



**FINANCIAL
TIMES**



ADJUDICATION

by

GREG CALLUS

EDITORIAL COMPLAINTS COMMISSIONER

Financial Times Limited

INTRODUCTION

1. This is an Adjudication of a complaint by Ms Ellie Bennett, made in respect of an article (“the Article”) headed “*Jane Austen, a £400 painting and an enduring art mystery*” which appeared in the print edition of the *FT Weekend Magazine* on 1 April 2017, having been published (and being still available) on *FT.com* at the URL: <https://www.ft.com/content/9f68d0a2-140a-11e7-b0c1-37e417ee6c76> .
2. The Article was written by Anjana Ahuja, a freelance journalist who regularly writes for the *FT*, primarily about science. It described her purchase at auction of a painting called “*Mrs Smith*” which was advertised as having been ‘attributed to’ James Northcote (it bore his signature and the date 1803). The *Mrs Smith* painting cost her £400, and was purchased on 19 November 2015¹.

ARTICLE & FACTUAL BACKGROUND

3. The Article, which should be read in full rather than relying on the summary in this Adjudication, essentially tells the story of Ms Ahuja and her husband Tom discovering a stamp on the back of the painting, suggesting that the canvas had been purchased from “Wm. Legg”. There are very few such stamps, but one of them (or at least a stamp quite similar) is to be found on the infamous ‘Rice Portrait’.
4. The ‘Rice Portrait’ is a painting named after its owners because (a) its creator is not definitively established (it may be Johan Zoffany, or Ozias Humphrey); and (b) the picture is notoriously the subject of a controversy as whether or not the person depicted is a young Jane Austen. There are almost no contemporaneous portraits of the famous novelist, and so the possibility of such a fine portrait being of her has captured the imaginations of art historians and readers of her literature alike.
5. A key dispute in that controversy as to whether or not the Rice Portrait depicts Austen is *when* it was painted. I understand that those who favour the owners’ claims that it is indeed Austen (including the complainant) consider it to have been painted before 1800; skeptics of the claim suggest instead the portrait was painted after 1800 (when Austen was in her mid-twenties and Ozias Humphrey had become blind).

¹ Details of this auction, including photos of the painting, can be found at the following URL: <https://www.the-saleroom.com/en-us/auction-catalogues/clevedon-saleroms/catalogue-id-srcle10014/lot-6ab4ba4b-02d3-4fa2-bc52-a54900000153>

6. The stamp on *Mrs Smith* and ancillary dates (the signature '1803', and a stamped '1802' on the linen) would suggest that *Mrs Smith* belongs to around 1802-03. If the stamp on *Mrs Smith* were the same as on the Rice Portrait, that would be evidence upon which skeptics would seize to proclaim that Jane Austen was not the subject.
7. The Article sets out the purchase of *Mrs Smith* on 19 November 2015, and that 11 months later Ms Ahuja's husband, Tom, contacted the National Portrait Gallery's Jacob Smith to ask about the stamp which seemed to him (on the basis of online research) to resemble that of the Rice Portrait. I have been told by Ms Ahuja, and her husband Tom, and Jacob Simon separately that the email Tom sent to Jacob Simon on 13 October 2016 was the first contact between them. Mr Simon informs me he had no prior relationship with the couple, personal or professional.
8. Jacob Simon is a former Chief Curator of the National Portrait Gallery (NPG), who retired in 2011, but has stayed on in a voluntary capacity as a Research Fellow. He is also the leading authority on the painter James Northcote (in 1995/96 he edited "*The Account Book of James Northcote*" for the Walpole Society, which records and describes all of the artist's known works based on contemporary sources). Furthermore, he is (the complainant says importantly so) a leading skeptic of the claim that the Rice Portrait depicts Jane Austen and has been vocal in that regard.
9. On receiving the email of 13 October 2016, Mr Simon responded the very next day, indicating his enthusiasm for an interesting lead (importantly, Mr Simon edits an online resource about frame marks and canvas stamps) and telling Tom that he was the editor of the Walpole Society work on Northcote. Mr Simon was invited around to inspect the painting in-person, and did so on Friday, 4 November 2016.
10. Having inspected *Mrs Smith* in-person, Mr Simon came to three primary conclusions:
 - a. That *Mrs Smith* was indeed by James Northcote, not just 'attributed to' him;
 - b. That the 'Wm Legg' stamp was identical to that on the Rice Portrait;
 - c. That there was a 'frame marking' stamp saying 1802 partly-concealed under a stretcher which served to confirm that the painting was signed in 1803.
11. One of Mr Simon's reasons for believing the Rice Portrait to be a post-1800 painting had been that an artist's colourman from Reading called William Legg is known to have traded in High Holborn from 1801 to around 1806. However, as the complainant's

research has indicated, William Legg of Reading used a stamp “W & J Legg”, whereas the Rice Portrait is stamped “Wm Legg”. There was also a William Daniel Legg trading as a chandler (including in similar linens for maritime purposes) in the 1780s and 1790s, and she believes that “Wm Legg” may be William Daniel Legg. Therefore, it is important to Mr Simon that the *Mrs Smith* stamp (also “Wm Legg”) dates to 1803.

12. This discovery of an 1803 portrait with the ‘same’ stamp as the Rice Portrait has fortified Mr Simon in his belief that the Rice Portrait is also a post-1800 painting. The Article, without being definitive and while giving both sides, leans that way as well. Suffice it to say, however, that this is still a matter of deep controversy and strong feeling, and the complainant does not agree at all with Mr Simon’s assessments.

COMPLAINT

13. The complainant, Ms Ellie Bennett, first complained to the FT by way of an ‘open letter’ extending to 9-pages of A4 and says at its foot that it was written jointly by Mrs Anne Rice (owner of the Rice Portrait) and Ms Bennett (the complainant).
14. On 12 April 2017, Alice Fisher (Editor of *FT Weekend Magazine*) responded to say that she would be happy to consider a letter for publication, but that the word limit was around 200 words. The same day, Ms Bennett communicated a response from Ms Rice which included the complaint that the Article was “*unbalanced and factually inaccurate*” and that “*The journalist had failed to contact me prior to writing her article and failed to present both sides of the debate impartially*”. The remainder of the letter was a complaint about being refused the opportunity to publish the 9-page open letter as a rebuttal.
15. On 24 April 2017, Ms Fisher wrote to decline the 200-word letter as being unsuitable. It described the open letter as ‘unpleasant’, and recorded that Ms Rice’s son John had been contacted for comment on 20 March 2017. In one respect – that the Rice Portrait is now in secure storage in London, and no longer in Switzerland – the article was corrected for inaccuracy, but no other inaccuracies were accepted by FT editorial. It described the complaint as ‘misconceived’. There was no further response from Ms Rice, but Ms Bennett indicated the next day that she persisted in her view that the Article contained factual inaccuracies, which she was “*in the process of researching*”.

16. The complaint which results in this Adjudication, however, does not concern factual inaccuracies under Clause 1 of the IPSO Code which is annexed to the FT Editorial Code of Practice. By an email of 8 August 2017, Ms Bennett said:

“... From the outset the owners of the Rice Portrait and I have had grave concerns about the claims of this supposed Northcote painting ... Before and since publication of your article, I have carried out a considerable amount of research into both the Rice Portrait and this so-called Northcote Portrait. I have submitted several requests to the National Portrait Gallery for evidence that the Northcote portrait is as claimed and they have not so far supplied the evidence I have requested...Can you please explain why your journalist has published an article which cannot be substantiated by the facts and can you please confirm whether you still stand by this story ... I am continuing to ask the NPG to supply the evidence they are obliged to produce under the Freedom of Information Act. If this is not forthcoming by the end of this month I will have no option but to assume that this evidence does not exist and that the article by Ms Ahuja which you published in your newspaper is unfounded and untrue.”

17. It should be apparent from even this excerpt of the email of 8 August 2017 that the case was no longer being put of minor factual inaccuracy, but rather making a more serious complaint that the *Mrs Smith* portrait was not indeed a work by Northcote and that the claims made in the *FT* about it (and therefore by implication about the Rice Portrait) were outright untrue.

18. After holding emails, Ms Bennett followed up by email on 14 August 2017, which said:

“Can you please tell me when you will be responding to my email regarding the article by Anjana Ahuja which you published in your newspaper on the portrait she claims is by James Northcote and which she also claimed disproved the Rice Portrait. [sic]

I wish to know whether you continue to support the claims made in the article or whether you are willing to retract the claims made in the article and apologise to the owners of the Rice Portrait for publishing a story which was patently untrue. The sole purpose of that article was to devalue the Rice Portrait, deigrate [sic] the owners and deny the nation of an [sic] important cultural asset.

It is evident from documents in the archive of the National Portrait Gallery that Anjana Ahuja colluded with Jacob Simon in writing the article and that she knew him before she approached the NPG regarding this picture. I don't know if you're aware that Jacob Simon has waged a relentless campaign against the Rice Portrait for decades.

Naturally I presume that you knew nothing about the background to the story or the possibility that the 'Northcote' portrait not [sic] as is claimed and that these were the actions of Ms Anjana and of no-one else at your paper.

I look forward to your early reply as I am sure you appreciate this is a serious matter.”

19. There was a response from Alice Fishburn rebutting these comments on 16 August 2017, and then a further email from Ms Bennett on 18 August 2017, seeking to clarify her complaint:

“I have now had the opportunity to fully consider your reply to my previous email in which I fear I did not express myself sufficiently clearly so please allow me to clarify.

I believe that the portrait which Ms Anjana Ahuja owns and wrote about in her article is a fake. It is not a Northcote painting. The story she wrote which you published in your paper was a fabrication. Ms Ahuja and Jacob Simon colluded to arrange for her to buy this picture, have him ‘authenticate it’ and announce that the portrait proved that the Rice Portrait was not of Jane Austen. The purpose was to devalue and discredit the Rice Portrait.

...

By ‘collusion’ I mean that Ms Ahuja did not write her own article and nor was Jacob Simon unknown to her as her article implies. Ms Ahuja knew Jacob Simon and agreed with him to write this story. She has since refused to allow the portrait to be examined, she has refused to share high resolution images of the ‘Legg stamp’ and she has refused to share any image at all of the date stamp on the back which she claims says 1802. I conclude from this and from my research into this portrait that the ‘Northcote’ painting is not as she claims it to be. It is my honest belief that Ms Ahuja and Jacob Simon have conspired to commit fraud and they have done so through the pages of your newspaper.

I hope I have now made myself perfectly clear.

My concern is how much the Financial Times knew about this fake portrait and the fabricated story surrounding it. If you did not know at the time that the painting and the story were both faked then what steps have you taken steps [sic] since to verify whether Ms Ahuja’s story is true or carry out your own research.

I reiterate my assertion that your the [sic] article has unfairly targeted the Rice portrait and that its purpose was to devalue the painting, denigrate its owners and deny the nation an important cultural asset.”

20. A complaint in near-identical terms was then made to the Editor, and dealt with on his behalf by the Deputy Editor, Roula Khalaf by emails of 30 August and 13 September 2017. The complaint was rejected in robust terms, and the complainant alerted to her right of appeal to me as the Editorial Complaints Commissioner.

21. Ms Bennett responded to Roula Khalaf on 24 September 2017 by email:

“I note you have rejected my complaint. You accuse me of making defamatory statements. I would point out that a statement which is true cannot by definition be defamatory.

I stand by all the statements made in my complaint. It is my honestly held belief that all the statements I made are true, that this picture is a fake and that the story published in your paper is a fabrication.

You state that my statements are made 'without supporting evidence' - had you asked me for supporting evidence I would have provided it, and I have noted below some of the facts which lead me to believe that your journalist is not telling the truth.

For example, you state that it is 'untrue to suggest that Ms Ahuja or her husband knew, or had contact with, Mr Simon before her husband first contacted the National Portrait Gallery in this matter.' Have you investigated this yourself? How do you know this is untrue?

I have seen the email which Mr Parker sent to Jacob Simon which purports to be the first contact between them. Have you asked Ms Ahuja why her husband addressed Mr Simon as 'Jacob', a very impolite greeting if they had never met? He also ended his email simply 'Tom'. No second name and no clue as to who he was in his email address. How would Mr Simon know who this individual was if he had never been contacted by him before? It is utterly implausible to believe that these two individuals were not known to one another. Oddly, he then signed his second email: 'Tom Parker'.

Can you also explain why Mr Simon wrote to Ms Ahuja 'Hurrah: almost out. All in a good cause' when Ms Ahuja said she was ready to publish her article? What was the 'good cause' if not to discredit the Rice Portrait?

Can you also explain why Ms Ahuja knew nothing about the companion portrait of a man, which was also entered in the same sale? The existence of this companion picture indicates that this is not 'Mrs Smith' at all. Yet the first mention of this by Ms Ahuja was AFTER she had written to Mrs Rice to inform her she would be submitting her article the following day. Mrs Rice's reply alerted Ms Ahuja to the possibility that information about 'Mrs Smith' was available online.

This companion portrait is of a man and shows scuffing in the same area as there is scuffing on the portrait of 'Mrs Smith' underneath the so-called Northcote signature. They were entered into the auction together and sold as consecutive lots. The companion picture was sold immediately before the one Ms Ahuja claims to have purchased.

The correspondence held at the National Portrait Gallery shows that Ms Ahuja did not know how much this picture sold for at the auction and she did not know it was the preceding lot to Mrs Smith. Had she really been at the auction she would not have missed this. She also makes no mention of this mysterious companion portrait to 'Mrs Smith' in her article.

Of course Ms Ahuja is allowed to restrict access to her home, and is entitled to her privacy, But it is perfectly possible for her to bring the picture to another venue to be inspected. She could, as the Rice family recently did with their own picture, agree to allow examination of the back of the portrait in order for her claims to be verified. Have you seen the date on the back of the 'Northcote' portrait? As far as I am aware, no-one has seen this except Jacob Simon. The NPG have told me that he made no verification report and took no pictures at the time of his visit. The ONLY value in this picture is that it disproves the Rice Portrait. Evidence in the National Portrait Gallery clearly shows Jacob Simon has campaigned against the Rice portrait for decades. And yet he took no images of the one picture which could prove him right? How likely do you think this is?

There are no high resolution images available of either the Legg stamp or the date stamp on the back. I asked for these from the NPG via a Freedom Of Information Request and was informed they do not hold them. it is untrue that Ms Ahuja has been

'happy to provide images of the marks on the back.' Perhaps you could ask her if she would be happy to provide them to me now, as so far she has refused so to do.

I made no claim that the NPG Trustee minutes I supplied related to Ms Ahuja. As you well know, the point is that the NPG Trustees expressed concern about Mr Jacob Simon. I would also point out that I have also proved that Mr Simon lied on previous occasions when he stated he examined the Rice Portrait at Falmouth Art Gallery and at Olympia and I have supplied statements to the NPG from the curators of both, confirming that Mr Simon's claims were untrue.

Finally with regard to members of Ms Ahuja's family who are also on the staff at the Financial Times, that there is potential for a conflict of interest I would have thought to be self-evident. I did not mention a 'conspiracy' in this regard, simply that it would be inequitable for a family member to have any part in the enquiry into Ms Ahuja's actions.

I acknowledge that at the time of publication of this article the FT would not have known that this painting is a fake. However as you are now on notice that this picture is not as claimed and that the article written by Anjana Ahuja is potentially untrue then you should be taking steps to verify Ms Ahuja's story and independently establish the facts. You do not appear to have made any attempt to do so.

As I believe that your journalist Anjana Ahuja has clearly breached your editorial code of practice, I confirm that I will now be referring the matter to the FT Complaints Commissioner, Mr Greg Callus."

22. Finally, Ms Bennett did indeed appeal her complaint to me, by email of 1 October 2017:

"I wish to make a formal complaint regarding the article titled 'Me, Mrs Smith and the mysterious Jane Austen' which featured in the Financial Times earlier this year, published online on 30 March 2017 and in print on 01 April 2017.

The article was written by the Financial Times journalist Anjana Ahuja and recounts how she allegedly purchased a portrait at auction which she subsequently discovered to have a direct bearing on another portrait, in private ownership, which is believed by its owners and many others to be a portrait of Jane Austen as a girl.

I believe that the painting which Ms Ahuja claims to be a portrait of 'Mrs Smith' by James Northcote painted in 1803 to be a fake. I also believe the story published in your paper is a fabrication. It is my belief that Anjana Ahuja, her husband Tom Parker and Jacob Simon, former Chief Curator of 18th Century Collections at the National Portrait Gallery, have colluded to pass off a portrait as being by James Northcote and dated 1803, when in fact it is not. The purpose was to discredit and devalue the portrait claimed to be of Austen, commonly known as the Rice Portrait. It is undoubtedly the case that this article published in the Financial Times has had a substantially detrimental effect on the value of the Rice Portrait, particularly given the prominence of the article in the Financial Times' Weekend Edition and online.

The reasons I believe the article by Anjana Ahuja to be untrue are as follows:

1. Ms Ahuja claims that she and her husband did not previously know Jacob Simon of the National Portrait Gallery. Yet the email held in the NPG archives which purports to be the first contact between them opens 'Dear Jacob' and

closes 'Tom'. As Mr Parker's email address gives no indication as to his identity it is not credible that he would have addressed Mr Simon or signed of in this informal fashion if they were not known to each other. Indeed, if they did not know each other then how would Mr Simon know who 'Tom' was?

2. Ms Ahuja claims to have attended the auction for 'a speculative look' and refers to the painting being in the boot of her car. If she had really attended either a viewing or the auction itself then she would have known that the portrait she claims to be of Mrs Smith was one of a pair. Neither she or her husband make any reference to this companion portrait in their initial correspondence with Mr Simon, despite the fact that the existence of this second portrait casts serious doubt on her portrait being Mrs Smith. Both pictures show scuffing in the same area, where the Northcote signature is placed on the portrait of 'Mrs Smith'.

3. Had Ms Ahuja been in the auction room as she claimed then it is impossible that the previous lot would have escaped her attention. She would undoubtedly have known that this companion portrait was the previous lot and she would have known how much it sold for. Records in the National Portrait Gallery indicate she did not know how much the companion portrait fetched at auction. She stated that it sold for more than her own portrait when in fact it sold for a mere £300.

4. Ms Ahuja made no attempt to contact the owners of the Rice Portrait until the day before she was due to submit her article for publication. If she was truly impartial she would, as a journalist, have sought both sides of the story as it is clear from even a cursory search online that Jacob Simon has a long standing history of campaigning against the Rice Portrait.

5. Ms Ahuja refuses to allow her picture to be examined and she also refuses to provide high resolution images of the Legg stamp and the excise stamp on the back of the portrait. Her reluctance to do so is inexplicable if she is an innocent party in this long running dispute, as she claims.

6. The National Portrait Gallery have told me that Jacob Simon did not take any images of the Legg stamp or the excise stamp when he verified the picture as being of Mrs Smith. Neither did he write an authentication report. Mr Simon has campaigned against the Rice Portrait for decades. It is utterly implausible that he would not take images of this picture if it is as claimed and could vindicate his long standing campaign against the Rice Portrait.

I acknowledge that the Financial Times could not have known at the time of publication that the picture is a fake and Ms Ahuja's story a fabrication. However, I do not believe that the FT have dealt adequately with my subsequent complaint, nor have the issues that I raised been investigated. Indeed it seems to me that the Financial Times has been content to accept Ms Ahuja's version of events without question.

I believe that Ms Anjana Ahuja has clearly breached the FT's editorial code of practice in publishing this story and I am therefore requesting that you fully investigate my complaint. If Ms Ahuja, Mr Simon or the Financial Times believes that my statements are in any way defamatory as the Financial Times has alleged, then this should be challenged through the proper legal procedure of an action for defamation, in which case I would defend my statements as being true; my honestly held opinion and made in the public interest."

FRAMEWORK

23. I would wish to make one thing very clear indeed. No part of my role, nor any part of this Adjudication, is given over to resolving the controversy as to who is depicted in the Rice Portrait, or the competing claims and arguments on that question. It is simply irrelevant to me. My role is limited to adjudicating, on appeal from the Editor, whether or not there has been a breach of the FT Editorial Code of Practice².
24. I am also not concerned with the issue of whether the Article was a ‘fair’, or ‘balanced’ or ‘impartial’ account of the Rice Portrait controversy. I am not OfCom, and the FT is not a broadcaster: there is no overriding duty of fairness and balance in the ethical codes of newspapers as there is with broadcasters. Whilst it is a journalistic virtue often exemplified as a matter of editorial attitude, the role of ‘fairness’ in the *FT Editorial Code* is limited to very specific clauses to do with investment recommendations under the EU Market Abuse Regulations, treatment of alleged plagiarism, and the reporting of the outcome of defamation actions to which the FT has been a party.
25. The only possible role for ‘fairness’ in this complaint is that if there had been a ‘significant inaccuracy’, then under Clause 1.4 of the IPSO Code (annexed to the FT Editorial Code), the FT would have been under a duty to give a ‘fair opportunity to reply ... when reasonably called for’. In this complaint, I consider that a fair opportunity was given to Ms Rice to reply, notwithstanding that the FT did not find or accept any significant inaccuracy at all. If there is still any complaint about the failure to publish the 9-page jeremiad, or the subsequent 200-word letter, I reject it.
26. Having read the complaint before I read the Article, I should say that I was astonished at how even-handed it was. Given that the central theme of the Article, and the terms in which Ms Rice and Ms Bennett had complained, I was not expected it to be quite so equivocal. Even if there was some broadcast-esque duty of fairness applicable, I very much doubt it would have been breached by this Article. I thought the Article more than fair, given the relative weight of expert opinion on each side of the debate.

² The FT Editorial Code of Practice, with the IPSO Code annexed can be found online at the URL: https://ft1105aboutft-live-14d4b9c72ce6450cb685-1b1cc38.aldryn-media.io/filer_public/03/57/0357bc87-523e-4f1c-b93f-7c4dff04027/final-100117-ft-editorial-code-pdf.pdf

27. This complaint, therefore, is not to be adjudicated under the IPSO Code at all, but under the main body of the FT Editorial Code of Practice. The relevant passages are:

a. Articles 1.1 and 1.2 provide that:

1.1. *“It is fundamental to the integrity and success of the titles published by The Financial Times Limited (FT) that the company upholds the highest possible professional and ethical standards of journalism, and is seen to do so.*

1.2 *This places a responsibility on every FT editorial employee and contributor to conduct her/himself according to practices which reinforce the FT’s reputation for accuracy, truthfulness, honesty and authority.”*

b. Article 3.1 provides that:

“In the event of a complaint being referred to the FT’s Complaints Commissioner about an alleged breach of the standards set out in this Code, FT editorial employees and freelance contributors must cooperate and comply with the lawful enquiries and requirements of the Commissioner”

28. If I were to discover that Ms Ahuja, or any other staff member or contributor to the FT, had being in any way dishonest, that would automatically breach Article 1.2. This means that if Ms Ahuja – irrespective of any other person’s involvement – knew that the *Mrs Smith* painting was not a Northcote portrait, or knew that the “Wm Legg” stamp was not genuine, or in any way misled or obstructed my investigation into these matters, that would be a clear breach of the code. It is permissible for her to be mistaken or to have wrong opinions, but any actual *dishonesty* would be a breach.

29. I am not sure if the allegation made in Ms Bennett’s email of 18 August 2017 about Ms Ahuja not writing her own article are persisted in: they were not included in the appeal of the complaint to me. Clearly, if proven, that would be a breach of the plagiarism provision in Article 7.2 of the FT Editorial Code. However, given what I have seen and read in the course of my investigation, there is absolutely no question in my mind that the article was written, as its byline suggests, by Ms Ahuja.

30. I have also considered the necessary declarations of financial interest in this story. It seems to me to be clear that Ms Ahuja's financial interest in the *Mrs Smith* portrait being by Northcote was not only articulated in the Article, but quantified: she suggests that the portrait she bought for £400 is likely (if genuinely by Northcote) to be worth around £2,000 as a consequence of that authentication, although Ms Ahuja has said that she and Tom have no intention of selling *Mrs Smith*, whoever it is by. No complaint is made about financial disclosure in any event.

INVESTIGATION

31. I have received all the email correspondence relating to this matter between (variously) Ms Ahuja, her husband Tom, and Jacob Simon. This has been received from those individuals themselves, and copies from Nigel Hanson (Senior Editorial Legal Counsel at the FT). I have also had the benefit of Ms Bennett's Freedom of Information Act 2000 ("FOIA") requests to the NPG and their responses which are available online at URL: https://www.whatdotheyknow.com/request/information_on_portrait_said_to These FOIA responses include seven downloadable PDFs of emails, including between Ms Ahuja, Tom and Jacob Simon, which duplicated those I have already received.

32. I have spoken to Jacob Simon³ by telephone at some length. I received an email response from Ms Ahuja, then had a telephone call with her, and finally travelled to her home to meet with her and Tom in-person for a further discussion.

33. I have read Mr Simon's "*The Account Book of James Northcote*" (Walpole Society, 1995/96) via JSTOR, and conducted my own research into the artist and his works. I have read the Rice Portrait website⁴ and blogposts on the Rice Portrait by Ms Bennett⁵.

34. I have had particular regard to the NPG's project (run by Jacob Simon) on "*Artists, their materials and suppliers*"⁶. Of particular importance in this Adjudication is Part 1 of the 9-part guide to Suppliers' Marks, which looks at "*British canvas, stretcher and panel suppliers' marks. Part 1: 1785-1831*" ("the Online Mark Guide") which is online: <https://www.npg.org.uk/assets/files/pdf/research/D%20marks%201785-1831.pdf>.

³ <https://www.npg.org.uk/research/staff-research-profiles/jacob-simon>

⁴ <http://www.janeaustenriceportrait.com/home/4580951752>

⁵ <http://janeaustenportraits.blogspot.co.uk/>

⁶ <https://www.npg.org.uk/research/programmes/artists-their-materials-and-suppliers/>

35. Finally, I have examined in-person the *Mrs Smith* portrait, and other Northcote portraits owned by Ms Ahuja, and I have visited the Heinz Archive and Library at NPG.

EVIDENCE & DISCUSSION

36. Ms Ahuja, Tom and Jacob Simons have all told me, in the most unequivocal of terms, that the first contact between the couple and Mr Simons was Tom's email to Mr Simons **at his NPG email address**, sent at 14:51 on 13 October 2016, which read as follows:

"Dear Jacob,

I came across your email while researching a stamp on the canvas of a portrait I recently bought as "attributed to James Northcote". The painting is signed by Northcote and dated 1803 ("J Northcote" is also written in chalk on the rear) and I am pretty certain it is the portrait of "Mrs Smith" listed in Northcote's account book in 1803 . I actually also own another Northcote portrait of 1803 (Captain Brooking) and the signature and frame are pretty much identical, so I am pretty confident of the attribution. I believe the reason the auction house was uncertain is because it appears a later (and not very talented!) hand had painted on the widows veil and had a go at redoing Mrs Smith's hair.

FYI, the auction listing is here, which shows some pictures.

<https://www.the-saleroom.com/en-us/auction-catalogues/clevedon-salerooms/catalogue-id-srcle10014/lot-6ab4ba4b-02d3-4fa2-bc52-a54900000153>

Anyway, in trying to better identify a link to Northcote, I looked up the Wm Legg High Holborn stamp on the canvas - and saw your website states that this accurately dates the painting to within a few years around 1803. This led me also to the "Rice Austen" website⁷, and the debate about the authenticity of the Rice portrait. I can send a clear photo of my stamp if this is helpful but I thought you might like to know that my stamp looks identical to that on the "Rice Austen" (you can also see a poor quality photo of the stamp following the link attached).

I thought you might like to know about this as I understand the owners of the Rice Austen are disputing the link between that stamp and the Leggs at Holborn in the early 1800s - I believe my stamp is identical to theirs, and has a clear link to the year 1803.

Incidentally... if you happen to know who made the frames for Northcote at this time I would be very interested to know!

Kind regards,

Tom"

⁷ It is actually to an article by Ms Bennett dated 16 July 2016 to which the FT Article itself links, that Tom refers in this first email: see <http://www.janeaustenriceportrait.com/the-knights-of-godmersham-and/4592747113>

37. By way of context to this email, Tom told me that he did not know who Jacob Simon was, and rather assumed he was just someone relatively junior who would pass the email onto an NPG expert. That perhaps explains the informality of writing ‘Dear Jacob, ... Kind regards, Tom’. The complainant, in her email to me of 1 October 2017 (repeating a point she had made to Roula Khalaf on 24 September 2017) says of this at point (1): “*As Mr Parker's email address gives no indication as to his identity it is not credible that he would have addressed Mr Simon or signed of in this informal fashion if they were not known to each other. Indeed, if they did not know each other then how would Mr Simon know who 'Tom' was?*”. I’m afraid I find this contention incredibly weak. I receive many emails from people who don’t know me personally, and many presume to address me by my first name even on the first time of writing.
38. The second thing to say about Tom’s email of 13 October 2016 is that it was sent to Jacob at his NPG address **in respect of his NPG work on stamps**, particularly the Online Mark Guide. Tom did not realise at that time that Jacob Simon was also the leading authority on Northcote. This is obvious by the email exchange of 14 October 2016, where Mr Simon indicates that he wrote the Walpole Society book on Northcote, to which Tom replies inviting him to come and see *Mrs Smith* in-person, but opens the email by saying “*Apologies – I had not realized the Walpole Society article was yours! Yes, I do have a copy – and have found it very interesting!*”.
39. I have not seen any correspondence prior to 13 October 2016 between Ms Ahuja or Tom and Mr Simon. All three insist that this was the first contact between them. I have asked the question in numerous ways, seeking to capture the slightest loopholes, so as to ensure there could be no equivocation. There has been none. If evidence – from anyone – was to emerge that Jacob Simon had been in contact with either Ms Ahuja or Tom prior to 13 October 2016, I would re-open this investigation, as it would be almost certain that all three had lied to me. However, within the powers I have to require disclosure, I can find nothing to contradict these clear and unambiguous statements.
40. The chronology of events runs from the previous year. Ms Ahuja and Tom had, on around 10 June 2015, bought a Northcote portrait painted in 1803 of Captain Samuel Brooking, which is signed and dated by Northcote. It appears in the Walpole Society book on p.76: it is unclear whether the portrait owned by Ms Ahuja and Tom is No. 400 (sold for twenty guineas) or 401 (a copy, sold for sixteen guineas), but it is one of them, and bears the mark “*Js Northcote pinxt 1803*”. They also now own a Northcote portrait of Thomasina Young (Walpole Society book, p.37, No 50, 1776-77).

41. On 10 November 2015, Tom received an email from an automated alert designed to tell him when paintings by, or attributed to, James Northcote were coming up for auction. The alert email, which I have seen, was of the *Mrs Smith* portrait indicated on the auction website at footnote 1 above. The auctioneer was Clevedon Salerooms, with the auction due to take place on 19 November 2015 in Bristol.
42. Ms Ahuja went to Somerset after 10 November 2015, but before 19 November 2015. While in Somerset, she visited the auctioneers, and was shown *Mrs Smith*, and another portrait⁸ which had come from the same house clearance. The auction house told her the paintings had arrived together in the back of an open-top trailer (a fact included in the Article, doubted in the Open Letter from Ms Rice and Ms Bennett, but confirmed to me by Ms Ahuja in-person). This other portrait, which in the absence of attribution I shall call *Mr Jones*, was Lot 147, whereas *Mrs Smith* was Lot 148.
43. The relevance of this in the complainant's view is set out in her email of 1 October 2017:
- “2. Ms Ahuja claims to have attended the auction for 'a speculative look' and refers to the painting being in the boot of her car. If she had really attended either a viewing or the auction itself then she would have known that the portrait she claims to be of Mrs Smith was one of a pair. Neither she or her husband make any reference to this companion portrait in their initial correspondence with Mr Simon, despite the fact that the existence of this second portrait casts serious doubt on her portrait being Mrs Smith. Both pictures show scuffing in the same area, where the Northcote signature is placed on the portrait of 'Mrs Smith'.*
- 3. Had Ms Ahuja been in the auction room as she claimed then it is impossible that the previous lot would have escaped her attention. She would undoubtedly have known that this companion portrait was the previous lot and she would have known how much it sold for. Records in the National Portrait Gallery indicate she did not know how much the companion portrait fetched at auction. She stated that it sold for more than her own portrait when in fact it sold for a mere £300.”*
44. Ms Ahuja has told me she was aware of the second portrait, she did rather like it, but given that she was buying a painting 'attributed to Northcote' (on the basis of a signature and date), she did not choose to speculate by buying a second un-dated, and un-signed picture that not even the seller suggested was also a Northcote. *She* did not consider it was a Northcote just from its style, and there was nothing beyond similar frames and sizes to suggest that the portraits were 'companion' portraits at all.

⁸ <https://www.the-saleroom.com/en-us/auction-catalogues/clevedon-salerooms/catalogue-id-srcle10014/lot-790f5b27-cbed-481e-842c-a54900000153>

45. Ms Bennett herself notes that the sitters in *Mrs Smith* and *Mr Jones* are not facing each other, so it is unlikely that they were married: indeed, there is nothing definitive that suggests the paintings are linked except that they had common ownership before the auction, which itself explains why they were consecutive Lots. If they were truly a companion pair, there is no mention of that in the auction notes, nor were they sold as a single lot. I do not follow how the existence of an unsigned, unattributed portrait of *Mr Jones* “casts serious doubt on her portrait being *Mrs Smith*”. That does not follow as a matter of logic. It begs the very question as to whether *Mr Jones* is a ‘companion’.
46. Ms Ahuja did visit Somerset before the auction, and so saw both lots at that time. She did not attend the auction on 19 November 2015 in-person, but instead bid on the telephone. She collected *Mrs Smith* at a later date in the boot of her car. She did not remember the sale price of *Mr Jones*, although an email to Jacob Simon in the Heinz Archive dated 24 March 2017 suggested it was “*a little more expensive than ours*”. If Ms Bennett is correct that *Mr Jones* sold for only £300, that would be an error. Conversely, Ms Ahuja thought the Open Letter from Ms Rice and Ms Bennett was incorrect to say that hers was the only bid on *Mrs Smith*. She thought, acknowledging risk of error that she had bid £300, that another bid had come in at £350, and that her winning bid was £400 for *Mrs Smith*. Her description in the Article of “*the pulse-racing tension of bidding*” is in any event, in context, quite clearly a description of bidding at auctions in general, not a description of this particular instance.
47. In short, the description of events I received from Ms Ahuja is entirely plausible, and entirely consistent with the extrinsic facts available to me, save that it seems she was mistaken as to the sale price of *Mr Jones* in an email some 16 months after the auction took place, which she explains by not being particularly interested in *Mr Jones*. On the basis of the evidence I have available, I could not possibly draw an inference of dishonesty from this alone.
48. It took some time for Jacob Simons to actually visit Ms Ahuja and Tom: he did not make it to their house until around 18:30 on Friday, 4 November 2016. This is supported by contemporaneous emails I have seen between the three people concerned, and Jacob Simon’s email of his report of the visit to Lucy Peltz at NPG of 6 November 2016 (released to Ms Bennett under FOIA).

49. What we do know about *Mrs Smith* is that as early as 10 November 2015, there were photographs (still online, see footnote 1) which show the portrait including what purports to be the signature of James Northcote, the date 1803, the word “Northcote” in chalk on the back, and two photographs of the back of the portrait which show (albeit indistinctly) a small stamp in the same position as the “Wm Legg” stamp. Therefore, if Ms Ahuja, or Tom, or Jacob Simons fabricated the date, signature or stamp, they must have done so prior to 10 November 2015. Of that much, we can be quite certain.
50. If the stamp and signature (true or forged) appeared so early (i.e. prior to the auction in November 2015), the portrait must have (at that time) been in control of the persons perpetrating the forgery. That being so, why would they have submitted *Mrs Smith* with its true ‘companion’ (which might cast doubts on its authenticity) to the same auction? Why risk an auction (and the risk of sale to an unknown bidder) at all, rather than a private sale to conspirators? Why, if seeking to ensure it was bought only by co-conspirators, set the price range so absurdly low, risking interest from general buyers?
51. I have now examined *Mrs Smith* for myself. I have seen the “Wm Legg” stamp, and to my eyes (those of a layman, admittedly) it is exactly as depicted in the high-resolution image provided by Ms Ahuja and Tom to Jacob Simon for the Online Marks Guide: <https://www.npg.org.uk/assets/files/pdf/research/D%20marks%201785-1831.pdf> (page 4). The *Mrs Smith* mark was included by Jacob Simon in the Online Marks Guide in late 2016/early 2017, as set out in internal NPG correspondence (Jacob Simon to Lucy Peltz on 19 December 2016, and then to Nicholas Cullinan on 8 February 2017) released to Ms Bennett via FOIA. I cannot say whether the stamp is genuine or a forgery, but the stamp I saw in-person on the back of *Mrs Smith* appears to be identical the stamp associated with *Mrs Smith* in the Online Marks Guide, and matches (in placement, direction etc) the photos of the back of *Mrs Smith* from the auction website on 10 November 2015. The stamp, true or forged, now exists as has been claimed.
52. In addition to the “Wm Legg” stamp, there is also a ‘frame marking’ on the back of *Mrs Smith*, which includes the date the linen was taxed as being ‘1802’ (just a year before the signature 1803). The ‘frame marking’ is largely obscured by the stretcher, but examining the *Mrs Smith* portrait in-person I was able to see the marking, and read the date ‘1802’ myself. A (poor) photograph of the frame marking was sent by Tom to Ms Ahuja to Jacob on 23 March 2017, and high quality photographs of the same are included in the Online Marks Guide (link above) at page 14.

53. Whether Jacob Simon took his own photos at Ms Ahuja's house or not, I can be sure that he somehow obtained high resolution images of the "Wm Legg" stamp by no later than 22 December 2016, and of the 1802 excise 'frame marking' by no later than 23 March 2017. It is therefore not true or fair to say Ms Ahuja has refused to allow the portrait to be examined or high definition photographs to be taken. Neither her actions nor Mr Simons are remotely 'implausible' or 'inexplicable' as alleged.
54. One of Ms Bennett's quibbles is whether *Mrs Smith* is truly a Northcote painting, let alone the Northcote painting of that sitter said by the Walpole Society book to have been painted in 1803, and described as follows: "407, *Mrs Smith, a head in black drapery 20 Guineas/also the frame 3. Guineas all paid*". Ms Bennet & Ms Rice's Open Letter draws attention to a portrait⁹ held in Los Angeles County Museum of Art ("LACMA") which claims to be in possession of the 1803 'Mrs Smith' by James Northcote, so there is a contested case.
55. I put this to Jacob Simon, and he has let me see a message he has written to the curator of LACMA on 3 April 2017, setting out the reasons he believes that the LACMA painting is not 'Mrs Smith', and is not by Northcote at all:
- a. It is unsigned and undated, unlike the *Mrs Smith* bought by Ms Ahuja;
 - b. The costume of the sitter appears in his opinion to be a better fit for the 1790s, not the early 1800s (and I note she is wearing a black hat, rather than "*a head in black drapery*", unlike the sitter in Ms Ahuja's *Mrs Smith* painting);
 - c. The Walpole Society records that the account book says the portrait is "a head canvas, for which Northcote normally employed a canvas size 30 x 25 ins, which is rather smaller" than the 38 ¼ x 27 ins of the LACMA portrait;
 - d. The LACMA painting was sold at Christie's on 8 June 1928 (Lot 100) as a Northcote, but at a time when attribution was 'notoriously unreliable'. The listed name was "Mrs Shaw Barwell", but the dealers (Arthur Tooth & Son) apparently changed the name to "Mrs Smith Barwell, nee Unwin".

⁹ https://commons.wikimedia.org/wiki/File%3APortrait_of_Mrs._Smith_Barwell%2C_nee_Unwin_LACMA_51.30.jpg

56. Jacob Simon told me that he believes the LACMA painting is not Northcote at all, and is probably by an earlier painter called John Hoppner RA.
57. My own limited research indicates that, while Northcote did not sign all of his paintings (Ms Ahuja's *Thomasina Young* being just one example) and did not always include the date in his signature, he does appear to have included the date in his signature in several of the portraits of 1803, including the *Captain Samuel Brooking* (Walpole Society p.76, No. 400 or 401) owned by Ms Ahuja, but also his famous portrait of *Edward Jenner*¹⁰ (Walpole Society, p.76, No. 405) which hangs in the National Portrait Gallery itself, and his *Portrait of Emily St Claire with a Hawk/falcon*¹¹ (Walpole Society, p.76, No. 406), and. The portrait *Mrs Smith* is on p.77 of the Walpole Society book, No. 407. While *Mrs Smith* does have some scuffing around the signature, the words "*Js Northcote pinxt 1803*" are clearly visible, and seem to match the better-preserved inscription on the *Captain Samuel Brooking* hanging in the same room.
58. I am not aware of a formal authentication report of *Mrs Smith* by Jacob Simons, but there is an email to Ms Ahuja to that effect dated 21 March 2017. I do not have the requisite expertise to second-guess that authentication of *Mrs Smith* as a Northcote painting (indeed, I imagine such a person may be difficult to find), but I actually struggle to see why recognition of *Mrs Smith* as a Northcote painting is strictly relevant to the authenticity of the "Wm Legg" stamp at all. Even if *Mrs Smith* was by an unknown artist, the two stamps still link "Wm Legg" to an excise frame-marking '1802'. It is utterly immaterial to the veracity of those stamps that the painter is Northcote, which is merely further corroboration of dating because the signature specifies 1803.
59. Furthermore, even if it was somehow important that it was a Northcote painting of 1803 that bore both the "Wm Legg" stamp and the '1802' excise stamp, I struggle to see why Ms Ahuja and her husband and Jacob Simon would engage in such elaborate subterfuge. As will be clear from the above, Ms Ahuja **already owned** a portrait by Northcote signed and dated in 1803, over which there is no controversy about attribution (unlike *Mrs Smith*). Had she wished to 'collude' with Mr Simon to forge the two stamps as alleged, she could have done so on her existing genuine Northcote 1803 portrait of *Captain Samuel Brooking*, 'discovering' the stamps as part of a renovation.

¹⁰ <http://www.npg.org.uk/collections/search/portrait/mw03459/Edward-Jenner>

¹¹ <http://www.royprecious.co.uk/213281/portrait-of-emily-st-clare-1803-by-james-northcote-ra/>

CONCLUSION

60. This complaint made wide-ranging allegations of fraud and dishonesty on the part of Ms Ahuja in relation to an Article published in the *Financial Times*. In the course of my investigation, I have seen no evidence whatsoever of any behavior that struck me as dishonest or otherwise unethical in any way.
61. Save for some ambiguity as to the sale price of the *Mr Jones* portrait, there were no inconsistencies in the evidence provided to me by Ms Ahuja, or her husband Tom, or Mr Simon. Each of their accounts is consistent with, and supported by, contemporaneous documentary evidence, much of it electronic and publicly available online. I have tried to include hyperlinks to all such evidence in this Adjudication.
62. It is not utterly impossible that the trio concocted a clever forgery of two stamps on the reverse of a portrait that they have falsely authenticated as being ‘Mrs Smith’ by James Northcote, as well as preparing a detailed litany of false-flag email correspondence. It is however, so profoundly implausible that any finding of dishonesty on the basis of what I have seen would be nothing short of perverse. If it were to be shown that all three had lied to me about not having any connection prior to October 2016, I would (as I have said above) re-open this investigation.
63. But the Latin maxim is “*ei incumbit probatio qui dicit, non qui negat*”: “he who asserts must prove”. It is not for Ms Ahuja to prove a negative. To find a breach, I (relying on the parameters of the complaint on appeal) must prove the case, and proving dishonesty is a high hurdle. It is my clear and firm conclusion that not only is this standard of proof not met in this case, rather the evidence falls so far short I am led to question whether there was ever even a reasonable basis for the investigation at all.
64. The Guidance on Policy & Process that I published¹² in my first year of this job suggested at paragraph 19 that “*Complaints received on appeal by the Commissioner should usually result in an Adjudication within a month of receipt. However, complaints about multiple articles or issues, or matters of greater complexity or seriousness may take longer to resolve.*” I am sorry that in this case I have actually taken just over two calendar months to complete this investigation and Adjudication.

¹² https://ft1105aboutft-live-14d4b9c72ce6450cb685-1b1cc38.aldryn-media.io/filer_public/31/c8/31c8f888-7e54-42f5-88e7-1c06e7a7d12e/editorial-complaints-guidance.pdf

65. It is only right to record that the complainant, Ms Bennett, expressed her dissatisfaction as to my tardiness both in emails directly to me, but also by way of her Twitter account¹³, with the hashtags #unaccountable¹⁴, #sham¹⁵, and #YouHadOneJob¹⁶. This was largely due to several other serious complaints, and other commitments, but as this Adjudication perhaps suggests, this complaint took significant investigation and research, and was on a very serious charge: fraud. Had I completed it with less time and effort, I fear I might have been accused of not taking the matter seriously enough, or not being sufficiently vigorous in pursuit of the truth.
66. I have wondered what further steps I could take to dispel Ms Bennett's concerns arising out of this complaint, and short of instructing new independent experts to forensically examine *Mrs Smith* and the stamps on the back of that painting, I do not think there is any more that can be done. I would be prepared to take that serious and expensive step if I thought that this case gave rise to even a *prima facie* case of fraud or dishonesty: but it has fallen at that lowest of evidential hurdles, and to go to such expense would be – in my opinion - grossly disproportionate.
67. I must also have regard to the degree to which my investigation has already intruded into the home and family life of Ms Ahuja: I was welcome to view *Mrs Smith* in-person at her home, but she has made quite clear that she is not prepared to extend that courtesy to Ms Bennett, for reasons I find entirely explicable. As Jacob Simon warned in correspondence throughout, the Rice Portrait is a long-running controversy, with impassioned advocates. I am not prepared to intrude on Ms Ahuja any further.
68. Ms Bennett has told me that she has reported this matter to the Metropolitan Police. It may be that with their greater powers of investigation, they can find fraud that I could not. But I doubt it. This complaint is rejected as being totally without merit. There has been no breach of Article 1.1 and 1.2 of the FT Editorial Code of Practice.

GREG CALLUS
Editorial Complaints Commissioner
Financial Times
7 December 2017

¹³ https://twitter.com/ellie_bennett/status/930536861726134273

¹⁴ https://twitter.com/ellie_bennett/status/926086732067598337 ,

¹⁵ https://twitter.com/ellie_bennett/status/930562049352110085

¹⁶ https://twitter.com/ellie_bennett/status/930546443546488833