

POST GUILD UNIT

FORUM...



The Washington-Baltimore Newspaper Guild, Local 32035, TNG-CWA CCWACWA

April 25, 2007

Washington Post Jettisons Core Journalism Principle in Effort to Escape Labor Ruling

Company Reveals Contents of Off-the-Record Talks Newspaper Guild Files New Labor Complaint

Journalism is full of secrets. And The Washington Post, one of the nation's most venerated news outlets, makes a living keeping secret the identity of those who help it navigate through the White House, the halls of Congress and layers of bureaucracy.

The Post kept the identity of Deep Throat, of Watergate fame, secret for four decades, and through the years has championed the need for "off the record" conversations as essential to the nation's democracy.

But last month, The Post threw those ideals out the window. Facing a pending loss to the Guild in a pivotal case before the National Labor Relations Board (NLRB), Washington Post management sought to save its case by filing a last-minute addendum with the Labor Board revealing the contents of off-the-record talks it had engaged in with the Guild several years ago. The move marks a surprisingly cavalier renunciation of the core journalistic principle of respecting a promise of confidentiality.

"Unfortunately, The Post has sent a chilling signal that it will violate a confidentiality pledge when it suits the newspaper's business purposes," said Linda Foley, President of The Newspaper Guild.

At the core of the issue is an Unfair Labor Practice charge filed by the Guild in 2006. In that filing with the NLRB, the Guild asserted that The Post had violated federal labor law by refusing to bargain over the terms of new work assignments relating to Washington Post Radio. As newsroom employees know, The Post has offered some employees varying amounts of money to appear on Washington Post Radio at various times, while offering nothing to others. The Guild argued before the Labor Board that under the terms of the contract and federal labor law, The Post must bargain with the Guild over the terms of such work.

Recently, the general counsel's office of the Labor Board let it be known that, based on testimony given by both sides, it intended to issue a formal Complaint against the Post that it violated federal labor laws. But Post lawyers interrupted that process by asking for a special meeting with the Board. They told Board officials that they now wanted to reveal the contents of off-the-record talks they had engaged in with the Guild from 2003 to 2005.

Those talks were part of a Guild effort to gain compensation for Post employees who do significant extra work for the Washington Post Web site. The Post entered into the talks on the condition that their contents be kept secret, and the Guild agreed to those terms. But Post management apparently believes that, although no agreement came out of the talks, there is something in the record that may convince the Labor Board to change its mind on the Radio case.

The Guild is confident that nothing in those talks threatens to undermine the Labor Board's initial decision to rule in favor of the Guild on the Radio complaint. But even more important, Post management's unilateral disclosure of those off-the-record talks -- in a sworn affidavit that was recently filed to the Labor Board -- is a blatant violation of the journalistic axiom that a promise of

confidentiality is inviolable. It is also a breach of the newspaper's legal obligation under federal labor law to bargain in good faith.

As a result, the Newspaper Guild has filed another Unfair Labor Practice charge against The Post -- the third filed by the Guild against Post management in 12 months. The charges are part of an escalating battle over The Post's refusal to negotiate fair work rules and compensation for the growing number of employees whose jobs have changed significantly with the company's expansion into various new media platforms.

"The Post, which passionately goes to bat for the right of reporters to keep off-the-record conversations confidential, has unilaterally repudiated that principle in an effort to avoid facing a charge by the federal government," said Robert Paul, a Washington attorney with Zwerdling, Paul, Kahn & Wolly, P.C., who is representing the Guild before the Labor Board. "At The Washington Post, promises of confidentiality apparently stop at the door to labor relations."

Post management's actions represent a remarkable failure to live by a rule of journalism that reporters have gone to jail to defend and that the newspaper itself has long touted as sacrosanct.

On July 7, 2005, The Post editorialized that efforts to force a New York Times reporter to reveal her sources were "highly questionable," and it applauded the fact that reporters have long been willing to face jail to protect confidential sources. "Commitments of confidentiality by journalists to their sources will have little value if they can be invalidated by waivers obtained by prosecutors or demanded by senior government officials from their subordinates. In such cases, journalists are obligated to protect their sources even if the law is against them."

In another editorial, which ran on Oct 15, 2005, The Post again stood up for that principle. If off-the-record conversations are to be forced into the open, The Post wrote, "journalism and the public will be the losers."

The new Unfair Labor Practice complaint filed late last month claims that "The Washington Post has violated its fundamental, statutory obligation to bargain in good faith with the Washington-Baltimore Newspaper Guild, Local 32035, by publicly disclosing the terms of settlement discussions that were held between the Guild and the Post, despite an express agreement that these communications would be and would remain confidential, private and off-the-record."

"Post executives, trying to protect an ill-conceived anti-Guild business interest, violated the principle of confidentiality to avoid a federal government charge of refusing to bargain over radio work," said Guild representative Rick Ehrmann. "This should be a wakeup call for Post employees about the importance of having a union to hold management accountable for its actions."

by Robert Pierre and Rick Weiss

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