

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

**BY HAND**

March 1, 2001

Eric Effron, Editor  
*Brill's Content*  
1230 Avenue of the Americas, 16<sup>th</sup> Floor  
New York, New York 10020

RE: CJA's request that *Brill's Content* demonstrate its publicized commitment to "No Conflicts of Interest" and "Accountability"

Dear Mr. Effron:

Thank you for your February 16, 2001 letter, which states that you "reviewed all the materials" I handed you in January following your participation in the Middle East panel discussion.

Let me be equally "direct". CJA's January 8, 2001 letter to you, which I gave you, *in hand*, complained about your NON-RESPONSE to CJA's January 24, 2000 letters to you. You have still NOT responded to those fact-specific letters – the first of which exposed the dishonesty of your January 18, 2000 letter, belatedly rejecting CJA's July 8, 1998 story proposals, and the second of which inquired whether Steven Brill has reviewed the proposals, which it requested. Copies of these letters were enclosed with CJA's January 8, 2001 to you. Indeed, the entirety of CJA's exchange of correspondence with *Brill's Content* was enclosed. These were annexed to CJA's September 12, 2000 letter, which *previously* complained of your non-response to CJA's January 24, 2000 letters – a fact itself highlighted by CJA's January 8, 2001 letter to you.

Frankly, your February 16, 2001 letter is no less dishonest than your January 18, 2000 letter. As you state you "reviewed all the materials" I handed you, you surely

know that your assertion that *Brill's Content* is "not interested in doing a story about *The New York Times*' lack of an ombudsman" does NOT reflect CJA's multifaceted story proposals. These proposals, initially set forth in CJA's July 8, 1998 letter to *Brill's Content*, were reiterated in virtually all CJA's subsequent correspondence, including CJA's January 24, 2000 letter<sup>1</sup>. The central proposal was:

"that *Brill's Content* develop stories about how the concept of news ombudsman has fared in the 3[3] years since it was 'ressurrect[ed] by A.H. Raskin of *The New York Times* and Ben Bagdikian of *The Washington Post*'. Surely, the concept has not been a static one and a widely-varied media -- of which only a handful use news ombudsmen -- can be presumed to have had widely varied experiences using it, adapting it, abandoning it -- or never trying it at all." (CJA's 1/24/00 ltr, pp. 1-2)

To this proposal was added a subsidiary proposal: that *Brill's Content* "explore the media's failure to embrace the valuable ombudsman concept by focusing on its rejection by *The Times*" (CJA's 7/8/98 ltr, p. 1). Specifically, CJA proposed that *Brill's Content* examine WHY *The Times* had rejected the news ombudsman concept; WHETHER *The Times*' rejection of the news ombudsman concept, as likewise of news councils, had influenced other media in rejecting such important structural mechanisms for accountability; and the adequacy and efficacy of *The Times*' handling of complaints, in the absence of an ombudsman.

These proposals are not disposed of by your simplistic explanation that *Brill's Content* is

"not interested in doing a story about *The New York Times* lack of an ombudsman because, in our view, it is not a story, but rather, it is a fact and one that is widely known."

Such explanation, moreover, contradicts your January 18, 2000 letter that *Brill's Content* was "indeed interested" and had written about the *Times* "lack of [an ombudsman]" -- thereby implying that it was viewed as a story. Indeed, CJA's January 24, 2000 letter challenged you to substantiate your claim that *Brill's Content* had written about *The Times*' lack of an ombudsman, pointing out that we were unaware of any such story. The January 24, 2000 letter also pointed out that

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<sup>1</sup> Unless otherwise indicated, references to CJA's January 24, 2000 letter refer to the first letter of that date, consisting of three pages.

“even if *Brill's Content* had passingly mentioned that *The Times* does not have a new ombudsman, this is not a story about why it has no news ombudsman”, etc.

Tellingly, your February 16, 2001 letter does *not* purport that it is “widely known” WHY *The Times* has no ombudsman, ITS EFFECT on other media, and the LEGITIMACY of *The Times'* alternative to an ombudsman. These are the substantive stories that CJA has proposed – stories requiring probing inquiry on issues at the heart of media accountability,

CJA challenges you to empirically test the knowledge of readers of *Brill's Content* on the ombudsman issue. You can easily do this by including survey questions in an upcoming issue on by your website. One question, which could be multiple choice, might be something like this: **Test Your Knowledge:** Which of the following publications have news ombudsman for handling of complaints? The Washington Post; The Chicago Tribune; The New York Times; The Philadelphia Inquirer; The Boston Globe; etc. Additional questions could include: “Of publications without news ombudsmen, what is the most common explanation?”; “Do these explanations have legitimacy?”; “Where do complainants go in the absence of a news ombudsman?”; “How does the experience of complainants complaining to publications with news ombudsmen compare with those complaining to publications without news ombudsmen?”

Finally, based on your “review [of] all the materials”, you should know that there are NO facts to substantiate your “sense that what [CJA is] really interested in involves a deeply-felt personal dispute with the *Times*”. Indeed, you offer not a single fact to justify your “making the judgment that this magazine should not use our limited resources to explore that dispute”. Such unjustified besmirchment is simply an attempt to further conceal that CJA's proposals are *objectively* meritorious. This includes the four fully-documented complaints that CJA provided *Times* publisher, Arthur Sulzberger, Jr., providing a paper-trail record establishing *The Times'* virulent refusal to address serious and substantial complaints of wilful suppression of time-sensitive, electorally-significant stories about governmental corruption.

It is long past time that *Brill's Content* honestly confront CJA's ACTUAL proposals. This cannot be done until the conflicts of interest, indicated in CJA's January 24, 2000 letter to you, are addressed. Specifically,

“whether you and others at *Brill's Content* have been compromised by conflicts of interest, including by personal and professional

relationships with Mr. Sulzberger, Mr. Lelyveld, or other *Times* higher-ups – who, to date, have been essentially unscathed, and in Mr. Lelyveld's case, even lauded by *Brill's Content* (1/99). They, of course, would have to be interviewed for any story about WHY *The Times* has no ombudsman -- a decision made at the top." (1/24/00 ltr, at p. 3).

As noted by CJA's September 12, 2000 letter, the dilatory and dishonest response of *Brill's Content* to CJA's proposal of

"stories examining the existence and efficacy of structures for achieving media accountability, *i.e.* news ombudsmen and news councils – and outright protectionism of the *Times*" is inexplicable, except as an expression of undisclosed conflict of interest by [you] and members of *Brill's Content*..." (9/12/00 ltr, pp. 2-3)

As *Brill's Content* prominently publicizes that it stands for "No Conflicts of Interest" and "Accountability", CJA requests your response to its serious allegation that undisclosed conflicts of interest have tainted *Brill's Content* in its handling of CJA's July 8, 1998 story proposals, as well as to CJA's fact-specific demonstration, both in this letter and the January 24, 2000 letter regarding the dishonesty of your February 16, 2001 and January 18, 2000 letters to us. Please also advise whether, as requested, Mr. Brill has himself reviewed CJA's July 8, 1998 story proposals and subsequent letters, including those of January 24, 2000 and September 12, 2000.

Finally, this seems to be the appropriate juncture to reach out to the ombudsman of *Brill's Content*, Michael Gartner, for the benefit of his independent judgment as to the manner in which *Brill's Content* has handled CJA's July 8, 1998 story proposals. A copy of this letter will be sent him, along with copies of CJA's prior correspondence with *Brill's Content*. Please forward to him the box containing CJA's four documented complaints that accompanied CJA's July 8, 1998 proposals – which you have not seen fit to return to us, despite our repeated requests on the subject.

Mr. Gartner's review will be an important test of the ombudsman function. Indeed, as recently as January 17, 2001, in a conversation with former *Times* Executive Editor, Max Frankel, following his appearance at the 92<sup>nd</sup> Street Y, I asked him why *The Times* has no news ombudsman. His response was to tell me that news ombudsmen aren't really effective.

Eric Effron, Editor

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Yours for a quality judiciary  
and responsible journalism,

A handwritten signature in black ink, appearing to read "Elena Ruth Sassower". The signature is fluid and cursive, with a long horizontal stroke at the end.

ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc. (CJA)

cc: Michael Gartner, Ombudsman, *Brill's Content*