

# MISSISSIPPI STATE BOARD OF ARCHITECTURE

## NEWSLETTER

WINTER 2005

### BOARD MEMBERS:

**WILLIAM TOMPKINS**  
*PRESIDENT*

**JODY COLEMAN**  
*SECRETARY/TREASURER*

**RICHARD McNEEL**  
**TAYLOR GUILD, III**  
**LEROY "BUDDY" McCARTY**

### STAFF:

**JENNY WILKINSON**  
*EXECUTIVE DIRECTOR*

**FAYE DODDS**  
*ADMINISTRATIVE ASSISTANT*

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### ROBERT E. LUKE, AIA, ELECTED FIRST VICE PRESIDENT OF NCARB

Robert E. Luke, AIA, of Meridian, Mississippi, was recently elected first vice president/president elect of the National Council of Architectural Registration Boards (NCARB) at its 86th Annual Meeting and Conference in Miami, Florida. During the past three years, Luke served as the Council's second vice president and treasurer. By virtue of his recent election, Luke will assume the presidency of NCARB in July 2006.

Luke is vice-president, treasurer, and managing partner for Luke Peterson Kaye Architects, P.A., a 15-person architectural firm with offices in Mississippi and Kansas. His firm has provided design services to a wide variety of clients including Cingular, the City of Meridian, the City of Philadelphia, the Mississippi National Guard, Mississippi State University, the State of Mississippi, the United States Postal Service, the Kansas Department of Corrections, Kansas National Guard and the Burlington Northern Santa Fe Railway.

*Continued, see "Luke" on page 2 . . .*



### NEW RULE OUTLINES PROCEDURE FOR PRICE PROPOSALS

Rule 3.02.9 was recently adopted and provides that:

"Architects are encouraged to seek professional employment on the basis of qualifications and competence for proper accomplishment of the work. This procedure restricts the architect from submitting a price for services until the prospective client has selected, on the basis of qualifications and competence, one architect or firm for negotiations. However, competitive price proposals may be submitted or solicited for professional services if all the following restrictions are met:

- The prospective client has first sought statements of qualifications from interested licensees; and
- those licensees chosen by the client on the basis of qualifications and competence for proper accomplishment of the work have received in writing a comprehensive and specific Scope of Work; and
- the Scope of Work has been prepared, signed and sealed by a licensed architect who has attested to the completeness and adequacy of the Scope of Work, assuring that it fully identifies and describes the factors affecting the required architectural services; and
- assurances have been given by the prospective client that factors in addition to price were considered in selecting the architect.

Neither the architect that sealed the Scope of Work nor his firm will be allowed to submit a price proposal."

Mississippi's engineers have had this rule in force for sometime. For more on how the Board of Licensure for Professional Engineers applies this rule for engineering, see their article on page 3.

**X** Be informed! See rule changes at [www.archbd.state.ms.us/rules\\_law\\_archives.html](http://www.archbd.state.ms.us/rules_law_archives.html).

### BUDDY McCARTY APPOINTED TO BOARD, TERRI SIMS WILLIAMS MOVES ON

Leroy "Buddy" McCarty was appointed by Governor Haley Barbour to serve a five-year term on the Mississippi State Board of Architecture. Buddy resides in Tupelo. In welcoming Buddy, the Board also bid farewell to Terri Sims Williams, also from Tupelo. Terri served the Board with distinction for fifteen years (1990-2005). Board service requires a tremendous commitment. Join us in thanking these two for their generosity, time, talent and professionalism.

Luke, continued from page 1 . . .

Prior to his election as NCARB treasurer and second vice president, Luke served as the director for Region 3, the Council's Southern Conference, which comprises Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Texas, and the U.S. Virgin Islands.

A contributor to NCARB endeavors since the early 1990s, Luke has been a member of the Committee on Professional Conduct, the Committee on Education, the Continuing Education Task Force, and the Architect Registration Examination (ARE) Subcommittee. He also served as a volunteer grader for the ARE, the nine division test taken by all candidates in the U.S. and in Canada seeking architectural licensing.

Luke was appointed to two five-year terms on the Mississippi State Board of Architecture. He served as board president in 1997 and in 2001. Luke earned a bachelor of architecture from Mississippi State University in 1980 and holds the NCARB Certificate for national reciprocity. He is president and charter member of the Mississippi Architectural Foundation as well as a member of the advisory council for Mississippi State's School of Architecture. Luke is affiliated with the American Institute of Architects on the state and national levels.

He has also served on three National Architectural Accrediting Board (NAAB) teams that assess curricula for college-and university-level architectural programs throughout the U.S. Beyond his contributions to the profession, Luke has served as a community leader for a number of organizations, including the Jimmie Rodgers Memorial Foundation, the Mississippi Easter Seal Society, and the Mississippi Leukemia Society. He has been a member of the Mississippi Economic Council since 1989 and currently acts a mentor for the Eagle Scouts.

## NCARB ANNUAL MEETING PRODUCTIVE AND INFORMATIVE

The National Council of Architectural Registration Boards (NCARB) held its annual meeting in Miami, Florida in June. Bill Tompkins (Board President), Richard McNeel (Board member) and Jenny Wilkinson (Executive Director) represented Mississippi. Delegates from across the country heard reports from NCARB's executive officers, elected new officers, and dealt with issues important to the regulation of architecture.

### Officers were installed as follows:

President	H. Carleton Godsey FAIA, Kentucky
1st Vice President	Robert E. Luke AIA, Mississippi
2nd Vice President	Douglas K. Engebretson FAIA, Washington
Treasurer	Gordon E. Mills FAIA, Iowa
Secretary	Peter T.S. Rasmussen FAIA, Washington
Past President	Frank M. Guillot AIA, Vermont
Region 3 Director	Jeffrey A. Huberman, FAIA, North Carolina

**Go to [www.NCARB.org](http://www.NCARB.org)  
for more details on the 2005  
Annual Meeting.**

### Boards delegates, representing 52 of the 55 regulatory boards, voted on resolutions including the following:

#### *Resolution*

"Bylaw Amendment – Renaming First Vice President/President-Elect"	<i>Voting Results</i> Passed: 51-0.
"Bylaw Amendment – Clarifying the Appointment of Committees"	Passed: 51-0.
"Revision to Handbook for Interns and Architects Post-Professional"	Passed: 50-1.
"Model Law Amendment – Sealing Technical Submissions"	Passed: 51-0.
"Model Law Amendment – Clarification of Technical Submissions"	Passed: 51-0.
"Bylaw Amendment – Adding Second Vice President to Finance/Management Committee"	Passed: 51-0.
"Amendment to Handbook for Interns and Architects – Certification of Foreign Architects"	Passed: 50-1.
"Amendment to Handbook for Interns and Architects – Employment Periods"	Passed: 51-0.
"Amendment to Model Law and Legislative Guidelines – Firm Practice"	Passed as amended 49-1, 1 abstention.
"Evaluation of Student Performance Criteria"	Failed: 8-42
"NCARB Appointment to NAAB Board of Directors"	Failed: 10-41
"Goals and Guidelines for NCARB Members of NAAB Visiting Teams"	Failed: 6-44
"Fee and Dues Increases – Member Board Vote Requirement"	Failed: 1-48, 1 abstention.

### NCARB updates were provided by Stephen Parker, Chairman, Maryland Board of Professional Engineers:

- 101,175 resident architects in the U.S., a decrease of 3.7 percent over the previous 12 months (4/1/03-4/1/04)
- 31,346 U.S. candidates in the system as of April 1, 2005, an increase of 11.5 percent from March 15, 2004
- 7,105 new candidates were admitted to the ARE by their member boards between April 1, 2004 and March 31, 2005, an increase of 11.1 percent over the last year
- Including Canadians, 36,500 divisions of the ARE are expected to be administered in FY05, a 1.5 percent increase over the FY04 actual total of 35,676
- 2,643 initial licenses granted by member boards, an increase of 7 percent over the past year
- Eligibilities in the system (number of divisions yet to be passed by U.S. candidates who have started the ARE) totaled 205,034 as of April 1, 2005
- 35,761 Certificate holders, an increase of 2.3 Certificate Holders
- 7,833 transmittals of Council Records for reciprocal registrations, an increase of 16.8 percent over the past year
- 15,157 "active" IDP records in the system, an increase of 6.4 percent over the past year
- 4,995 new IDP records in the system, an increase of 20.2 percent over the past year

## ARE NEWS

Calendar year 2006 will not only usher in the ARE rolling clock, it will also be the setting for the debut of ARE Version 3.1, which will take place in February. Among the most important features of ARE 3.1 are the newly combined graphic vignettes. The 3.1 version of Site Zoning will be a combination of the previous Site Analysis and Site Zoning vignettes. The 3.1 version of Site Design will be a combination of the previous Site Parking and Site Design vignettes. The combined graphic vignettes are another step toward integrating the recommendations of the Practice Analysis.

ARE test fees, effective July 2005, are \$102 for Multiple Choice Divisions, and \$153 for Graphic Divisions.

### CONGRATULATIONS ARE IN ORDER

Over the past two years, the following architects have become licensed in Mississippi after passing the Architect Registration Exam:

#### 2005 to date

Hopper Alfred	Kenneth Allen Oubre
Jared Allen Pierce	Nicholas Martin Hadley
Douglas M. Roberts	Casey Newman Tice
Carolyn LeConte Hudson	Sarah Ann Newton

#### 2004

David Galante	Justin Harrington
Sherry L. Allsup	Thomas J. Moisan
Sally A. Joachim	Shawna R. Henry

## NCARB WILL ASSIST RECORD HOLDERS, ARE CANDIDATES IN AREAS AFFECTED BY THE RECENT HURRICANES

### AS REPORTED BY NCARB

NCARB is saddened and shaken by the tragic devastation left in the wake of the recent hurricanes. The Council urges its member boards to assist affected interns, ARE candidates, and registrants in any way possible. This may include assistance in replacement of lost or destroyed paperwork, such as IDP records, ARE eligibilities, licenses, and registration certificates in the states of Arkansas, Florida, Mississippi, and Louisiana. (The Mississippi Board will replace wall certificates lost in the storm at no charge.)

Further, NCARB will assist all record holders in their needs for replacement of lost documentation, work with our affected member boards on credential transmittals for reciprocity, and attempt to mitigate effects on other submissions. Working with our partners at Thomson Prometric, we will assist all affected ARE candidates to return to a normal testing environment at the earliest possible time.

For a period of six (6) months, NCARB will forgive Transmittal fees for those architect certificate holders who resided in the affected areas and who are seeking registration in other jurisdictions. For a period of three (3) months, they will forgive fees for missed divisions and/or reschedule fees for candidates, in affected areas, in the ARE process unable to test due to closing of test centers in affected locations. Finally, for a period of six (6) months, NCARB will forgive fees due at the completion of IDP, for those in the process in the affected areas, prior to the free transmittal of the council record to a jurisdiction for ARE eligibility.

## MISS. BOARD OF LICENSURE FOR ENGINEERS ENCOURAGES QUALIFICATIONS BASED SELECTION

### BY MBLPES

Mississippi's Board of Licensure for Professional Engineers and Surveyors (MBLPES) strongly encourages "qualification-based selection." Clients are encouraged to choose the most qualified PE/PS and negotiate a price. If they can't agree, the client then goes to his "second choice" PE/PS and so on.

Recognizing that some clients insist on competitive bids, the Board has adopted two Code of Professional Conduct Rules (see rules 17.056 and 17.057 at [www.pepls.state.ms.us](http://www.pepls.state.ms.us)). These rules restrict the submission of PE/PS competitive price proposals to a specific procedure. If the client's RFP does not comply with the procedures in these rules, the PE/PS submitting a competitive price proposal is in violation of the ethics rule(s).

While the MBLPES has no jurisdiction over a client's RFP, it does have jurisdiction over the PE/PS licensee who responds to the RFP. If you determine that an engineer's competitive bid is necessary, your support and cooperation as fellow professionals to structure your RFPs in a manner consistent with these rules will enable a PE/PS to respond without jeopardizing his/her professional standing.

## INVESTIGATIONS AND COMPLAINTS

To date, 2005 23

### DISCIPLINARY ACTIONS, APRIL 2005-NOVEMBER 2005

Hornacek, Robert John (Firm: CRHO)

#2642, Resident of California

Sealing of landscape architectural plan not prepared under the architect's responsible control

By Consent Agreement

\$1,000 fine/Plans re-issued

Cease & Desist Orders 4

## LICENSURE STATISTICS

	Mississippi	Non-Resident	Total
License Holders	271	1,069	1,340
Applicants	6	59	65*
Examinees	51	3	54

*\*The number of applicants last reported was 14. There has been a near five-fold increase in the number of applicants since the Spring 2005 newsletter.*

## UNLAWFUL PRACTICE THROUGH A BUSINESS CORPORATION, IMPROPER USE OF A TRADE NAME, IMPROPER STRUCTURE - IS YOUR FIRM IN COMPLIANCE WITH FIRM PRACTICE REGULATIONS?

There are several statutes and rules which govern the way businesses qualify to practice architecture, and thus qualify to market their architectural services. The most often questioned provision is that a business corporation cannot practice or offer architectural services in Mississippi. No firm that is a business corporation (or that has "Inc." within the firm name) is authorized to practice architecture in Mississippi. Violations of this statute most often occur in the case of non-resident firms who are allowed to practice as a business corporation in other states. In order to practice in Mississippi, these firms must form an allowable business entity, or the architect must practice as an individual. When this last option occurs, the architect who practices as an individual must use their name only on letterhead, business cards, title blocks, etc., and NOT that of the business corporation.

The ONLY types of firms that are allowable for architectural practice in Mississippi are:

- Sole Proprietorship
- Partnership or Limited Partnership
- Professional Association
- Professional Corporation
- Professional Limited Liability Company

Another common error is the improper use of a trade name. A trade name is a name that does not include the name of an architect licensed in Mississippi. Any time such a firm name is used in this state, the name of at least one architect licensed in Mississippi must appear. This includes phone directory listings, advertisements of any kind, business cards, letterhead, title blocks, web sites, etc. For example, the firm of DN Group, PA would have to be listed as "DN Group, PA - John Doe, Architect" any time the firm name is used in reference to architectural practice in Mississippi.

Miss. Code Annot. 73-1-19 provides that for any firm offering architectural services in Mississippi, all of its active stockholders, members, offices, directors and managers must hold either a certificate to practice architecture or engineering in that member's state of residence. For non-resident firms, at least one of these members must hold a Mississippi license.

Finally, it is stipulated that no person shall be named on any architectural firm's announcement, card, stationery printed matter or listing used in Mississippi unless it is designated thereon whether or not such person is licensed in Mississippi. Non-licensed employees of the firm may use business cards for the firm, but their title must be clearly stated.

For your convenience, some of the statutes and rules governing corporate practice are as follows:

73-1-19 In the case of a co-partnership of architects, or architects and engineers, or a professional corporation or a professional limited liability company, either foreign or domestic, each active stockholder or member, and each officer, director or manager must hold a certificate to practice architecture or engineering in that member's state of residence; and, in the case of a foreign corporation or limited liability company doing business in this state, at least one (1) active member or stockholder must hold a certificate to practice architecture in this state. No stock company, corporation or professional corporation shall be entitled to a certificate to practice architecture. No corporation other than a professional corporation shall advertise or otherwise hold itself out to be an architect or to be authorized to practice architecture in this state.

Nothing in this chapter shall be construed as prohibiting a joint enterprise, partnership, professional corporation, professional limited liability company or association between one (1) or several registered professional engineers and/or duly registered architects; and it shall be lawful for such partnership, joint enterprise, professional corporation, or professional limited liability company or association to use in its title the words "architect and engineers" or "engineers and architects"; provided, however, that all announcements, cards, stationery, printed matter and listings of such partnership, joint enterprise, professional corporation, professional limited liability company or association shall indicate as to each member whether he be a registered architect or a registered engineer; provided, further, that the name of such partnership, professional corporation, professional limited liability company or association shall contain the name of at least one (1) person who is registered as an architect in this state and that no such person be named on any announcement, card, stationery, printed matter or listing of such partnership, professional corporation or association used in this state unless there is designated thereon whether or not such person is licensed in this state. Employees of a firm who are not registered as architects, or engineers in the case of a joint enterprise, partnership, professional corporation, professional limited liability company or association between architects and engineers, may use business cards for that firm if the job title of such individual is clearly stated.

Each person holding a certificate to practice architecture in this state shall post such certificate in a prominent place in the architect's place of business. Failure to post the certificate or to have it recorded shall be sufficient cause for revocation of such certificate.

The following persons and practices shall be exempted from the provisions of this chapter: Draftsmen, students, clerks-of-work and other employees of those lawfully practicing as registered architects under the provisions of this chapter acting under the instruction, control or supervision of their employers.

3.02.1 An architect can practice as a sole proprietor, a partnership, a professional corporation pursuant to Miss. Code Annot. 79-10-1, et seq. (1995 Supp.) or professional limited liability company pursuant to Miss. Code Annot. 79-29-901, et seq. (1994 Supp.). With respect to a partnership of architects, or architects and engineers, or a professional corporation or a professional limited liability company, each shareholder or member shall hold a certificate to practice architecture or engineering in that member's state of residence; and in the case of a foreign professional corporation or professional limited liability company doing business in this state, at least one (1) active stockholder or member must hold a certificate to practice architecture in this state. No other persons shall be entitled to be a member or shareholder other than licensed architects or engineers. Further, no architect shall practice architecture with or in a professional corporation that has as an officer or director thereof any individual who is not licensed as an architect or engineer. It is a specific purpose of this rule to restrict or condition the issuance of shares of a professional corporation and the issuance or membership interests in a professional limited liability company which is to advertise or otherwise hold itself out to be an architect or to be authorized to practice architecture to only licensed architects or engineers.

3.02.2 All announcements, stationary, printed matter and listings of a firm shall contain the name of at least one (1) person who is registered as an architect in this state and that no such person be named on any announcement, card, stationary, printed matter or listing of such partnership, professional corporation or association used in this state unless there is designated thereon whether or not such person is licensed in this state. Employees of a firm that are not registered as an architect or engineer are allowed to use business cards for that firm, provided that the job title of the individual is clearly stated.

3.02.3 In the case of where the firm name is considered a "trade name", the name of at least one (1) architect licensed in this state must appear on any announcement, stationary, printed matter or listing. EXAMPLE: ABC Architects and Engineers, John Doe, Architect