified school.

DEADLINE

Entries, including all required information, must be postmarked no later than June 16, 2018 to be considered for the 2018-2019 academic year. For a complete Scholarship Application contact Megan Miller at mmiller@mrca.org or 800-497-6722 or go to www.mrca.org.



Worried That #MeToo May Come For You?

Matthew Bakota – Auman, Mahan & Furry

Better Workplace Investigations Can Protect Your Company Against Harassment (And Other) Claims

Many companies are facing extremely negative publicity and potential legal liability as a result of the so-called “me too” movement, in which women in various industries are coming forward with allegations that companies failed to do enough in response to alleged sexual harassment in the workplace. The backlash has been so significant that companies are responding to these allegations with swift and serious action, including quick separations of some long-time employees and executives, as part of near-immediate public responses that seem focused mainly on removing a company’s name from the news as soon as possible.

As someone who is trained and certified as a “Civil Rights Investigator” to investigate allegations of harassment, discrimination, and other workplace misconduct – (more on that in a minute) – I offer a few observations about what is going on right now. Doing too little in response to allegations of harassment or other workplace misconduct certainly leaves a company continually exposed to potential legal liability, based on claims under federal and state anti-harassment, anti-discrimination, and anti-retaliation laws. (Not to mention the extremely bad publicity some companies are facing now, years after some of this alleged misconduct reportedly took place.) However, quickly making extreme employment decisions in response to such allegations, perhaps without all the facts or a full response from the person being accused of misconduct, also creates a great deal of risk. Surely wrongful termination lawsuits are not far behind some of the quick employment decisions that are being made today in the wake of the “me too” movement.

So what is the best practice for companies that want to manage and try to limit their risk after they are presented with allegations of harassment or other workplace misconduct? The answer is a timely, well-planned workplace investigation conducted by a qualified investigator, as discussed in more detail below.

Who Is An “Investigator”?

Some background information and context is helpful to answer this question and explain a bit about the “Civil Rights Investigator” certification that I hold.

Even those who work outside of the education sector probably have heard news reports regarding colleges and universities being sued in connection with their handling of alleged sexual harassment and assaults that reportedly

have occurred on their campuses. These lawsuits have really “made the news” when they have involved a high-profile school or a well-known athletics program or individual athlete. Sometimes the lawsuit has been filed by the person who reported the alleged assault; but sometimes the lawsuit has been filed by the person accused of it.

Either way, a focus of these lawsuits seeking to hold the school (and even school administrators) liable often is a claim that there were certain deficiencies and/or biases in the investigation process, which, in turn, allegedly led to an erroneous and biased decision on whether the accused party should be disciplined in some manner. Schools have been troubled to find themselves in this difficult spot, facing multi-million dollar, high-profile lawsuits, in which both the accuser and the accused person are putting the school’s investigation process under a microscope. Various federal laws and standards have been developed or interpreted to push schools toward conducting investigations that are demonstrably “equitable” to both parties, but the significant risk of potential legal liability remains. Therefore, many schools continue to invest significant time, money, and training to get ahead of the curve, and make sure that their investigation process complies with the law and, perhaps most importantly, decreases the risk of serious legal claims and potentially significant legal liability.

So what do these challenges faced by colleges and universities have to do with the roofing industry? Quite a bit, actually.

First, the certification I received came through a program geared toward the education sector, developed by an organization that is on the cutting edge of investigation best practices. Those best practices are not unique to the education sector, however, and can be applied to many other industries – including yours.

Second, in the roofing industry, you also can be subject to legal claims by parties on both sides of workplace misconduct allegations. Like the school cases, a main focus of those claims often can be whether your company “did enough” in response to the allegations. Therefore, if you develop a practice of responding to such allegations with solid investigations, then you also stand to reduce your risk of legal liability (just like America’s colleges and universities are trying to do). That doesn’t mean your company will never be the subject of a harassment or discrimination charge or

“ The backlash has been so significant that companies are responding to these allegations with swift and serious action”



an employment lawsuit at some point in its history. But it does mean that your company should be in a much better position to defend not just whatever employment decision it made in response to the allegations, but also the manner in which your company reached that decision. An investigation that produced a result that was based on objective evidence from all interested parties should stand up well to scrutiny whenever and wherever it may come.

Why Investigate?

In the next section below (“Investigation Best Practices”), you will find some additional details regarding what an effective workplace investigation should look like. But, as you may conclude for yourself, the most effective and cost-efficient approach may be to retain an investigator who is already familiar with and trained in using those and other investigation best practices. It can be difficult to “reinvent the wheel” yourself, and the learning curve under these circumstances can be a very dangerous one. In addition, it’s worth pointing out that an investigation actually can be used in one of two ways, both of which can help your company.

In the first scenario, which is the main focus of this article, an investigation can be conducted by an independent investigator who is asked to determine whether your workplace policies or laws have been violated. From there, the investigator makes recommendations for follow up employment action, if any, regarding the parties involved. Using an investigator this way shows those who

may scrutinize your actions now or later on (such as a government agency or a court of law) that your company took the allegations seriously; and that you brought in an independent party who does not work with the parties involved on a regular basis and, therefore, is not likely to have some of the biases that such familiarity could generate. The use of an outside investigator can deter potential claims and/or severely undercut them before they ever really get off the ground.

In the second scenario, an investigator who is also an attorney can conduct an investigation with an eye toward potential litigation. The investigator assesses the parties involved and the facts, for the purpose of preparing to defend a claim that seems likely to result under the circumstances. Such an investigation will not be viewed as neutral or unbiased given its purpose; but it can be equally beneficial, depending on the circumstances and the approach your company would like to take to specific allegations and the parties involved in them. If litigation seems very likely down the road, perhaps your company may prefer to begin circling the wagons and gearing up for potential litigation from the start. To that end, the attorney/investigator in this scenario also can take on the defense of any potential litigation that may arise. That can be a very efficient way to handle things sometimes. In the first scenario, however, an investigator who also is an attorney would not be able to represent the company in subsequent litigation. As indicated, while these two types of investigations have different purposes at the

time, they both can be effective in trying to manage the potential risks facing your company.

Investigation Best Practices

When discussing investigation specifics, I have found it helpful to use a hypothetical scenario to provide some additional context. So, here is our hypothetical.

Suppose your company receives a report that your employee, Jane, is being subjected to sexual harassment by one of her co-workers, John. We'll assume that your company has a solid, updated anti-harassment policy. (If you don't, this also is something that should be immediately addressed given the current climate.) Because of the circumstances surrounding these two employees, you see that there is risk whichever way you turn.

Jane could be the source of a claim against your company if you do any of the following: fail to take enough action upon receiving the report of sex-based harassment and/or discrimination; permit an environment in which she could be the target of unlawful retaliation for reporting her allegations; or reach a result that she deems unsatisfactory, in terms of the follow up action taken at the conclusion of the investigation (discipline, etc.).

John also could be the source of a claim, however, depending on what action you take against him. Under our hypothetical, we'll assume that John is a minority or member of another class of workers protected by federal and/or state anti-discrimination laws. Therefore, he is the potential source of a discrimination claim. If he is separated from the company in connection with the current allegations, he may allege that the "real" reason was that he is a member of a protected class. It can be rather easy for him to make such allegations; however, a solid investigation can go a long way to refuting such arguments.

With that, here are some examples of best practices that would be used during an investigation into the allegations concerning these two (hypothetical) employees:

Consider interim measures even before the investigation begins. Jumping to a conclusion without investigation creates a risk of liability for your company, but it may not be possible or advisable to have John and Jane around each other in the office while an investigation is underway concerning serious allegations. Therefore, it may be advisable to use some interim measures while the investigation takes place, and before any final employment decisions are made. Keep in mind, however, that any interim measure that seems like a severe penalty and/or a de facto termination (long-term suspension, etc.) can expose your company to liability as well, because it may seem like the company made up its mind prior to investigating.

Be timely. Few things frustrate parties dealing with difficult circumstances more than delay. Frustrated employees can become disgruntled employees, and those typically present increased risk to your company. Therefore, it is important

Frustrated employees can become disgruntled employees, and those typically present increased risk to your company"

to update the involved parties as progress is made and as the investigation gets underway. (And if time and staffing is a significant issue for your company, those can be the most important times in which to consider an outside investigator, who can devote the time and attention needed. Yes, there will be an expense associated with doing that. However, spending a little now can save much more in the long run, because an untimely or otherwise deficient "investigation" can expose your company to legal claims and a costly employment lawsuit.)

Make a plan for the investigation. An investigator should carefully consider what witnesses should be interviewed and in what order? Also what information, if any, should be given to witnesses regarding the allegations or the investigation? What questions should be asked of the witnesses, and in what order? Witness interviews can really backfire if they are not planned with care. On that note...

Conduct witness interviews carefully. When it comes to interviews, there are many not-so-obvious tips that can be critical to conducting an effective interview. For example, an investigator seeking to conduct a worthwhile interview will not say or do anything that he/she wouldn't do if the party on the other side of the allegations was in the room. An investigator usually will give the appearance of being neutral, while still being responsive and obviously treating the matter seriously.

An investigator also will use open-ended questions whenever possible. Witnesses must know that they need to be truthful and forthcoming, and that their failure to do so may be cause for separation from the company. But, at the same time, something that feels like an interrogation or a cross-examination may give the impression that the company has already determined the outcome, which is the opposite of what an effective investigation usually should convey.

In addition, open ended questions typically help an investigator avoid inserting facts or assumptions into questions. Doing that can lead to inaccurate responses or give the wrong impression to witnesses. For example, when dealing with witnesses who have been subjected to something that may have been very troubling or even traumatic, it is critical for an investigator not to ask questions in a way that sounds like blame is being placed on them. Compare these two types of questions directed to Jane: (1) "Jane, you said someone came into the breakroom while John was doing this – why didn't you saying anything then?" vs. (2) "Jane, when the person walked into the breakroom while John was

doing this, how did you react? What was going through your mind at the time?”

Surely you can see how questions like those in (2) are more likely to keep the witness talking and elicit valuable factual information than those in (1). Questions like those in (1) are likely to result in an incomplete interview that fails to elicit all the facts that may be helpful to the company’s ultimate determination and any employment decisions that need to be made.

Consider making use of written statements. Time and time again, we have seen written statements be very valuable in employment law cases. Documentation is the ultimate evidence. Additionally, for difficult interviews, such as an interview with Jane, a written statement can be a good starting point to get critical information while limiting the need to subject the witness to more questions than may be necessary. Some follow up questions to clarify things in the written statement may be all that is necessary. The same can be said of John, of course, who may find the allegations embarrassing, confusing, or otherwise difficult to respond to in the moment.

Provide witnesses an opportunity to correct the record. Often, employers who conduct their own investigations and begin to find holes or inconsistencies in an employee’s story may be inclined to take action just because of that. They conclude that the employee who seems to have “lied” also must have done what is being alleged.

For example, let’s say John provides a story that doesn’t match any of the other witnesses, including Jane. Instead of taking action against John with just that information, good investigators are likely to recommend one additional step: circle back and give John an opportunity to correct what he has said. The company may end up with an admission and a resignation, as opposed to having to do a risky termination under facts in which Jane and John have just provided different accounts concerning the allegations.

Document everything and use dates. An investigator will document investigation-related interactions and when they occurred. This includes conversations, interviews, phone calls, etc. The bottom line is to show what you did and the results of the efforts. As mentioned, few things are as powerful as documentation. In addition, the documentation should be preserved and stored in one place. The company should not be left searching for things weeks or months later, trying to cobble together things from several different places. Keeping it all together as the investigation proceeds, and leaving it all together when the investigation is over, is essential.

Advise the parties when the investigation has concluded and a determination has been made. This is an offshoot of the point about being timely. Disgruntlement can occur at the end of investigations as well. Therefore, it is important to update the parties at the end, too. Companies are not

required to keep the investigation determination secret or confidential as between the parties. Even so, discretion is still recommended in the amount of information the company discloses to the parties, including as it relates to any discipline that may have been imposed. The point is not to leave anyone guessing about the status of things, because they may be inclined to seek their own legal counsel to get their questions answered. (That usually is not a good thing for the company.) And finally, companies should be sure to follow through on appropriate discipline, if the determination warranted it after the investigation.

Conclusion

In today’s difficult environment, workplace investigations are a valuable tool, but they must be handled with skilled care. When they are, workplace investigations can help companies that are seeking to (1) limit their exposure to legal liability and (2) respond effectively to allegations that may be levied against them and their employees, both now and in the future.

Matthew Bakota is an attorney in the labor and employment group at Auman Mahan & Furry, located in Dayton, Ohio. He is certified as a Civil Rights Investigator, and as a Professional in Human Resources (PHR) through HRCI. He can be reached at mjb@amfdayton.com or at 937-223-6003.

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ON DECK with Morgan



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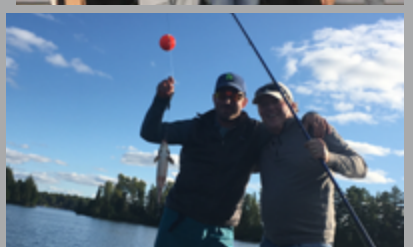
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8 THINGS ABOUT SEAN MARSHALL

OF L. MARSHALL ROOFING & SHEET METAL, INC. GLENVIEW, IL.

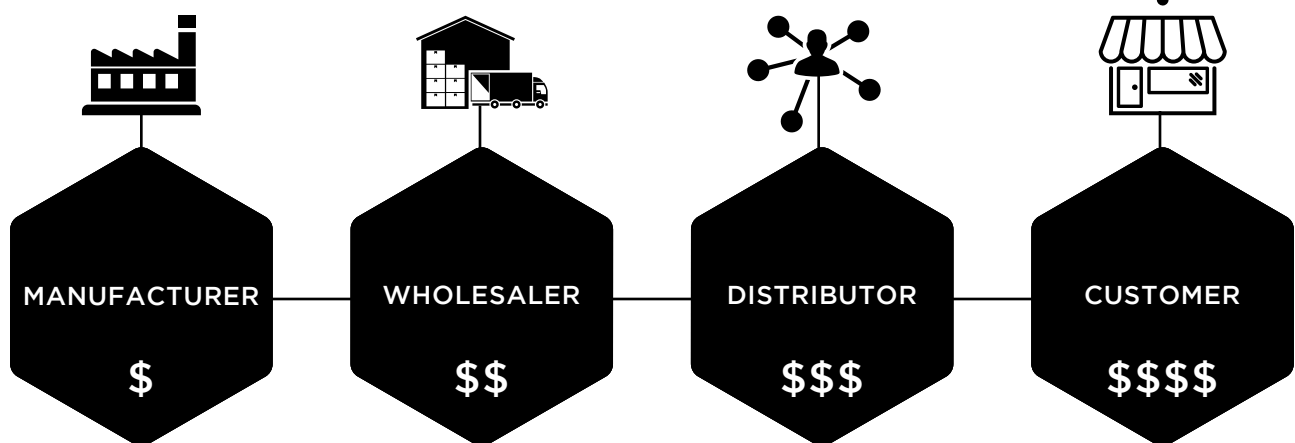
- "As far back as I can remember I've been on roofs. My first was the Science & Industry Museum in Chicago, a copper roof," said Sean Marshall, newly appointed Director on the MRCA Board and son of Larry and Sheila Marshall, who own renowned roofing company, L. Marshall Roofing & Sheet Metal, Inc. in Glenview, IL. "L. Marshall Roofing & Sheet Metal has been in my family since 1913. We do work on pretty much every kind of roof, from schools to skyscrapers, historical landmarks to green roofs."
- Sean attended Lake Forest High School, just a few miles off the shores of Lake Michigan. "I played a lot of soccer in high school and was awarded an athletic scholarship to Stetson University in Florida." In 2005, Sean and his team captured the NCAA Division 1 Atlantic Sun Conference Title winning 2-1 against Campbell. "That was a great feeling. We had a great team, and was a great time for us."
- After earning his BA in Finance at Stetson, Sean began his career as a stock broker with Fidelity in Jacksonville, FL. "Dad has always encouraged us to start our careers outside our family business, so it wasn't until about 2013 that I joined L. Marshall Roofing & Sheet Metal." Along the way, Sean picked up his MBA in International/Global Studies at Lake Forest Graduate School of Management.
- In his free time, Sean enjoys exercising with his two year old German Shepard, Layla. (pictured below) "I also like fishing and golf. We go to the UP in Michigan to fish for Northern Pike and Bass," said Sean. He has also spent time coaching soccer for both 11-12 and 4-5 age groups. "The little ones are my favorite because they look up to you and are so funny to watch play. It's a lot of fun."
- An activity that played a big part in Sean's life was Boy Scouts. "I went all the way to Eagle Scout. It provided many cool experiences. I know how to survive in the wild, and these skills translate into the real world. It's not too many that become Eagle Scouts anymore, but it was one of the best experiences of my life."
- Sean likes all the Chicago teams, Blackhawks, White Sox, and Cubs, but gets ribbed for being an avid Green Bay Packers fan. "Yeah, I take a lot of heat for that," he said with a laugh, "I'm looking forward to having Rodgers back and healthy next year."
- Family is very important to Sean. "I have three brothers, Larry, Tim and Kevin, and two sisters, Colleen and Brigid. Kevin, Brigid, and Colleen all work in film in Hollywood. My brother Tim is in medical school and my brother Larry has been living in Hong Kong for the last several years. And my parents are just awesome."
- "I'm excited to become more active with MRCA. I know this is a tough, high-risk business, and I am grateful for the opportunities MRCA has and will afford me to help my career progress. Developing relationships with non-competitor contractors throughout the country has benefited me professionally and will help keep our company successful as the industry changes. Hard work, dedication and the commitment to high quality services are crucial pieces to success, and as Dad has always said, prompt service is key to getting and maintaining clients. There is a lot to be learned by actively participating in MRCA."



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Five Ideas for Fixing Unionized Workers' Pension Crisis

Federal lawmakers are once again trying to come up with a way to protect the pensions of more than one million unionized workers.

This time it's Senator Sherrod Brown (D-Ohio) and Rep. Richard Neal (D-Mass.) throwing out a proposal for fixing what's known as multiemployer pensions. The pair introduced legislation in both houses Nov. 16 that they say will keep the multiemployer system afloat.

Their bills came the same day the Pension Benefit Guaranty Corporation--the federal agency that serves as a backstop for pension plans--released a report saying the agency is running a \$65.1 billion deficit for its multiemployer pension program. The agency said it's likely to be insolvent by 2025.

The legislation by Brown and Neal, called the Butch Lewis Act, is one of at least five proposals being batted around to try and fix the multiemployer pension system. More than 100 pension funds covering workers in unionized industries face insolvency in the coming years.

A law from 2014, the Multiemployer Pension Reform Act, was intended to fix the troubled pension system, but it hasn't quite done the job. Lawmakers, as well as major employers such as United Parcel Service, have thrown out proposals for fixing the pension system. Almost all of the proposals call for some sort of loan program for the plans.

Here's a look at the five proposals:

1. The Butch-Lewis Act

The Butch Lewis Act would create the Pension Rehabilitation Administration, a new federal office within the Treasury Department that would sell bonds to financial institutions to raise money to fund loans to financially troubled plans. The idea comes, in part, from a proposal from the

International Brotherhood of Teamsters.

Those loans would be for 30 years and carry low interest rates of about 3 percent. Plans would use the loans to pay benefits and to make long-term low-risk investments. Plans would be required to make only interest payments for the first 29 years. In the final year, they would repay the entire principal and the remaining interest owed.

The legislation would require Congress to provide funds to the PBGC to be used for financial assistance to plans than can't borrow enough to meet their retiree obligations.

Bottom Line: The bills are seen as a first step toward further negotiations, but any proposal that may be viewed as putting government money at risk may be a long-shot in the current Congress.

2. UPS Loan Proposal

UPS has a proposal that would provide up to three successive low interest long-term federal government loans to troubled pension plans to cover their cash flow shortage for 5 years each.

Plan participants would see benefit cuts of up to 20 percent across the board. Plans would be obligated to begin interest-only repayments after 5 years. Loan repayments would be ensured through the creation of a risk reserve pool funded by employers, participants, and unions.

UPS has a significant interest in solving the pension crisis. It could be on the hook for up to \$4 billion in plan contributions if the 400,000-member Central States, Southeast and Southwest Areas Pension Fund becomes insolvent. That fund is projected to be insolvent by late 2024.

Bottom Line: The proposal has been viewed by some as conceptually good, but there are concerns that its use of overly generous

assumed interest rates for repaying loans pose a risk that plans would face future insolvency. In addition, despite being circulated for months, it has yet to find a backer in Congress.

3. New Design From NCCMP

The National Coordinating Committee on Multiemployer Plans, a group made up of employers and unions, has circulated a proposal that would have the U.S. Treasury provide long-term, low-interest loans to plans that couldn't clear the MPRA's hurdles and are at substantial risk of insolvency. The NCCMP lobbied for passage of the MPRA.

In general, the loan program would lend funds to qualifying "critical and declining" status plans at 1 percent interest for 30 years. The loans would be interest only for the first 15 years, and then require a level payment of principal and interest for the remaining 15 years. To be eligible for a loan, plans would need to show they can achieve solvency and repay their loans.

The proposal would also require the loan account to be returned to the government in the event of an insolvency or a mass withdrawal of employers.

Bottom Line: The NCCMP was able to push Congress to pass the MPRA three years ago, so it may have the best shot among the other proposals to gather interest in Congress. Its odds still appear to be long.

4. Funding From Credit Union Profits

The proposal from the American Families for Pension Security, based in Kingston, N.Y., would also have the U.S. Treasury issue low interest loans to plans in critical and declining status.

The group wants to create a federally chartered special-purpose credit union for the more than 10 million members of multiemployer plans and their families. The

credit union would use its profits from loans and credit card operations to build a reserve pool to help plans repay and secure the loans.

The group, founded by Mark Greene, a New York State Teamsters Pension Plan member, and Mike Dardzinski, a Rochester, N.Y., lawyer whose father is a retiree-member of the plan, intends to create within 15 years a credit union with \$10 billion in assets and 650,000 members.

Bottom Line: The group has been in discussions with lawmakers in an attempt to link its credit union creation idea to other proposals involving plan loans.

5. KOPPA Bill Not Advancing

There's one piece of legislation that's been lingering for quite some time, and it doesn't include the loan proposals being tossed around by others.

Bernie Sanders (I-Vt) in the Senate (S. 1076) and Marcy Kaptur (D-Ohio) (H.R. 2412) in the House have a bill known as the Keep Our Pensions Promises Act. KOPPA would repeal provisions of the MPRA that allow for the reduction of retiree benefits and create a legacy fund for troubled plans and the PBGC.

The legacy fund would be offset by modifying two types of tax shelters--one for investors in art works and real estate and the other for very large estates.

Bottom Line: Neither the Senate nor House version has gained much traction and has no support from Republicans.

To contact the reporter on this story: David B. Brandolph in Washington at dbrandol@bna.com
 To contact the editor responsible for this story: Jo-el J. Meyer at jmeyer@bna.com



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Kettle Repair and Maintenance

Kelly Lea – Texas Roof Management, Richardson, TX

Keeping and maintaining roofing kettles can be a complicated and costly operating expense. These expenses can reach into the thousands of dollars whether you choose to maintain kettles in-house or outsource to a qualified repair company. We are fortunate in the Dallas Fort Worth area to have a company called Superior Equipment that not only has the expertise to disassemble and repair kettles, but also keeps all the replacement parts needed to do the job, for multiple manufacturers.

Growing up, we did not have the luxury of outsourcing kettle maintenance and had to clean our kettle ourselves. Kettle cleaning requires heating and draining as much of the residual asphalt as possible, disassembling the top covers and lid, and finally removing the flues. Next is to start the removal of the buildup of burnt asphalt and debris that has accumulated inside the kettle. Not a fun job with gooey hot asphalt in the heat of a West Texas summer! At times, we would add water to harden the debris asphalt mixture and then chip it out with pick axes or a chipping hammer. That said, pick axes and chipping hammers can damage the interior lining of the kettle if not carefully and properly used. It is easy to create further damage requiring additional repairs and perhaps even damage the kettle beyond repair. Given the likelihood of damaging a kettle in the cleaning process, my suggestion is to use a qualified company that specializes in kettle cleaning if they are available in your area. We have found that outsourcing kettle maintenance is more efficient and, in the long run, cheaper and quicker than cleaning and repairing kettles in-house.

Once a kettle is torn down and the interior liner is clean, the flues should be cleaned and inspected for holes or soft spots. In most cases, these can be repaired by cleaning and preparing the steel, then welding a new steel plate to the damaged or weak area. The same can be completed on small areas in the interior lining of the kettle. It's best to reassemble your kettle using new bolts and washers and also with a new gasket and seals at the various connections of the pump and the lid. Replacement parts are available for all kettle manufacturers.

While performing these repairs, it's advantageous to check that the pump is in good operational condition. Disassemble and check all the moving parts, and replace any damaged parts with new ones. Manufacturers can provide detailed parts



lists to ensure that you are disassembling and reassembling your kettle correctly.

Superior Equipment gave me some pointers on helping make this process cheaper and quicker for contractors. Here's what they said:

- A fully trained Kettle Man is the start. He not only needs to keep the exterior of the kettle clean, but should constantly filter or screen off any burnt debris and byproducts from the top of the asphalt.
- Be careful not to overheat the kettle. Overheating could cause damage to the flues and the interior lining of the kettle, along with possible warping of portions of the kettle.
- When not in use, make sure the flue exhaust is covered to keep rain and moisture out of the flues. Moisture in the flues can create rust and weaken the flue over time.
- Check fluid levels in all motors and keep all grease ports full.
- Check chains and drive daily.
- Have the kettle operator complete a daily inspection form when the kettle is in use.

Roofing Kettles can cost as much as a new car, so these steps should always be taken to make sure you are properly maintaining your kettles. Superior Equipment recommends cleaning kettles yearly, stressing that proper maintenance and cleaning of the kettle while in use will lessen the costs and time spent repairing your kettle at the end of the year.

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MRCA Operations and Safety Update

The MRCA Operations and Safety Committee has released its much-anticipated and newly-revised SHARP Safety Employee Orientation Video to wide acclaim. The video, offered on DVD or as a downloadable file, features updated content, video production, and more detailed safety instruction for new hires. MRCA Members can order the video for just \$75.

The video launched at the MRCA Conference has been well received and has exceeded MRCA staff's expectations for sales. "I'm pleased with the overwhelming response to this new video," said Committee Chairman, Bob Poutre of Roof Tech, Inc. in Stillwater Minnesota. "We realized as a Committee that we needed an update and some additions to get this long-time MRCA favorite refreshed. We set a quick timetable for getting it back out to the membership and they are snapping it up."

As roofing contractors are subject to increasing scrutiny by OSHA and as new issues materialize in the industry it was imperative that the Committee respond to the changing regulatory environment with this new release. The video was created with the supervision of a safety consultant and MRCA legal counsel so that every shot included the appropriate personal protective equipment

and job site safety equipment. Each scene is properly staged with optimum safety compliance. New sections include: heat stress; distracted driving; and distracted working.



A special thanks goes out to 2017 Operations and Safety Committee Chairman, Tracy Donels of KPost Roofing in Dallas, Texas for his leadership of the project. Thanks also to MRCA Board Member, Fred Horner of Advanced Industrial Roofing in Massillon, Ohio, for providing the people, project environments, and safety equipment necessary for producing the video. We also appreciate the input from Curt Speck of Safety Resources in Canton, Ohio and Gary Auman of Auman, Mahan & Furry in Dayton, Ohio to this project.

You can order the video online at mrca.org or call 800-497-6722. The Committee is planning a Spanish version of the video in 2018 so stay tuned for more information on this essential SHARP Safety Video series!

MEMBER SPOTLIGHT

Congratulations to MRCA Board Member

Congratulations to MRCA Board Member and Owner of Roof Tech, Bob Poutre, on his companies 25th Anniversary!

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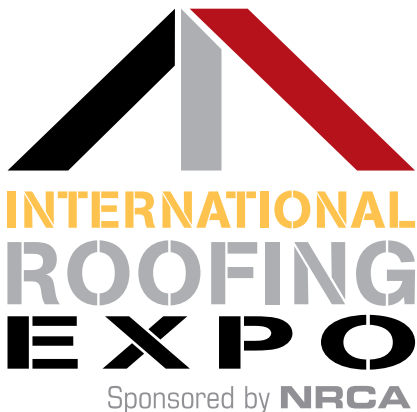
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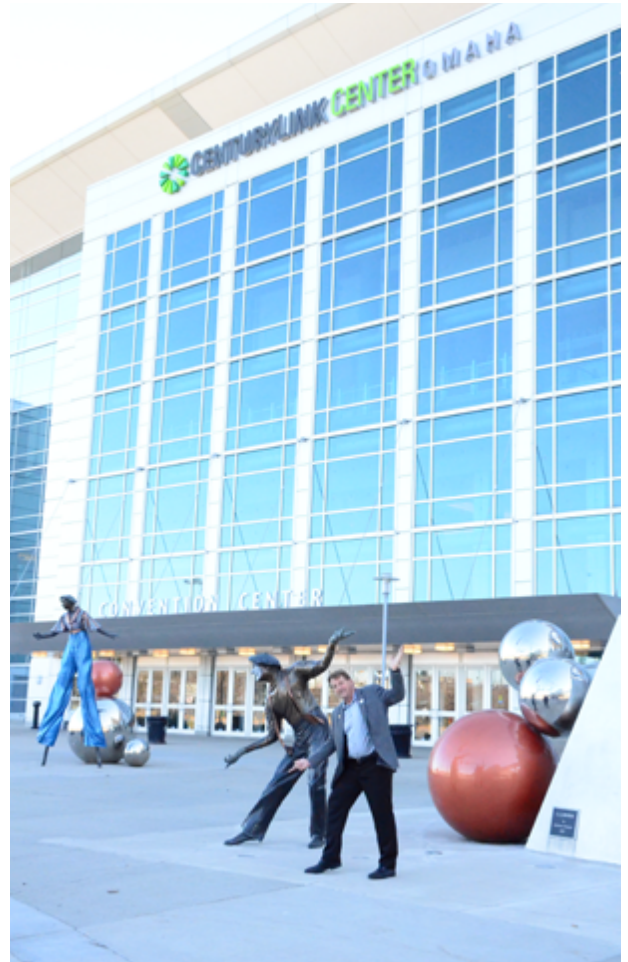
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Planning the 2018 MRCA Conference & Expo

This past November MRCA President, Greg Sprague, along with Conference Committee Members, Fred Horner, Bill Seibert and Debbie Ocken, and MRCA Staff Members, Rachel Pinkus, Megan Miller and Joe Williams, took a trip to Omaha, Nebraska to start planning the 2018 Conference & Expo. The site visit included a tour of the MRCA Convention Hotel, the Omaha Hilton. This beautiful hotel is located in the heart of downtown near the Old Market Entertainment District and 7 minutes from Eppley Airfield Airport. It is also directly across the street from and joined via an enclosed sky bridge to the site of the MRCA Conference & Expo, the CenturyLink Center Omaha Convention Center. During the visit, the location for the Welcome Reception and Foundation Auction was also booked along with the site for the Past President's Dinner and the YCC Fundraiser Event. Keep an eye out in future issues of MR for more exciting details!





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MRCA Membership Update

2018 has started a renewed commitment to our contractor members. MRCA brought on Morgan Arwood as Membership Director, at the St. Louis Conference, to focus efforts on the most important component of MRCA, our members. MRCA will maintain a great membership experience for members, and will be energetically pursuing new members this year. "I cannot stress enough the importance of our members," said Greg Sprague, MRCA President, "I want each and every member to know their value to MRCA. I would like to encourage all our members to contact Morgan this year to take an inventory of the benefits MRCA Members enjoy, and how to utilize them." Arwood is looking forward to a great year for MRCA, "It is an honor to work for MRCA. The tradition and the importance of this association has been proven within the roofing industry for nearly 70 years, and I intend on listening to the needs of our members, and to help you find the tools and resources MRCA offers to help your business succeed."



For membership information go to www.mrca.org, or email Morgan Arwood marwood@mrca.org, or give us a call (800) 497-6722.

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Stonebrook Roofing, Inc.	Lincoln NE	Silver Membership
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WinR in St Louis: Managing Safety Culture, Sales Opportunities and Service Departments

Safety Culture

Facilitator Laurie Moore
President, CEO and Safety Director, Kreiling Roofing Co, Peoria, IL

Lou Holtz said "If better is possible, good is no longer an option." Safety is high on the list for minimizing the liability and overhead costs of your roofing company. Implementing best safety practices improves employee culture and increases your ability to remain competitive by keeping accident cost and insurance rates low.

If the first step to a better program is leadership's commitment, the second and most difficult is to get everyone to buy in (and not just when the boss is watching). The following comments were shared as suggestions:

"Make safety easy with better equipment and clearly illustrated instructions for each job."

"The boss has to follow the same standards as the employees."
Jackie La Duke Walters, LaDuke Roofing & Sheet Metal, Oak Park, MI

"Make safety relevant to the employees so they have an invested interest in following as well as improving the program"
Tawney Seibert, Fisher Roofing of Kearney, NE

"Educate employees on the financial impact of OSHA fines and accidents. It's more relevant when they realize there will be less hours of work available if the company isn't qualified or competitive for work opportunities"
Cheryl McGlothlin Chapman, Empire Roofing, Fort Worth, TX

"Encourage participation from everyone including sales and management"

"Teaming up with an employer supported medical facility to help manage treatment of injuries and reporting"
Jenna Kramer, Project Manager, Wm Kramer & Son Inc. Cleves, OH

A periodic safety meeting is no longer a sufficient way to implement today's safety programs. A combination of efforts will help ensure that all employees have access to knowledge and can understand and apply the practices. Today's programs include weekly toolbox talks, company-wide meetings, frequent jobsite planning and inspections and safety applications to allow training to be at the employees fingertips. Harness is a mobile safety application available to be used for toolbox talks and it is FREE with your MRCA membership.

Sales opportunities

Facilitator Debbie Ocken
Commercial Sales and Project Management, Sprague Roofing, Lincoln, NE

Peter Drucker said "That which can be measured can be managed". When analyzing opportunities, decide on specific efforts and implement. Track and analyze the results. Make adjustments and implement again. Repeat this process until you achieve results that seem to maximize efforts. If you can't measure efforts, and know the impact, you can't possibly make improvements.

- ✓ SPECIFIC
- ✓ MEASUREABLE
- ✓ ATTAINABLE
- ✓ RELEVANT
- ✓ TIMELY

Convert leads to sales by setting SMART goals:

Suggested marketing campaigns:

Billboards switching locations monthly backed up with mailers to the area

- Email blasts focusing on maintenance
- Vehicle Wraps
- Local organization participation
- Hosting lunch-and-learns for local architects



Suggested software systems for organizing opportunities:

- Sage/Timberline
- Dataforma
- Roof Logic
- FCS Control
- Salesforce

Answer these questions to guide your strategic plan:

Who is your customer? Know your company's strengths so you can best match your service to your customers' needs.

How do you reach your ideal customer? Choose methods and media of marketing that best reaches your ideal customer and differentiates your service from others.

How do I measure results of marketing efforts? Track calls resulting from marketing. Marketing methods that result in the highest percentage of sales will determine how best to direct future efforts.

Service Departments

Facilitator Jennifer Trapane
Previously, Service Department Manager, Nations Roof, Chicago, IL
Currently, Territory Manager, Henry Company

Maintenance and Service are important for roofing companies to manage well but can be challenging due to volume and tight timelines. Properly setting the customer's expectations of response time, notifications and billing, and what to expect during the process are key to customer satisfaction. This role is a great opportunity for organized, experienced office administration employees.

Workorder tools that sync with a calendar as well as GPS tracking support fast, efficient dispatching. This growing area of the industry is a great stabilizing component of the roofing business. The repairs on days that don't allow for roof replacement work add opportunity for volume as well as preventive maintenance work that can be scheduled in between larger jobs to fill in the gaps.

Successfully pleasing customers with your well-organized service department is a great way to impress customers when they sample your service. Be sure to leave the customer information on qualified roofers and the great things to expect from your company when they need a roof replacement.

Not knowing what to improve or not measuring results of the efforts are like running a business blind. MRCA contractors can share ideas on how to approach current industry challenges and use software to effectively measure efforts needed to run profitable businesses that offer valuable service to our customers while limiting our liability in the process. If you have a resource that helps you with the management of your roofing company, please site the source, tell us why it was helpful and email to Megan Miller at mmiller@mrca.org. Gathering in-person at conference to discuss these topics was time well spent to hear about time-tested ideas. It's also a comfort to know you aren't alone if you don't know everything there is to know about the roofing business.

2017-2018 MRCA Foundation Pledge Campaign Update!

MRCA Foundation pledges keep on rolling in! Our goal is to raise \$600,000.00 by 2019. Monies raised will directly impact Roofing Industry Research, Industry-related Academic Scholarships for MRCA Members and their families, and Educational Programming for MRCA Members.

Join these strong supporters listed below and make your pledge now! You have several options for making a donation: Got to: <http://www.mrca.org/aws/MRCA/pt/sp/foundation>. Here you will find our online pledge page where you can make a donation with a credit card or download a printable MRCA Foundation Pledge Campaign form to send in with your check. You may also want to consider raising your level of Membership for 2018. Companies that come in as Gold Members will have \$100 of their Membership Dues automatically directed into the Foundation and companies that come in as Platinum Members will have \$300 directed into the Foundation.

Thank you to our newest Pledge Campaign Donors:

- George E. Riddiford of G.E. Riddiford Company Inc.
- Robert Poutre of Roof Tech Inc.
- Jon Ziebarth of Architectural Roofing & Sheet Metal
- Brad Beldon of Beldon Roofing Company
- Larry Marshall of L. Marshall Roofing & Sheet Metal
- Andrew Meade of Meade Construction Inc.
- Joe McDevitt of Roofs Inc.
- Catherine Awtrey of Texas Roof Management

Thank you to our Gold Members:

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- Diverse Construction Service LLC.
- E D Chase Co Inc.
- Fisher Roofing of Kearney
- Garlock-French Corporation dba Garlock-French Roofing
- Highland Roofing Company Inc.
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- Pioneer Roofing, LLC.
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Thank you to our Platinum Members:

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- Sprague Roofing Co.



Questions? Contact Megan Miller at 800-497-6722 or mmiller@mrca.org.



Steep Slope University (It's A Great Idea)

Jim Peterson - Peterson Roofing, Inc. in Mt. Prospect, IL

It's not just a roof anymore, it's a Roof System. Without this understanding, you will surely lose your business or at the least, go through a lot of unnecessary hard knocks along the way.

Why is it that the number one complaint to the building department in most communities is regarding steep slope residential roofing contractors? Why is it also in the top five complaints to the Better Business Bureau (BBB)?

Why don't these types of complaints get reported at the same rate with regard to low slope commercial contractors? In the following, I hope to answer some of these questions as well as give you some solutions to avoid some of the downfalls many of us have experienced.

In 1978, at the age of 19, all I needed was a ladder, some small hand tools, a pick-up truck, some business cards and "Boom", I was a roofing contractor.

It wasn't so complex back in those days as compared to today. You met with your customer, signed a contract (or even just shook hands), installed the shingles and got paid. That was it. How simple. That's not the case with today's business climate. With all the laws, regulations and codes changing at a rapid pace, as well as the rising costs of insurance and increase in the number of lawsuits, it's much more difficult to start and maintain a roofing company that will be successful.

Don't get me wrong, even though things were much simpler when I got started, by no means did I come out of the chute being instantly successful. Although had been roofing since the age of 15 and "knew it all", I was headed to the school of hard knocks.

Getting married at the age of 20 and having four kids by 25, I didn't have time to join any roofing associations or attend their events in order to stay on top of industry standards. Looking back, I would have saved tens of thousands of dollars, not to mention the headaches, if would have been more involved. In today's roofing world I would have definitely lost my business without the knowledge I have since gained from these associations.

So, with many roofing contractors joining our industry every year with the same mind set I had when I got started, you

I would have saved tens of thousands of dollars, not to mention the headaches, if would have been more involved"

can see why there are so many complaints about our industry (especially with today's media).

Unfortunately, we are losing the new roofing contractors to customer complaints and lawsuits due to their lack of industry knowledge and compliance. We are also



losing older, more established roofing contractors (that do comply) to lack of work since they are unable to compete with the non-compliant roofing contractor.

So, who's at fault? Is it the new contractor with lack of knowledge about industry standards or the experienced contractor not wanting to share their knowledge and experience?

It's probably a little of both and we need to realize that working together, instead of against each other, will help everyone. We can all be successful. The next time you're in an airplane, look out the window. "LOOK AT ALL THOSE ROOFS!" There is more than enough roofing work for all existing roofing contractors as well as the new roofing contractors.

So, what's the solution?

This Steep Slope University is a great forum for our residential roofing industry. With the MRCA representing 18 states, what better way to help all us contractors get on the same page so we can all succeed? Like the saying goes, "together we conquer, divided we fall."

Forums such as this are important, where experienced contractors can share their knowledge and new contractors can share their new and innovative ideas to becoming successful. Realizing there is always more we can learn from each other will help us to take our industry back and ensure we all achieve the success we have worked so hard for.

Thank you to the MRCA for making this Steep Slope university possible to help keep us contractors up to snuff on industry standards, regulations and overall business knowledge.

So, let's get together, by way of a roofing association, as the commercial contractors are already doing, and make residential roofing a great industry to be a part of. Hope to see you all in Nebraska at the MRCA's trade show to experience the "Steep Slope University".

P.S. Don't forget to see all that is offered to new roofing contractors on the MRCA's website, it's unbelievable. I wish I would have known this in 1978.



Return to Sanity Part I:

NLRB Ends Assault on Common Employment Policies

Steve Watring – Auman, Mahan & Furry

At its core, the National Labor Relations Act’s primary purpose is to shield employees who engage in activity for their mutual aid and protection--commonly referred to as “protected concerted activity.” For the last decade, the NLRB re-forged this well-intentioned shield for

It then wielded that sword with reckless abandon”

employees into a sword against employers. It then wielded that sword with reckless abandon by invalidating numerous common and common-sense policies that many employers have maintained for years. Most of these policies on their face had nothing to do with discouraging

the type of employee activity protected by the Labor Act. Under the NLRB’s standard, however, that did not matter, and the employer’s legitimate business interests were irrelevant. Furthermore, it was not necessary to show that the policy actually discouraged anyone. If the employer’s policy had even the theoretical potential for interfering with protected concerted activity, that was enough to invalidate it.

In the blink of an eye, that has all changed.

In a decision rendered on December 14, the newly constituted NLRB has restored sanity to its evaluation of employment policies. And for the first time in years, the NLRB will consider the legitimate business interest of the employer in promulgating and maintaining the policy. While the NLRB issued a number of decisions last week reversing cases from the last decade, this decision will have the greatest impact on the most employers.

The NLRB will now place employment policies in 3 basic categories:

Category 1: Legal-(a) When the rule, reasonably interpreted, does not interfere with protected concerted activity, or (b) when the potential adverse impact of the rule on protected concerted activity is outweighed by the employer’s legitimate business interest. As examples, the NLRB indicated that rules designed to maintain a harmonious working environment and basic civility standards will now be considered legal. Such rules were invalidated in prior recent NLRB decisions.

Category 2: Questionable-Rules

that will require a balancing between (a) the extent that the rule interferes with protected concerted activity, and (b) the employer’s legitimate interest in promulgating and maintaining the rule. This will enable the NLRB to consider the business justifications for the rule offered by the employer or inherent in the employer’s type of business.



Category 3: Illegal-Rules where the threat to protected concerted activity is so great that it outweighs any legitimate business justification. As an example, the NLRB indicated that this category includes a rule prohibiting employees from sharing wage and benefit information with one another.

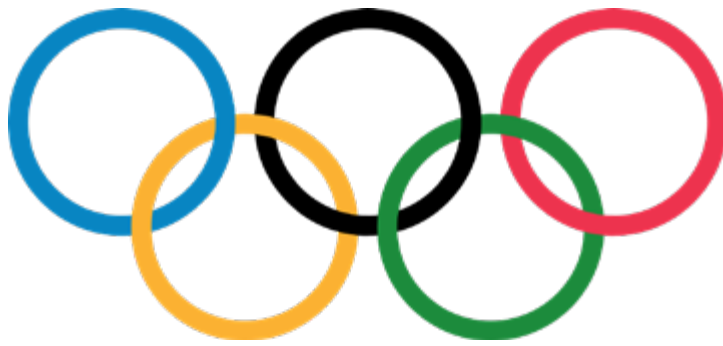
While this new standard still leaves a large amount of uncertainty, it’s a great start. It is likely that more guidance will be coming from the NLRB in the future.

If your business has changed or eliminated employment policies or rules to try to comply with the NLRB’s prior requirements, it may be time to pull some of those prior policies from your archives and take a new look at them under the NLRB’s new test.

Unfortunately, I must add a couple of notes of caution.

First, the NLRB has made clear that even if a rule is legal as written, it still cannot be applied to interfere with protected concerted activity. As with other protected classes, legal advice should be obtained before taking adverse job action against someone who has engaged in protected concerted activity, even if the activity was in violation of an otherwise legal rule.

Second, the NLRB is infamous for changing course on controversial issues when a different political party assumes control of the presidency. As with prior decisions on the issue, this decision was by an NLRB vote of 3-2 along party lines. Therefore, this new NLRB standard may bear a 4 to 8 year expiration date. Save your old policies. You may need them later.



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