

PRESS RELEASE
AND PRESS KIT

Antioch University Threatens Legal Action Against The Antioch Papers

The Antioch Papers

<http://www.theantiochpapers.org>

March 13, 2008

The Antioch Papers, an investigative journalism and media arts website, has received a chilling threat to its right to free speech from Antioch University. Antioch University has demanded the removal of all (allegedly) confidential and proprietary documents from The Antioch Papers website under the threat of future legal action (see attached letter).

The Antioch Papers staff members Tim Noble and Brian Springer responded to this demand stating,

"The Antioch Papers follows the long tradition of First Amendment protected speech established by the Pentagon Papers. Antioch University and its Board of Trustees are public figures involved in a discussion about higher education—public figures constantly mentioned in the national and local press. The public's right to know supersedes Antioch University's assertions of private claims and private matters, especially since these materials were not 'purloined' as you persistently claim. Your concerns lie with Antioch University's Board of Trustees' inability to control its administrators and employees and not with The Antioch Papers."

-- Noble/Springer (see attached letter)

For More Information Contact:

Tim Noble - theantiochpapers@gmail.com

443-653-2262

SEE ATTACHED PAGES FOR:

1. Letter from The Antioch Papers to Antioch University - 03/13/08
2. Letter from Antioch University to The Antioch Papers - 02/29/08
3. Background Materials on The Antioch Papers
4. Still from *Antioch Confidential - The Video*

Tim Noble - Brian Springer
Research and Publishing Staff
The Antioch Papers
www.TheAntiochPapers.org

March 13, 2008

Porter Wright Morris & Arthur LLP
Attorneys & Counselors at Law
Attn. - Kathleen M. Trafford
41 South High Street
Columbus, Ohio 43215-6194

Dear Ms. Trafford,

In your letter of February 29, 2008 you refer to the article *Antioch Confidential/Redacted* written by Brian Springer. For the sake of clarity it is important for you to know four things regarding this article and its publisher, The Antioch Papers (<http://theantiochpapers.org>).

First, The Antioch Papers website is a collaboration between Tim Noble and Brian Springer, and all future communications concerning materials at the website theantiochpapers.org should address both parties. Also, all future communications to the authors of this letter (Noble and Springer) should be sent to our attorney Robert J. Fitrakis, 1240 Bryden Road, Columbus OH 43205 - Phone 614-253-2571.

Second, an unredacted version of *Antioch Confidential - The Article* has been available since February 26, 2008 at The Antioch Papers website (<http://theantiochpapers.org/document/42/antioch-confidential>). We kindly request that you read the full, unredacted version of *Antioch Confidential* to see if this new version satisfies, in any way, the concerns expressed in your letter.

Third, there is also a video titled *Antioch Confidential* available at The Antioch Papers website (<http://theantiochpapers.org/confidentialvideo>). So, to avoid confusion, in future communications please specify whether you are referring to *Antioch Confidential - The Article* or *Antioch Confidential - The Video*.

Fourth, we consider all communications with your law firm public information, and all past and future correspondence will enter the open archive at The Antioch Papers.

You should be aware that your letter (first paragraph) misquotes *Antioch Confidential - The Article*. Your quotation changes the verb tense of the article's word "were" to your word "[a]re." By replacing the word "were" with "[a]re" within the quotation, you have significantly altered the meaning of the original article's sentence. Furthermore, you neglect to notate your deletion of text from the original article.

Let us also be clear, the document *AHCRRBAS* (Ad Hoc Committee Report and Related Board Action Summary), the related closed-session Board meeting minutes, and other documents at The Antioch Papers were not purloined, as you claim. Therefore, your statements regarding the attorney-client privileged nature of these documents are incorrect.

In terms of your specific concerns about attorney-client privilege in relationship to the documents mentioned above, we refer you to the final page of *Antioch Confidential - The Article* that states:

"One script for transforming private stages into public commons is suggested by University lawyer David Weaver in the AHCRRBAS closed session Board meeting. At that meeting Weaver reviewed 'the ground rules for maintaining the confidentiality of the report' by stating that 'the documents constituted attorney work product and could be maintained as confidential documents as long as they were not published or distributed to persons who were not board members, officers, employees or agents.'"

<http://theantiochpapers.org/document/42/antioch-confidential>

Based on Mr. Weaver's legal advice to the Board, it appears that your concerns about the maintenance of attorney-client privilege regarding *AHCRRBAS* and the subsequent closed session board meeting do not lie with The Antioch Papers.

The Antioch Papers follows the long tradition of First Amendment protected speech established by the Pentagon Papers. Antioch University and its Board of Trustees are public figures involved in a discussion about higher education—public figures constantly mentioned in the national and local press. The public's right to know supersedes Antioch University's assertions of private claims and private matters, especially since these materials were not 'purloined' as you persistently claim. Your concerns lie with Antioch University's Board of Trustees' inability to control its administrators and employees and not with The Antioch Papers.

We hope that this letter will help to build a framework of communications that respects the future confidential needs of Antioch University as an educational institution and The Antioch Papers as an ongoing investigative journalism and media arts website.

Sincerely,

Tim Noble
Brian Springer
Research and Publishing Staff
The Antioch Papers

PORTER WRIGHT MORRIS & ARTHUR^{LLP}

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February 29, 2008

VIA E-MAIL THEANTIOCHPAPERS@GMAIL.COM

Brian Springer
Antioch Papers

Re: Unauthorized Disclosure of Confidential, Attorney-Client-Privileged
Communications

Dear Mr. Springer:

I am writing you regarding the document you recently e-mailed to the Antioch University Board of Trustees, titled *Antioch Confidential / Redacted*. You acknowledge at the top of the document that *Antioch Confidential* is based on and cites to “several documents that [a]re . . . Antioch University attorney-client privileged communications.” Some of these documents, including the 2001 *Ad Hoc Committee Report and Related Board Action Summary* and the 2001 *Antioch University Board of Trustees Annual Meeting Closed Session Minutes*, detail privileged and confidential attorney-client communications. You have also posted copies of these documents, and other documents that also may contain privileged information, on your organization’s website, <http://theantiochpapers.org>. I am writing to demand that you remove these documents, and any summaries of the contents of these documents, from your website and that you forward to me any copies in your possession.

The Antioch University Board of Trustees has not waived its attorney-client privilege for the documents you have purloined, posted and re-published. In Ohio, the attorney-client privilege “bestows upon a client the privilege to refuse to disclose, and to prevent others from disclosing, confidential communications made between the attorney and client in the course of seeking or rendering legal advice.” *Smalley v. Friedman, Domiano & Smith Co. L.P.A.*, 8th Dist. No. 83636, 2004-Ohio-2351, at ¶28. Under Ohio law, the client “is the only one who has the power to relinquish” its attorney-client privilege. *State ex rel. Wallace v. State Med. Bd.* (2000), 89 Ohio St.3d 431, 435, 2000-Ohio-213, 732 N.E.2d 960. The Board has not done so. The client here is the Antioch University Board of Trustees – not its individual members, but the Board as a whole. The Board has gone to great lengths to maintain the confidentiality of its communications with its attorneys. The Board has not permitted the public disclosure of the documents you have published. Nor does the Board accede now to your publication of these confidential communications. Let me be clear – you are acting in contravention of the Board’s legally-protected privilege.

Brian Springer
February 29, 2008
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I note that your document also contains references to various financial and business planning documents. Proprietary documents of this type are legally protected under Ohio law. See O.R.C. § 1333.61 et seq. While the Antioch University Board of Trustees has published selected documents on its own website so as to inform alumni, students and other interested parties of certain events and discussions, it has continued to maintain the confidentiality of other financial and business planning documents, by disclosing them, if at all, only after the recipient has signed a confidentiality agreement. To the extent that you have obtained non-public documents in this category, I also demand that you forward all copies to me and remove this information from your website.

The Antioch University Board of Trustees has provided information to its alumni, students and third parties in order that they may understand the difficult circumstances and choices that now confront the Board and may offer constructive advice and comment as appropriate. The Board, however, has an obligation to act in the best interests of the institution and that obligation includes the duty to protect its confidential communications and proprietary information from misappropriation and misuse by use by others. The Board takes its obligation very seriously, and will act to prevent further misappropriation of the Board's communications with its attorneys or proprietary financial and business planning information.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen M. Trafford". There is a small mark below the signature that appears to be "atk".

Kathleen M. Trafford

KMT/ebg

THE ANTIOCH PAPERS - BACKGROUND MATERIALS

The Antioch Papers

<http://www.theantiochpapers.org>

March 13, 2008

Tim Noble and Brian Springer are the Senior Research/Publishing Staff members at The Antioch Papers. Mr. Noble is a third generation College Alum ('02) and grandson of Former Antioch College President James P. Dixon (1959-1975), whose development of the Antioch Network in the 60s and 70s led to the multi-campus Antioch University of today. Mr. Springer is the spouse of an Antioch College Faculty member and a resident of Yellow Springs.

Noble and Springer have watched the systematic dismantling of Antioch College over the past 10 years, gathering materials that actively reveal the College's contemporary history - a history that has been all but invisible to people without consistent and direct contact with the staff, faculty, and students of Antioch College during this time. This invisibility has been maintained, in large part, by the University's structural censorship of the College, through the University's undemocratic governance structures, budgetary mischief, layoffs, downsizing, and ultimately a declaration of financial exigency—effectively academic martial law—as the University's preferred choice of remedy.

The Antioch Papers thrives on the direct input and participation of all sectors of the Antioch College/University Campuses. It is a collaborative community resource dedicated to investigative journalism presented in an on-line media arts format. Noble and Springer are both artists and journalists in their own rights. Over the past 12 years, the New York Times and the New York Sun have used the terms "profound" and "masterpiece" to describe Mr. Springer's documentaries. Mr. Noble is currently a graduate student in media arts. Springer and Noble recently presented their work on the Antioch Papers at the prestigious Transmediale08 festival of art and digital culture in Berlin, Germany.

The Antioch Papers' contribution to current challenges in higher education is reflected in the statement below:

"Faculty and staff at Antioch College have been using the 'Antioch Papers' web site as a way of sharing information about the college's history and its current struggles. The site includes 'Antioch Confidential,' a detailed essay that is a serious piece of scholarly analysis and investigative journalism. It is deplorable to see a university that officially promotes 'transparency' seek to suppress information and prohibit free speech in the community. Narrow (and quite possibly exaggerated) corporate-style legal justifications for confidentiality are no excuse for abandoning the transparent exchange of information and the open discussion and debate that can result. Colleges and universities need to honor a more open and democratic set of principles."

—Cary Nelson
Jubilee Professor of Liberal Arts and Sciences
University of Illinois at Urbana-Champaign

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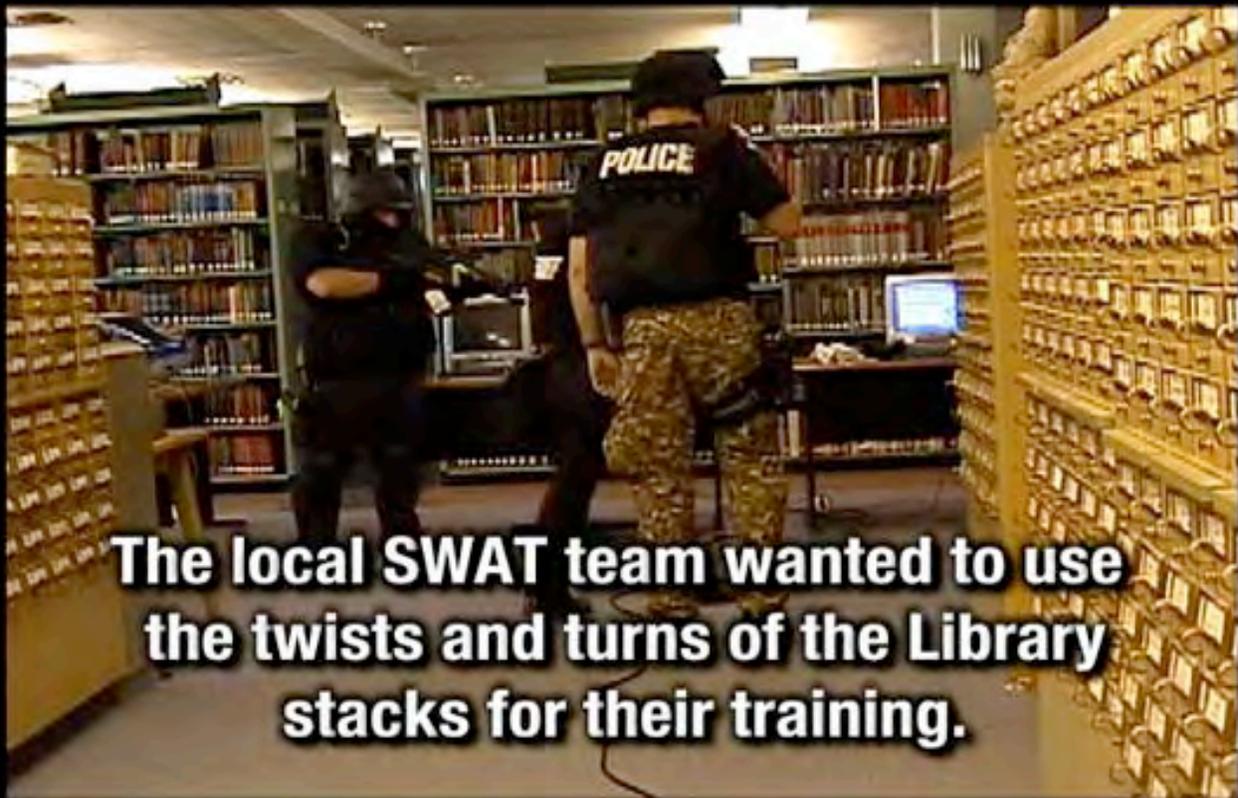
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