

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY CERTIFIED MAIL/RRR

P-571-752-174

November 12, 1997

Sut Jhally, Executive Director
Media Education Foundation
26 Center Street
Northampton, Massachusetts 01060

RE: Project Censored

Dear Professor Jhally:

How wonderful to have met you on October 17th at the Media & Democracy Congress II and to have had the opportunity to discuss with you the nomination submitted by the Center for Judicial Accountability, Inc. (CJA) to Project Censored last year. I was deeply gratified by your interest in reviewing CJA's nomination and its supporting exhibits. Unfortunately, until now, the press of deadlines has prevented me from sending them to you, with an appropriate transmittal letter. My apologies for the delay.

As discussed, CJA's nomination not only chronicles seven years of deliberate censorship and black-balling by *The New York Times*, but points to profound deficiencies in Project Censored's evaluation procedures -- and follow-through. As you acknowledged, Project Censored judges never see the hundreds of nominations the Project receives, but only the "Top Twenty-Five" censored stories selected by students/advisors working on the Project. Thus, CJA's nomination -- which, according to Peter Phillips, never made it beyond the first rung of review -- may be the *first* of these rejected nominations that you will see for yourself.

It is troubling that notwithstanding CJA's nomination rested on *your* recommendation in Project Censored's 1996 Yearbook¹ (at p. 115), you knew nothing about it. This suggests that Project Censored is not following through with such important recommendation -- even to the limited extent of informing you that it has resonated among Project Censored's readers. You will recall that even without my identifying the specifics of that recommendation, you knew precisely the one to which I

¹ See CJA's October 15, 1996 nomination, p. 3; CJA's February 4, 1997 letter, p. 3.

was referring: that Project Censored expand its criteria for a "censored" story from one that is "under-reported" -- which is what it is presently -- to include complete suppression and that it establish a procedure "for highlighting every year one story that remained invisible but that should have been discussed by the media".

Even more serious is that it appears that Project Censored did not apprise you -- a Project Censored Judge -- of the substantive change made in its 1997 Yearbook: removing the "AND WHY" from the title "CENSORED: The News that Didn't Make the News". You were unaware of such change until I brought it to your attention.

As discussed, we do not know if this substantive change was a response to our October 15, 1996 nomination and our December 2, 1996 supplement -- each highlighting the importance of Project Censored answering the "WHY" behind the censorship and blackballing we had documented. If so, that was Project Censored's *only* response to our submission -- except for its no-frills e-mail notification on December 13, 1996 that our nomination had not been selected -- which was its reply to our e-mail question as to whether we were free to bring our nomination and supplement to the attention of other individuals and organizations examining issues of media responsibility. This is recounted in our February 4, 1997 letter, which analyzed the important "WHY" prong of Project Censored's mission and stated:

"Notwithstanding your Yearbook's title, 'The News that Didn't Make the News AND WHY', Project Censored does not appear to demonstrate much commitment to the 'WHY' of censorship. Perhaps this explains the reason our nomination was not selected: because it unequivocally called upon Project Censored to answer the 'WHY' of *Times* censorship by interviewing those at the *Times* shown to be responsible for it..." (at p. 4).

Mr. Phillips did not provide any written response to that letter -- but did telephone me and filled me in on some of Project Censored's procedures as to which that letter had raised questions. Among the shocking information Mr. Phillips conveyed at that time was that Project Censored uses a "service" which clips and sends it news stories as nominations. It was then that he told me that CJA's own nomination had not even cleared the first hurdle of review. Mr. Phillips also told me that faculty advisors, with expertise in the subject area of the submitted nominations, oversee this first-phase student review. However, he would not identify the advisor involved in the student review of our nomination. In response to my disbelief that *any* faculty advisor could possibly allow such fully-documented, meticulous chronicling of censorship by America's leading newspaper to fall by the wayside -- without the slightest recognition that it presented an unprecedented case study of actual censorship, not just "under-reporting" -- Mr. Phillips discounted that there was anything particularly unique about our submission.

I believe I also asked Mr. Phillips to be sure that our submission was brought to your attention. I know I asked him to assist us in locating a journalist or media watch organization to pursue the story of *Times* censorship² which we had spent so much time and effort documenting and to help us publicize the stories the *Times* had suppressed about politicized and corrupted processes of judicial selection and discipline. I never heard from Mr. Phillips after that and when, two months later, I went up to him at the Project Censored Annual Awards Presentation in New York City on May 6th, expressing disappointment that nothing had become of our submission to Project Censored, he accused me of having made an "unsolicited" nomination to Project Censored. This, notwithstanding Project Censored's Yearbook expressly solicits nominations from the public -- and, as I reminded him, he himself had personally invited me to make a nomination when I had met him a year earlier at the previous Annual Awards Presentation³.

I may have suggested to Mr. Phillips that it would be fairer if Project Censored, rather than heralding an undifferentiated "Top Ten" or "Top Twenty-Five" censored stories, would instead break down its awards into categories -- much as is done by the Oscar, Emmy, and Tony Awards, not to mention such journalism awards as the Pulitzer, Polk, and ABA Silver Gavel Awards. That way stories about politicized, dysfunctional, and corrupted processes of judicial selection and discipline don't have to compete against "end-of-the planet" stories of pollution and nuclear waste -- which seem to be much favored by Project Censored. Additionally, the source of nominated stories should be identified -- with, perhaps, a separate category for citizen nominations so that they are not placed in competition with those funneled by a service⁴. I know for a certainty that I raised these issues with a female Project Censored judge who was at the Annual Awards Presentation and to whom I gave, in hand, the extra copy of our nomination and supplement I had brought with me. I never heard from her after that.

Although three months later, Mr. Phillips did follow-up on our conversation in New York by writing me to say that he had run into an investigative reporter in Reno, Nevada working on judicial issues and that he had forwarded our "materials" to her (Exhibit "A") -- I never heard from that reporter. About a month later, I received by mail the original October 15, 1996 nomination with its seven supporting compendia of exhibits in the same box in which, nearly a year earlier, they had been express-mailed to Project Censored. The nomination and compendia were seemingly in the same

² This was to include "promoting the story on [Project Censored's] web site and discussing it in future public events" (See, Exhibit "B" to our February 4, 1997 letter)

³ See our October 15, 1996 nomination, p. 2.

⁴ Our February 4, 1997 letter (at pp. 3-4) noted that it was "disconcerting" that Project Censored does not identify the nominators of its "Top" stories in its Yearbook. The same is true of its failure to identify nominators at its Annual Award Presentation. Such non-disclosure fosters an impression that it has something to hide.

pristine, uncreased condition in which we had sent them. There was no coverletter and, surprisingly, the only postage strip reflected mailing from Sonoma State University (Rohnert Park, California) -- not Nevada.

It is this box, with the original nomination and original seven compendia of exhibits that I have now sent to you -- adding a copy of our December 2, 1996 supplement and February 4, 1997 letter, which were not returned to us. Please judge the condition of the original documents for yourself. I believe your substantive review of the enclosed materials will convince you that what you have before you is an extraordinary case study of wilful censorship and black-balling by the *Times* and of arrogant unaccountability by its highest echelons. Such a case-study deserves the recognition you envisioned by your 1996 Yearbook recommendation.

If Project Censored is going to highlight completely censored stories, the "procedure" it needs to establish is one encouraging citizens to bring such stories to its attention. After all, these stories are otherwise "invisible". Certainly, Project Censored should -- in any event -- be promoting and commending citizen action in the uphill battle against censorship, which requires all the "soldiers" it can get. I respectfully submit that our non-partisan, non-profit -- and unfunded -- citizens organization is more than worthy of such commendation. We have not only provided a model for citizen action, but have gone "over and beyond" by endeavoring to overcome censorship by costly public interest ads. As you will see, the centerpiece of our nomination⁵ was CJA's ad, "*Where Do You Go When Judges Break the Law?*", printed on the *New York Times* Op-Ed page of the October 26, 1994 at a cost to us of \$16,770 and reprinted in the *New York Law Journal* on November 1, 1994, at an additional cost of \$2,282.57. Presented as part of our supplement⁶ was our \$1,648.36 ad, "*A Call for Concerted Action*" (*NYLJ*, 11/20/96). CJA's most recent ad, costing us \$3,077.22 and entitled, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", (*NYLJ*, 8/27/97), I gave you in hand, beneath a press-release that I distributed at the Media & Democracy Congress II (Exhibit "B"). That press release opened with the question, "Where is the Media?" and referred to the complete lack of media attention to the shocking information contained in the ad, despite prior press releases we had sent out. These include, of course, press releases to the *Times* (Exhibit "C").

Due to the inaction and lack of follow-through by Project Censored, *Times* censorship and black-balling continues to deprive the public of vital news affecting its democratic rights and the integrity of government. Indeed, in the year since we delivered to the *Times* a copy of our Project Censored nomination as a complaint against it⁷, the *Times* has persisted in its unaccountable behavior. As illustrative of its on-going refusal to address any of the issues and evidence presented by our

⁵ See Exhibit "A" to our October 15, 1996 nomination.

⁶ See Exhibit "D-2" to our December 2, 1996 supplement.

⁷ See Exhibit "B" to our December 2, 1996 supplement.

nomination, are my exchanges with AM. Rosenthal, currently a *Times* columnist and formerly its Managing Editor and its Executive Editor, as well as with Arthur Sulzberger, Jr., who, as the *Times*' publisher, is the ultimate "man at the top".

On April 30th, the week before Project Censored's Annual Award Presentation, I wrote to Mr. Rosenthal, inquiring whether -- as had been reported -- he was "dead set against" "news ombudsmen" and "news councils" as a means of holding media accountable and asking that he intervene to ensure that the *Times* respond to the issues and evidence presented by our nomination/complaint and supplement, which we enclosed (Exhibit "D-1"). Without sending back those materials or commenting upon them, and without answering our question as to his views about "ombudsmen" and "news councils", Mr. Rosenthal -- who had just moderated a program entitled "*The Role of Ethics in our Lives*" -- wrote back that because he was no longer an editor at the *Times*⁸, we should address ourselves to those who were (Exhibit "D-2"). This, despite the fact that my letter to him highlighted what the enclosed materials documented -- that *Times* editors -- including its present Managing and Executive Editors -- had wilfully refused to respond and had permitted vicious *ad hominem* insults to be hurled at me by a news editor.

On May 8th, two days after Project Censored's Annual Award Presentation, Mr. Sulzberger appeared in dialogue with Charlie Rose at the 92nd Street Y in New York. Following the presentation, when questions were taken from the audience, I publicly asked Mr. Sulzberger why the *Times* had no "news ombudsmen" to handle complaints and whether this reflected his belief that there could be no legitimate complaints against the *Times*. Mr. Sulzberger's response was that an "ombudsman" takes the editor "off the hook" -- and that it is the role of editors to themselves confront and deal with mistakes. Afterward, I went up to Mr. Sulzberger and personally handed him a copy of our Project Censored submission and supplement, telling him that it demonstrated that his confidence in his editors was misplaced. We never heard from him thereafter.

We look forward to hearing from you -- and to your assistance in answering the WHY behind *Times* censorship and black-balling. It was to obtain that answer -- and to do something about it -- that CJA went to the time, effort, and expense to make its nomination to Project Censored in the first place.

⁸ Ralph Nader, an indicated recipient of our Project Censored nomination, supplement, and February 4, 1997 letter, gave a scathing account of Mr. Rosenthal's heavy-handed censorship at the *Times* during his years as editor, in a September 1993 piece in *Lies Of Our Times*, entitled "*Nader Decks Rosenthal*" (Exhibit "D-3").

With sincerest thanks,

Yours for a quality judiciary
and responsible journalism,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

cc: Ralph Nader

Enclosures:

- (1) original box, containing original October 15, 1996 nomination and its seven supporting compendia of exhibits
- (2) December 2, 1996 supplement
- (3) February 4, 1997 letter to Peter Phillips

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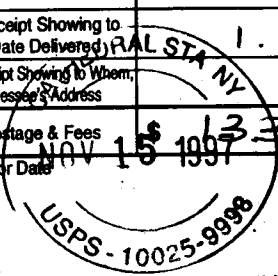
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