

TROUBLE AT THE TATE

Only two years after Chris Ofili's elephant dung was flying, the Tate has found itself in yet another sticky mess over the works of an artist trustee. Ever since contemporary art became a financial commodity, the Tate has been in an ethical spin. Can Nicholas Serota and his fellow trustees paint themselves out of this corner, asks **Godfrey Barker**

Down at the Tate gallery, the question of a conflict of interest between the artist trustees and the Tate's choice of art simply will not go away. In the latest row, 41-year-old South Londoner and 2004 Turner Prize winner Jeremy Deller 'left the room' on 19 September 2007 while his colleagues agreed to accept a donation of his vast wall drawing of meaningless phrases, *The History of the*

World, from collectors Mr and Mrs Freddy Salem of Regent's Park.

Technically, nothing was wrong. Deller himself wasn't selling to the Tate; the giant graffiti sprawl was a gift. And why not? Everybody wins. The Tate, which needs gifts, gets one; Deller sees his reputation and market value rise from being in the Tate; and the Salems, if they have other Dellers, see those works rise in price, too. The Tate trustees noted 'the potential for perception of benefit to a serving trustee' in their minutes. The potential doesn't just exist for benefit to artist trustees; many other trustees privately own works by artists whom they approve for Tate purchase. (Those works are hugely enhanced in value every time the Tate buys; Hirst's auction values have risen from £30,000 in 1991 to nearly £10,000,000 last year, partly due to Tate patronage.)

The trustees decided that, in this case, any such perception of benefit would be inaccurate. Others aren't so sure, and even they themselves are not always so confident about it. Last year Sir Nicholas Serota and Paul Myners, chairman of the Tate's board, pleaded guilty to their supervisor, the Charity Commission, to a breach of trust when buying the work of artist trustees who 'left the room' while the matter was debated.

A couple of years ago Serota was asked a question on BBC Radio 4 over alleged 'insider dealing'. Was he 'irritated', inquired Mark Lawson, by those who had blown the whistle on the Tate buying art from its own trustees? Not at all, replied Sir Nicholas amiably. The Stuckists (an art protest group who believe the Tate are a self-serving group of conceptual artists and their acolytes) 'obviously regard themselves - indeed they have acted in the public interest in this instance. They don't irritate me. I think that as a public servant I should be here at the service of the public and that includes the Stuckists.'

Was this a majestic putdown, a between-the-lines suggestion that yes, thank you, it always helps to be reminded that 17 times in 50 years there has been a possible breach of trust by the trustees

(allegedly there were 12 occasions between 1954 and 1992, and five since, that artist trustees have had their works bought by the Tate, against the guidelines that charity trustees cannot gain from their actions) in buying from artists sitting on the board, but we're actually focused on bigger issues? I don't think so. The minutes of the Tate trustee meetings for 2006 and 2007, available on the internet with enormous deletions of sensitive discussion, reveal that the words 'conflict of interest' appear frequently and that the trustees are in a belated frenzy of alarm at suggestions that Tate art buying is fattening pockets.

The dilemma for the Tate is that its role is to collect the best of British contemporary art. But by the time artists are universally agreed to be important, they have become unaffordable. In buying earlier, cheaper but less guaranteed artists, they open themselves to suggestions of unfair influence on the market. Artist trustees of the gallery are in that position to make recommendations, but the Tate board are bound to appoint those whose judgement they trust, and those are likely often to be the same people whose art they rate. They are also likely to have more direct access to trustees' work rather than that on the open market.

It seems from the minutes that there was panic around the table in July 2006, at a meeting chaired by Paul Myners, when the Charity Commission censured Tate for its deal to pay the artist Chris Ofili, a serving trustee, a record £705,000 price for his *The Upper Room* installation and to do it before Ofili's wedding. There must have been other Ofili owners sitting there besides the artist himself.

The minutes record: *There was considerable discussion on the question of declaring works owned by Trustees and the recommendation included in the papers was accepted. This was that: Trustees should declare an interest in an artist whose work was under consideration for representation in the Collection for the first time when they owned any work by the artist; Trustees should declare an*

interest when any work was under consideration by an artist whose work was represented in their personal collection; Trustees should also declare an interest in the event of an artist represented in their personal collection being considered for a monographic exhibition.

The Charity Commission found that the 'Tate had not complied with the terms of its trust and that there were a number of deficiencies in the Tate's policies, processes and decision-making practices... There was considerable discussion on declaring works of art owned by Trustees.'

Ofili was not the end of the difficulty. Last week Sir Nicholas

**BY THE TIME
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The Guardian. Jeremy Deller, *The History of the World 1998*, print on paper, courtesy the artist and the Modern Institute/Toby Webster Ltd, Glasgow. Sergio Pitamitz/Danita Delimont Agency/drr.net. James o Jenkins/Eyevine