



Jonathan Whitehead <jon@whiteheadlawllc.com>

Re: ERLC Trustees

1 message

David Prince <david@ashlandlex.org>
To: Jonathan Whitehead <jon@whiteheadlawllc.com>

Thu, Jun 3, 2021 at 9:12 AM

Dear Jon,

I am familiar with the bylaws and that provision and you are certainly free to pursue it. Nevertheless, I have the responsibility as the chair to clarify that I find it an unhelpful course of action at this time. Yes, I do think calling a special board meeting a couple of weeks prior to the convention would rightly be characterized as a snap meeting at what promises to be a hectic SBC. It does seem we disagree on what steps are appropriate at this point.

As for your assertion "And of course, if Dr. Moore was paid extra, someone did have to ask our Executive Committee to do it." That statement is false. Dr. Moore simply informed the EC of what was going on and in our judgment, it seemed likely that it would happen so we decided to develop a separation plan in case it did happen. Dr. Moore asked for absolutely nothing.

In this email, you imply that the EC was dishonest in our characterization of Dr. Moore. What we shared was the truth, the whole truth, and nothing but the truth (to use your words) as best we knew it every step of the way. I have made no secret, nor has the EC, that Dr. Moore was appropriately frustrated about the constant cloud of suspicion the SBC EC, and particularly Mike Stone, were casting over the work of the ERLC from 2016 to 2021 with vague so-called investigations. The letter that was leaked yesterday was written in February 2020 in the heat of the moment. Dr. Moore has just given his presentation to the EC, which was followed by no negative questions, and then immediately after the Task Force was announced. Your questions were asked six months later. Truth is, not long after that letter Dr. Moore simply got back to work, and in September he and the team were thriving.

As for your questions at the time: Was Dr. Moore enjoying his team, or avoiding his team? Was he enjoying mentoring staff, or did staff rarely see him, even on Zoom? Was he thriving or withering? He was enjoying his team and did until his last day. Yes, he was mentoring staff. And yes, in light of these difficult circumstances he and his team were thriving as their incredible work attests.

Dr. Moore possessed an uncanny ability to weather the storm and pressing on performing his responsibilities. To imply that the EC was not being truthful with the full board in September is simply not truthful.

Thanks for your service as a trustee. Let's pray fervently for Dr. Moore's transition and for the next president of the ERLC.

Sincerely,
David

On Wed, Jun 2, 2021 at 6:58 PM Jonathan Whitehead <jon@whiteheadlawllc.com> wrote:

David,

I thank you for the quick response. Our bylaws presume that, sometimes, a chair will not want to call a meeting, and so it creates a process for others to follow that is fair to everyone. This is not an affront to you, David, or a 'snap' meeting, but the process and timeline our bylaws say to follow.

The direction of our disagreement is probably clear, if you don't plan to submit the search committee nominations directly to a full board vote. I think this would be an error regardless of precedent. When Baptists "trust the trustees," I think they mean the full board. The officers should help the board gather facts and options, but not replace the board's judgment *ad interim* unless necessary, as I understand the Baptist uses of that phrase.

And of course, if Dr. Moore was paid extra, someone did have to ask our Executive Committee to do it. That motion and vote on May 14 was [before Dr. Moore says he made his decision on the afternoon of May 18](#) and announced it three hours later. I don't see how or why these facts should be dismissed as “categorically false.”

I am not accusing anyone of intentionally avoiding the best practices. But the SBC expects us to use our group judgment about whether the pay to the CEO is appropriate. Our bylaws expect the full board to set CEO pay. The IRS offers extra legal protection when the full board uses its group judgment about CEO pay. Lawyers, auditors, and law review authors all agree it is a best practice for the full nonprofit board to judge and vote on CEO pay. I appreciate what Travis and Bobby have communicated to you about their risk assessment of not following the best practice here, but I want to accept the law's offer of safety, not guess about what will happen if we don't. The Board can take reasonable steps to secure the safe harbor, and I do not think it would be “unwise, unnecessary, and potentially harmful” to hold a meeting to do that.

When I read Dr. Moore's letter, I was disheartened about the lack of disclosure to us as the group with the ultimate legal responsibilities. Dr. Moore says Baptists don't know a “fraction of a fraction,” even as our Trustee Officers knew that he “tried to smile and pretend that everything is alright with me personally ...” At our last meeting, I asked in executive and public sessions for this kind of information. Was Dr. Moore enjoying his team, or avoiding his team? Was he enjoying mentoring staff, or did staff rarely see him, even on Zoom? Was he thriving or withering?

I was told that everything was just fine. The letter, to say the least, tells a different story.

Telling the full board something less than “truth, whole truth and nothing but the truth” in a timely fashion was, I assume, intended to be for our own good. I am not presuming the worst. But we must judge the results of that strategy: it is hurting the ERLC. The full board should have been told the facts and permitted to act. Now we may need a special committee just to address the issues in the letter, like the allegations of racial mistreatment of ERLC employees.

Four days ago, a year-ago version of Dr. Moore's letter was leaked to RNS by some ERLC Trustee, before any version was given to the full board. <https://religionnews.com/2021/06/02/leaked-russell-moore-letter-blasts-sbc-conservatives-sheds-light-on-his-resignation/> What was too dangerous for us to know last Fall has jumped over the trustees into a public free-for-all. Can a meeting of the ERLC's legally-responsible people possibly be more dangerous than responding to what's happening?

Following the fair, legal process for a special meeting is playing by the rules, not “playing into the hands of enemies.” I strongly believe a true meeting of the Trustees is appropriate.

Jon Whitehead

----- Forwarded message -----

From: **David Prince** <david@ashlandlex.org>

Date: Tue, Jun 1, 2021 at 11:20 PM

Subject: ERLC Trustees

To: David Prince <david@ashlandlex.org>

Dear Fellow Trustees:

Earlier today, Jon Whitehead sent you an email calling for a special called meeting in two weeks time. As your Chairman, I think this is unwise, unnecessary, and potentially harmful, and I encourage you not to join his call for a snap meeting. Instead, I invite you to join a call with me this Thursday, June 3rd at 10:30 am eastern/9:30 central.

Before I elaborate, allow me to say thank you to those of you who have reached out with questions about Dr. Moore's exit. Needless to say, this was an unexpected development not only for me, as someone who has known Dr. Moore for years, but even for Dr. Moore himself. That said, after hearing his heart, I am confident this is the right ministry move for him. Please continue to pray for him and, especially, the talented team he leaves behind at the Commission.

Over the last few weeks, I have been doing everything in my power to prepare an earnest, methodical, and purposeful conversation that will help us start the process of identifying who God is calling to lead the ERLC in the years ahead. I was just beginning to draft a message to the full Board about us coming together for an informational call next week so that we could all understand what this process will look like, based on previous searches; understand our time horizon; and provide a forum for all of us to exchange our thoughts and ask questions about the task before us.

That said, after Jon's email today I wanted to go ahead and reach out tonight to set up that call and correct the record.

Let me begin by saying I was particularly disappointed to read the charge about compensation that appears to assume the absolute worst of both me, members of the Executive Committee, and Dr. Moore himself. To be clear, the notion that "the Executive Committee was asked to give Dr. Moore more compensation and assets before he made his decision" is categorically false.

Instead, Dr. Moore informed our ERLC Executive Committee on Friday, May 14th, about an offer from *Christianity Today* that he was nearly certain to accept. He told us about his likely decision at the time he did because, while he had not made the decision to accept the offer, he had received word that chatter about his potential move was starting to leak to reporters, and he wanted the Executive Committee to hear about it directly from him. After excusing Dr. Moore from the call, we as the Executive Committee did what we felt was the responsible thing and began making preparations for his transition, in line with the responsibilities of our committee, and exactly as the ERLC Executive Committee has done in previous transitions.

Elsewhere Jon raises the question of ERLC intellectual property. He mentions an email list for Dr. Moore's newsletter, for example, but dramatically overstates the number of subscribers. More importantly, this section could leave the reader with the impression that a decision to allow Dr. Moore to transition his personal website, personal newsletter, personal YouTube channel, and public Facebook page is somehow unusual, extreme, or even sinister. It is not; in fact, it is *exactly* the precedent we followed with previous transitions.

Additionally, Jon goes on at length about liability surrounding excessive compensation. I should note that neither our chief financial officer nor our general counsel share Jon's opinion that the compensation arrangement in this case presents dire, extraordinary liability issues, as the arrangement here is consistent with past precedent. I am happy to discuss these issues further, but I do not want to belabor an already lengthy email.

As to the search committee itself, I believe it will take months to identify the leader God has set aside to guide the Commission into a new era. I believe the search committee, once established, should solicit input from the entire Board, and will solicit input from the entire Board. In the most recent search, the Chairman of the Board appointed the search committee unilaterally. Out of an abundance of caution, and strict adherence to what I believe is the letter and spirit of our bylaws where all appointments by the Chairman are done "in consultation with the Vice Chairman," my plan was to present a slate of trustees to our Vice Chairman in the coming days and to go the extra step of discussing these members with our Executive Committee. I am seeking to be more inclusive than the last search without discarding a commitment to regular order.

On that last point, it is worth pointing out that the Executive Committee exists for just such a purpose, to act in the interim when it is impractical to gather the entire Board. Snap meetings should be exceedingly rare because they do not, in my experience, foster fruitful deliberation or decision-making. This is especially true when I am receiving reports daily that, for example, one megachurch pastor is planning to bring a motion to defund the ERLC, or that some militant members of the SBC Executive Committee are planning yet another investigative committee with the hopes of dissolving and/or reassigning the responsibilities of the ERLC. It does not take much effort to imagine how a snap meeting—one that is unprecedented in the history of the ERLC—could be portrayed as a part of the ugly divisiveness and hyper-partisanship raging within our network of churches, which could at the same time demoralize our team who are already trying to come to terms with the loss of their CEO. My hope is that we would do everything in our power to defeat these efforts, and not do anything that might unwittingly play into the hands of those seeking to harm the entity we have been asked to serve.

Relatedly, I would ask you all to bear in mind the *extraordinarily* difficult circumstances Dr. Moore has been forced to navigate for the last several years. This has taken an enormous toll on him, and much of what he has experienced has not been shared widely. Just this week, however, he wrote a letter to SBC President J. D. Greear with information he felt conscience-bound to put in writing. He also shared the letter with our ERLC Executive Committee. And I think it's worth sharing with you, just to give a slight feel for some of the unbelievably difficult circumstances he had to endure. Some of you may be familiar with aspects of what he cataloged here but I doubt we are all familiar with just how brutal the environment has been in which he and the entire ERLC team have been working.

I will close by saying as clearly as I know how: I am grateful to God for each and every member of this Board. I want you to know I am doing everything in my power to be as responsible and fair as possible.

As your Chairman, I encourage you not to join Jon Whitehead's call for a snap meeting. And I look forward to talking to as many of you as would like to join me on Thursday (I will instruct Brent to send call details to the Board tomorrow).

Respectfully,
David E. Prince, Ph.D.
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