

# **Editorial: SBC on the horns of a dilemma**

October 6, 2021

Until Oct. 5, the Southern Baptist Convention was only contemplating the horns of a dilemma. Now, the SBC is on the horns.

The 44 to 31 vote of the SBC Executive Committee to waive attorney-client privilege and to move forward with the investigation into the committee's handling of sexual abuse claims places the convention firmly in a precarious position.

If the SBC were dealing with just two horns—as with a proverbial cow—the road ahead would be difficult enough. But the SBC is dealing with multiple horns, something more like a triceratops, or worse.

As with every such moment, there is peril and opportunity.

## **Horn one: Self-preservation or accountability**

We've all heard the pregnant pause when a person doesn't want to answer a question. "You paused too long," we may have said in reply, meaning, "We already know at least one thing you don't want us to know."

The Executive Committee simply took too long debating too much before making its decision. As a result, even those making good faith efforts to do the right thing now are tarnished by the perception they are more interested in self-preservation than accountability—even if only a handful of committee members are to blame. The majority of the committee did try to operate in good faith.

No matter how much “good faith” was offered by differing parties, however, the delays gave rise to substantial doubt and suspicion in a central part of the SBC.

With the Guidepost Solutions contract only recently approved and the layers of investigation about to start, people have cause to wonder if the truth will be made known—or merely discovered, if even that.

## **Horn two: Mistrust**

Doubt and suspicion were only compounded by Ronnie Floyd, president and CEO of the Executive Committee staff. Floyd seeking, ahead of the 2021 SBC annual meeting, to “[preserve the base](#)” of the convention in relation to sexual abuse allegations cast a cloud of suspicion over him and the committee.

Between the June annual meeting and the following Executive Committee meeting in September, Floyd again drew suspicion, this time with his [caution against](#) waiving privilege. In a letter to the Executive Committee, Floyd questioned whether waiving privilege was a “best practice,” particularly as it might deny the Executive Committee “effective [legal] counsel in the middle of litigation.”

Here again, Floyd came off sounding more interested in preserving the institution than in being held accountable, as though the two are mutually exclusive.

The original motion to investigate the Executive Committee—overwhelmingly adopted by messengers in June—explicitly called for waiver of attorney-client privilege. Messengers to the 2021 annual meeting made their [will clear](#), leaving no wiggle room for the Executive Committee or its top executive.

It's hard to preserve the base and defy it at the same time.

## **Horn three: Who's in charge**

In [a 2020 opinion article](#), Floyd wrote: "The local church is the headquarters of our Southern Baptist Convention. ... If we ever invert this order in our mindset and practice, then we will begin a downhill slide that may become irreversible."

Ironically, Floyd now finds himself having to put the convention's money where his keyboard is.

For current or former Southern Baptists who accuse "Nashville" of centralizing control of the denomination, there may now be a crystal-clear case, not so much of a national Baptist entity imposing its will locally, but certainly of a national Baptist entity pushing the sled to the edge of the downhill slide.

Any struggle for control of the convention, not just between conservative and really conservative Southern Baptists, but more fundamentally between local churches and the Executive Committee is a first step in the inversion Floyd cautioned against. By appearances, such a first step has been taken.

## **Horn four: Insolvency**

One point argued by Executive Committee members who opposed waiving attorney-client privilege is the prospect of the committee losing insurance coverage in the event of litigation resulting from the Guidepost investigation. A worst-case scenario for the entity would be the Executive Committee being ordered to pay millions of dollars to sexual abuse survivors from money it doesn't have—and wouldn't have without insurance

coverage.

To illustrate what a precarious point this horn presents, just 13 minutes into the Oct. 5 Executive Committee special called meeting, Jim Murray—partner in Blank Rome, a law firm in Washington, D.C., specializing in policyholder insurance recovery—explained he “was retained several weeks ago by the Executive Committee to give insurance coverage advice generally.”

Murray was asked to weigh in on coverage issues in the event attorney-client privilege was waived by the Executive Committee. Though he admitted never having been asked that question before, he had an “initial reaction to it” and “strong views on it.” He then stated he would “be “happy to talk further about that,” and “the advice I am giving to you is itself privileged.” He then asked if the committee could go into executive session.

Whatever Murray told the committee in closed session, it ultimately voted to take on the risk of not being covered in a lawsuit. In other words, the Executive Committee may have approved its own demise through insolvency, if the most pessimistic predictions come to pass.

Of course, insolvency was on offer anyway by local churches who threatened to withhold or redirect funds should the Executive Committee elect not to waive privilege. Money talks, and sometimes it shouts across itself.

## **Peril and opportunity**

The SBC faces plenty of other challenges, such as making amends with sexual abuse survivors, navigating clear divisions in the denomination, the possibility of more churches departing the SBC, and a predicted wave of [pastors leaving](#) ministry due to stress or retirement.

All of these challenges loom during the investigation. None of them are helped by mistrust or polity disputes in the SBC. They certainly are not helped by arguing over preserving the institution versus being held accountable.

Waiving privilege was the right thing to do morally, even if it wasn't the legally prudent thing to do. Waiving privilege may be perilous. A majority of the Executive Committee is willing to take that risk.

The decision also opens an opportunity for the SBC to become a better version of itself. As with so much in life, however, there will be no gain without pain.

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