

Ethics, Art & Money in the Work of J.S.G. Boggs

by Preston K. Covey

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Background

The controversial work and legal trials of the artist J.S.G. Boggs were well reported in a serial article by Lawrence Weschler in the New Yorker; ("Values I & II," January 18 and 25, 1988) and a book by Weschler from which the articles were excerpted, Shapinsky's Karma, Boggs' Bills (San Francisco: North Point Press, 1988).

In February, 1991, Boggs's work was on exhibit at the Carnegie Mellon Art Gallery. At that time, we provided Boggs a tour of the computer-based interactive multimedia environments under development at the CAAE, which present documentary case studies on ethical issues and questions of value. Boggs was impressed with the possibilities of documenting his art form in this educational medium, a project I had on my own slate. In May of 1991, Boggs was appointed as a half-time Fellow in Art & Ethics conjointly in the Center for the Advancement of Applied Ethics and the College of Fine Arts' Studio for Creative Inquiry for academic years 91-92 / 92-93, for purposes of developing educational media documenting his art form and the questions of value that it raises.

Recently the Secret Service has ordered Boggs to cease and desist in case Boggs' art is in violation of counterfeiture law. On December 2, 1992, they seized samples of his art from his loft and his CAAE office as possible evidence for such a charge. At this writing, no charges have been brought.

I have been and will be repeatedly asked about the CAAE's view of the case. So, for the record, I address the ethics of Boggs' art form and his educational projects as a fellow in the CAAE. I will not comment on any legal matter in dispute, except to underscore the principle innocent until proven guilty and the fact that no charges have been brought against Boggs.

The Ethics of Boggs's Art Form

Among other things, Boggs does very exacting life-size drawings of paper currency (one side only, with documentation on the other side, or with graphic give-aways that the bills are not genuine currency, so that there is no intention of misrepresentation), which he then tries to "spend" (again with no attempt to defraud or to pass off his art as official

currency). Therein hang many tales.

In Boggs' view, his art form does not consist simply in his artful and graphically comic interpretations of currency but rather in the whole (series of) transactions that his attempt to "spend" his drawings generates: his purpose is to raise questions about art and value. The artifactual elements of his art include all the paraphernalia (from change and receipts to his actual "purchases") that result from and evidence his transactions; these are what Boggs collectors, galleries and museums collect.

Boggs was tried for his artful drawings of the respective currencies in England and in Australia. Therein hang other tales. In both cases he was acquitted. In England the jury acquitted him after only ten minutes deliberation. In Australia he was both acquitted and awarded \$20,000 in damages. In the United States, Boggs has yet to be arrested or tried, while the legality of his art form is disputed: the Secret Service evidently believes that Boggs's art may be shown to be in violation of the law, but Boggs and his attorneys evidently believe that it is not.

But it's natural to ask about the ethics of his art form, apart from the legalese: (1) Is his drawing and attempt to spend his artful bills unethical? And (2) if the legality of his art form is arguable, is it unethical to engage in it? Quite apart from the contested legality of his art form, what Boggs does is nothing if not ethically conscientious, in the following respects:

The first question: Is his drawing and attempt to spend his artful bills unethical? Consider an analogy: A Paris gallery specializing in exacting, virtuoso reproductions of master works. Not forgeries or fakes: not signed with forged signature as original master works. Not fraud: not misrepresented as the original master works. Could someone try to pass an artful reproduction off fraudulently? Perhaps. Does this make a precise reproduction itself a forgery or fraudulent? No.

Exacting replicas can be labelled and represented precisely for what they are. Exacting replicas can be and are made of many original designs, art works or historic artifacts, but with no intent to defraud or deceive. This is a crucial moral factor: intent, as demonstrated by execution. What role intent plays in the letter of counterfeiture law is a technical legal question. I am concerned here with the moral factor.

Again by analogy, the relevant common law doctrine is ***mens rea***, loosely translated as mental factors, in particular denoting intent and mind set: guilt of a crime requires a guilty mind. Intent is often a necessary and definitive factor in determining a crime; for example, intent defines the distinction between (and the degrees of) manslaughter versus murder. Fraud similarly requires the intent to defraud; for example, to misrepresent a fake or facsimile as a genuine article.

As to the ethics of what Boggs makes and does, Boggs' bills are not

fraudulent because they are *not* exact replicas of U.S. bills, they are not made to pass for U.S. currency, *nor* does Boggs attempt to pass them off as U.S. currency. Unlike either an exacting reproduction of a master art work or a deliberately counterfeit bill, no special equipment, no special knowledge or expertise, no special effort is required on the part of laymen to tell that a Boggs bill is not authentic U.S. currency.

In sum, Boggs's bills and Boggs's transactions are innocent of deceitful intent. The *bills* are not designed to deceive; on the contrary, they are designed NOT to deceive, to be easily detected as art upon inspection. Boggs' *transactions* are not designed to deceive; on the contrary, they are specifically designed NOT to deceive. Deception is totally contradictory to the purpose of his art form: Boggs frankly represents his bills as art, not U.S. currency, *precisely in order to raise compelling, confounding questions about their value* -- and about the nature and source of value.

The second question: If the legality of his art form is arguable, is it unethical to engage in it? Legality is arguable in two relevant senses: (1) As to whether you are in fact breaking the law. (2) Where you know or believe that you are breaking the law, as to whether you are doing so in conscientious objection, believing that the law is wrong or merits challenge. In the latter case, you may feel ethically compelled to test or break the law; your ethics may be at odds with the law. Classic cases of conscientious objection are: burning a draft card in order to protest the draft; aiding a loved one in suffering to commit suicide where assisted suicide is illegal. Such cases of knowingly illegal behavior are motivated by some over-riding ethical concern.

However, Boggs' case is not a case of deliberate violation of the law, as he sees it. After intensive consultation with his several attorneys, Boggs does not *believe* himself to be breaking the law; and he has not been *found* or even *charged* to be in violation of the law; so as a legal matter of fact, he therefore remains innocent until arrested, duly tried, proven guilty, with guilt upheld upon appeal. But so far as the legality of his art form is genuinely arguable and so far as Boggs realizes that its legality is at least contestable, he continues to practice his art in conscientious objection to any interpretation by which he could be found guilty. He does so by the classic ground rules of conscientious objection, but based in the presumption of his own innocence: He does so publicly, with no attempt to disguise what he is doing or to elude the authorities, with full willingness to face the consequences of untoward legal action, in order to test and hopefully rebut the law by which he risks being tried. His stance has consistently been: 'What I do is art. I do not believe it is either unethical or illegal. Either arrest me, or leave me alone. If you arrest me, I will rebut your interpretation of the law in court and hope to change it.'

Statutory law is one thing, case law is another; the latter may interpret, expand, limit or nullify the former, at trial (per jury nullification) or upon appeal -- but, in either case, by due process. Boggs' conscientious

intention is, if he should be arrested and must go to court, to rebut the legal charges either at trial or upon appeal. He is certainly, advisedly, and *pointedly* forcing the issue in the face of the Secret Service demand that he cease and desist, but with no attempt to escape the consequences (indeed, his artful practice and stance have cost him thousands of real dollars already). Boggs believes he is in the right and is willing to pay the price to challenge any legal charge that he is in the wrong. Whether correct or incorrect as a matter of legal fact (which only due process can determine dispositively in this or any other case), his is an ethically conscientious stand. Civics 101 tells us that such stands are essential to the testing, interpretation, validation, and evolution of our law, for better or worse. Constitutional Law 101 tells us that such stands are, in any case, innocent until proven guilty.

Boggs' Educational Projects at the CAAE

Boggs' case raises basic, compelling issues in ethics, aesthetics, value theory, economics, social history, and law: questions about the nature of value, about the nature and value of art and money, about the cultural norms that govern their relationships, about the law that protects our monetary system, and about the ethos of the artist in society. The graphic visual interests and transactional drama of this case lend themselves naturally to interactive video treatment and suggest various intriguing adventure game designs for exploring these questions in interactive media.

Academically, the case is a rabbit hole into a warren of interdisciplinary studies. There exists a rich social history of artists' representations of currency, for various and nefarious purposes, a thematic thread for social-historical focus. There are interesting philosophic questions (dramatized in his trial and subsequent hassles) for the law as well as the arts in Boggs's case. While his case is hardly one of either fraud or forgery, it would make a natural progression from such cases into more fundamental issues regarding what is "art" or "value" (that begin dramatically when people either agree or refuse to accept his artwork in lieu of money). One rich subtext in the case is the history and nature of money, monetary or fungible value, and the monetary system -- a natural segway into the philosophy of economics as well as the economics of the art world.

Boggs' bills and transactions -- in which he is and must be totally honest about what his bills are, in order for his transactions to `work' -- force questions about what we value and why:

Is it money? **NO**. Does it have value? **You decide**. Is it virtuoso handicraft? Absolutely. And is it art? **You decide**. Is this transaction mere barter? What's going on here?

While ensuring that neither his artwork nor his transactions will deceive anyone, Boggs' transactions provide food for thought about what we value and why -- questions at the heart of ethics. The CAAE's interest in

Boggs' art form is in its `real life' educational value as a case study. I take his art form to be two-fold: part graphic art and part performance art. The latter consists of fully consensual transactions in which Boggs forthrightly represents his bills as art, not money, but tries to `spend' them for goods and services. It is the latter enterprise that gives Boggs' case its educational interest for the CAAE, because of the questions it forces.

1. Boggs' art form itself: Why it provides good grist for the educational mill.

Boggs's transactions, like those of Socrates' in the agora of ancient Greece, force questions about value and the basis for attributing value -- staple questions of ethics -- *precisely because they are honestly represented with no attempt to defraud*. If he were trying to fool people with fraudulently represented counterfeit bills, there would be no interesting questions of value, only pointless misrepresentation. The transactions are good grist for value inquiry precisely because Boggs bills are NOT represented as real currency; else there would be no value quandries for people to think about. Merely reading about what Boggs does may not convey the quandries he raises; but the quandries become clear when real people wrestle with the questions Boggs raises, demonstrating that they are not trivial. Therefore, documenting Boggs' transactions and arguments about their meaning in film or video would allow a wider audience to wrestle with these questions of value, at least vicariously.

2. Educational media for documenting Boggs' transactions and exploring the questions of value they raise.

The point of Boggs' work in the CAAE is to document his transactions, his rationale for them, people's diverse responses to them, and the issues raised by them -- in educational media like film and interactive video environments, where the issues become dramatic and graphic. Boggs' fellowship work is in line with our other documentary case studies involving controversial issues such as euthanasia, abortion, art forgery, obscenity, and the use of deadly force. One distinctive mission of the CAAE is the production of educational media about controversial issues and case studies. Whenever feasible, we welcome the direct involvement of the principals such as Boggs.

Boggs' special project in the CAAE is to explore computer-based interactive multimedia as a new *metier* in which both to document his art form and to involve viewers vicariously in his transactions and the questions they raise. Boggs has entitled his prototype interactive video exploratorium, appropriately, *A Question of Value*. This title captures the point of his work as a Fellow in Art and Ethics: to raise questions about value -- aesthetic value, fungible value, monetary value, residual value, incalculable value, decisions about value, the source of value. The educational products of his fellowship work are decidedly not about defrauding people, and they pointedly document his painstaking

measures to ensure that no participant in his transactions is deceived about their nature -- or their value.

One product of Boggs' first fellowship year is the 1992 documentary film on Boggs, entitled *Money Man*, by Philip Haas and the BBC. Transactions and interviews from the filming of this documentary are in turn used in Boggs' interactive multimedia project *A Question of Value*. During the fall semester of 1992 Boggs also taught a course on Interactive Performance Art in the College of Fine Arts. Having decided to relocate his own studio to Pittsburgh, Boggs has also become a leader in a community project on the South Side called 'Save the Brew House,' an effort by an artists' cooperative to purchase the historic Duquense Brewery and restore it as a studio-gallery complex and vital artistic community -- another project in the creation and affirmation of value.

Pittsburgh Post-Gazette Sat. July 20 '91 p.9, 'People' section, 'City Scenes' box

'Lifestyles of the Rich and Famous' -- minus its most famous voice of Robin Leach --was in town yesterday to interview conceptual artist J.S.G. Boggs. A Fellow at Carnegie Mellon University, Boggs may not be rich but he is somewhat famous for his lifelike drawings of paper currency -- you know, bills of \$1, \$10, \$100, \$1,000. Boggs calls them art, but he has used them to pay bills in restaurants, hotels and airports around the world. He considers it artistic experiment but some foreign countries think it's counterfeiting.

'Lifestyles,' apparently exploring what money really is, was scheduled to go to Boggs' studio in the Brewery on the South Side. It also planned to interview Preston K. Covey, director of CMU's Center for Design of Educational Computing.

N.B. Counterfeit law technically defines counterfeiting in very hard operational terms -- terms which obviate the **mens rea** principle of common law eg. that you may not reproduce bills less than 50% larger or 30% smaller, in color

But if Boggs bills qualify technically as counterfeit solely on the basis of size and color, so do many other examples of artful faux currency hanging in museums and art collections, play money, adverts, etc.