



**Palm Beach County Roofing & Sheet Metal Contractors Association**

**UPCOMING EVENTS:  
NO DINNER MEETING**

**Join us for our  
Golf Tournament  
April 25, 2018**

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## FALL PROTECTION AND SAFETY

Fall protection and safety is a major concern at the workplace. In fact, OSHA cites injuries from falls as one of its top 10 worksite injuries.

Falls and falling objects can result from unstable working surfaces, ladders that are not safely positioned and misuse of fall protection. Workers are also subject to falls or the dangers of falling objects if sides and edges, floor holes and wall openings are not protected. Any time you are working at a height of six feet or more at the workplace, you must be protected. Unprotected Sides, Wall Openings and Floor Holes

Unprotected sides and edges, wall openings or floor holes can be very common. If these sides and openings are not protected, injuries from falls or falling objects may result. Use at least one of the following whenever you are exposed to a fall or six feet or more above a lower level:

- Guardrail systems
- Safety net systems
- Fall arrest systems

**Any time you are working at a height of six feet or more at the workplace, you must be protected.**

### Additional Safety Precautions

- Cover or guard floor holes promptly after creating them.
- Construct floor hole covers so they will effectively support two times the weight of workers, equipment and materials that may be imposed on the cover at any one time.
- Use fall prevention systems like guardrails, rather than protection systems like safety nets or fall arrest devices.

### Ladders

You also increase your chances of falling if you are using portable ladders that are not safely positioned each time you use them. While you are on a ladder, it may move or slip from its supports. You may also lose your balance while getting on and off an unsteady ladder. Take the following fall protection measures when using ladders:

- Position portable ladders so side rails extend at least three feet above the landing.
- Secure side rails at the top to a rigid support and use a grab device when a three-foot extension is not possible.
- Make sure that the weight on the ladder will not cause it to slip off its support.
- Inspect ladders for cracked, broken or defective parts prior to each use. If a ladder is broken, tag it as defective and remove it from service.
- Don't apply more weight on a ladder than it is designed to support.
- Only use ladders that comply with OSHA standards.

Rob Foote is the President of Frank H. Furman, Inc. and is a deeply experienced Insurance and Risk Management Advisor to the roofing industry. Rob is an expert in uniquely crafting and managing Insurance and Risk Management programs for 115 roofing professionals.

For more information, contact Rob at:  
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# PHOTOS FROM OUR DINNER MEETING

## MARCH 2018



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## WHAT IS A QUALIFYING AGENT?

By Grant Dostie, Cotney Construction Law, LLP  
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I am often asked what is required of a contractor who is a primary qualifying agent and essentially questions regarding “renting” one’s contracting license masked as a qualifying agent. You would be surprised at the risks some people are willing to take with their license in order to make a few bucks. As a construction law attorney, who is also a certified contractor, I will never fully understand why someone would work so hard to get their license to possibly lose it and or face criminal prosecution. The Legislature enacted Florida Statutes Chapter 489 in the interest of the public health, safety, and welfare to regulate the construction industry and established the Construction Industry Licensing Board (“CILB”) to enforce it. As of recent, we are seeing a steady increase in prosecutions and penalties issued by the Board. Due to this it is best to be aware of the laws and how they can affect you.

What exactly is a primary qualifying agent? A primary qualifying agent must be a licensed registered or certified contractor. They must have the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which he or she is connected; who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he or she has obtained the building permit; and whose technical and personal qualifications have been determined by investigation and examination by the CILB.

More simply, a primary qualifying agent is a person legally appointed as the qualifier to act for the business organization in all matters connected with its contracting business.

Business organizations need qualifying agents in order to enter into contracts because contracts entered into by an unlicensed contractor or organization are considered unenforceable in law. A business organization is unlicensed if the business organization does not have a qualifying agent concerning the scope of the work to be performed under the contract.

In order to engage in contracting as a business organization, including any partnership, corporation, business trust, or other legal entity, or in any name other than the licensed contractor’s legal name or a fictitious name where the applicant is doing business as a sole proprietorship, the contractor must apply for registration or certification as the qualifying agent of the business organization.

An application to qualify a business organization must include an affidavit on the form provided by the CILB attesting that the applicant has final approval authority for all construction work performed by the business organization. The affidavits must also state the applicant has final approval authority on all business matters, including contracts, specifications, checks, drafts, or payments, regardless of the form of payment, made by the business organization, except where a Financially Responsible Officer (“FRO”) is approved.

A qualifying agent may become the FRO meaning that if the CILB assesses fines, investigative costs, or restitution to a property owner, these assessments will go against the contractor’s license. However, if the applicant elects not to be the FRO, the responsibility would go to the appointed FRO, typically an owner or officer. The qualifying agent will still be responsible for all construction-related matters even if not the FRO.

The primary qualifying agent is responsible for all construction related matters for the organization qualified for. Simply put, the duty of the qualifying agent is that of a supervisor. They are to oversee work being performed and ensure that it is in line with regulations set forth by the DBPR and CILB. If a qualifying agent does not fulfill his or her obligations, the contractor will face administrative sanctions which could include fines, suspensions, criminal charges, and license revocation. The contractor is still liable for the work being conducted even though he is the qualifying agent for an organization.

Although it may sound appealing to “rent” out your license in order to make some easy money, this is not legal and the repercussions of doing so may have detrimental long term affects.

Author’s note: The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation. Regulations and laws may vary depending on your location. Consult with a licensed attorney in your area if you wish to obtain legal advice and/or counsel for a particular legal issue.

*Continued on following page...*



## MESSAGE FROM THE PRESIDENT



Our March meeting had a respectable attendance to hear Mike Silver, Tech Rep for FRSA give a talk on the New Building Code ASCE 7-16. Some of the attendees traveled from the Fort Lauderdale area to hear his presentation. They were not disappointed. April is when we have our annual Golf Outing. We have all of our premium sponsors in place and a large number of Tee sponsors signed up. What we need now are more foursomes. The outing will be at the Winston Trails Golf Course, Lake Worth. Plans are also in the making for a family BBQ in the

fall. Corey Daley and Tom Scanlon are chairing the committee to put together this event. Plans are for the BBQ to be totally paid for by sponsors, a couple of whom have already committed to a sizable contribution thanks to Corey's request. The event will be open to members, their families and employees. Food will be supplied by the association. Special beverages will be on a bring your own basis. There will be games for the children and adults. The committee is working on having a bouncing house and ice making machine for the kids along with other games. Adults can play volley ball or horse shoes. In the past, a volley ball team formed by roofing company and the competition was exciting. Plans are still underway for more activities. Although not yet finalized, the location will be a public park near the ocean. As the details become known, we will keep you up to date on the progress of the BBQ.

Hope to see you at the Golf outing.

Respectfully Submitted  
Dennis Medaglia,  
President

## WHAT IS A QUALIFYING AGENT? *Continued...*

Grant Dostie is a Certified Residential Contractor and attorney at Cotney Construction Law, LLP. Cotney Construction Law, LLP is a national construction law firm that advocates for the roofing industry. The firm serves as General Counsel to Florida Roofing and Sheet Metal Association (FRSA), Tennessee Association of Roofing Contractors (TARC), Roofing Technology Think Tank (RT3), National Women in Roofing (NWIR), and a number of local roofing associations. Cotney Construction Law's practice areas include construction law, litigation, arbitration, contract review & drafting, immigration, employment, OSHA defense, licensing defense, bid protests, and lien & bond law. The firm has offices throughout Florida, as well as locations in Nashville, Houston, Grand Rapids, and Mobile, Alabama. For more information, visit [www.cotneycl.com](http://www.cotneycl.com).

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**CALENDAR OF EVENTS:**

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
			GOLF TOURNAMENT			
29	30	31				

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