

Feature

NASBP CEO Mark McCallum Receives Industry Recognition Honored by *ENR* as a Top 25 Newsmaker of 2015

SURETY BONDS FOR federal construction contracts issued by individual sureties will be much less susceptible to fraud due to the work of the National Association of Surety Bond Producers (NASBP) and its Chief Executive Officer, Mark H. McCallum. These efforts resulted in McCallum's selection as a Top 25 Newsmaker of 2015 by *Engineering News-Record (ENR)*. He was recognized for his role in championing federal legislation to end pervasive individual surety fraud in federal contracting by changing the asset rules applying to individual surety bonds. The new law requires individual sureties to back their bonds with only safe, secure assets placed in the government's custody.

"When I first learned of the urgency of individual surety fraud three years ago, I knew NASBP; and, from time to time, I had interviewed its members, but I didn't know Mark," Deputy Editor of *ENR* Richard Korman said. "Nor did I know that NASBP and Mark had been fighting individual surety fraud and defending themselves over their efforts for several years," he added.

"Mark's passion for the cause, his commitment to his membership, and his endless patience in dealing with me—after all, I had never read an AIA bond form before—helped inspire me to go deeply into the subject and investigate the depth of the problem," Korman said.

"This important reform, which benefits the entire surety and

construction industry, could not have been accomplished without him," Korman said.

McCallum also sees this as a win for the industry. "It was a great testament to NASBP and to the surety industry to make sure that a regulation that allowed fraudulent activity was addressed," he said. "There were situations where businesses of all sizes were being victimized by unscrupulous individuals who were acting under the existing federal regulations. The federal government wasn't doing the due diligence it should have, allowing individuals to post bonds without any assets behind them, unbeknownst to the construction company paying the premium."

Gaining the attention of federal legislators on this important but admittedly obscure issue was no easy task, relates McCallum. "*ENR* did a tremendous service for the construction and surety industries by publicizing the need to address this persistent problem in a way that allowed people to understand what was at stake," McCallum noted. "They made sure the problem was not going to labor in obscurity. We are indebted to them for their critical news coverage. NASBP is also indebted to a coalition of design and construction groups that joined voices with us to advocate for passage of the legislation."

All 25 newsmakers were recognized during the ENR Award of

Excellence event in New York City on April 7. In addition, Korman presented the award to McCallum at the NASBP Annual Meeting on May 16 in Colorado Springs.

Long-term effort

"Since my first day at NASBP, individual surety has been a professional issue that needed to be addressed," McCallum recalled. On that day, the Maryland General Assembly was considering legislation to allow an individual surety to provide bonds on state public works contracts without being subject to oversight by the state insurance commissioner. Although NASBP opposed the measure, the bill became law, but was allowed to sunset in 2014 after a lengthy lobbying campaign by NASBP and over the objections of individual surety proponents. On that same first workday, McCallum also learned NASBP was being sued by individual sureties operating at both federal and state levels who alleged the association had defamed them in its newsletter, an allegation NASBP vigorously disputed. McCallum credits these initial experiences with solidifying his resolve to address individual surety problems.

After years without success in getting the regulation changed through federal regulatory channels, NASBP decided to persuade Congress to change the underlying law. It took more than six years and



At the 2016 NASBP Annual Meeting, *Engineering News-Record (ENR)* Deputy Editor Richard Korman, right, presented NASBP CEO Mark H. McCallum, center, with an award for being chosen by ENR as one of the Top 25 Newsmakers of 2015. President Susan Hecker, left, said NASBP was extraordinarily honored that McCallum had been selected to receive this prestigious award, and the Association was proud that NASBP's advocacy efforts, championed and led by McCallum, were acknowledged in this way.

three Congresses to make that happen. "NASBP has always taken the position that every surety insurer, whether a natural person or a corporation, needs to be regulated by the insurance commissioner in the state in which the surety conducts business by obtaining a certificate of authority to act as a surety," said McCallum. "Federal contracting was a loophole because it did not require a certificate of authority issued by any state jurisdiction for natural persons (individuals) to act as sureties on federal contracts.

"Surety is not well understood, even sometimes by those who use surety bonds," he noted. "When we went to Congress, we had to explain a fairly complicated situation in simple terms, emphasizing the importance of taking action. Many NASBP members contacted congressional offices to explain individual surety problems, how companies and taxpayers were being harmed, and why fixing it was important." McCallum gave special thanks to Representative Richard Hanna (R-NY), a former contractor,

who understood the importance of surety credit to contractors and of maintaining the integrity of surety bonds in federal procurement. He was a strong advocate for what NASBP was trying to accomplish and helped by introducing legislation and by holding congressional hearings.

"NASBP also collected instances of where fraudulent individual surety bonds had caused problems all over the country and told the congressional offices in those areas about those problems," said McCallum. "We wanted to tell the story in terms of the impact on small businesses, which really depend on the efficacy of the payment bond being in place. The U.S. House Judiciary Committee had jurisdiction. We told them how such problems were an injustice and ultimately defrauded taxpayers who had to pick up the excess costs for hiring new contractors to finish defaulted jobs."

Praise from industry leaders

Industry leaders see McCallum as a worthy recipient of this recognition.

"Mark is a great advocate for the industry," said American Subcontractors Association Chief Advocacy Officer Colette Nelson. "His work on reforming the surety bond asset rules is consistent with the efforts he has made working with us on many issues to ensure payments to subcontractors."

"What Mark has accomplished means our members will be better protected from losses from fraud going forward," said Stuart Binstock, president and CEO of the Construction Financial Management Association. "Knowing their surety bonds on federal projects are backed by real assets will reassure contractors."

Extensive background in construction legal issues

A graduate of Vanderbilt University and Tulane Law School, McCallum's career has focused on improving legal protection for construction industry stakeholders. He began his work at NASBP as General Counsel and Director of Government Relations, directing the association's government relations, industry relations, legal, and other functions before becoming its chief executive officer.

Prior to joining NASBP, he was Senior Counsel and Executive Director of Programs and Industry Relations with the Associated General Contractors of America. Before that, McCallum was Associate Counsel, Contract Documents at the General Counsel's Office of the American Institute of Architects, providing counsel and advice on the development of AIA standard forms and on design and construction liability matters.

Concerns about individual sureties continue

NASBP remains vigilant in fighting state legislation that would wrest control away from state insurance commissioners regarding individual surety bonds and behavior. McCallum would like all states to consider adopting more stringent laws to prevent individual sureties from acting without proper licensing or authority. ●