UNITED STATES OF AMERICA

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

NEXSTAR BROADCASTING GROUP, INC.
d/b/a WIVB-TV

Respondent- Employer

Case 03-CA-210156

NATIONAL ASSOCIATION OF
BROADCAST EMPLOYEES
AND TECHNICIANS –
COMMUNICATION WORKERS
OF AMERICA, AFL-CIO

Charging Party -Union

AFFIDAVIT OF THERESA UNDERWOOD

I, Theresa Underwood, being first duly sworn on my oath, state as follows:

1. I am a Senior Vice President and Regional Manager of Nexstar Broadcasting, Inc. with executive leadership and operational oversight of WIVB-TV and WNLO-TV broadcasting stations in Buffalo, NY, as well as other stations owned and operated by Nexstar Broadcasting, Inc. (Nexstar) in New York, Maryland, Pennsylvania and Vermont. The proper corporate name of the Employer is Nexstar Broadcasting, Inc.,

not Nexstar Broadcasting Group, Inc.as it is incorrectly stated in the caption to the Charge and Complaint.

2. Nexstar and NABET-CWA have a collective bargaining agreement relationship governing a bargaining unit of "Television Technicians, News Photojournalist/Editors, Artists, Producer/Directors, and Producer/Assignment Editors" employed at the WIVB- TV/WNLO-TV station.
3. I am one of the lead negotiators for Nexstar in the on-going negotiations with NABET-CWA working to achieve a new contract from its current expired status.
4. To my knowledge, Nexstar (and Nexstar's predecessors in interest) and NABET-CWA have been parties to successive bargaining agreements for many years.
5. Nexstar is a successor to Media General that purchased the station from LIN Television, the Employer that entered into the three most recent collective bargaining agreements with NABET- CWA governing the unit at WIVB-TV/WNLO-TV in 2005, 2010 and 2013.
6. Media General acquired the station in 2015, and Nexstar acquired the station when it acquired Media General through merger which closed in January of 2017.
7. At the time of its acquisition of the station, Nexstar assumed the collective bargaining agreement between the station and NABET-CWA.
8. We (Nexstar and NABET) are currently in the process of contract negotiations of a currently expired agreement. We verbally agreed to extend the collective bargaining agreement effective from March 26, 2013 to March 25, 2017 at the first negotiating meeting between the parties in Buffalo, on February 23 and 24, 2017, and pursuant to that verbal extension the Union filed grievances in November 2017 regarding the failure to check-off dues on a timely basis and the company has responded to these grievances.

9. The company has endeavored to bargain in good faith during the process of negotiations and have faithfully honored and uphold the existing terms of the collective bargaining agreement.

10. The parties' Agreement contains an extensive provision that deals comprehensively with the topic of leaves of absence for union business and "other" leaves. This provision states:

13.0 LEAVE OF ABSENCE - UNION AND OTHER

> The Company will endeavor to arrange leave for Union activity upon written request to not more than one (1) Employee at any time for specific periods, up to, but not exceeding, one (1) year in duration. The Company will consider a request for extended Union leave of absence beyond the first year not to exceed one (1) year and the Company will grant such leave of absence if the request is reasonable in the Company's opinion.
>
> 13.0(a) In the event that up to two (2) NABET Employees make a written request for leave for Union business, and it is necessary for them to be replaced, the Union will, upon request from the Company, provide a qualified replacement. In the event such replacement must be paid overtime, the Union will reimburse the Company for any premium costs paid to such replacement; provided, however, any such leave for Union business may not exceed two (2) weeks at any one time.
> 13.0(b) It is agreed that upon the return to employment of a regular Employee from the Union or other leave of one year or less, he shall be given his former position and the Company may release the substitute Employee from employment without penalty. The Employee with the least seniority in the seniority group involved shall at all times be the substitute.

11. This Agreement between the Parties also contains a provision dubbed "Previous Agreements" which states:

14. PREVIOUS AGREEMENTS

> 14.0: It is mutually agreed between the parties that this Agreement, together with updated side-letters and agreement attached hereto, supersedes all previous Agreements, either oral or written covering Employees employed under the terms hereof, and constitutes the entire Agreement between the parties. Side-Letters attached are (List Omitted)

12. And in another provision, the Parties agreed that the Company would be afforded broad management rights both express and reserved:

22. MANAGEMENT RIGHTS

22.0 The Union recognizes that the Employer has an obligation to fulfill its responsibilities as a broadcasting licensee under the terms of its grant from the FCC.

22.0(a) Except as expressly abridged by any provision of this Agreement the Company reserves and retains exclusively all of its normal and inherent rights and authority with respect to the management of the business, whether exercised or not, including, but not limited to the right (a) to hire, assign, transfer, promote, demote, schedule, layoff, recall, discipline and discharge its Employees and direct them in their work; (b) to make, enforce and amend from time-to-time reasonable rules and regulations uniformly applied concerning the conduct and responsibilities of Employees, some of which have been set forth in the Employee's Handbook, subject to approval by the Union which will not be unreasonably withheld; (c) to determine and schedule work and programming, acquisition, installation, operation, maintenance, alteration, retirement and removal of equipment and facilities; and (d) to ownership and control of all Company equipment, supplies and property, including the product of any work performed during the course of Employees carrying out job duties as set forth in this Agreement. (Emphasis Added)

13. On May 5, 2017, station management was notified that Roy Schrodt was elected to be Regional Vice President ('RVP') of NABET and that he was requesting a leave of absence to attend NABET National Meetings and also to negotiate the local contract with the Buffalo Sabres (local NHL team in Buffalo, NY and has no relationship to WIVB or the existing bargaining agreement between NABET and WIVB or its successors).

14. At that time, representatives of the union requested that the Company pay Mr. Schrodt for that time in addition to providing the leave of absence. The union was told that Nexstar would grant him Mr. Schrodt a leave of absence (LOA), as the contract was required to and obligated Nexstar to do, but that Nexstar would not be paying him for

the time that he was conducting work for the union. Mr. Schrodt had submitted time for this work.

15. The same week during which Mr. Schrodt made this demand for payment, it was brought to my attention that the WIVB employees who were representing NABET at the table for the current contract negotiations with the Company were putting in (thus seeking pay for) the time spent at the table as payment for services rendered, on their time card as work performed for the company.
16. The next time the Company and the Union met to negotiate was May 10 and 11, 2017.
17. On May 11, Lisa Hansen, Regional Business Manager and formerly with Media General and retained by Nexstar and another member of the management bargaining team and I had a 'side bar' conversation with Eric Seggi, NABET Business Representative, to address this issue. I explained that on the heels of the union asking that the company pay RVP Schrodt for his time working on behalf of the union, I had learned that members of the bargaining team had in fact put in,(and thus were seeking to be paid) for time spent at the bargaining table on their time cards and had been incorrectly paid by the company for the first two negotiation sessions, as this was not the business practice of the company, nor stipulated for in the existing bargaining agreement.
18. I told Eric Seggi that 'we pay employees for work performed for the company', but do not pay employees for work that is performed for NABET or any other organization. Furthermore, I reaffirmed what has been the standard business practice, in our negotiations in Erie, Syracuse and formerly in Rochester negotiations, which was that we did not pay employees to bargain for the union. Mr. Seggi was familiar with these negotiations as he had participated in each. I also stated to Mr. Seggi that 'we would not be paying for Roy to attend NABET meetings or for negotiating the Sabres'

Contract.'

19. Furthermore, I proposed to Mr. Seggi, and asked for his input on whether he wanted to pay the bargaining team directly or if he wanted us to continue to pay them through our payroll and have NABET reimburse the company for that expense. I handed him a printed copy of the language in the contract that details union and other leaves of absence and reaffirmed that nowhere in that language did it obligate the company to pay employees during the leave of absence. Mr. Seggi didn't disagree, nor raise any issues that this would be inconsistent with Nexstar's past business practice or contractual obligations and stated 'that he would look into the situation and get back to us.'
20. In August 2017 the Company received reimbursement from NABET for the work performed by Mr. Schrodt during his leave of absence (see attached).
21. After receiving the reimbursement from NABET for Mr. Schrodt's leave, WIVB (the station) sent NABET an invoice on September 14, 2017 for reimbursement of the money that has been spent on the first two sessions for employees' participation at the bargaining table.
22. On October 3, 2017 Jay Lauder, Local 25's Secretary Treasurer sent Mr. Dominic Mancuso (WIVB General Manager and a member of the bargaining team) a letter rejecting the invoice and raising the union's position that the situation was governed by a 'long standing practice and the collective bargaining agreement'.
23. WIVB-TV's General Manager Dominic Mancuso sent NABET Local 25's Secretary-Treasurer Jay Lauder, a letter dated November 3, 2017, which stated:

> "I am responding to your letter of October 3, 2017 to Chris Anchin refusing to reimburse the Company for the $8744.67 paid to the three employees who submitted time for "hours worked" when they were, in fact, serving on the union's bargaining committee in the current negotiations being held at the Wyndham. Theresa Underwood advised Eric Seggi in a side-bar that it was

Nexstar's consistent practice not to pay Committee members for bargaining as they were not working for the Company by bargaining for their Union. In response, Eric advised us that he would consult with NABET headquarters regarding having the Company reimbursed for these payments and that he would get back to Theresa on this issue. He did not, so we sent him our invoice regarding the payments due and you sent your October 3 letter to Chris.

The contract does NOT require the payment of employees who are negotiating on behalf of the Union. As we have said, it is the Company's consistent practice not to pay for such activity. We have been advised that such a practice is entirely consistent with the law, as pay in such circumstances is not required by either federal or state law.

Absent express agreement with the Union requiring payment by the Company for this time, it is either the Union's responsibility to make such payments or the individuals responsibility to perform the service to their union without charge.

As a result, we request that the Union immediately reimburse the Company for these payments in the amount of $8744.67. We would also ask you to advise members of the Committee not to submit time for future negotiating sessions, since the Union has not arranged for payment by the Company for this time".

24. In a letter dated November 14, 2017 and addressed to me, Mr. Seggi stated:

"NABET-CWA Local 25 Secretary-Treasurer Jay Lauder has provided me a copy of Dominic's letter dated November 3, 2017 (attached), regarding the request by the company for reimbursement of wages for time the bargaining team members have spent at negotiations.

Based on Dominic's letter, it appears that there is a misunderstanding about my explanation of the Union's position regarding the payment of Union leave for contract negotiations at WIVB. To be clear, the position of the Union is that there is a long standing(sic) practice in place at WIVB that both parties had been following in which the Union has not been charged for payment of the bargaining committee's leave while attending negotiations. The parties have split the expenses for meeting space and meals, if any are incurred. The Union believes this practice should continue until the parties reach an agreement that provides for a different process.

Previous invoices from the WIVB Business office for each bargaining session of these negotiations only included the charges for half of the room fees and meals incurred, consistent with the long standing(sic) practice. The Union has promptly paid such invoices.

Dominic's letter also included a request that members of the bargaining team be asked to not submit their time at negotiations on their time sheets as usual. It is unclear if the company is saying those Employees will not be paid if they submit their time as usual.

If the message is that the company is refusing to continue the standing practice of paying bargaining team members through payroll for negotiation time as usual, then the Union is requesting to reschedule the 11/28 bargaining session to coincide with the off-work hours of bargaining team members.

I look forward to hearing from you on this important matter." *Email from Theresa Underwood to Eric Seggi dated November 17, 2017*

25. Following this exchange of emails, the parties have continued to negotiate with respect to future dates and arrangements for additional negotiations, and the issue remains open as to whether these will occur on week days, during 'work hours' or after hours, or on weekends.

FURTHER AFFIANT SAYETH NOT

I have read the foregoing twenty-five paragraphs and state under the penalty of perjury that they are true and correct.

Theresa Underwood

Subscribed and Sworn to Before Me:

Notary Public: Linda Kilmer 9/6/18

Commonwealth of Pennsylvania – Notary Seal
LINDA KILMER – Notary Public
Luzerne County
My Commission Expires Feb 25, 2022
Commission Number 1125768