

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY HAND

DATE: August 16, 2005

TO: Seth Mnookin

FROM: Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)

RE: BEYOND MINOR CORRECTIONS: Revising *Hard News: The Scandals at The New York Times* and Their Meaning for American Media (November 2004) – republished, in paperback, with an unexplained, but revealing, substituted title, *Hard News: Twenty-one Brutal Months at The New York Times and How They Changed the American Media* (August 2005)

The Center for Judicial Accountability, Inc. (CJA) is a non-profit, non-partisan citizens' organization, whose *direct, first-hand experience* with The New York Times over the past 15 years exposes, as myth, its commitment to objective, honest journalism. Such myth, accepted by your book as truth, was essential to your portraying Jayson Blair's deceptions as "one of the biggest journalistic scandals ever" (p. 169) and laying near-exclusive blame on Howell Raines.

This myth would have been obvious to you -- as likewise the comparative insignificance of Jayson Blair's misdeeds and the rot at The Times having nothing to do with the "brutal" twenty-one-month tenure of Mr. Raines and Mr. Boyd as executive and managing editors -- had the high-ranking and self-interested sources at The Times on whom you relied in framing and developing your book¹ disclosed to you CJA's June 19, 2003 letter to Allan Siegal, Chair of the Times'

¹ Aside from the promotional front inside flap of your hardcover book – and the back of the softcover edition -- identically emphasizing that your "unprecedented access to the reporters who conducted the *Times*'s internal investigation, top newsroom executives, and dozens of *Times* editors" has enabled you to let us "read all about it – the story behind the biggest journalistic scam in our era", your "Note on Sources" states:

"THIS BOOK IS THE RESULT of more than a hundred interviews, many of which were with current or former employees of *The New York Times*. I'm grateful to them for the candor, time, and trust they extended to me. Virtually the entire current editorial team leading the *Times* agreed to talk to me..." (hardcover, p. 266; softcover, p. 276, capitalization in both).

“Committee to Safeguard the Integrity of Our Journalism” – which they were blithely ignoring, without response, during the very period in which you were interviewing them.

Enclosed is a copy of this June 19, 2003 letter, contemporaneously furnished to the The Times editorial board and Washington bureau, each indicated recipients. Shortly thereafter, we posted it on our website, www.judgewatch.org², and, over the ensuing half year, e-mailed, faxed, and/or hand-delivered copies to Jill Abramson, Philip Taubman, Bill Keller, Arthur Sulzberger, Jr., Jonathan Landman, among others – and, ultimately, to The Times’ first public editor, Daniel Okrent.

Such letter required immediate response by anyone at The Times purporting concern with “safeguard[ing] the integrity” of the paper’s journalism, let alone by those charged with examining the newsroom’s “internal processes”.

Summarized by our June 19, 2003 letter was our *direct, first-hand experience* with The Times, spanning more than a dozen years, memorialized in voluminous correspondence, including complaint, after complaint, after complaint, ignored by Times editors and those with highest supervisory authority -- former Executive Editor Joseph Lelyveld and Publisher Sulzberger, among them. We described these complaints as revealing “a level of ‘journalistic fraud’ making that committed by rookie reporter Jayson Blair seem as ‘peanuts’ by comparison” and explained:

“whereas Jayson Blair acted alone in randomly falsifying stories, spurred by some kind of illness, rather than motive, CJA’s complaints chronicle sustained, collusive acts by seasoned news reporters, their editors, upper management, and the editorial board -- all perverting ‘the cardinal tenet of journalism, which is simply truth’^{fn4}. What they did, knowingly and deliberately, was to ignore documentary evidence, both proffered and provided, of systemic governmental corruption, such as of judicial selection and discipline – and the criminal complicity of New York’s highest public officers, including those up for re-election. The result, as they knew, was to deprive the public of information essential to safeguarding democracy, the rule of law, and the casting of an intelligent vote.” (at p. 2).

² The June 19, 2003 letter was posted on our homepage as part of the “*Paper Trail Documenting the Corruption of Federal Judicial Selection/Confirmation and the ‘Disruption of Congress’ Case It Spawned*”. This “Paper Trail” has since been renamed “PAPER TRAIL TO JAIL” and moved to the “DISRUPTION OF CONGRESS” page of our website. The letter was additionally posted on the “PRESS SUPPRESSION– *New York Times*” page of our website, where our long history of correspondence with *The Times* is posted.

^{fn4} ‘*Times Reporter Who Resigned Leaves Long Trail of Deception*’, May 11, 2003, front page.”

This “journalistic fraud” was shown to be ongoing and completely unaffected by the supposed “soul-searching” and “introspection” in the wake of the Jayson Blair scandal. Indeed, the June 19, 2003 letter described that the editorial board and Washington bureau were then ignoring a June 11, 2003 memo-complaint, itself chronicling the Washington bureau’s failure to respond to our urgent phone messages. These pertained to a major national scandal, then-unfolding, as to the corruption of federal judicial selection, involving New York’s Home-State Senators Charles Schumer and Hillary Rodham Clinton. Simultaneously, by other news coverage and editorials, The Times was leading the public to believe that Senators Schumer and Clinton had an unimpeded political future and that there was nothing it needed to know about lifetime judicial appointments being made and confirmed for New York’s federal courts. Compounding this, The Times’ knowledge that beneath the national scandal it was then suppressing from coverage was a New York scandal as to the corruption of the New York State Commission on Judicial Conduct and of “merit selection” to the New York Court of Appeals, involving – and criminally implicating – New York’s highest public officers: Governor George Pataki, Attorney General Eliot Spitzer, Chief Judge Judith Kaye, and the leadership of the New York State Senate – over and beyond Senators Schumer and Clinton. As stated by the June 19, 2003 letter – and emphasized by bold-faced type – **“Nothing Jayson Blair did remotely compares in magnitude and scope with this knowing and deliberate betrayal of the public trust by The Times’ editorial board, aligned with its newsroom...”** (at p. 4).

The June 19, 2003 letter further identified that review of CJA’s past complaints would reveal that The Times suffered from “profound conflicts of interest” in reporting and editorializing on the national scandal because it had suppressed coverage of “every aspect” of the underlying New York corruption it encompassed. Indeed, we stated that “reporting and editorializing on the national story would begin a process by which The Times would have to acknowledge the legitimacy of *all* CJA’s prior complaints.”

The complete accuracy of our June 19, 2003 letter and the June 11, 2003 memo-complaint it enclosed was entirely undenied and undisputed by The Times. In fact, neither the “Committee to Safeguard the Integrity of Our Journalism” – of which Ms. Abramson and Mr. Landman were members -- nor Mr. Siegal, who you describe as the “institutional memory and conscience of *The New York Times*” (p. 158) -- nor Mr. Sulzberger, Mr. Keller, Mr. Taubman, or the editorial board ever responded. This is chronicled by CJA’s subsequent correspondence with The Times, the most recent of which is our July 29, 2005 letter to Mr. Keller, to which Mr. Sulzberger, Ms. Abramson, Mr. Siegal, Mr. Taubman, Mr. Landman, and Gail Collins, on behalf of the editorial board, are indicated recipients.

You are also an indicated recipient of this July 29, 2005 letter – and not only because your book is several times quoted by the letter and its enclosed analysis of The Times' defamatory and cover-up November 7, 2004 column, "*When the Judge Sledgehammered The Gadfly*". Rather, it is because the letter and analysis make evident that all the changes generated by the Jayson Blair scandal at The Times, following the resignations of Messrs. Raines and Boyd, have NOT changed the collusive "journalistic fraud" of its "seasoned news reporters, their editors, upper management, and the editorial board", summarized by our June 19, 2003 letter -- except to add, as a participant, its first public editor, Mr. Okrent.

Your hardcover book, published in November 2004 – just about the same time as The Times published "*When the Judge Sledgehammered The Gadfly*" -- states that the "changes" at The Times are being "watched carefully" (p. 236)³. You speculate as to a "new standard of openness by which news organizations will be expected to systematically address their employees' obvious ethical transgressions" (p. 236) and surmise that

"The *Times*'s response to Jayson Blair likely changed the ground rules forever. From now on, there will be an expectation that when it comes to egregious and self-

³ The referred-to "changes" appear to be the recommendations of what you describe (p. 234) as the "three internal committees", which Mr. Raines and Mr. Sulzberger appointed following Jayson Blair's resignation. You identify the largest as "the Siegal committee, focused on the specifics of the Blair case", whose recommendations concerned "how to improve the internal workings of the *Times*" (p. 234). However, you provide no information as to the membership of the "three internal committees" or how they went about their work – a sharp contrast to your extensive description of the team of Times reporters who were assembled to examine Jayson Blair's "fraudulent journalism" and how they researched and wrote their 13, 541-word report that ran on The Times' May 11, 2003 front-page (pp. 137-177),.

As our June 19, 2003 letter to Mr. Siegal reflects (p. 5), we expressed concern that his committee "unquestionably" included members whose misconduct had been the subject of our complaints. As set forth therein and in our subsequent correspondence, his office would not give us the names of committee members or confirm that they had all been provided with a copy of our June 19, 2003 memo. Only with the release of the committee's report on July 30, 2003 did we learn who was on the committee and that it included Ms. Abramson and Mr. Landman. Neither responded to our subsequent letters particularizing their disqualifying conflicts of interest and inquiring whether, as committee members, they had received the June 19, 2003 letter and made pertinent disclosure with respect thereto. Nor would Mr. Siegal respond. [See our August 26, 2003 letter to Ms. Abramson, pp. 1-2; our September 25, 2003 letter to Mr. Keller, pp. 1-2; our October 13, 2003 letter to Mr. Keller, pp. 1-3 – posted on the "PRESS SUPPRESSION- New York Times" page of our website].

It is with respect to the Siegal committee report – and the two other committee reports -- which you describe as "totaling almost one hundred pages" -- that you state:

"They received only a sliver of the attention the *Times*'s May 11 Blair report had, but together these three documents may do more to permanently alter the newsroom culture of *The New York Times* – and in time will likely have a similar effect on the journalistic world at large – than anything else that happened in the two previous years." (p. 234)

evident rule breaking, news organizations will investigate themselves with the same prosecutorial zeal they bring to outside institutions.”⁴ (p. 237).

You furnish no examples of The Times investigating “egregious and self-evident rule breaking” to support your hypothesis. Indeed, you effectively belie your own speculation as to “openness” and “prosecutorial zeal” by the sole example you give in the following chapter where you distinguish a separate category of transgressions: “stories that are flawed because of something less nefarious than fraud”. As to the less than “open” and “zealous” fashion in which The Times handled the one example which is the subject of that short chapter⁵, you give The Times “a pass” by claiming that

⁴ The notion that “news organizations” investigate – let alone with “prosecutorial zeal” – “outside institutions” is an overbroad, self-promoting myth of journalists – yet to be exposed by journalists.

As CJA has documented – not only with respect to The Times, but other “news organizations” as well – the media REFUSES to investigate “institutions” involved in the corruption of judicial selection and discipline – whether those “institutions” are within or outside government. This, even where the documentary evidence of that corruption is *readily-verifiable*, provided to them “on a silver platter”, and where the complicit public officers are our most important, are running for, or prospectively running for, re-election, or are seeking, or are prospectively seeking, further public office. Indeed, ALL of CJA’s complaints to The Times, as likewise to other “news organizations”, chronicle this. [See, “PRESS SUPPRESSION” page of CJA’s website].

⁵ That example is “the *Times*’s own faulty coverage of both the hunt for weapons of mass destruction (WMD) in Iraq and the supposed ties between Iraq’s former leaders and al-Qaeda terrorists”, specifically involving stories by Patrick Tyler and Judith Miller. Your description makes plain that The Times addressed this “faulty coverage” only because of pressure: “Throughout 2003 and into the first months of 2004, media critics became more vocal and insistent, picking out Miller’s reporting in particular as being dangerously flawed.” (p. 241). You then repeat: “the insistent chorus of internal and external criticism – most persistently and eloquently from Slate’s Jack Shafer and Michael Massing in *The New York Review of Books*” (p. 242). It was in response to this that The Times published what you describe as “a 1,144-word note (which, notably, did not run on the front page but was instead printed on page A10” – following which it published Mr. Okrent’s “even more forceful” column on the subject (p. 242). Indeed, the important information, which you tuck into a tiny footnote (p. 241), that:

“Privately, some top editors at the *Times* acknowledged that one of the reasons they avoided examining Miller’s work even after realizing it was flawed was a desire to avoid the kind of flagellation that occurred after the paper’s Blair report”,

not only undercuts your speculation about “openness”, but suggests a critical respect in which the Jayson Blair legacy may be negative, rather than positive. Indeed, the legacy may be one of cover-up and concealment since, were it not for the “openness” of Mr. Raines and Mr. Boyd, who assembled a team of investigative reporters to “zeal[ously]” examine Mr. Blair’s misdeeds and write a report, which they allowed to be published on The Times’ front-page – and, their further “openness” in confronting the issues at a meeting of assembled Times staff, they might still have their jobs.

In any event, there can be no doubt but that “openness” and “prosecutorial zeal” were all the more essential with respect to Ms. Miller’s “flawed journalism”. The consequences of her journalism were not, as in Jayson Blair’s case, *de minimus* -- a fact in and of itself diminishing the significance of the scandal he caused –

“the *Times* itself is struggling with” how to address this category of stories (p. 240) -- as if “openness” and “prosecutorial zeal” should not equally apply.

All this is identically repeated nine months later in your just published paperback, with your new “Afterward” (pp. 261-265) offering no further information about, or assessment of, the “changes” at The Times that have been “watched carefully”. You add nothing about how The Times has handled either “egregious and self-evident rule breaking” or “stories that are flawed because of something less nefarious than fraud” – whether internally discovered or the subject of outside complaint. Nor do you evaluate the 18-month tenure of the first public editor, Mr. Okrent, which expired this past May. Instead, and with no citation to any substantiating evidence, you repeat the false gospel, propagated throughout your book, that The Times strives toward objective news coverage and “journalistic excellence” and is “still unquestionably the gold standard in American journalism” (pp. 264-5).

That your book has received adulatory reviews -- “the definitive chronicle of this extraordinary upheaval at the most important newspaper on earth” (Kurt Anderson), “...undoubtedly the last word on a low moment in the history of a great institution” (Jeffrey Toobin), “...a thorough...examination of the institution that is *The New York Times*...”, (The Boston Phoenix), “Mr. Mnookin has all the insider tick-tock of the story” (The New York Sun) -- and is a Washington Post Best Book of 2004 -- only reinforces your duty as a journalist to examine the powerful contrary evidence about The Times that apparently you did not previously have. Such would necessarily include documentary evidence showing that your former employer, the now-defunct Brill’s Content,⁶ whose July/August 1998 premier issue was preceded by flashy advertising about how it was going to bring “the media’s free ride to a screeching halt”⁷, shamelessly protected The Times. This, by “sitting on” and then rejecting, with falsehoods, our pure-gold story proposal that it expose the falsity of Mr. Sulzberger’s claim as to why The Times did not need an ombudsman by examining how he and other Times editors, such as Mr. Lelyveld,

but were catastrophic in leading the nation to war.

It would seem fairly obvious that the more actually significant the scandal and the more devastating to The Times reputationally, the less likely its “openness” or “prosecutorial zeal” – a hypothesis borne out by its conduct with respect to CJA’s June 19, 2003 letter and subsequent correspondence based thereon.

⁶ See pp. 209 (fn), 238. Nonetheless, and notwithstanding your website bio identifies that you worked as a political reporter for Brill’s Content, the bios on the inside jacket of your hardcover book and at the end of the softcover, both identical, do not identify Brill’s Content.

⁷ There were “posters on the sides of New York City buses with the grinning faces of Brokaw, Rather and Jennings, promising, ‘This June, the Media’s Free Ride Comes to a Screeching Halt’ (4/19/98 NYT column, “*We’re NOT Worse than Lawyers*”, Maureen Dowd). This aggressive “media watchdog” role is not evident from your mundane description of Brill’s Content as “a now-defunct general interest magazine covering the press” (p. 135).

were handling complaints, in the absence of an ombudsman. Such proposal, which we presented to Brill's Content by a July 8, 1998 letter, not only recited our *face-to-face and direct, first-hand experience with Mr. Sulzberger* on the subject, but transmitted copies of the very complaints which, five years later, we would identify in our June 19, 2003 letter to Mr. Siegal (at p. 2)⁸ as establishing The Times' sustained, collusive, and high-level "journalistic fraud" – as to which Jayson Blair's was "peanuts".

In the event you never saw this breathtaking July 8, 1998 letter-proposal during your tenure at Brill's Content – and in the event Steven Brill did not mention it to you when you interviewed him for your book (pp. 238-9)⁹ -- a copy is enclosed so that you can ponder how dramatically different history would have been, journalistic and otherwise, had Brill's Content seized upon the proposal, as any "media watchdog" could reasonably be expected to have done, especially one as boastful as Brill's Content.

Should you wish to see the balance of our correspondence with Brill's Content, spanning more than two-and-a-half years as we tried to get it to move forward with the July 8, 1998 proposal, including our letters from January 24, 2000 onward requesting that Mr. Brill himself review the proposal and disclose any conflicts of interest – to which we received no response, including from its ombudsman to whom we turned – such correspondence is accessible *via* the "PRESS SUPPRESSION" page of CJA's website. This is where you'll also find our mountain of correspondence and complaints with The Times, going back to 1992, when we complained to Executive Editor Max Frankel and then Mr. Sulzberger about The Times' cover-up of the corruption of federal judicial selection which, already then, we had succeeded in documenting.¹⁰

⁸ Specifically identified: our comprehensive October 21, 1996 complaint and December 2, 1996 supplement and our comprehensive February 12, 1998 complaint and July 8, 1998 follow-up, all of which were provided to Mr. Sulzberger. Indeed, the July 8, 1998 follow-up consisted of our coverletter addressed to Mr. Lelyveld and others at The Times -- to which Mr. Sulzberger was an indicated recipient -- transmitting a copy of our July 8, 1998 letter-proposal to Brill's Content. This we identified as "CJA's answer to Mr. Sulzberger's disingenuous February 18, 1998 response" to our February 12, 1998 complaint. All these documents are posted on the "PRESS SUPPRESSION – New York Times" page of CJA's website.

⁹ You quote Mr. Brill's response to the question as to why the journalistic community is not doing a better job in "policing itself", by which you appear to mean its failure to develop safeguards for ensuring journalistic integrity, apart from complaints being filed. Mr. Brill's illuminating response, "It's mystifying" (p. 239).

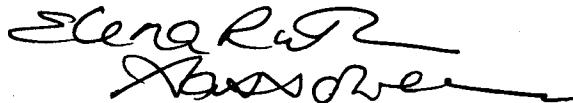
¹⁰ It is to give prominence to this extraordinary achievement that we have not posted our prior correspondence with The Times, going back to 1990 and our groundbreaking public interest election law lawsuit, *Castracan v. Colavita*, challenging the three-year judge-trading deal between the republican and democratic parties, implemented at illegally-conducted judicial nominating conventions. Copies of this and our other prior correspondence to The Times were included in our comprehensive October 21, 1996 complaint.

Our correspondence and complaints are unimpeachable *primary source materials* – which we are ready to provide you so that your next book on The Times can rightfully reclaim and maintain the word “scandals” in its title. As Jayson Blair, Howell Raines, and Gerald Boyd have a reputational interest in such future book – or in whatever substantial article you write revising the premises of Hard News, re-evaluating its “bad guys” and “good guys”, and reporting on the “journalistic fraud” that has remained unchanged at The Times, as likewise in the “American Media” -- I am forwarding copies of this letter to them.

In view of the irreparable injury to the public, our democratic rights, and the electoral process caused by The Times’ on-going “journalistic fraud” and its wilful refusal to right itself thus far, please advise of your interest as soon as possible. Should you not be interested, please favor us with your recommendations as to who among your colleagues has the journalistic integrity to expose The Times’ knowing and deliberate betrayal of the public trust, as documented by our long-history of correspondence and complaints to its highest echelons. There must be many worthy journalists, even among the myriad who so pounced on, and magnified, the Jayson Blair scandal as to make inevitable the downfall of Mr. Raines and Mr. Boyd.

For the convenience of those journalists and the public they serve – and because we, too, believe in the “transparency” to which you refer in the “Corrections” section of your paperback (p. 267) -- this letter will be posted on our website, both under “PRESS SUPPRESSION” and the “DISRUPTION OF CONGRESS” case.

We look forward to hearing from you in the near future.



- Enclosures: (1) CJA’s June 19, 2003 letter to Allan Siegal
-- with CJA’s accompanying June 11, 2003 memo-complaint
(2) CJA’s July 29, 2005 letter to Bill Keller
-- with accompanying analysis of NYT defamatory, cover-up column,
“*When the Judge Sledgehammered The Gadfly*” (11/7/04)
(3) CJA’s July 8, 1998 letter-proposal to Brill’s Content
(with CJA’s July 8, 1998 transmittal letter to The Times)

cc: Jayson Blair
Howell Raines
Gerald Boyd
All New York Times recipients of CJA’s July 29, 2005 letter to Mr. Keller
Steven Brill
The Public – and the Journalists serving it