

Business Bluffing Reconsidered

Fritz Allhoff

1. Introduction

Imagine that I walk into a car dealership and tell the salesperson that I absolutely cannot pay more than \$10,000 for the car that I want. And imagine further she tells me that she absolutely cannot sell the car for less than \$12,000. Assuming that neither one of us is telling the truth, we are bluffing about our reservation prices, the price above or below which we will no longer be willing to make the transaction. This is certainly a common practice and, moreover, is most likely minimally prudent – whether our negotiating adversary is bluffing or not, it will always be in our interest to bluff. Discussions of bluffing in business commonly invoke reservation prices, but need not; one could misrepresent his position in any number of areas including the financial health of a company poised for merger, the authority that has been granted to him by the parties that he represents, or even one's enthusiasm about a project. The goal of bluffing is quite simple: to enhance the strength of one's position during negotiations.

Bluffing has long been a topic of considerable interest to business ethicists.¹ On the one hand, bluffing seems to bear a strong resemblance to lying, and therefore might be thought to be *prima facie* impermissible. On the other, many people have the intuition that bluffing is an appropriate and morally permissible negotiating tactic. Given this tension, what is the moral standing of bluffing in business? The dominant position has been that it is permissible and work has therefore been done to show why the apparent impermissibility is either unmotivated or illusory. Two highly influential papers have taken different

approaches to securing the moral legitimacy of bluffing. The first, by Albert Carr, argued that bluffing in business is analogous to bluffing in poker and therefore should not be thought to be impermissible insofar as it is part of the way that the game is played. The second, by Thomas Carson, presented a more subtle argument wherein the author reconstrued the concept of lying to require an implied warrantability of truth and, since business negotiations instantiate a context wherein claims are not warranted to be true, bluffing is not lying.

I think that both papers are on the right track to the solution to the problem, but that both authors' positions are problematic. In this paper, I will consider the arguments of both Carr and Carson, and I will present my criticisms of their ideas. Drawing off of their accounts, I will then develop my own argument as to why bluffing in business is morally permissible, which will be that bluffing is a practice that should be endorsed by all rational negotiators.

2. Albert Carr

Carr's article is somewhat informal and therefore lacks clear and rigorous argumentation. His thesis, however, is that business is a game, just like poker, and that bluffing is permitted under the rules of the game. To strengthen the analogy between business and poker, he points out that both business and poker have large elements of chance, that the winner is the one who plays with steady skill, and that ultimate victory in both requires knowledge of the rules, insight into the psychology of the other players, a bold front, self-discipline, and the ability to respond quickly



and effectively to opportunities presented by chance.²

Even if we grant Carr that there are no morally relevant disanalogies between poker and business, which seems dubious, he still has a problem by trying to legitimize bluffing on the grounds that it is permitted by the rules of the game.³ As Carson has pointed out, Carr seems somewhat confused as to how we determine the rules of the game.⁴ In some passages, Carr seems to think that convention determines the rules, whereas in others he seems to think that the law delineates boundaries and all acts within those boundaries are permissible. Regardless, neither of these standards can help to establish the moral legitimacy of bluffing.

The reason is that either one of these moves would violate a long standing principle in moral philosophy, dating back to David Hume, that one cannot reason from what is the case to what ought to be the case.⁵ There have been numerous conventions, such as discrimination, that have nevertheless been immoral. And there have also been numerous practices, such as slavery, that have been legally sanctioned but that are also immoral. Facts about the way that the society operates or about the way that the law is, can not be used to derive values. The two supports that Carr gives for the moral permissibility of bluffing are precisely the sorts of considerations that are patently disallowed in moral philosophy.

Carr hints at, but does not discuss, a potentially more promising notion, that of consent. Certainly bluffing in poker, and most likely bluffing in business, is a practice to which all involved parties consent, which is more than can be said for other conventions. But since the fact-value divide makes convention wholly irrelevant, consent would have to do the entirety of the work, and not merely be used to identify a special kind of convention. This is clearly not what Carr has in mind, and I do not propose to read it into his argument. Furthermore, I still do not think that consent alone establishes permissibility. Just as I may consensually enter a poker game knowing full well that bluffing might happen, I may consensually travel to a dangerous neighborhood knowing full well that a crime against me might happen. Since my consent in

the latter case does not provide moral license for the act against me, consent can similarly not be used to legitimize bluffing in the former.

3. Thomas Carson

Carson approaches the problem from a different direction, though he arrives at more or less the same conclusion. His strategy is to deny that bluffing is a form of lying and, in order to make this argument, he takes issue with the conventional idea that lying is a false statement made with the intent to deceive and proposes instead that “a lie is a false statement which the ‘speaker’ does not believe to be true made in a context in which the speaker warrants the truth or what he says”⁶ Bluffing is certainly lying on the traditional definition; the bluffer’s statement is false and it is intended to deceive. But Carson thinks that his definition of lying excludes bluffing. Why? He argues that the second requirement, the warrantability of truth, is largely absent in negotiations. There are some claims made during negotiations that convention dictates to be warranted as true, such as claims to have another offer on the table. If I were to claim that I had another offer while I did not, this would be a lie because it would satisfy both parts of Carson’s requirements. Claims about reservation prices, however, do not carry implied warrantability of truth – as a matter of fact, nobody *ever* takes such claims to be literally true. Carson therefore thinks that bluffing is not lying and should therefore not hold the moral disapprobations that we confer on lying.

There are, I think, two problems with Carson’s defense of bluffing. The most obvious one is that, even if bluffing is not lying, it does not follow that it is morally permissible. It might be wrong for some other reason. For example, we might want to distinguish between lying and other kinds of deception which are still morally objectionable. Imagine that I leave my children home for the weekend and tell my oldest son that his girlfriend is not allowed in the house. If I call home to ask my younger son what my older son is doing and am told “he is talking to his friend Robert”, this might be strictly and literally true

only because his girlfriend is in the kitchen getting something to drink and is currently unavailable for conversation. The answer, though true and not a lie, is deceptive insofar as it masks a fact that my younger son knows to be salient. Or I might ask my older son directly whether his girlfriend is in the house and he truthfully answers no because she is still in transit to the house. Again, this answer is not a lie, but is deceptive. If we find such behavior morally objectionable, which many of us would, then the absence of lying alone does not secure moral license. And if it is not morally objectionable, some argument has to be given as to why; it certainly not intuitively obvious that all non-lying deceptions are morally permissible. Therefore, the most that Carson's argument can establish is that bluffing does not carry the same *prima facie* wrongness that lying does, not that it is morally permissible, which is his desired conclusion.

The second problem is that Carson's account still requires the same dependence convention that caused trouble for Carr. Carson admits that he will not pursue specific guidelines to determine whether a context involves implied warrantability of truth, but the examples that he gestures at are suggestive of conventionality playing a strong role.⁷ For instance, he says that statements made in negotiations between experienced negotiators are understood to be not warranted as true. But this is only the case because it is a matter of convention; we could easily imagine another society wherein negotiators do not bluff, but are honest about their reservation prices. We have already seen why convention alone cannot provide any reason to think that a practice is morally permissible.⁸ To say it another way, we can meaningfully ask whether a practice is morally permissible *despite* its being conventional. A defense of bluffing must extend beyond mere conventionality and into the realm of moral philosophy, else it is doomed to violate the fact-value divide.

4. Bluffing, role-differentiated morality, and endorsement

I will now develop what I think is the correct solution to the problem of bluffing in business. As I said earlier, I think that both Carr and Carson start off on the right track, but then go wrong for the reasons that I have presented.⁹ In particular, both authors appeal to games in order to argue for the permissibility of bluffing in business; Carr uses a poker analogy and Carson argues that claims made during bluffing are similar to claims made during the game of Risk. But the problem that both authors have is that they infer moral legitimacy from the rules of their games, and this inference cannot be made. What we need is not an appeal to convention, but rather a moral argument that legitimizes bluffing within those games and that can be extended to bluffing in business.

One way that we could get this is to invoke what has become known as role-differentiated morality. Conventional wisdom within ethics has held that ethical rules are universal, and that everyone should be bound by the exact same moral laws. But work in professional ethics has recently come to challenge this idea.¹⁰ These applications have come most auspiciously in legal ethics, where legal ethicists have often sought to defend ethically objectionable practices of lawyers (such as discrediting known truthful witnesses and/or enabling perjurious testimonies) on the grounds that the lawyer's role, that of zealous advocate, carries different moral rules than non-lawyer roles.¹¹ Though the applications have certainly been controversial, the underlying idea, role-differentiated morality, has garnered wide support.

Put simply, role-differentiated morality suggests the following three claims:

1. Certain roles make acts permissible that would otherwise be impermissible.
2. Certain roles make acts impermissible that would otherwise be permissible.
3. Certain roles make acts obligatory that would otherwise not be obligatory.

In this paper, I do not wish to provide an extended defense of the plausibility of role-dif-

ferentiated morality; this has been done by other authors (including the two I cited above), and I do not feel that I have anything of value to add. What I will say in defense of the idea here is that it has tremendous intuitive resonance, as I think can be clearly shown through examples. In support of the first claim, we might say that soldiers fighting a just war are morally permitted to kill, whereas ordinary civilians are not. In support of the second claim, we could suggest that college professors should not have sexual relationships with their students (nor bosses with their subordinates), regardless of the act being consensual. In support of the third claim, we might claim that parents have special obligations to their children, such as providing for them and caring for them, that non-parents would not have towards the same child. I think the self-evidence of these examples gives strong support for the notion of role-differentiated morality.

Now, we can return to bluffing and ask whether some roles should allow for its moral permissibility.¹² I think that it is pretty clear that yes, some roles do allow for bluffing, while others definitely do not (though it remains, for now, an open question under which one bluffing in business falls). Some roles clearly do not morally permit bluffing. For example, consider a relationship between a husband and a wife. They have duties to each other to be honest and not to manipulate each other to secure advantages in negotiation. We might even want to say that negotiating, which is a necessary precondition for bluffing, is not the sort of activity in which husbands and wives should partake. Negotiating assumes conflicting aims of the negotiators and pits them against each other as adversaries, whereas husbands and wives should, ideally, share the same goals and cooperate. When disagreements do occur (such as on how much to pay for a new house), they should not negotiate against each other to determine their collective reservation price but rather should debate the issue and build a consensus as a unified front. I think that husband or wife is a role in which bluffing is not morally permissible,¹³ but there are others, such as any fiduciary role wherein one is morally bound to be fully open with another.

There are, on the other hand, roles under

which bluffing *is* morally permitted. Both Carr and Carson suggested that bluffing is permitted in games, and I think that they are exactly right. But they got the reason wrong, convention alone cannot deliver moral permissibility. Whatever justifies bluffing in these cases needs to have moral, rather than merely descriptive, force. I think that the key to these cases is that the players involved in the game actually *endorse* the practice of bluffing; people play these games for fun, and bluffing makes the games much more fun. If bluffing did not exist in poker, and everyone's bet merely reflected the strength of their hands, there would be no game at all since the final results would all be made apparent. Thus, insofar as anyone even wants to play poker in a meaningful way, he is committed to endorsing the practice of bluffing. Bluffing in Risk is similarly explained; bluffing adds an exciting (though in this case non-essential) element to the game to which players are attracted. If this were not the case, we would certainly expect a proliferation in strategy games in which there were no bluffing via diplomacy, and this is certainly not what we see. Bluffing, in some games, is a welcome feature in which participants actually want to be involved.

Is endorsement a moral feature? Absolutely. Imagine that my son takes \$20 out of my wallet. There could be two scenarios leading up to this act. In one, he asks me for the money and I endorse his taking it (to pay the delivery person for pizza, let's say) and, in the other, he does not ask and instead takes it without my permission. Obviously he acted permissibly in the first scenario and impermissibly in the second, and it was my approval, or endorsement, of his actions that is the *only* morally relevant difference. Therefore, endorsement carries with it the moral force to legitimize certain acts (or practices), and I think that it is precisely what is necessary to legitimize bluffing in games.¹⁴

I hope to have established both the plausibility of role-differentiated morality and that bluffing is permitted in some roles, but not in others. I can now return to my central aim and ask under which category bluffing in business falls. I think that bluffing in business is permissible for the same reason that it is permissible in games,

namely that the participants endorse the practice. To explain why, let us return to the example with which I started. When I go to the car dealer with a reservation price of \$12,000, what that means is that, all factors considered, that car has to me a utility marginally greater than the \$12,000 does. *Ex hypothesi*, I am already willing to spend the \$12,000; if that were the best that I could do, I would accept the offer. Any price that I can achieve below \$12,000 would obviously be an improvement on the situation. Bluffing and negotiating are the mechanisms wherein I can achieve a final sale at a price beneath my reservation price and, insofar as any rational agent would welcome that end, he should also endorse its means.

Furthermore, other than bluffing, I cannot think of another reasonable procedure for the buyer to lower the sale price below my reservation price (or for the seller to raise the sale price above his reservation price). I might, for example, try to do so by force or threats, but these are obviously immoral. I might also make outright lies, such as to assert that the dealer across town has already guaranteed me a lower price. As Carson has already argued, this seems seriously immoral. So I think it is quite reasonable to suppose not only that the prospective buyer would endorse bluffing, but that there are no other reasonable alternatives.

One response to my position might be that bluffing does help the individual but that in negotiations there is not one, but two bluffers, and that the addition of the second cancels out all advantage to the first. Therefore, bluffing would should not actually be endorsed, since it yields no expected improvement, and maybe even eschewed on the grounds that it takes time and energy. However, I do not see how the addition of another bluffer really changes anything. If the car dealer will go as low as \$10,000 and I will pay as high as \$12,000, then we would both agree to (and, *ex hypothesi*, be happy with) any transaction at any price between and including \$10,000 and \$12,000. Assuming that the reservation price of the buyer is higher than the reservation price of the seller, the issue is not whether the two parties will come to mutually agreeable terms, the question is just

what those terms will be. Ideally, each party would like to be able to bluff while having his opponent's position be transparent, but since that is obviously not a possibility, both should welcome bluffing as an opportunity to improve their positions.

It is also interesting to note that, without bluffing, the idea of negotiations itself almost (though not quite) becomes incoherent. Suppose that bluffing were not practiced, but that parties merely met and announced their respective reservation prices. I tell the car dealer that I will give him \$12,000 for the car and she tells me that he will take as little as \$10,000 for the car. Now what? I do not even know how to settle on a transaction price other than to do something arbitrary such as splitting the reservation window in half and settling at \$11,000. This seems like the wrong answer for a number of reasons. Such resolutions could be inefficient (i.e. not Pareto optimal), not utilitarian, unfair to those who negotiate well, etc.¹⁵ Negotiating is, I think, an essential part of business. To reach a transaction price, it makes the most sense for the buyer to start low and the seller high, and to reach some agreement in the middle. By announcing reservation prices, we would be creating a system that I find less attractive and, furthermore, would give the participants every reason to transgress and to bluff.

Finally, I think that there really is a lot of merit in the analogies between business negotiating and games (despite the criticisms by Koehn and others). But I would go further than claiming that it is *like* a game, it seems to me that it *is* a game. Perhaps this is not true in the sense that negotiators are drawn to their work because they find it amusing, this is false in a wide number of cases and I certainly do not mean to trivialize many serious negotiations. But if two parties come to the negotiating table and the reservation price of the buyer is higher than the reservation price of the seller, then we already know that, *ceteris paribus*, the transaction will occur and, furthermore, it will occur at a price to which both parties are amenable. It seems to me that the occurrence of the transaction and the satisfaction of the parties is what is really important, where the price falls within the reservation window just

determines what each party gains (in terms of money not spent or extra money earned) *in addition to* a mutually beneficial transaction. Whether the stakes are millions of dollars or not, the parties are still merely trying to secure money that they would otherwise be satisfied without.

Notes

¹ The first important paper was Albert Carr's "Is Business Bluffing Ethical?" *Harvard Business Review* January/February 1968, pp. 143–153. John Beach later reflects upon the treatment that the topic received in the years since Carr's publication (though Beach is somewhat critical of this response). See his "Bluffing: Its Demise as a Subject unto Itself", *Journal of Business Ethics* 4 (1985), pp. 191–196. Then, Thomas Carson reconsiders Carr's classic treatment of the subject and proposes an alternative conception of business bluffing; see "Second Thoughts about Bluffing", *Business Ethics Quarterly* 3(4) (1993), pp. 317–341. There are also numerous other examples within the literature, though I take these to be the most important.

² Carr (1968), p. 72.

³ Daryl Koehn has, for example, argued that the analogy between business and poker is quite weak; he takes nine features that exist in games and argues that few, if any, of these exist in business. For the sake of argument, I am willing to grant Carr's analogy; I think that, even with this analogy, he is unable to secure the conclusion that he desires. See Koehn's "Business and Game-Playing: The False Analogy", *Journal of Business Ethics* 16 (1997), pp. 1447–1452. Norman Bowie also argued against the legitimacy of adversarial models (such as poker) as proper characterizations of bargaining and negotiating. See his "Should Collective Bargaining and Labor Relations Be Less Adversarial?", *Journal of Business Ethics* 4 (1985) 283–291. Robert S. Adler and William J. Bigoness also challenge adversarial models in their work and find Carr's poker analogy to be flawed. See "Contemporary Ethical Issues in Labor-Management Issues in Labor-Management Relations", *Journal of Business Ethics* 11 (1992), pp. 351–360.

⁴ Carson (1993), 324–325.

⁵ *A Treatise of Human Nature*, ed. P. H. Nidditch, 2nd ed. (Oxford: Oxford University Press, 1978) III.I.i.

⁶ Carson (1993), p. 320. I assume that speaker is placed in scare quotes in order to allow for the possibility of non-verbal lying, such as when someone

gives false directions by pointing in the wrong direction without saying anything. This definition results partly from earlier work by Carson and a criticism that he consequently received from Gary Jones. To trace through this, start with Thomas Carson, Richard Wokutch, and James Cox's "An Ethical Analysis of Deception in Advertising", *Journal of Business Ethics* 4 (1985), pp. 93–104. Jones's criticism can be found in "Lying and Intentions", *Journal of Business Ethics* 5 (1986) 347–349. And, finally, Carson's response is in "On the Definition of Lying: A reply to Jones and Revisions", *Journal of Business Ethics* 7 (1988), pp. 509–514.

⁷ Carson (1993), pp. 321–322.

⁸ And, in an interesting recent article, Chris Provis argues that bluffing (or, more precisely, deception) is not as ubiquitous in business as everyone often assumes; he thinks that the appearance of bluffing can often be accounted for by genuine concessions. If Provis is correct, then Carson's reliance on conventionality is empirically flawed. Or, as I argue, the reliance on convention is conceptually flawed (in order to secure moral permissibility). So, either way, the approach will not work. See Provis's "Ethics, Deception, and Labor Negotiation", *Journal of Business Ethics* 28(2) (2000), pp. 145–158.

⁹ As I have indicated, other authors have also criticized the two approaches. What I have tried to do however, is be as charitable as possible: to grant all of their assumptions (the analogies, the adversarial nature of negotiating, Carson's definition of lying, etc.) and then aspired to show that they still cannot, even on their own terms, secure their desired conclusions.

¹⁰ An especially good and influential article is Richard Wassterstrom's "Lawyer's as Professionals: Some Moral Issues", *Human Rights Quarterly* 5(1) (1975).

¹¹ Monroe H. Freedman, "Professional Responsibility of the Criminal Defense Lawyer: The Three Hardest Questions", *Michigan Law Review* 27 (1966).

¹² This step of my argument might be overly pedantic, and I might fare just as well if I skipped it and went directly to arguing for bluffing in business contexts specifically. However, I do think that it is an important part of the conceptual framework that I want to establish.

¹³ This is obviously not to say that husbands or wives cannot bluff in business situations, just that a husband cannot bluff *qua* husband nor a wife *qua* wife. The husband or wife who bluffs in business is not bluffing *qua* husband or *qua* wife, but rather *qua* businessperson.

¹⁴ John Rawls has argued that it is not morally permissible to sell oneself into slavery (i.e., *even if* I endorsed the sale, it is still immoral). See his *Theory of Justice* (Cambridge: Harvard University Press, 1971). This poses an interesting objection to my idea that endorsement alone suggests *prima facie* permissibility. There are two ways that I could respond. First, I could disagree with Rawls and argue that any decision made by free and rational agents should be honored (so long as it did not harm others), that to do otherwise would show lack of respect for the being's rational nature. I am personally inclined towards this view, though I know that many are not. The other way that I could go would be to argue that Rawls' point merely indicates that people cannot voluntarily give up their rights and that consenting to being bluffed is not problematic since we do not have the moral right to be told the truth. I think that either of these responses could be profitably developed, though I will not do so here.

¹⁵ The "Split-the-Difference" theory of negotiating is discussed by Roger Bowlby and William Schriver in their "Bluffing and the 'Split-the-Difference' Theory of Wage Bargaining", *Industrial and Labor Relations Review* 31(2) (January 1978), pp. 161–171. Their discussion, however, is quite empirical and numerical rather than normative.

References

- Adler, R. S. and W. J. Bigoness: 1992, 'Contemporary Ethical Issues in Labor-Management Relations', *Journal of Business Ethics* 11.
- Beach, J.: 1985, "'Bluffing' its Demise as a Subject unto Itself", *Journal of Business Ethics* 4.
- Bowie, N. E.: 1985, 'Should Collective Bargaining and Labor Relations Be Less Adversarial?', *Journal of Business Ethics* 4.
- Bowlby, R. L. and W. R. Schriver: 1978, 'Bluffing and the "Split-the-Difference" Theory of Wage Bargaining', *Industrial and Labor Relations Review* 31(2).
- Carr, A.: 1968, 'Is Business Bluffing Ethical?' *Harvard Business Review* (January/February).
- Carson, T. L.: 1993, 'Second Thoughts about Bluffing', *Journal of Business Ethics* 3(4).
- Carson, T. L.: 1988, 'On the Definitions of Lying: A Reply to Jones and Revisions', *Journal of Business Ethics* 7.
- Carson, T. L., R. E. Wokutch and J. E. Cox, Jr.: 1985, 'An Ethical Analysis of Deception in Advertising', *Journal of Business Ethics* 4.
- Freedman, M.: 1966, 'Professional Responsibility of the Criminal Defense Lawyer: The Three Hardest Questions', *Michigan Law Review* 27.
- Hume, D.: 1978, *A Treatise of Human Nature* (2nd ed.). P. H. Nidditch (ed.). (Oxford University Press, Oxford).
- Jones, G. E.: 1986, 'Lying and Intentions', *Journal of Business Ethics* 5.
- Koehn, D.: 1997, 'Business and Game-Playing: The False Analogy', *Journal of Business Ethics* 16.
- Post, F. R.: 1990, 'Collaborative Collective Bargaining: Toward an Ethically Defensible Approach to Labor Negotiations', *Journal of Business Ethics* 9.
- Provis, C.: 2000, 'Ethics, Deception, and Labor Negotiation', *Journal of Business Ethics* 28.
- Rawls, J.: 1971, *A Theory of Justice* (Harvard University Press, Cambridge).
- Wasserstrom, R.: 1975, 'Lawyer's as Professionals: Some Moral Issues', *Human Rights Quarterly* 5(1).

Department of Philosophy,
University of California,
Santa Barbara, CA 93106,
U.S.A.
E-mail: fritz88777@aol.com