

# Ghostwriting

and the Ethics of Authenticity

John C. Knapp and Azalea M. Hulbert



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## PROLOGUE

The CEO of a \$50 billion company was invited to speak to a large group of business leaders about ethical issues facing her industry. Reading from a prepared text, she gave a thought-provoking presentation and engaged her audience in a lively give-and-take discussion. Afterward, a man accompanying her took aside the host of the meeting and introduced himself as her speechwriter. “I’m afraid her delivery was not as sharp as usual,” he apologized. “I was late finishing the speech and she had not seen it in advance.”

His candor was startling, for it is not customary for ghostwriters to publicly acknowledge their work, nor is it likely the CEO would want it known that she had read the speech sight unseen. Moments later, he made a similar disclosure to a business news reporter whose afternoon wire report nonetheless attributed the words solely to the CEO. Perhaps the speechwriter assumed everyone knew the presentation was the work of a third party, as is so often the case with busy corporate executives. After all, ghostwriting for prominent leaders is so prevalent today that scarcely an eyebrow is raised on learning that a speech or other communication is the work of a hired writer.

To be sure, it is unusual for an experienced leader to carry a ghost-written speech to a podium without first reviewing it. It is also risky, as candidate Warren G. Harding found during the 1920 US presidential campaign, when on one occasion he was perturbed to find that he disagreed with himself in the midst of a stump speech. The red-faced future president confessed to his audience, “Well, I never saw this before. I didn’t write this speech and I don’t believe what I just said.”<sup>1</sup>

These anecdotes hint at both the complex relationships between ghostwriters and their clients and the ethical issues that may attend the practice in its various contexts. In the pages of this volume, we will review the history and evolution of this practice and explore questions that arise in a range of practical settings. But our first task is to define the parameters of our study.

### WHAT GHOSTWRITING IS AND ISN'T

At first glance, the definition of ghostwriting seems straightforward enough. In everyday usage, it describes the writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer's role will be invisible to readers or hearers of the words—hence the term ghost. This is a serviceable definition; yet as we reflect on the process of producing almost any written work, we see that authorship is often more ambiguous than it initially appears. Regardless of who actually crafts the words of a speech or published work, the finished product almost always reflects ideas and language derived from other sources.

Consider Abraham Lincoln's first inaugural address, one of the most memorable political speeches in American history. Historians point out that Secretary of State William Seward had a hand in writing the conclusion by proposing a few flowery lines: "The mystic chords which proceeding from so many battle fields and so many patriot graves pass through all the hearts ... in this broad continent of ours will yet again harmonize in their ancient music when breathed upon by the guardian angel of the nation." But it was Lincoln who masterfully revised these words and inspired his audience to foresee how "the mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature."<sup>2</sup>

This simple example illustrates how an amalgam of contributions may lie behind good writing. Did every idea or turn of phrase in the inaugural address originate with Lincoln? No, but the speech's principal authorship can be attributed to no one else. It is easy to see why Theodore C. Sorensen, the legendary ghostwriter for President John F. Kennedy, called Lincoln "the greatest of all presidential speechwriters."<sup>3</sup>

Professional ghostwriters, too, rely on multiple sources, including varying degrees of input from their clients. Where one writer may be called

upon to originate most of the ideas and words for a client, another may simply help the client find better language to articulate his or her own thoughts. Very often the client's contribution lies somewhere in the middle, making it difficult to ascertain the extent to which a given work may properly be labeled ghostwritten.

Ghosts may also lurk outside the realm of the written word. Takashi Niigaki, a Japanese composer, worked for 18 years ghostwriting musical scores for Mamoru Samuragochi, Japan's "modern Beethoven."<sup>4</sup> Even Wolfgang Amadeus Mozart was not above selling custom compositions to members of the nobility who wished to pass themselves off as composers.<sup>5</sup> While such instances may not be common—and will not be the primary focus of this volume—they show that almost any creative activity may be susceptible to ghostwriting, possibly requiring a somewhat broader definition than the one we first presented.

For purposes of this book, it may be helpful to refine our definition by identifying several things ghostwriting is *not*:

### *Plagiarism*

By the definition above, taking credit for the authorship of ghostwritten materials does not ordinarily constitute plagiarism. Though the principal writer may be given little or no credit for his or her work, this is by agreement between the parties. Without such agreement, misrepresenting another's work as one's own counts as plagiarism and may possibly violate a copyright as well. In the academic context, where original authorship with full source attribution is explicitly required, ghostwritten work is virtually taboo. Students who turn in assignments written for them by third parties, such as so-called term paper mills, may face stiff penalties, as may academic professionals who submit others' work for publication in scholarly journals.

### *Ordinary editing and revisions*

Editors customarily review the works of professional writers prior to publication. This is true at book publishing houses, magazines, and newspapers and is frequently the case with materials produced in public relations firms, corporate communications offices, and governmental agencies. Though editing sometimes involves extensive rewriting, this seldom is considered ghostwriting and primary authorship is ascribed to the writer of the original text.

*Transparent attribution*

Material is not considered ghostwritten when the communicator fully discloses the identity and specific contributions of the original writer, making no effort to claim authorship. A far-fetched example might be a politician or business leader ending a speech by thanking the person who penned it. More commonly, a designated spokesperson might read a statement, explaining that it was written by another individual or group. Or the words read by a television news anchor may be attributed to writers by name in the credits at the close of the broadcast.

*Less than transparent attribution*, by contrast, can be misleading, as when one's vague acknowledgment of another's contributions falsely implies personal authorship of a work. This is common in book publishing, where ghostwritten volumes published under the names of celebrities or well-known leaders may carry minimal acknowledgment of an assisting writer. Consider the cover of the book *Cash: The Autobiography of Johnny Cash*, which includes the words "with Patrick Carr" in smaller type.<sup>6</sup> Though this phrase may acknowledge the involvement of a ghostwriter, the reader must draw his or her own conclusion about Mr. Carr's role.

## MODERN PROFESSION, ANCIENT ART

Ghostwriting is by no means a new phenomenon. Yet it was only in the early twentieth century that it emerged as a widely recognized professional practice, thereafter growing in tandem with the burgeoning Public Relations field. Within just a few decades, previously unknown job titles, such as speechwriter, were commonplace in large institutions and consultancies. The professionalization of the practice eventually gave rise to ghostwriters' associations, codes of conduct, journals, and other artifacts of an established field. In the twenty-first century, relentless demands for communication continue to fuel demand for ghostwriters, as busy leaders and even ordinary citizens seek writing support for speeches, articles, and books, as well as for newer forms of communication, such as blogs, tweets, even personal dating profiles.

Its recent popularity notwithstanding, ghostwriting's roots are traceable at least as far back as the fifth century B.C., when wordsmiths in Athens kept busy preparing speeches, governmental pronouncements, and legal documents for officials and citizens. A ghostwriter named Lysias is credited with 200 speeches in antiquity, 35 of which survive today. Most of his known work was for litigants in criminal cases where charges ranged



from murder to accepting bribes.<sup>7</sup> A few decades later, Demosthenes was earning a living providing similar services to Athenians. Not only was he an accomplished speechwriter, he became famous for his own oratorical skills and gradually rose to power as an influential statesman.<sup>8</sup> In Rome, Julius Caesar is believed to have enlisted the ghostwriting talents of Aulus Hirtius and Gaius Oppius to write several of his lengthy accounts of wars.<sup>9</sup>

## WHY THIS BOOK?

These chapters provide a broad survey of this multifaceted subject, showing how ghostwriters ply their trade in many, sometimes unexpected, areas of public and personal life. Particular attention is given to questions of ethics and the deeper matter of personal authenticity, for ghostwritten communications inevitably mold others' perceptions of a communicator's competence, values, and beliefs. They may also shape one's self-image. The cornerstone of our study, then, is a concept that the philosopher Charles Taylor calls "the ethics of authenticity."<sup>10</sup>

Chapter 1 introduces this idea and develops the ethical framework used in subsequent chapters. The second chapter traces the history of ghostwriting from the earliest known practitioners to present-day communications professionals. The chapters that follow explore ghostwriting in a broad range of contexts, from political and corporate communication to academic and medical publishing to the legal field. We also review several additional contexts where ghostwriting is prevalent, including religious and interpersonal communication.

Coauthor John C. Knapp approaches the subject of this book from his perspective as one who, for more than a decade, led an Atlanta communications firm serving large corporations, professional firms, trade associations, medical providers, and educational institutions. While directing a team of professional consultants and writers, he personally worked with dozens of executives and public officials, often ghostwriting speeches, press statements, letters to shareholders, op-ed commentaries, and other communications. He came to appreciate the synergy and mutual respect that can develop between writers and their clients, and learned to recognize the factors that typify the best of these relationships. Earlier in his career, he gained insight into the rough and tumble of political communications, spending a year as press secretary to a candidate for US Congress.

These practical experiences later informed his scholarly work as founding director of centers for ethics and leadership at two universities. Today,

Dr. Knapp serves as a college president, a role requiring continuous communication through letters, articles, speeches, and other means. Though he usually reserves authorship for himself, he sometimes finds that the help of others is necessary.

Azalea M. Hulbert developed an interest in communication ethics while serving as program director of a university center for ethics and leadership. Among her projects was an initiative to prevent academic dishonesty by students and faculty. She conducted extensive research to understand attitudes and practices in such matters as plagiarism, third-party authorship of academic papers, and other such concerns. Using this research as a catalyst, she designed and implemented interventions to enhance student and faculty understanding of the ethical issues surrounding academic dishonesty.

Today, Ms. Hulbert is pursuing doctoral studies in higher education at The Pennsylvania State University. Through a series of early career experiences that catalyzed her broader interest in ethics, she recognized the damage to employee morale and institutional effectiveness that inevitably results from ethical misconduct. Her research interests lie at the intersection of organizational studies and student development, and focus on approaches to student development at the collegiate level that foster ethical competencies, as well as on organizational models that drive cultural change.

Now if you are wondering about the true authorship of the book you are holding, we can only say that we regret that we have no ghostwriters to blame for its many shortcomings.

## NOTES

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# CONTENTS

|          |   |            |
|----------|---|------------|
| <b>1</b> | <b>Authenticity and Ethics in Ghostwriting</b>    | <b>1</b>   |
| <b>2</b> | <b>Emergence of a Professional Practice</b>       | <b>13</b>  |
| <b>3</b> | <b>Political Communications</b>                   | <b>27</b>  |
| <b>4</b> | <b>Corporate and Institutional Communications</b> | <b>49</b>  |
| <b>5</b> | <b>Judicial Opinions and the Legal Profession</b> | <b>63</b>  |
| <b>6</b> | <b>Academic Dishonesty</b>                        | <b>85</b>  |
| <b>7</b> | <b>Scientific Publications</b>                    | <b>107</b> |
| <b>8</b> | <b>Book Publishing</b>                            | <b>127</b> |

|                            |     |
|----------------------------|-----|
| <b>9 Personal Contexts</b> | 147 |
|----------------------------|-----|

|                 |     |
|-----------------|-----|
| <b>Epilogue</b> | 167 |
|-----------------|-----|

|              |     |
|--------------|-----|
| <b>Index</b> | 175 |
|--------------|-----|

## Authenticity and Ethics in Ghostwriting

During a meeting of the UK Speechwriters Guild, several presenters stressed the need for writers to help public speakers appear “authentic” when using ghostwritten material. This might be accomplished, they suggested, through more effective use of body language and greater familiarity with the text. Attendees blogged about the topic afterward, but no one seemed to ask an obvious question: Might it be *inauthentic* to consciously feign authenticity?

The authenticity of the communicator is a critical consideration in our examination of ghostwriting, for it lies at the root of many ethical questions arising in specific cases: *What are the consequences if ghostwritten words create a false impression of a communicator’s knowledge, competence, or qualifications? Might relying on a ghostwriter inhibit the development of one’s own ideas, convictions, and voice? Would readers feel misled if they learned a book or article was ghostwritten? Is it the communicator’s intention to mislead his or her audience?*

The philosopher Charles Taylor observes that we live in a “culture of authenticity” where finding one’s own voice is regarded as a worthy pursuit on the principle that “each of our voices has something of his own to say.”<sup>1</sup> This is an ideal of late modernity: the freedom to define oneself on the basis of one’s unique abilities, personality, experience, and values. In other words, “There is a way of being human that is *my way*,” and one’s honest pursuit of this uniqueness is foundational to relationships with others and, importantly, with oneself.

The general feature of human life that I want to evoke is its fundamentally *dialogical* nature. We become full human agents, capable of understanding ourselves, and hence of defining an identity, through our acquisition of rich human languages of identity. For purposes of this discussion, I want to take “language” in a broad sense, covering not only the words we speak but also other modes of expression by which we define ourselves.<sup>2</sup>

In this sense, the formation of an individual’s authentic self—the discovery of one’s own originality—depends to a great extent on communication with others. One’s identity is revealed and shaped through interactions not only with friends and loved ones, but also within larger groups and communities. A blogger’s self-understanding may be sharpened by those who follow and comment on her opinions. A public speaker may learn how others perceive him or her from feedback during or following a presentation. An author’s self-image may be influenced by book sales, reviews, and readers’ comments. “If I begin to say that I define myself by my ability to articulate important truths,” writes Taylor, “then we are in the domain of recognizable self-definitions.”<sup>3</sup>

### COMMUNICATION, SELF-DECEPTION, AND THE LIMITS OF AUTHENTICITY

Ironically, the more earnestly individuals strive to communicate an image of authenticity, the more Taylor’s “culture of authenticity” may resemble what historian and social critic Christopher Lasch calls a “culture of narcissism.”<sup>4</sup> Social interaction—including speaking and writing—can facilitate self-awareness, yet can also contribute to self-deception, as some communication contexts provide ample opportunity for others to validate and reinforce one’s preferred self-understanding, whether authentic or not. Thus, the person who wishes to see herself as a respected expert is more likely to do so when the content of her speech, even one that is ghostwritten, is affirmed by an audience’s applause.

Daniel T. Gilbert and Joel Cooper describe how people generally seek to validate “overgenerous conceptions of themselves as competent, well-loved and virtuous.” One strategy for this is to craft communications to elicit favorable responses from others, encouraging them to perceive the communicator as he or she would like to be perceived. Thus, communication influencing the social environment shapes the information subsequently produced by the environment. Gilbert and Cooper describe “self-presentational feedback loops” that can alter others’ perceptions of us in order that they may



reciprocally help us maintain our preferred beliefs about ourselves. “We may present ourselves in ways that underscore our best traits and obscure our worst,” and it is sometimes a skilled ghostwriter who makes this possible.<sup>5</sup>

This reciprocal relationship is also suggested by Michel Foucault, who designates authorship, in part, as a descriptive term, with certain connotations suggested by a particular author’s name: “When one says ‘Aristotle,’ one employs a word that is the equivalent of one, or a series, of definite descriptions, such as ‘the author of the *Analytics*,’ ‘the founder of ontology,’ and so forth.”<sup>6</sup> Of course, the use of a ghostwriter problematizes this descriptive relationship, as it may no longer be accurate—or authentic—to identify the author in question using the descriptive terms that his work implies:

If I discover that Shakespeare was not born in the house we visit today, this is a modification that, obviously, will not alter the functioning of the author’s name. But if we proved that Shakespeare did not write those sonnets which pass for his, that would constitute a significant change and affect the manner in which the author’s name functions. If we proved that Shakespeare wrote Bacon’s *Organon* by showing that the same author wrote both the works of Bacon and those of Shakespeare, that would be a ... type of change that would entirely modify the functioning of the author’s name.<sup>7</sup>

It is, of course, a reciprocal relationship, meaning that the audience itself validates these descriptions and identifies certain authors with certain works—and then continues to do so as the author accepts and embraces that validation. Many identify, for instance, James Patterson as the author of several blockbuster book series. In reality, Patterson uses sundry ghostwriters for many of his works—a fact that is certainly well known, and which makes him more architect than author. While Patterson has shown willingness to acknowledge this distinction in interviews, he openly maintains his status as both.<sup>8</sup> Other examples abound, and will be explored throughout this book.

While the use of a ghost may push the limits of authenticity, many authors do not see the use of ghostwriters as unethical or otherwise problematic. Ernest G. Bormann, in an insightful piece exploring ghostwritten speeches, sees it differently, emphasizing the disingenuity of turning a blind eye to certain practices while entertaining others—despite similar questions about authenticity in all cases. Specifically, he notes the tension between those who accept ghostwritten speeches but condemn ghostwritten university papers, on grounds that the work of ghosts cheapens

education.<sup>9</sup> This dissonance leads Bormann to conclude that “[a]pparently [ghostwritten] speeches by businessmen, governors, and the president of the United States are not to be taken as representative of honest, independent ability and achievement.”<sup>10</sup>

While few take the dim view of speechwriters that Bormann does—a topic that will be explored in more depth in the next chapter—his commentary shines a light on the inherent potential for self-deception and inauthenticity in ghostwritten communications. Bormann objects when leaders, of whatever profession, rely too extensively on others to perform their work, arguing that they should be experts in their own fields, and should convey their authentic expertise and experiences to others:

If the audience is to know a candidate through what he speaks and writes, then he must be honest with them and present himself as he really is. When he reads a speech that reveals to his audience a quiet humor, an urbane worldliness, subtle and incisive intellectual equipment, then he should be that kind of man. If his collaborators, one a man of quiet humor, another an urbane worldly man, and the third a man of subtle and incisive intellectual equipment, are responsible for the “image” revealed in the speech, and if the speaker has different qualities and intellectual fiber, the speech is a deceit . . . and condemned as unethical.<sup>11</sup>

### THE PROBLEM OF AGENCY

Of course, Bormann’s critique centers largely on the need for the audience to truly *know* the speaker through her words. Yet in reality, individual authenticity may be limited by the formal and informal communication systems of today’s organizations, where executives, elected officials, and others are often called upon to act as agents of communication on behalf of employers, clients, causes, or ideas. Thus, the freedom of a corporate executive is necessarily limited, sometimes precluding her from relating to the world in ways she might otherwise choose. Institutional structures and cultures may shape not only what she communicates, but also how she interprets information she receives.<sup>12</sup>

Think of a CEO signing a letter to shareholders, a spokesperson making a press announcement, or an attorney stating a case in a court of law. In such cases, the person may be seen as somewhat distinct from the role he or she plays as an agent communicating for others. In his seminal work on agency theory, Thomas Hobbes sees those in such roles as “artificial” or “feigned” persons.<sup>13</sup> Can one be fully autonomous and authentic when

one's name is attached to ghostwritten information intended to achieve the goals of another individual or group? Asked another way, can a person be authentic when credited with messages he or she did not create and may not even endorse?

The phenomenon of role-playing has long interested philosophers, psychologists, and other social scientists, as well as legal and political theorists. Among these, the existentialist philosophers are especially pointed in condemning role-playing as inauthenticity or, in Jean-Paul Sartre's words, "bad faith" with oneself. Sartre warns that people sometimes lose their identity in occupational roles and become "nothing more" than the role itself—a "being-for-others," merely acting out a role in the way that is expected.<sup>14</sup>

This phenomenon is also rendered compellingly by the philosopher Alasdair MacIntyre, who uses the term "characters" to describe role-based identities that individuals assume in particular settings. These identities "furnish recognizable characters and the ability to recognize them is socially crucial because a knowledge of the character provides an interpretation of the actions of those individuals who have assumed the character." This is not true of everyone who plays a role, but applies to persons whose roles place them under "a certain kind of moral constraint on the personality" that may compromise authenticity.<sup>15</sup> For example, a government official might be expected to play a prescribed role that involves giving speeches written entirely by others.<sup>16</sup> Though the spoken words would almost certainly be attributed to the official, it would be inaccurate to credit the official with authorship.

Now consider the dilemma from another perspective—that of a speechwriter laboring on behalf of a client. The writer's words are not his own, for once spoken they will belong to another person who takes full credit for them. There are times, too, when a writer faces the ethical dilemma of disagreeing with the arguments he is crafting for his client's use. "In short, speechwriting could be a dehumanizing exercise in inauthenticity."<sup>17</sup>

Some writers, however, see no dilemma whatsoever. Robert T. Oliver, who served 14 years as a speechwriter for South Korean officials including President Syngman Rhee, sees a parallel between ghostwriters and lawyers. "Lawyers sometimes defend clients whom they think are guilty, but they feel these people are entitled to the best case that can be made for them." Offering a hypothetical example of one who writes for a member of the American Nazi Party, he concludes, "I would view the speaker as unethical, but not the ghostwriter."<sup>18</sup> A similar view is expressed by Craig

R. Smith, a writer for US President Gerald R. Ford and Vice President George H.W. Bush:

I don't think it is unethical, though, for people to write against their personal convictions. A lawyer can defend a guilty person and help make sure justice is carried out. Likewise, a speechwriter can write for the other side of an issue perfectly fine just to make sure the idea gets fair play in the marketplace of ideas. . . . I personally don't do it because I don't write as effectively when I'm writing about an idea I don't believe in.<sup>19</sup>

### THE CHALLENGE OF ASCRIBING AUTHORSHIP

*“Let me assert my firm belief that the only thing we have to fear is fear itself.”* Millions of Americans recognize these familiar words as spoken by President Franklin D. Roosevelt during the Great Depression. The speech with this memorable line, delivered on March 4, 1933, was likely written by Raymond Moley, a White House ghostwriter—although the line itself has been most commonly attributed to fellow speechwriter Louis Howe, or even to Roosevelt himself.<sup>20</sup> Similarly, the exhortation, *“Ask not what your country can do for you, ask rather what you can do for your country,”* is a widely cited quotation from President John F. Kennedy who spoke the words in his inaugural address. Yet historians generally attribute authorship of this speech to Ted Sorensen, Kennedy's speechwriter.<sup>21</sup> Sorensen, however, was reluctant to take full credit, explaining that he and the president collaborated in the drafting process:

The question of proportion of our respective contributions is confused by the fact that much of JFK's first dictation was based upon my early draft, and that portions of my early drafts were based upon his earlier campaign speeches, which were themselves most often works of collaboration between us, some of which drew from ideas and phrases from a variety of historical statesmen and writers.

The question of ultimate credit is thus obscure, as it should be.<sup>22</sup>

Political correspondent Robert Schlesinger investigated the authorship of the “ask not” line and agreed that it was impossible to pin it to a single source. “Seeking the origin of a specific phrase, then, is akin to straining to find the source of the first noise in an echo chamber. It is unknowable.”<sup>23</sup>

Despite this obvious difficulty, it is crucial to our exploration of ghostwriting to consider how to ascribe authorship of a written work in a way that is both fair and accurate. Merriam-Webster defines an *author* as “one that originates or creates” or “the writer of a literary work (as a book).” Accordingly, an author may be the creative force behind a work, or may simply be the one who records it in written form. The dictionary defines *writer* as one who engages in the act of writing, and describes *writing* as “the act or practice of literary ... composition.”<sup>24</sup> Although *author* and *writer* may not be completely synonymous, *ghostwriting* is generally understood as work involving elements of both author and writer—roles that a ghostwriter and client may sometimes share.

The fact is, there are few strict guidelines for attribution of authorship in most contexts. A notable exception is the scholarly realm, where professionals, especially in scientific and medical research fields, deem clear assignment of authorship “important to disputes and allegations of research misconduct, . . . [access to] funding, . . . [as] evidence of creative contributions that warrant promotion, . . . as a mechanism to attract both new trainees and willing collaborators, . . . [and] in an era of increasing emphasis on commercialization, authorship and credit help to define intellectual property rights.”<sup>25</sup> Scholarly researchers have good reasons to be highly motivated to clearly define and assign authorship rights.

In legal disputes, the final arbiter of authorship is copyright law, much of which deals with ownership, rather than authorship. US copyright law’s doctrine of work-for-hire nonetheless has interesting implications for the study of ghostwriting. When determining ownership of a work made for hire, “the employer or other person for whom the work was prepared” has a right to claim authorship and, unless the parties have expressly agreed otherwise in a written, signed instrument, “owns all of the rights comprised in the copyright.”<sup>26</sup>

The doctrine of work-for-hire defines specific standards that apply to works created for an employer, which according to our earlier definition, would include most ghostwritten work. The law applies to both authorship and ownership. Specifically, it ascribes authorship of a work-for-hire exclusively to the employer, or in the language of our definition, the client. Under the law, then, a ghostwriter may have no claim—at any point or under any circumstances—to authorship of a work unless otherwise stated in a contract.

One context worth noting is book publishing, where it is not uncommon to acknowledge the roles of ghostwriters with words like “with” or “and.” This practice is seen on the covers of popular novels, such as those of James Patterson, as well as many memoirs of celebrities. In most cases, it is left to

the reader to wonder what role the secondary author played in writing the book. Because this detail is not generally disclosed, it is inevitable that this collaborator or contributor is assumed to be the named author's ghostwriter.

Then who—or what—is an author? Merriam-Webster, the scientific community, and the law agree: authorship is the (almost) exclusive domain of originators or creators, not of technical contributors. In a broader sense, though, we acknowledge the real difficulty of discerning the collective inputs contributing to many written products. Who originated the project? Whose ideas does it communicate? Who expressed these ideas in words? It is easy to see that the answers are not always simple. With this in mind, we will now further explore the ethical landscape of ghostwriting.

### A MODEL FOR ETHICAL ANALYSIS

On this ethical terrain, one encounters concerns and questions of several varieties. The most apparent is the fact that the role of a ghostwriter is, by definition, not transparently evident to readers or hearers. For this reason alone, the practice is frequently condemned as an intent to deceive. But is this true in every case? And when it is true, what might be at stake for the parties involved? We propose a six-part model for more carefully examining the ethical dimensions of cases where ghostwriting may be involved. In subsequent chapters involving particular contexts of practice, we will encourage the reader to use this model to unpack the issues at hand.

#### *Is It Ghostwriting?*

Using the definition proposed in the prologue, we should ask whether a given project involves writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer's role will be invisible to readers or hearers of the words. As discussed above, it may be possible for a ghostwriter's general involvement to be known, but her specific role to be veiled, as with some books.

#### *Why Was a Ghostwriter Involved? What Alternatives Were Available?*

A client may have any number of reasons for seeking ghostwriting assistance. Time constraints are often cited, as good writing requires time for research, thinking, and finding the best words to convey ideas. No doubt, this is a

major factor, but it is also true that many clients simply do not possess the skill to write a persuasive commentary or entertaining speech. When the writer-client process is collaborative, a case can be made for the value of two or more minds working together. And in some cases, a ghostwriter is selected to provide subject-matter expertise a client does not have, with the assumption that the client possesses complementary skills or expertise. Describing the value of speechwriters to US presidents, Schlesinger notes, “Their political successes often reflected their ability to properly use these aides.”<sup>27</sup>

In considering the role of ghostwriting in any given case, one might ask what alternatives were available. Could the client have chosen to write his own material? What if he chose to “wing it” at a speaking engagement or decided to forgo the opportunity altogether? For many busy executives and public officials, the absence of ghostwriting support would mean less communication in a world of increasing communication demands.

### *Whose Interests Are at Stake in the Project?*

Ethics is primarily about relationships—how one’s actions affect the interests of others. Some interests are identified and protected by law, as when copyright laws clarify and assure ownership of a creative product. But more often, it is through the exercise of ethical judgment that the interests of stakeholders are taken into account. Let’s consider the situation mentioned in the opening lines of this book. The CEO of a leading company is invited to speak to an audience of business leaders about issues facing her industry. She stands at the lectern and reads a prepared text she had not previously reviewed, a fact that her ghostwriter subsequently discloses to several key people in the audience. Whose actions and interests should be considered in an ethical analysis of this case? Some are present in the moment: the CEO, the speechwriter, an audience of business leaders, a reporter. But the interests of others may be affected as well: her company, her shareholders, her customers, or others in her industry.

### *What Consequences May Result from a Decision to Use a Ghostwriter?*

The involvement of a ghostwriter can yield obvious benefits to a client. It can make it possible to produce material that time limitations would preclude the client from producing himself. It can also result in a higher-quality end product than would be possible by a client with less subject-matter

expertise or writing ability. On the other hand, relying on ghostwriting can prevent a client from mastering important subject matter and communicating with greater authenticity. In some cases, the intended or unintended revelation of a ghostwriter's involvement can result in a loss of trust.

### *What Principles or Duties Are at Stake?*

The requirement that the ghostwriter remain invisible to the audience can appear to be in conflict with important ethical principles, including transparency and truthfulness. Indeed, there are occasions where a ghost's invisibility is maintained in order to support a false claim of authorship by a client. In other situations, a ghost is kept out of sight to allow a client to appear unduly articulate, competent, or knowledgeable. Can a client fulfill her ethical duty to be honest with her audience while relying on ghost-written work? Is it her intent to mislead others? Would her audience feel misled if the ghostwriter's role were enclosed? Would the communication be less successful or effective (e.g., in persuasion, book sales) if the role of the ghostwriter were known?

Likewise, a ghostwriter should be mindful of professional duties. Presumably, an implicit or explicit agreement exists with the client. This includes a responsibility to produce work on time that meets expectations of quality and accuracy. Unless otherwise agreed, it includes an obligation to remain invisible to the readers and hearers of the work product. Moreover, should a ghostwriter be expected to exercise ethical judgment about how the written material may affect the interests of others? Does the writer bear responsibility for the communication of information intended to mislead or otherwise adversely affect others? When might it be appropriate for professional writers to refuse assignments? Robert T. Oliver, once the speechwriter for South Korean officials, recalls, "There were lots of times I wrote things that went against my convictions, but not in a vital way. . . . I'd resign rather than write against my basic and important convictions."<sup>28</sup>

### *How Might the Ghostwritten Work Affect the Personal Authenticity of the Client?*

As discussed at the beginning of this chapter, the use of ghostwriting services is not only relevant to a client's reputation—that is, how he is perceived by others, for better or worse. The practice also may shape one's self-perception and development. In one sense, a valid case can be made that



a ghostwriter may contribute to a client's knowledge and self-confidence, while enabling him to communicate more effectively and freeing him for more important demands. For many people, this is indisputable. Yet there is risk as well, especially as real authenticity requires alignment between perceptions and reality. Is it inauthentic to claim credit for work one did not actually produce? Clearly, authenticity can be undermined if ghostwriting creates a false image based on perceived qualifications that one does not possess. Relying on this as a substitute for learning and personal growth can result in false confidence and inhibit self-awareness. It may be helpful for a client to ask herself, how comfortable she would be disclosing to others that her well-received communication was ghostwritten.

These six considerations comprise a model that we will encourage readers to apply in weighing the contextual issues presented in later chapters. But first, we will survey the evolution of the practice of ghostwriting, from its ancient roots to the emergence of a contemporary field of professional practice.

## NOTES

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## Emergence of a Professional Practice

“What should I say, and how can I say it well?” Throughout human history, people have turned to others for advice and assistance with this question in mind. Anyone asked to give an important speech might ask friends or colleagues for suggestions about content or rhetoric to ensure a successful presentation. Many of us have sought informal help of this kind, yet some situations call for greater subject-matter knowledge or skill in crafting communications. As in other areas of life, a need for a service spells opportunity for enterprising people—in this case for those who work as paid ghostwriters. But this is far from a modern phenomenon.

Ancient Greek logographers are among the earliest known professional ghosts, a number of whom are mentioned in records from as long ago as the fifth century BCE. Perhaps the best-known ghostwriter in Greek antiquity is the statesman Demosthenes, who from an early age supported himself by writing speeches—even while building a successful political career on his own public-speaking ability.<sup>1</sup> Today’s readers may be familiar with Demosthenes, who was introduced to twenty-first-century audiences in the film *The King’s Speech*, in which King George VI of the UK is encouraged by a therapist to speak with marbles in his mouth to overcome a speech impediment; the therapist cites Demosthenes, who was said to overcome his stammering tendency by practicing speeches with a mouthful of pebbles.<sup>2</sup> While notable, Demosthenes is far from the only exemplar of the profession in ancient Greece, where Antiphon was recognized as the first speechwriter.<sup>3</sup>

Another prominent example is Lysias, a wealthy shield maker whose business and property were seized by the “Thirty Tyrants” oligarchy that reigned briefly in Athens after the end of the Peloponnesian War in 404 BCE. Also referenced in Plato’s *Republic*, Lysias’ autobiographical writings tell the story of how he narrowly escaped execution and fled by boat to Megara. In just over a year, however, the Thirty fell from power; Lysias found himself back in Athens in need of a new source of income.<sup>4</sup>

To meet this need, Lysias turned to writing. Shortly after his return, he produced a document entitled *Against Eratosthenes*, a legal argument for the conviction of one of the Thirty who had stolen his wealth and killed his brother. This publication earned him a reputation for persuasive rhetoric; he was thereafter in demand as a logographer—or speechwriter—for litigants in the Athenian judicial system where individuals had no lawyers and were required to present their cases in two speeches recited from memory.<sup>5</sup> He is best remembered for pioneering a style known as *ethopoiia*, the art of incorporating memorable, personal features to make a speaker’s words appear more authentic. He also used humor, sarcasm, and other devices to create the impression that the words were indeed the speaker’s own, in contrast to the more formal style of other well-known ghostwriters of the period.<sup>6</sup>

Isocrates, a compatriot of Lysias, also turned to ghostwriting after losing his wealth in the Peloponnesian War. He made a living teaching speaking and persuasion, though he was not a public speaker himself, and was readily available to clients as a ghost for hire. In addition to financial motives, it seems that Isocrates saw rhetoric as his art: “There is indeed a strong suspicion that Isocrates would lend his talents to any cause whatsoever, **merely for the pleasure of presenting it well** [emphasis added].”<sup>7</sup>

Ghostwriters also can be found in the ancient Roman Empire. In one notable example, Julius Caesar is credited with many sayings, including *Veni, Vidi, Vici* (“I came, I saw, I conquered”), a memorable phrase coined for him by one of his secretaries who served as a ghostwriter. After his death in 44 BCE, a ghostwriter named Hirtius continued to give voice to the emperor by completing several of his works, including a book on the Gallic campaign and a narrative on the Civil War.<sup>8</sup>

Though the Western origins of ghostwriting may lie in ancient Greece and Rome, the practice existed in much earlier societies and in non-Western cultures as well. For instance, one of the best-known scribes for the Egyptian pharaohs, Khety, wrote several texts that became popular with readers of his time. Among them was *Instructions of King Amenemhat I*, attributed to the king but ghostwritten by Khety after the pharaoh’s assassination in

1962 BCE.<sup>9</sup> In another case, Hebrew scholar Richard Elliott Friedman’s exploration of biblical authorship leads him to conjecture that the prophet Jeremiah relied on his close associate Baruch as a ghostwriter<sup>10</sup>—just one of many instances where ghostwriting is thought to be a factor in the creation of biblical texts. As another example, in China’s Southern Song dynasty (1127–1279), a long succession of emperors relied on female ghostwriters who were sometimes royal consorts or even empresses. Undeniably, these ghostwriters enjoyed a privileged position: “It is noteworthy that the writings of these women were used for communications with the three most important institutions of the court bureaucracy, a clear indication of how close these ghostwriters were to the emperor.”<sup>11</sup>

In addition to spanning the globe, ghostwriters span the years. Consider, for instance, Shakespeare’s rumored ghosts, made popular in the 2011 film *Anonymous*. The film named Edward de Vere, Earl of Oxford, as the man behind Shakespeare’s words. However, this is only one theory out of many:

[A]lmost every prominent Elizabethan has been suggested at one time or another as the author of one or more of Shakespeare’s plays: Ben Jonson, Christopher Marlowe, the Earl of Derby, the Earl of Rutland, the Earl of Southampton, the Earl of Essex, Sir Walter Raleigh and of course, Francis Bacon.<sup>12</sup>

In the end, it’s possible that William Shakespeare did, in fact, write his own plays. A perceived disconnect between the man (deemed “too unworldly, too unromantic . . . too ordinary”) and his work, however, contributes to the ongoing conjecture of a ghost behind one of the world’s most famous—and far from ordinary—playwrights.<sup>13</sup>

Many other examples of the practice may be found, but it was not until the early twentieth century that ghostwriting became a widely recognized practice.

## PROFESSIONALIZATION OF PUBLIC RELATIONS IN THE AMERICAN CONTEXT

We will see in the next chapter that many US political leaders have relied on ghostwriting assistance since the founding of the nation. President George Washington’s speeches were written by various aides and members of his cabinet, including Alexander Hamilton and James Madison.<sup>14</sup> Yet government officials’ employment of dedicated staffers with titles like “speechwriter” or “communications director” is a more recent phenomenon coinciding with the twentieth-century rise of mass media and the public relations profession.

By the early 1900s, savvy communicators were becoming adept at manipulating public opinion through attention-grabbing events and publicity in America's burgeoning newspapers. Circus promoter and showman P. T. Barnum had become wealthy as a master propagandist, and similar techniques were being adopted by business tycoons whose power, accumulated through the industrial revolution and the unchecked rise of monopolies, was increasingly challenged by progressive politicians and muckraking reporters. In response, former journalists—professional writers—were recruited by industrialists to assist with making their case to policymakers and the public. Some of these writers and publicists found opportunities to go into practice for themselves, including George V. S. Michaelis who in 1900 established the Publicity Bureau in Boston to serve the major railroads. Others set up shop successfully in New York City, Washington, D.C., San Francisco, Oklahoma City, and Atlanta. These firms are seen as the forerunners of today's public relations profession, and their work necessarily involved ghostwriting press statements, speeches, and other materials for clients.<sup>15</sup>

In Chap. 4, we will look more closely at the evolution of communications programs and practices by businesses and other institutions, but for now it will suffice to note that the early twentieth century was a period when both corporate and governmental interests began adopting more sophisticated methods of influencing opinion through planned communications. Perhaps the most notable example involves the propaganda apparatus of the US government during World War I; among its developers were several people whose post-war endeavors helped shape an increasingly recognized field of practice in the 1920s. It may not be coincidental that this period is when the term *ghostwriter* first came into use to describe one who produces work “presented as being written by somebody else.”<sup>16</sup>

Among these public relations pioneers was Edward L. Bernays, a nephew of famed psychoanalyst Sigmund Freud. During the war, he worked with the Committee on Public Information, chaired by George Creel, helping wage a campaign to promote sales of war bonds and build public sympathy for the war effort. Bernays advocated for the use of social science research in planning and measuring the effects of communication, and authored the first textbook on public relations, *Crystallizing Public Opinion*. In 1923, he taught the first known university course on public relations.<sup>17</sup>

Another influential practitioner of the era was Ivy Ledbetter Lee, the son of a Georgia preacher who left a job as a Wall Street reporter to work for a New York City mayoral campaign and ultimately went on to

serve business clients, including John D. Rockefeller. He is credited with coining the term “public relations” and developing the press release as a tool for influencing the media. He is remembered for helping to soften the images of businessmen cast by the media as “robber barons.” He did so, in large measure, by crafting words for attribution to his clients. Despite his considerable influence in developing techniques still used by practitioners today, he died in disgrace after two major scandals, the first involving public relations materials released in 1914 on behalf of Rockefeller during an ultimately bloody miners’ strike. The second, and more damning, scandal arose in the 1930s, after it became known that his clients included interests in Nazi Germany—including, perhaps in an unpaid capacity, German Foreign Minister Herman Goebbels and Adolf Hitler himself.<sup>18</sup>

Through the rest of the twentieth century, the growing public relations field gained acceptance as a management discipline. The practice today involves, but is not limited to, research of social trends, public opinion, and human behavior; strategies for informing and influencing audiences through communication; tactics for disseminating information to key publics (e.g., employees, customers, investors, public officials, voters); and evaluation of communication effectiveness. Many of today’s communication strategies rely on ghostwritten material attributed to corporate executives, elected officials, scientific experts, or other clients. These may range from brief quotations in press releases to lengthy policy papers on technical subjects. In short, while much ghostwritten work originates outside of the field, there can be no doubt that the rise of public relations has led to the proliferation of ghostwritten material, as well as new career paths for those who wish to do this work.

While it is not the intention of this book to resolve the longstanding question of whether public relations is properly categorized as a profession, it is clear that the field today bears many professional hallmarks. College degrees (both undergraduate and graduate) in public relations are offered by leading universities, and a growing body of knowledge is fostered by peer-reviewed academic journals and research institutes. There are membership associations, such as the Public Relations Society of America (PRSA), the International Association of Business Communicators (IABC), and more than 40 other organizations worldwide,<sup>19</sup> some of which provide professional credentialing, such as PRSA’s APR accreditation, and seek to promote standards of practice. For the purposes of this book, this latter category is the most significant, as these standards of practice—and specifically, standards of ethics—bear significantly on the acceptance and use of ghostwriters within the profession as a modern-day phenomenon.

## GHOSTWRITING AND PROFESSIONAL ETHICS

The most noteworthy professional hallmarks may be the codes of ethics promulgated by several practitioner associations around the world. The Global Alliance for Public Relations and Communication Management, a confederation of major public relations and communication management associations, exists to “unify the public relations profession, raise professional standards all over the world, share knowledge for the benefit of its members and be the global voice for public relations in the public interest.” It has established a code of ethics that begins with a Declaration of Principles:

A profession is distinguished by certain characteristics or attributes, including:

1. Mastery of a particular intellectual skill through education and training
2. Acceptance of duties to a broader society than merely one’s clients/employers
3. Objectivity
4. High standards of conduct and performance.<sup>20</sup>

The code calls on members to act “professionally, with integrity, truth, accuracy, fairness, and responsibility to our clients, our client publics, and to an informed society.” It speaks of a commitment to “ethical practices, preservation of public trust, and the pursuit of communication excellence with powerful standards of performance, professionalism, and ethical conduct.”<sup>21</sup>

Likewise, members of the PRSA are encouraged to adhere to a professional code of ethical responsibilities, including building “trust with the public by revealing all information needed for responsible decision making.” It states that this is accomplished in several ways, including being “honest and accurate in all communications” and avoiding “deceptive practices.”<sup>22</sup>

These principles provide a helpful lens for examining the ethics of ghostwriting. In any situation involving ghostwritten material, one might be prompted to ask if failing to disclose the role of an invisible author constitutes a breach of truth or “deceptive practice.” The answer would depend on a number of variables, of course, including the extent to which the reader has an expectation of authenticity. For instance, would the use of a ghost by a CEO to report firm earnings be considered deceptive?



What if the CEO, instead, relied on a ghost's assistance to craft a deeply personal commencement address?

Similarly, we can imagine situations where “revealing all information needed for responsible decision making” would require one to disclose that a ghostwriter, not the named author, actually produced a work. For example, what if the reputation of the named author of a ghostwritten medical article influenced readers to make personal health decisions they otherwise would not have made? What if a high school senior gained admission to a prestigious and selective university based on a ghostwritten personal statement? Or an individual chose a romantic partner through an online dating site, not knowing that all communications—even those that seemed spontaneous—had been carefully crafted by a professional writer?

In these instances, both the named author and the ghost bear ethical responsibility. In practice, however, these ethical standards suggest that ghostwriters (at least those affiliated with a profession and in agreement with its standards of practice) bear more responsibility; like other communications professionals, ghostwriters may choose to work for some clients, but not others, sometimes based on these ethical considerations. Nonetheless, these statements are undeniably ambiguous and open to interpretation—which may be why the public relations field has long been dogged by accusations of being too willing to aid questionable interests.

Additionally, as will be explored in later chapters, ghostwriters sometimes face a difficult dilemma of balancing competing interests; do they owe greater responsibility to their clients, to the public, or to themselves? Is it ethical for a writer to create a work intended to mislead an audience about a speaker's competence? Should one aid a client whose purposes are not in the best interests of society? Think, for instance, of the potential consequences of Ivy Lee's work on behalf of Nazis—or on a smaller scale, of any of the examples given above.

In short, while the use of ghosts is moderated, to an extent, by professional standards of ethics, ambiguity still surrounds the practice. This is due, in part, to the fact that a considerable amount of the ghostwriting discussed in this book occurs in contexts outside the public relations profession—song lyrics or dating profiles, for example. Complicating matters is the fact that some of these external fields apply their own professional codes of ethics; consider, for instance, the American Medical Writers Association (AMWA) that echoes many of the standards put forth by the public relations associations, while disclaiming ghostwriting:

[AMWA] recognizes the valuable contributions of biomedical communicators to the publication team. **Biomedical communicators** who contribute substantially to the writing or editing of a manuscript **should be acknowledged with their permission** and with disclosure of any pertinent professional or financial relationships [emphasis added].<sup>23</sup>

Again, these standards are less than forceful—words like “substantially” and “should” leave room for interpretation. Those who wish to remain invisible may find ample loopholes in the language of ethical standards surrounding the practice of ghostwriting; this can easily be seen as contributing to its proliferation. Outside of ethics statements, there are few artifacts indicating that ghostwriting is a significant professional concern, as journals in the field place little emphasis on it. Since 2007, the archives of *Public Relations Journal* (a publication of the PRSA) list only two articles with the word ghost in the title, one of which also addresses speechwriting.<sup>24</sup> *Public Relations Review* has published significantly more articles on speechwriting, but none mention ghostwriting in the title. The same is true for the *Journal of Public Relations Research*.<sup>25</sup> While not a conclusive indicator of the field’s attention to ghostwriting, it appears that other topics take precedence.

So what has motivated this general acceptance of ghostwriting and the accompanying growth of the public relations profession? As suggested earlier, a primary reason lies with the need for the services provided by public relations professionals.

### THE NEED FOR A PROFESSIONALIZED PRACTICE

As public awareness of ghostwriting—in particular as a public relations tool—has grown, this has raised an important question: Does the public accept ghostwriting as legitimate? Surprisingly, this matter is the subject of remarkably little empirical research. In a notable exception, a 1996 study by Linda A. Riley and Stuart C. Brown, researchers at New Mexico State University, surveyed university business students and found that most expected “individuals of ‘position’ to use speechwriters” and guessed that on average 84 percent do so. Ghostwriting was deemed a necessary service because of clients’ time constraints and/or lack of qualifications for the task of writing. Respondents believed that speechwriters possess special skills that may be used for legitimate purposes.<sup>26</sup>

The most significant finding suggests that respondents recognize the use of speechwriters by certain individuals in certain circumstances. Given this recognition, however, respondents still indicate the act may be less than totally acceptable. The question of nonattribution by a speechgiver is viewed with even more skepticism. While respondents realize that constraints impinge on some speakers, most assume that the speaker takes an active role in developing the material of a speech. Most also indicate that regardless of who wrote the speech, the speechgiver is ultimately responsible for the commitments delivered in it.<sup>27</sup>

These findings are highly suggestive for a theme that will be developed in later chapters, mentioned briefly above: that both the ghost and the named author share responsibility for the work. However, unlike the language used by professional ethics statements, these responses suggest that the named author bears the primary responsibility. As we will see throughout subsequent chapters, this level of responsibility fluctuates in actuality. For instance, in a college classroom, where students have signed an honor code agreeing to do their own work, we would expect that—while the ghost would be viewed with contempt—the burden would lie on the student. Conversely, it could be argued in many situations explored throughout this book that, if ghosts would simply not perform the work, the problem would simply disappear.

Similarly, another theme developed throughout this book echoes the other component of Riley and Brown's research described above, namely their finding that many subjects expected individuals to use speechwriters. However, this need for assistance—perceived or real—transcends the realm of CEOs and politicians, and reaches into many corners of our lives. Many readers may be familiar with the common phrase used in academia, publish or perish—a phrase that pushes scholars to produce more and more content in order to stay employable and relevant in their fields. This was captured by researchers Lutz Bornmann and Ruediger Mutz, who described how the “global scientific output”—currently including the “more than 755 million cited references in 38 million publications from 1980 to 2012”—now doubles every nine years.<sup>28</sup> In Chap. 7, we will explore how this has pushed some academics to use ghostwriters, for good or bad. In other corners of academia—discussed in Chap. 6—we will see how rising pressure on college applicants to apply at multiple colleges has led to a perceived need for assistance on their college essays—assistance which often crosses an ethical line. In other chapters, we will explore areas far removed from academia, where pastors and songwriters, judges and celebrities, all see a need to produce—or

publish—more. As noted in the opening paragraph of this chapter, these needs—real or perceived—spell real opportunity for ghostwriters, many of whom have found their niche in the field of public relations.

## IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

### *Is it ghostwriting?*

History tells us there is nothing new about the writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer's role will be invisible to readers or hearers of the words. However, the emergence of the public relations profession and the exponential growth of communications media in the twentieth century brought the practice into wider usage in the context of governmental, business and other institutions. Today, staff positions with titles like "speechwriter" exist in many organizations as evidence that ghostwriting is an accepted and integral part of communications management.

### *Why ghostwriters? What alternatives are available?*

In many cases, the need for ghostwriters is a reflection of clients' limitations of time and expertise. These constraints became much greater in the twentieth century, as communication demands increased dramatically. With the advent of broadcast media, electronic mail, social media, and Internet news sources, organizations and their leaders faced growing demands for information and ever-faster responses. The relentless pace of communication made it ever more difficult for busy individuals to give time and thought to their important written and spoken words. Many confess that without ghostwriting help they would be far less effective and responsive in communicating with important constituencies.

### *Whose interests are at stake?*

The proliferation and professionalization of ghostwriting parallel the development of a field that employs growing numbers of people. Increasingly, *practitioners* are educated for this work in university-level public relations and communications programs led by *specialized faculty*. *Organizations* benefit from communications that are professionally written to reach multiple *stakeholders* who, arguably, are better informed as a result. *Executives, public officials, and others* within these organizations find that their own performance may be enhanced substantially with this type of support.

*What consequences may result?*

Yet there are circumstances where ghostwriting may have negative consequences for any or all of these interests. Practitioners may be seen as engaging in a form of deception. Academic instructors may be criticized for failing to emphasize ethical limitations. Organizations risk losing credibility if leaders' communications are found to be written by third parties. Stakeholders who feel misled may withdraw trust and confidence. And individual leaders who rely heavily on ghostwriting assistance may fail to develop their authentic "voice," confidence and clarity, which are essential leadership attributes.

*What principles or duties should be considered?*

The ethics codes of several professional societies provide some general guidance for public relations practitioners. They stress a need to strive for excellence and possess an appropriate level of competence; an obligation to serve the public interest, taking into account how information may be used by others in decision-making; and a duty to be truthful and accurate in information produced. Other sources of guidance may include employers' codes of conduct and personal moral commitments.

*How might the ghostwritten work affect the personal authenticity of the client?*

By definition, the decision to outsource work to a professional ghostwriter entails a need to maintain the illusion that the client deserves the attribution he or she claims. Thus, a breach of confidentiality is a potential risk. To what extent does the effectiveness of the communication hinge on this illusion? How might others view the client's authenticity if the involvement of the ghostwriter becomes known? Could this vary according to audiences' expectations of authenticity and genuine authorship?

For the client, might the use of ghostwriting be a "crutch" hindering the client's professional growth as an authentic communicator and thinker? Might a positive audience response lull him or her into a self-deceptive view of his or her own knowledge or skill?

For further reflection, consider the following:

1. Before continuing our discussion of ghostwriting in different contexts, think about existing assumptions you may hold about ghostwriting in different fields. In what fields do you think ghostwriting might be acceptable, and why? Where do you think it might not be acceptable?

2. Public relations and related fields have developed certain standards that seem to address ghostwriting; however, few address it outright. Can industry associations directly address the practice while still balancing the needs of individuals who utilize their services with the need for transparency and openness? How?
3. Given your current understanding of the practice of ghostwriting, do you believe that the ghost or the named author bears more responsibility for the perpetuation of the practice? In what situations might the ghost be more responsible? The named author?

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## Political Communications

Be it enacted by the Legislature of the State of Arizona.<sup>1</sup>

So begins SB 1070, Arizona’s far-reaching immigration law that was passed in 2010, launching a firestorm of controversy—and of copycats. This law, and others like it, has faced challenges in the highest court of the land. Despite these challenges, the legislation allows police in a handful of states—Arizona, Alabama, and Georgia—to profile individuals based on their suspected immigration status, in practice by profiling them based on ethnic or racial cues. Such a law can be nothing but controversial, given these racial overtones—so why would a state pass, or even pursue, a law so likely to be challenged?<sup>2</sup>

According to an expose by National Public Radio (NPR) after the passage of the bill, the reason was simple: self-interest. Simply put, the law wasn’t driven by an interest in the greater good, or even by nationalistic impulses. Instead, it was designed with a much less altruistic motive in mind: the construction of “a prison for women and children who were illegal immigrants,” illegal immigrants who would be imprisoned on the basis of the state’s new anti-immigration law.<sup>3</sup>

The actors attempted to portray it as positively as possible—arguing, for example, that the revenues from a for-profit prison would bolster the community. Undocumented immigrants were cast as a danger to the state, with the bill designed to protect Arizonans from “the Trojan horse destroying our country.” But the bottom line? As NPR reports, the bill wasn’t written by “the Legislature of the State of Arizona,” or



perhaps even by its legislators. Instead, it was drafted by a task force of the American Legislative Exchange Council, or ALEC.<sup>4</sup>

This, of course, begs the question: Who—or what—is ALEC? The council self-identifies as “America’s largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism,” and includes “nearly one-quarter of the country’s state legislators and stakeholders from across the policy spectrum.”<sup>5</sup> It includes industry representatives from private prison firms, asbestos manufacturers, oil companies, health insurance giants—and even the National Rifle Association.<sup>6</sup>

For funding, ALEC relies on for-profit partners—with an estimated 80 percent of the organization’s funding coming from corporate sources.<sup>7</sup> These influences are readily apparent in the tactics used by the organization, which “work[s] to translate business-friendly ideas into public policy by writing model legislation and giving those outlines to sympathetic elected officials.”<sup>8</sup> In short, ALEC’s goal—enacted in part through ghost-writing—is to influence the legislative landscape of the country, one state at a time—all through a seemingly innocuous, and perfectly legal, partnership between business and government.<sup>9</sup>

So how does ALEC do this, and how did it work behind the scenes to ghost Arizona’s SB 1070? In this case, it worked in partnership with the “originator” of the bill, Arizona Senator Russell Pearce, and a task force composed of “lawmakers from Arizona and other states—and a representative from one private prison company.” And that’s not all: it’s also worth noting that many of those lawmakers—whether directly involved or simply supportive of the bill—“received donations from private prison companies and their lobbyists.”<sup>10</sup>

Be it enacted by the Legislature of the State of Arizona.

Some might question if this is how SB 1070 should *really* begin.

## DEFINING THE PARAMETERS OF POLITICAL COMMUNICATION

As noted in the previous chapter, many of the earliest records of ghost-writing involve service to governmental and political leaders in ancient Athens, Rome, Egypt, China, and other societies. How does the preceding anecdote relate to this timeless practice? Much legislation is written

collaboratively and sponsored collectively. In this way, it differs from the political communications that will be the focus of the balance of this chapter: presidential speeches and other more personal communications that are intended to reflect the voice of an individual politician or leader.

However, laws are undeniably communications and can meet our basic definition of ghostwriting offered in the prologue, for such work involves the writing of material by one person (or collective, such as the ALEC task force) for use by another (Arizona legislators) who will be credited with its authorship, and where both parties agree that the writer's role will be invisible<sup>11</sup> to readers or hearers of the words. Legislation is also notably similar to other forms of political communication, in that the influence of the particular communication depends on the prominence of the speaker or author; as such, the presence of ghosts can raise ethical concerns.<sup>12</sup> There are, of course, differences; presidential speechwriters, for instance, are selected by the president, though it is possible that the Arizona legislators were selected by ALEC. Nonetheless, legislation represents an important type of ghostwritten political communication, reflecting many of the issues we will consider throughout this chapter.

With this in mind, we turn our attention to more familiar forms of ghostwritten political communications: namely to ghostwriting in the American presidency, where the evolution of the practice is well documented and provides abundant illustrations of the complex roles of ghostwriters at the epicenter of power in the modern world.

Presidential rhetoric has always been crucial to success in office, whether in letters to constituents, public proclamations, policy statements, or other daily communications. Speechmaking, too, has been part of the job since 1789 when George Washington took the oath of office on the balcony of Federal Hall in New York City and then addressed members of Congress and special guests in the Senate chamber.<sup>13</sup> Inaugurations continue to be a tradition marked by public pageantry, evening galas, and the main event, a speech that often seeks to define a new vision for the nation. Well-crafted phrases from these seminal moments have found a special place in public memory.

It is important to recognize, however, that major political speeches were relatively rare in the nineteenth century. "The president was not a popular leader who sought to rally the public and promote a policy agenda. Even Abraham Lincoln rarely addressed the public."<sup>14</sup> Theodore Roosevelt was the first to use frequent public speeches to bypass Congress and appeal directly to voters.<sup>15</sup>

Before the electronic age, presidential speeches were often reprinted and read by far more people than could actually hear them spoken.<sup>16</sup> The introduction of sound amplification in the twentieth century made it possible for larger audiences to hear presidents speak, and in 1921 Warren G. Harding was the first to deliver an inaugural address in this way. Soon the invention of audio recording devices and radio broadcasting brought the sounds of presidents' voices to exponentially more citizens, so that the spoken word became the single most important instrument of persuasion for the nation's highest office. By 1925, early radio owners could hear Calvin Coolidge's oath of office in their own living rooms. With the dawn of the television era, Harry Truman's 1949 inaugural was both heard and seen by millions.<sup>17</sup> Since then, every president's political influence has necessarily hinged to a greater extent on public speaking effectiveness, from campaign speeches and debates, to State of the Union addresses and broadcast press conferences.

These changes had implications for how presidents' speeches were written. "As a spoken speech could only reach its immediate audience, such documents were prepared more with readers in mind than listeners."<sup>18</sup> Electronic broadcasts introduced a new dynamic. Speeches would now have to be written not only for listeners, but also with greater attention to the individual style, manner, and personality of the individual who would deliver the speech. Richard Nixon would say to his speechwriter that John F. Kennedy's inaugural address "basically stands up because it has some good phrases, and because it caught the mood and it caught himself."<sup>19</sup> In the age of television, Kennedy may have been the first president to benefit from words so well tailored to his public persona.

#### SECRETARIES, CABINET OFFICIALS, LITERARY CLERKS, AND SPEECHWRITERS

Even before his presidency, George Washington relied on ghostwriters as commander of the Continental Army during the American Revolution. Jonathan Trumbull, Jr., David Humphreys, and David Cobb were secretaries who wrote public addresses and much of his correspondence. "Washington's Victory Dispatch on the Surrender of Cornwallis — seemingly like Caesar's for Asia — was ghostwritten: by David Humphreys. Humphreys wrote the dispatch and Washington signed it without change."<sup>20</sup> Unfortunately, for Washington, Humphreys was ill when he needed a writer for his Farewell Orders to the Armies of the United States, so he turned to Cobb, a less

talented writer whose handiwork is filled with “superfluous statements,” resulting in a less-than-inspiring farewell to the troops.<sup>21</sup>

As president, Washington continued to seek help from secretaries, but the writing of major speeches and publications often fell to higher-ranking officials including Treasury Secretary Alexander Hamilton, Chief Justice John Jay, and Congressman (and future President) James Madison—the three authors of *The Federalist Papers*. His famous Farewell Address, still read annually on the floor of the US Senate on Washington’s birthday, was drafted first by Madison, then reviewed by the president, and revised further by Hamilton. It is possible that Washington relied more on such help to compensate for the fact that he had comparatively less formal education than many of his contemporaries in government.<sup>22</sup>

In Andrew Jackson’s White House, a stooped, sickly, disheveled man with a constant cough and powerful pen was a familiar figure. Amos Kendall, son of a New England farmer, was a Kentucky newspaperman who gained favor with Jackson by writing editorials supporting his candidacy. His rewards were an appointment as Postmaster General, then a cabinet-level office, as well as an informal role as the president’s confidant and ghostwriter. This was an influential position, allowing him a hand in crafting Jackson’s persona: “Putting explanations of the president’s policies in language to which he knew ordinary folks back in Kentucky and throughout the nation would respond well, Kendall helped shape the image of Jackson as a man of the people.”<sup>23</sup> It was no secret that he wrote for the president, leading one opponent to call him “the president’s thinking machine, and his writing machine, ay, and his lying machine.”<sup>24</sup> In addition to writing most of Jackson’s major addresses, he drafted the often-quoted veto of the bill to recharter the Second Bank of the United States, and “produced much of the newspaper material that appeared throughout the country to build support for Jackson’s programs.” Later, he continued in the role of Postmaster General—and perhaps his other roles—for President Martin Van Buren.<sup>25</sup>

When James K. Polk was nominated for the presidency at the 1844 Democratic National Convention in Baltimore, a prominent historian, writer, and party leader named George Bancroft saw the opportunity to make his mark in national politics. Bancroft had run unsuccessfully for several public offices, most recently the governorship of Massachusetts, when Polk invited him to Washington, D.C., to join the cabinet as Secretary of the Navy. He helped found the US Naval Academy at Annapolis and was outspoken in foreign policy matters, eventually being appointed US

Ambassador to Great Britain. Throughout much of his career, even during the three-year stint in London, Bancroft labored to complete a ten-volume *History of the United States*, a classic work for which he is still known as the “Father of American History.”<sup>26</sup>

While Secretary of the Navy, he was called upon to ghostwrite Polk’s message to Congress calling for a declaration of war against Mexico.<sup>27</sup> Later, with the US Civil War approaching, Bancroft wrote campaign speeches for Stephen A. Douglas, the unsuccessful Democratic nominee in 1860. He remained an active voice in national affairs throughout the war, and after Abraham Lincoln’s assassination wrote President Andrew Johnson’s first annual message to Congress.<sup>28</sup> For the remainder of his life he continued to edit his *History* and produce new works, including a biography of Martin Van Buren.<sup>29</sup>

Lincoln, in contrast to some nineteenth-century presidents, enjoyed crafting his own speeches. Though he often sought input from members of his cabinet, his “success as an orator stemmed not from his voice, demeanor or delivery, or even his presence, but from his words and his ideas. He put into powerful language the nub of the matter in the controversy over slavery and secession in his own time, and the core meaning for all time of this nation itself as ‘this last best hope of earth.’” Theodore Sorensen, ghostwriter for John F. Kennedy, concludes, “Lincoln was a better speechwriter than speaker.”<sup>30</sup> This appreciation of Lincoln’s talent is echoed by Ken Khachigian, chief speechwriter for Ronald Reagan, who read all of the past inaugural addresses as he worked on Reagan’s. He recalls how he felt after reading Lincoln’s second one: “I should have stopped there and turned the assignment over to someone else. It is so dramatically poetic and excruciatingly well written; you can’t come up to that standard.”<sup>31</sup>

The first White House aide whose formal job description was to write presidential remarks was a “Literary Clerk” named Judson Welliver. His abilities as a former journalist were badly needed by Warren Harding whose self-written inaugural address was less than well received. H.L. Mencken wrote, “It reminds me of a string of wet sponges; it reminds me of tattered washing on the line; it reminds me of stale bean soup, of college yells, of dogs barking idiotically through endless nights. It is so bad a sort of grandeur creeps into it. . . . It is rumble and bumble. It is flap and doodle. It is balder and dash.”<sup>32</sup> After Harding’s death, Welliver served two years in the same capacity for successor Calvin Coolidge before taking a public relations position in the oil industry. In recognition of his role as the first official White House speechwriter, the exclusive, bipartisan club of his successors is called the Judson Welliver Society.<sup>33</sup>

Since that time, it has been standard practice for presidents to employ staffs of dedicated ghostwriters whose roles vary according to the needs of the officeholder. Roosevelt used several writers but edited the drafts heavily. Harry Truman tended to read speeches with his head down and so did better with outlines to full-text documents. Dwight Eisenhower used writers but personally worked hard on their drafts up to the time of delivery. Nixon's writers found that he preferred to write many of his own speeches and often spoke without a written text. Carter, who was initially uncomfortable using words written by another, preferred a list of talking points until aides convinced him that prepared texts provided to the media would ensure greater accuracy in reporting.<sup>34</sup> Since then, it has been said that "No politician today who takes to the podium dares to go at it alone."<sup>35</sup> Some argue that for high-ranking officials, speaking without the help of a ghostwriter is the equivalent of presenting a case in a court of law without an attorney.

### THE QUESTION OF ANONYMITY

Presidential speechwriting has not only benefited the Commanders in Chief; in fact, several ghostwriters have gained personal notoriety through their work in the White House. It is not uncommon for journalists and commentators to mention the writers' names when reporting on presidential addresses.<sup>36</sup> However, this inevitably gives rise to tensions regarding the appropriateness of such disclosures, especially when it is the ghostwriters themselves who seek public credit, even if they wait to do so until the president is out of office or deceased.

At the center of one such case is Raymond Moley, a Columbia University law professor who wrote for Franklin D. Roosevelt, first while he was governor of New York and later in the White House. Moley was one of three ghostwriters (with Samuel Rosenman and Louis McHenry Howe) on Roosevelt's staff. From his first presidential campaign the three clashed with each other, plagued by jealousy as they sought the president's favor and credit for their work. As Roosevelt prepared to give his acceptance speech at the 1932 Democratic Convention in Chicago, the writers were still arguing for their competing drafts. During the car ride to the venue, Howe handed a new draft to the nominee who responded, "But Louis, you know I can't deliver a speech that I've never done any work on myself, and that I've never even read."<sup>37</sup> Shortly thereafter, as he rose to speak to the assembled delegates, the three writers waited anxiously to see which

version he would choose to use, only to hear him read Howe's first page, followed by material written by Rosenman and Moley.<sup>38</sup>

A few days before the February 1933 inauguration, in the library of the president-elect's family home, Moley was drafting the inaugural address with the president at his side. As the work was completed, Roosevelt took the typewritten pages and began copying them in his own handwriting, worried that Howe would be upset if he knew it was Moley's work. When he was finished, Moley placed the typed pages in the fireplace where they were quickly incinerated.<sup>39</sup>

To ensure that Moley was not credited with the speech, Roosevelt appended a note to the handwritten draft that reads, "This is the original manuscript of the Inaugural Address as written at Hyde Park on Monday, February 27, 1933. I started it at about 9:00 p.m. and ended at 1:30 a.m. A number of minor changes were made in subsequent drafts, but the final draft is substantially the same as the original." Moley was unaware of the ruse until 1964, by which time Roosevelt had been credited with sole authorship in several biographies and other publications. Furious, he published a memoir in 1966 to set the record straight. To prove that he actually wrote most of the text, he produced evidence in the form of notes and an outline. "Moley's evidence suggests that on February 27, at Hyde Park, FDR examined his ghost's draft" and then wrote it out in his own hand.<sup>40</sup> It was important to this ghostwriter that he not be invisible to the eyes of history.

Roosevelt is by no means the only political leader who preferred to keep his ghostwriters out of public view. Despite Roosevelt's speechwriters' disclosures in later years, Lyndon Johnson saw them as appropriately discreet while the president was in office, admonishing one of his own speechwriters, Robert Hardesty, "Remember those assistants of FDR who had a 'passion for anonymity.' That's what I want you to have: a passion for anonymity. Speechwriters especially."<sup>41</sup> Johnson aide Jack Valenti, a Harvard-educated advertising man, wrote to the president assuring him that reporters had been told his landmark address on civil rights was the work of Johnson himself: "He talked out what he wanted to say—and as drafts were prepared in response to his dictation, the President personally edited and revised."<sup>42</sup> However, a later account by White House ghost Dick Goodwin tells a somewhat different story: "Although I had written the speech, fully believed in what I had written, the document was pure Johnson."<sup>43</sup>

As these anecdotes imply, kiss-and-tell books about life in the White House are nothing new; a spate of them are published about every

administration. Yet tell-all accounts by ghostwriters sometimes raise eyebrows, for unlike other aides, they are at least assumed to play a mostly invisible role. Should this invisibility continue after leaving office, or is it fair to reveal the authorship and creative process of communications attributed to the president? Such books include *The Other Side of the Story* by Carter Press Secretary Jody Powell; *Confessions of a White House Ghostwriter* by James C. Humes, a writer for Eisenhower, Nixon, Ford, Reagan, and George H.W. Bush; and *What I Saw at The Revolution*, the best seller by Reagan's speechwriter Peggy Noonan.<sup>44</sup>

Noonan's account of her role in the Reagan administration has been called self-aggrandizing and, according to some Reagan loyalists, too bent on taking full credit for the president's most memorable public utterances. Her description of writing the speech following the explosion of space shuttle *Challenger* is one example. She makes clear that it is her handiwork and even recalls a phone call from the president on the morning after. "Peggy? Well, I just wanted to say thank you for your wonderful remarks yesterday."<sup>45</sup> This retelling leaves no doubt about whose remarks were read by Reagan on national television. This begs the question: Do the pages of her memoir (and those of similar books) diminish the president, or should it be understood that a statute of limitations on anonymity expires when a president leaves office?

To be sure, a ghostwriter can be in a difficult position when asked a direct question about his or her role in crafting a speech. Humes recalls attending a luncheon where the president was giving a speech he had written. "When someone asked me if I had any role in the address by Reagan, I modestly demurred in such a way as to imply a possible involvement."<sup>46</sup> Would it have been better to falsely credit the speaker with authorship?

### THE SORENSEN LEGACY

No presidential ghostwriter has been of greater interest to historians and journalists than Kennedy aide Theodore (Ted) Sorensen, who as Special Counsel was responsible not only for the president's words, but also had a significant influence on his policy decisions. His skill was admired by Kennedy's 1960 opponent Richard Nixon:

You need a mind like Sorensen's around you that's clicking and clicking all the time. You can get a beautifully tooled speech; but at best just one



sentence of it will make the difference.... [Sorensen] has the rare gift of being an intellectual who can completely sublimate his style to another individual; and in this case, it's the right combination. Sorensen is analytical and unemotional, so is Kennedy. There hasn't been such a combination of speechwriter and President since Raymond Moley and Franklin D. Roosevelt.... A public figure shouldn't be just a puppet who echoes his speechwriter. The ideas should be his, the opinions his, the words his.<sup>47</sup>

Sorensen recalls, "I could listen to the arguments presented to him, assess which facts most impressed him in the Oval Office or Cabinet Room, hear the formulation of his conclusions, and then walk a few steps to my own office to put into words what I had just observed."<sup>48</sup>

His political instincts were honed by growing up in Lincoln, Nebraska, in a progressive political family with parents who worked for civil rights and women's suffrage, and against capital punishment. His father was active in politics and was elected state attorney general. Young Ted finished law school and moved to Washington, D.C., finding work first on the legal staff of a federal agency and soon thereafter as an aide to a Congressional committee. He was only 24.<sup>49</sup>

In January 1953, Sorensen accepted a job offer from Kennedy, the newly elected senator from Massachusetts. He began as research assistant and then legislative assistant, a role that required writing correspondence and eventually speeches for the senator. The two men developed a relationship that allowed the writer to develop a keen understanding of his client's thoughts. "Whatever success I achieved as a speechwriter for Kennedy," he writes, "arose from knowing the man so well—from the years we spent working, traveling, and talking together, as close friends and collaborators who communicated constantly at a time when I regarded his election and stature as my principal professional goals."<sup>50</sup>

For decades after the president's assassination, he said little about his specific work as a ghostwriter, but was more forthcoming in his 2007 autobiography. "JFK never pretended . . . to have time to draft personally every word of every speech he was required to give. . . . Many historians have it wrong. He did not dictate first drafts for me to polish." Conceding that ghostwriters should not "diminish their principals' stature by receiving, accepting, or seeking credit for his speeches and proposals," he nonetheless broke his silence, saying that "until now I have largely tried to minimize my role. My reticence was the result of

an implicit promise that I vowed never to break, not an order or even a request from [Kennedy].”<sup>51</sup>

Sorensen was not only influential during Kennedy’s presidency, however; political historians give much credit for Kennedy’s nomination and election as president to a well-orchestrated publicity campaign that kept his name before the national electorate throughout his years in the Senate. The young politician was building a reputation as a serious thinker on a range of foreign and domestic policy issues through guest articles—most written by Sorensen—in publications like *The New York Times Magazine*, *McCall’s*, *Life*, *Vogue*, and *Look*. An article on senators showing unusual political courage led to a proposal for a full-length book with each chapter a vignette telling a different story from American history. By 1954, the Kennedy staff was busily compiling research for a book that would be published as *Profiles in Courage*.<sup>52</sup>

The book was an international bestseller (for which Sorensen received 50 percent of the royalties by prior agreement) and Kennedy was recognized with the 1957 Pulitzer Prize. Within a week of the award announcement, journalists were asking about rumors that Kennedy had an unnamed collaborator or even that the book was entirely ghostwritten by Sorensen, whom Kennedy had acknowledged in the book for his “invaluable assistance in the assembly and preparation of the material on which this book is based.” A worried Kennedy called Sorensen at home to say, “We might as well quit if we let this stand.” A scandal questioning his integrity would surely derail JFK’s political ambitions, so he met with ABC News officials and produced an affidavit from Sorensen that read in part: “I wish to state under oath that these charges are wholly untrue. I am not the author of *Profiles in Courage*. I did not write the book for Senator Kennedy, and I have not at any time to any person declared myself to be the author.”<sup>53</sup>

Eventually the storm subsided amidst threats from Kennedy’s lawyers, yet the questions remained for the next 50 years. It was only in the 2007 book that Sorensen disclosed his full role in the project and the fact that he “may have” boasted privately that he had written much of it. “JFK worked particularly hard on the first and last chapters, setting the tone and philosophy of the book. I did a first draft of most chapters, which he revised both with a pen and through dictation.”<sup>54</sup> Then who was the author? Sorensen still insisted the distinction properly belonged to Kennedy.<sup>55</sup>

## THE HIDDEN COSTS OF POLITICAL GHOSTS

The preceding discussion illustrates how Kennedy, like some of his predecessors, found that working with ghostwriters could raise uncomfortable questions about his authenticity. Was he merely a dashing young politician with personal charisma, but entirely dependent on others to provide his message? Or was he a prudent leader who knew how to use talented writers and other experts to his advantage? His political legacy depends on how future generations see it.

More recently, President Barack Obama—known for his eloquence and persuasive delivery—faced questions when it became known that he relied on ghostwriters to craft the content of his speeches. His perceived overreliance on teleprompters-led political opponents and pundits to speculate often about whether he could speak to an audience without reading from a prepared script.<sup>56</sup> Sorensen disagrees: “Obama is a naturally eloquent man, as he often demonstrated when speaking with no prepared text in front of him and in the inevitable spontaneous situations that arise on the campaign trail and its hundreds of formal and informal press conferences.” He concludes, “Obama is neither the tool nor voice of his gifted speechwriters.”<sup>57</sup>

When then-Senator Obama began preparing for a White House run in 2005, his Press Secretary Robert Gibbs recruited Jon Favreau, a former speechwriter for presidential candidate John Kerry, to join the effort. Recognizing that Obama was already a published author and writer of his own speeches, Favreau asked why he needed a ghostwriter.

“If there were 48 hours in a day, we wouldn’t need a speechwriter,” Gibbs said. David Axelrod, chief strategist for the campaign, added, “He is the best speechwriter in the group and he knows what he wants to say and he generally says it better than anyone else would.”<sup>58</sup>

Yet throughout his presidency, Obama’s critics accused him of relying too much on ghostwriters. Might the sheer number of speeches given by contemporary presidents make this a virtual necessity? Abraham Lincoln gave an average of 16 speeches per year as president; Harry Truman averaged 88, Bill Clinton 550. Obama gave 411 in his first year in office.<sup>59</sup> “Communicator-In-Chief” is not an inaccurate description of the job.

These consequences are not, in any way, limited solely to presidential communications. A striking case of ghostwriting gone awry made news during the 2012 presidential campaign of US Congressman Ron Paul, a Republican physician with libertarian leanings.<sup>60</sup> As Paul’s popularity was

rising in the opinion polls leading up to the Iowa primary caucuses, old questions about his past publications resurfaced in the national media. *The New York Times* ran an article with the headline, “New Focus on Incendiary Words in Paul’s Newsletters,” calling new attention to an issue that had dogged the candidate for two decades. It involved several startlingly racist statements published in Paul’s political newsletter while he was out of office:

A 1992 passage from the *Ron Paul Political Report* about the Los Angeles riots read, “Order was only restored in L.A. when it came time for the blacks to pick up their welfare checks.” A passage in another newsletter asserted that people with AIDS should not be allowed to eat in restaurants because “AIDS can be transmitted by saliva”; in 1990 one of his publications criticized Ronald Reagan for having gone along with the creation of the federal holiday honoring the Rev. Dr. Martin Luther King Jr., which it called “Hate Whitey Day.”<sup>61</sup>

The candidate vigorously denied writing the words, though his was the only name that appeared on the newsletter. Campaign spokesman Dimitri Kesari insisted Paul “did not write, edit or authorize” the language. “He totally disavows what was said and disagrees with it totally. The only responsibility he takes is for not paying closer attention.”<sup>62</sup> In other words, he blamed a ghostwriter whom he and Paul refused to name. An article in the libertarian magazine *Reason* reported that a half-dozen sources had identified Paul’s chief ghostwriter as Llewellyn Rockwell, Jr., Paul’s congressional chief of staff from 1978 to 1982, who was a vice president of Ron Paul & Associates, publisher of the newsletters, when the articles appeared.<sup>63</sup> Still Paul would not reveal the writer. “I absolutely, honestly do not know who wrote those things.”<sup>64</sup>

A commentary in *Forbes* raised a broader question. “If you publish a personal newsletter, you have a responsibility to ensure that what gets sent out under your name actually reflects your views. . . . And if it took Rep. Paul five years to notice what his racist ghostwriter was writing in his personal newsletter, how long would it take President Paul to notice racist policies being pursued by his attorney general?”<sup>65</sup> Such concerns may have contributed to his presidential campaign’s weak showing in the 2012 Republican primaries.

A political firestorm of a different sort was kindled in 2014 when Oklahoma Attorney General Scott Pruitt wrote to the federal Environmental

Protection Agency accusing authorities of “overestimating the amount of air pollution caused by energy companies . . . in his state.”<sup>66</sup> Through an open-records request, a media investigation discovered that his letter was ghostwritten by an energy company with a financial interest in the matter. The resulting controversy focused on the attorney general’s perceived conflict of interest, using his public office to serve the ghostwriter’s private interests. *The New York Times* published an image of the letter on government stationery showing that it mirrored a draft supplied by Devon Energy.<sup>67</sup>

“He’s supposed to be the people’s lawyer. He’s supposed to be a voice for the people, an independent voice. And instead, he comes across very much looking like a toadie for big money financial groups,” said Arnold Hamilton, editor of the *Oklahoma Observer*. If the letter reflects Pruitt’s own beliefs, Hamilton argued, he should have written it himself.<sup>68</sup>

Echoing this sentiment, David B. Frohnmayer, a former Oregon attorney general, noted:

When you use a public office, pretty shamelessly, to vouch for a private party with substantial financial interest without the disclosure of the true authorship, that is a dangerous practice. . . . The puppeteer behind the stage is pulling strings, and you can’t see. I don’t like that. And when it is exposed, it makes you feel used.<sup>69</sup>

The greater issue in this case is not whether the letter was ghostwritten, but whether it served the ghostwriter’s interests, which may or may not have been different from the state’s interests as understood by the public official in question.

For a final example of the costs of political ghostwriting, it will be instructive to return to our opening anecdote. In this particular case, the consequences are clear: undocumented immigrants bear the brunt of the costs imposed by this politicized scheme. Other laws drafted and promoted by ALEC are similarly consequential—for instance, self-defense laws supported by the National Rifle Association, or laws supporting the privatization of K–12 education through for-profit companies.<sup>70</sup> However, it also reflects the concerns expressed above, with substantial costs to governmental openness. In the words of the president of the American Association for Justice, Anthony Tarricone, “ALEC is the ultimate smoke-filled back room: another opportunity for corporations to buy access and protect their profits at the expense of consumers.”<sup>71</sup>

## NEW MEDIA, NEW ISSUES

While these consequences are well established, new threats continue to emerge. For instance, political ghostwriting entered new territory in 2008 when the Obama campaign made unprecedented use of social media to connect with voters. By 2016, *The Hill*, a Washington-based political journal, was calling the presidential contest “The Social Media Election,” noting that Facebook, Twitter, and Instagram were “key battlegrounds in the fight for the White House.”<sup>72</sup> Social media “threatened to overtake traditional news outlets, paid advertising and the campaign stump as the top venue for candidates to rally voters, hit their rivals — and even make news.”<sup>73</sup>

Yet in some ways, the new media presents greater challenges for ghostwriters. “Authenticity is a big thing in social media,” said Erin Lindsay, a principal at Precision Strategies, a consulting firm founded by veterans of Obama’s 2012 reelection campaign. Social media began as a way for individuals to communicate with and establish relationships with others on a personal basis.<sup>74</sup> Thus, many users expect the words of a tweet, for example, to be those of the individual whose name is on the account. Accordingly, a tweet by Obama, then, should be written by him and not someone posing as him.

By his second term in the White House, however, this was no longer the case: “[t]he 29,503,030 people who follow Barack Obama’s Twitter account might see his picture, see his name, see that little blue verified account badge and think they’re following the President—but it’s not him.”<sup>75</sup> He had been the first sitting president with a Twitter account, one that he first established in 2007 before he was a candidate. He continued to use it through two campaigns and his first term in office before handing it over in 2013 to Organizing for Action (OFA), “a new entity that took over much of Obama’s campaign apparatus: website, social media accounts, email list.”<sup>76</sup> With no public announcement of the switch, followers hardly noticed the change. The difference, however was potentially consequential, for OFA was a lobbying organization using Obama’s name and likeness (with ghostwritten messages) to seek voters’ support for specific legislation, even though the president no longer had any direct involvement in the content.<sup>77</sup>

In any case, the incessant demand for real-time content makes social media a growth area where ghostwriters serve busy candidates—but one with ever-evolving challenges related to authenticity.

## IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

We return now to our working definition of ghostwriting as “the writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer’s role will be invisible to readers or hearers of the words.” In the political arena especially, the answer to the question *Is it ghostwriting?* may be ambiguous, for it is not uncommon for US presidents’ writers to gain celebrity status as the crafters of presidential rhetoric. This raises a different question: If a speaker is credited with authorship at the time he or she uses the work of a hired writer, it may be accurate to say the work is ghostwritten; but what if the writer later claims credit? Should the client still be credited with authorship? This may depend on how one chooses to ascribe authorship.

We will consider the example of Kennedy’s *Profiles in Courage*. He not only was credited with authorship, the Pulitzer Prize Board recognized the work as representing “excellence” in the category of General Non-Fiction. (The matter of authorship does not seem to be explicitly addressed in the broad criteria for the award, though the deliberations of jurists are kept confidential.)<sup>78</sup> What may be most significant is that Kennedy accepted the award and the subsequent recognition as a prize-winning author. It was not until decades later that Sorensen confirmed his substantial role in writing the book while still asserting that Kennedy should be considered the author.

### *Why was a ghostwriter involved in Kennedy’s project?*

As discussed above, Sorensen suggests that it was a necessity due to the then senator’s limited time. He insists that Kennedy, who was more than capable as a writer and student of history, played a significant role in the project. An agreement between the men to share the royalties on a 50–50 basis may be interpreted in more than one way.

### *Whose interests were at stake in this project? What consequences may have resulted?*

The impact of the Kennedy book went well beyond sales and royalties of the product itself. It may be reasonably argued that it was decisive in catapulting the future president to prominence and eventually victory in the very close White House race of 1960. Thus, many interests were affected—Kennedy, Sorensen, the book’s publisher, Columbia University’s Pulitzer

Prize Board, other nominees for the Pulitzer, members of both political parties, and more. To the extent that the book affected a presidential election outcome, we may easily identify broader effects on society and future generations.

*What principles or duties are at stake?*

As noted, for most of his life, Sorensen steadfastly refused to divulge his role in writing the book—apparently out of a sense of duty to remain invisible and allow his client to claim authorship. In setting the record straight in his autobiography a few years before his death, did he violate this duty? Or had the passage of time made it permissible to reveal more about how the project was created? If one assumes Kennedy saw political advantage in not naming Sorensen as co-author, does this constitute an attempt to mislead the public?

*How might Kennedy's authenticity be seen in light of Sorensen's revelations?*

Though the writer's admission that he played a major role in writing the book confirmed what many had suspected for decades, it nonetheless stirred quite a bit of publicity and media commentary, some of which expressed disappointment at learning that *Profiles* was not necessarily an authentic reflection of Kennedy's ideas and writing style. One wonders, however, if it is not generally understood and accepted that the publications and speeches of national political leaders are likely to be ghostwritten. This seems likely in an age when presidential ghostwriters are eager to seek personal notoriety for their work.

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## Corporate and Institutional Communications

For many students of management, Alfred P. Sloan, Jr. is an enduring icon of American business more than five decades after his death, still respected as a strategist whose groundbreaking theories of management fueled the ascent of General Motors in the first half of the twentieth century. Sloan was the company's president and chief executive officer from 1923 to 1946, and its chairman from 1937 to 1956. Today the charitable foundation he created in 1934 works to ensure that his reputation is "extended and expanded" by funding projects to advance science, technology, and education.<sup>1</sup>

Sloan's accomplishments in business were more than sufficient to secure his place in the pantheon of corporate giants, but it was a best-selling book that made his name known to generations of managers and business students. *My Years with General Motors*, a memoir that appeared in bookstores in 1964, is rightly called a classic. In a blurb on the front cover of a more recent edition, Microsoft founder Bill Gates calls it "probably the best book to read if you want to read only one book about business,"<sup>2</sup> a significant endorsement from another corporate executive who became a household name in his own lifetime. The same edition features an introduction by management guru Peter Drucker describing Sloan as "an amazingly well-read man" and his autobiography as "an extraordinary achievement."<sup>3</sup> He writes admiringly of how Sloan chose to delay publication of the book for a decade, solely out of respect for living employees whose names were mentioned in the pages. "For Sloan refused to publish

as long as any of the GM people mentioned in the book was still alive. ‘A manager does not criticize subordinates in public,’ he said. ‘And some of the things I say in the book may be interpreted as criticism.’” According to Drucker’s account, a representative of the eager publisher contacted each person mentioned in the pages to ensure that no one felt criticized, but “Sloan did not budge” and instead waited until every one of them had died, holding fast to his principled belief that people “come before publishing schedules.”<sup>4</sup>

Yet a very different explanation of the ten-year delay was soon to emerge from none other than Sloan’s ghostwriter, John McDonald. After reading Drucker’s essay, an angry McDonald contacted the publisher, Doubleday, to request a correction, asserting that publication had been held up by lawyers for General Motors who worked to suppress the book because of fears its content would lend support to antitrust claims that the company feared.<sup>5</sup>

McDonald was intimately involved in the book from inception to publication, and therefore in a position to know the real story. A *Fortune* magazine writer when he took on the project, he is identified in the book simply as “editor.” Sloan says in his preface that McDonald “worked closely with me in conceiving the book and in helping me set down on paper what I know about General Motors—including, I might say, many things that I did not know, or had forgotten, when we began this project a number of years ago.” He continues, “The designation of Mr. McDonald as editor, which he chose, is broadly defined as I have indicated.”<sup>6</sup> Thus, while “editor” might not mean the same thing as “author,” a discerning reader may easily identify the principal writer.

Unable to persuade Doubleday to change or remove Drucker’s introduction, McDonald opted to set the record straight himself by producing a book that told his version of the story and detailed his role in the project. *A Ghost’s Memoir: The Making of Alfred P. Sloan’s ‘My Years with General Motors’* was published in 2002 and quickly attracted the attention of the business press and the academic community where Sloan’s book had long been a staple of many professors’ reading lists. Soon McDonald’s memoir was also a recommended title. In the words of Nathan Glazer, professor emeritus in Harvard University’s Department of Sociology:

John McDonald created one of the masterpieces of American management literature, Alfred P. Sloan’s *My Years with General Motors*. How the book was created is itself an intriguing story about the making of books today.

What happened afterwards, and how credit and money were apportioned, is equally intriguing.<sup>7</sup>

In addition to colorfully recounting his experiences as the true writer, McDonald reveals how he and Sloan faced opposition from GM's lawyers, and how his own lawsuit against the automaker eventually allowed the book to go to press. His contract for 50 percent of the royalties—like the arrangement between John F. Kennedy and ghostwriter Ted Sorensen for *Profiles in Courage*—was ample incentive to fight for its publication.<sup>8</sup>

The book was actually Sloan's second ghostwritten autobiography. The first, *Adventures of a White Collar Man*,<sup>9</sup> received lukewarm reviews and was written by Boyden Sparkes who ghosted memoirs for others including Walter P. Chrysler, founder of automaker Chrysler Corporation. (He also wrote books under his own name, one offering advice on how to freeze food at home.)<sup>10</sup> The two Sloan memoirs are written in starkly different styles, but “none of the [second book's] reviewers commented on the change in tone. . . . Even though reviewers knew that the book had been written with the help of a ghostwriter, they still wanted to believe that in Alfred Sloan, ‘there's no one better qualified to tell the story of a triumph that has fascinated students of business for decades’.”<sup>11</sup>

Sloan's appeal did not end there, as evidenced by the fact that McDonald's memoir did not diminish interest in the book he ghosted. *Harvard Business Review* subsequently wrote, “Sloan's book describes in fascinating detail and (thanks to ghost writer John McDonald) clear prose the working out of a competitive vision—relentlessly, obsessively, and through all its permutations. More than any other volume, *My Years* reveals what it takes to build a company around a compelling strategy.”<sup>12</sup>

The success of Sloan's book was not lost on other corporate executives, as CEO memoirs (nearly always ghostwritten) became an increasingly popular genre in publishing. Bestselling titles by sitting and former CEOs include *The HP Way: How Bill Hewlett and I Built Our Company* by David Packard, *From Worst to First: Behind the Scenes of Continental's Remarkable Comeback* by the airline's Gordon Bethune, *Plain Talk: Lessons from a Business Maverick* by Nucor Steel's Ken Iverson, *Jack: Straight from the Gut* by Jack Welch of General Electric, *Where Have All the Leaders Gone?* by Chrysler's Lee Iacocca, and *Onward: How Starbucks Fought for Its Life without Losing Its Soul* by Starbucks' Howard Schultz.<sup>13</sup> Of these six examples, five refer—on the cover—to the named author's collaborator.

## GHOSTWRITING AS A MANAGERIAL FUNCTION

Books by CEOs are sometimes commissioned by corporations to burnish the reputations of their leaders and tell stories of business success. Other times, they are undertaken by the CEOs themselves, often in retirement and not always with their former employer's blessing (as in Sloan's case). Yet books constitute only a tiny fraction of the material ghostwritten every day for executives in large corporations. As explained in Chap. 2, the public relations field and its practitioners are integral to the management of today's communication-driven institutions. They develop strategies, manage reputational issues, conduct research, and produce communications ranging from executive presentations and press releases to website content and video productions. Every corporate communication office provides ghostwriting support to others in the organization. Professional writers play important roles in ensuring the strategic direction, quality, message consistency, accuracy, and timeliness of information communicated to audiences, both internal and external.

Such work comes with challenges, in addition to the volume and variety of written products that must be produced. For instance, ensuring consistent messages should not mean that every communication be written in the same voice, so writers at corporations and other large institutions must have the versatility to adapt to the style and persona of each client. The CEO's letter to employees should not be written in the same voice and style as the chief financial officer's presentation to Wall Street financial analysts. They are different people addressing different audiences for different purposes. This requires the writer to have substantial knowledge of the business and personal familiarity with its spokespersons, a challenge for the ghostwriter, especially if he or she is not a full-time employee of the company. Recalls one such writer:

I wrote a commencement speech for a Fortune 350 client's CEO and I never got to talk to him. He never gave me any clear idea of what he wanted to tell graduates of a respected university. I was on my own and, well, had to tap creative license. In some form or fashion, this is typical for ghostwriting. Direct interaction with the CEO is extremely rare, no matter what you're writing—speeches, bylines, or op-eds.<sup>14</sup>

Similarly, we know from personal experience of a case where a corporate ghostwriter drafted a speech for his company's new CEO, who he had not yet met. The previous CEO had a doctoral education, spoke in an elegant and refined manner, and liked to show off his impressive vocabulary.



Accordingly, the writer provided his new leader with a similarly styled speech and went to the event a week later to hear it delivered to an important audience. When the CEO stepped to the lectern and began to read, it was painfully apparent that the formal language of the speech did not fit his folksy, down-to-earth manner. Stumbling over the fancy words and phrases, he became more intent on reading and ceased to make eye contact with his audience. Embarrassed, the ghostwriter arranged a meeting to apologize and learn more about his new boss's preferences. After some trial and error, the two of them determined that the CEO was most comfortable with a few bullet points on note cards and no verbatim text to follow.

Such accounts highlight the versatility required of ghostwriters, and the importance of their work. Ken Askew, a former executive speechwriter for BellSouth Corporation, echoes this, describing himself and his professional peers in the largest corporations as “tugboats,” “tofu,” and “Ferrari mechanics”:

Tugboats, because we nudge the ship of state into rhetorical berths. We do not stand beside the captain on the ballast-blessed bridge, keen with a sense of charted journey. We are hullfodder in the turbulent wake.

Tofu, because we assume the flavor of our host. Presumably we bring nourishment and roughage to the message, and stretch the recipe.

Ferrari mechanics, because although we hang out in the pit, we do not own the pit. We do not drive Ferraris. We work on them, get dirty improving their performance, and are glad for it. We are glad because being Ferrari mechanics, we are at the top of our game, having worked through the Fiats and Alfas. We thank God we are not working on Chitty Chitty Bang Bangs like the poor unfortunates—many of whom deserve better—stalled in typical speechwriting jobs across the land.<sup>15</sup>

Askew then recalls an invitation for his CEO John Clendenin to address a prominent gathering of leaders in the telecommunications industry on the subject, “The Role of Integrated Services Digital Network in National Infrastructure Development.” Rather than attempting a speech on the assigned topic, the speechwriter crafted an address entitled “Time Merchants” that used “a muscular metaphor” to call on the industry to sharpen its social conscience. Later called “the best corporate speech ever written” by the *Wall Street Journal*, it “prompted the leading industry journal to christen Clendenin ‘the Iacocca of telecommunications’ in two successive editorials.”<sup>16</sup> The CEO and corporation derived great public benefits from the advice and work product of an invisible agent.

Indeed, it has been argued that corporate communication plays a more important role than ever as organizations seek to thrive in an increasingly complex, global environment: “To attract companies, employees and investors, companies need to be progressive leaders about a host of global issues and put their vision in a broader social context. Public scrutiny of business is constant and intense.”<sup>17</sup> Effective communications, more than ever before, must take into account that audiences of diverse interests, cultures, and languages have easy access to information about businesses of all kinds. Words spoken in a speech to a small group of industry insiders can quickly “go viral” via the worldwide web. This global communication context means that “corporate communication now has a leading-edge role in the strategic process of successful corporations. Philosophically it is abundantly plain that if only people could communicate better with each other most of the world’s problems would not arise in the first place.”<sup>18</sup> And with this trend comes a growing demand for capable, versatile ghostwriters to craft words for others called upon to communicate more frequently with multiple stakeholder groups via an array of media platforms, including social networks.

### NEW MEDIA, NEW ISSUES

The Merriam-Webster dictionary defines social media as “forms of electronic communication (as Web sites for social networking and blogging) through which users create online communities to share information, ideas, personal messages, and other content (as videos).”<sup>19</sup> When major corporations engage stakeholders through Twitter, Facebook, blogs, and other such media, they do so not only in the name of the institution, but also through accounts in the names of their key leaders. For instance, a 2014 report showed that the *Fortune 100* CEOs most active on Twitter were Apple’s Tim Cook (@tim\_cook), General Motors’ Mary Berra (@mtberra), General Electric’s Jeffrey Immelt (@Jeffimmelt), News Corp.’s Rupert Murdoch (@RupertMurdoch), Johnson Controls’ Alex Molinaroli (@amolinaroli), Intel’s Brian Krzanich (@BKRunner), Humana’s Bruce Broussard (@BruceDBroussard), and Aetna’s Mark Bertolini (@MTBert).<sup>20</sup> Of those still active, only one explicitly states, “[t]weets are my own.”<sup>21</sup>

In the preceding chapter we looked at some cases where political candidates’ use of ghostwriters for social media posts became a source of controversy. Not surprisingly, similar issues are hotly debated in the business context. When Debbie Weil, author of *The Corporate Blogging Book*,<sup>22</sup>

asked readers of her own blog, “Is it OK to ghostwrite a CEO blog and, if so, should the ghostblogger reveal him or herself?” responses included:

It would be ABSURD for a CEO blog to be ghostwritten. This would be considered a “character blog”, one in which the writer assumes the character of someone else. ... Why does a company blog need to be written by the CEO anyway? They should just hire the writer outright and have them write the blog under their real name. Blogging is about transparency, and when a company isn’t honest in their blogging efforts, it always backfires.

Personally, I’d much rather see the CEO write their own blog. I get that they are busy and don’t expect pages and pages everyday. To me, the best thing about the blog is its personal and unvarnished nature. ... That said, I’m ok with the “in-synch ghostwriter” approach. I read several corporate exec blogs and to be honest, I couldn’t tell you if they were ghost-written or not because they do such a good job of giving a reader the sense that it is the exec who is sharing.

No. Then it’s not really the CEO’s blog. Just like it’s not your child’s homework if they have a friend [complete it].

I was (and still am) for letting CEO’s who can’t write get hired help (like me, for instance).

Unfortunately, there are still a number of CxOs that have difficulty managing email. So, I’ll split the difference and say that it is ok as long as the content accurately reflects the person’s ideas, knowledge, and style.<sup>23</sup>

Based on these varied responses, one might ask why “ghost-blogging” or “ghost-tweeting” is viewed as different from speechwriting or other ghostwritten communications. Corporate communication veteran Tom Woolf believes it is “the authenticity question. ... If you are engaging in a threaded conversation, you should be able to assume that the party on the other end of the post is whom he or she says they are.” He points out that many users of online information think “Twitter, Facebook, and other social media outlets, but [sic] their very nature, demand a more personal approach for the sake of authentic interaction, and ghosting social media is unacceptable.” He adds that some companies try to compromise by identifying the ghostwriter with a special tag or initials at the end of each post.<sup>24</sup>

Mark Hillary, a communication consultant based in Brazil, draws a parallel between blogs and speeches. They may be ghostwritten, but when it is time to respond to questions, the “real person” should answer, for “there is no prepared script; they need to know their own business.” He offers direct advice to ghostwriters: “Tools like Twitter are very personal.

If you are representing a CEO and ensuring that their account remains active with tweets on the latest news and rumours in their industry, that support has to stop when people send messages and expect the real person to respond.”<sup>25</sup>

While it is generally difficult to ascertain whether a blog is ghostwritten, one study examined a sample of 45 “significant CEO-authored (or at least attributed) blogs” to identify, among other factors, “any disclosed use of corporate or public relations ghostwriters or editors, [or] association of the blog with the business entity for which the CEO works.” Of those examined, 40 identified no contributor other than the named CEO.<sup>26</sup>

One CEO who did disclose the involvement of others was Bill Marriott of Marriott International. When he began blogging in 2006, corporate spokeswoman Kathleen Matthews told *The Washington Post*, “This is going to be Bill Marriott’s blog. It’s not going to be the corporate blog. He’s going to decide what he wants to say.”<sup>27</sup> Six years later, however, the 79-year-old executive used his blog to explain that his posts are, in fact, written with the help of the corporate communication staff:

I sometimes handwrite my blogs because I don’t know how to type. An assistant from our global communications team helps me with all the technical aspects of my blog. When I want to do a blog, they come to my office with an [sic] digital recorder and record what I say.

Sometimes I write it out, sometimes I use notes and sometimes I speak off the top of my head. I come up with a lot of the ideas, but people in our company also have topics for me to consider. When I’m through recording, it’s transcribed and the text and the audio file are uploaded. The comments are viewed and printed out for me to read. If there are any I feel I should respond to, I dictate what to say.

As you can see, being a technophobe like me adds a lot of steps, but I make it work because I know that it’s a great way to communicate with our customers and stakeholders in this day and age. When your family’s name is on the building or you are the person clearly identified with the company, everything you say or do affects the business, good or bad. In this fascinating information age, you have to be transparent.<sup>28</sup>

Marriott’s revelation may not have come as a surprise to most readers. A study published in 2014 found that close to 60 percent of corporate blog readers expected that CEO blog posts would be “written by someone else”; however, only 40 percent of them approved of this practice, even if “the ideas come from the stated author and the stated author approves the message.”<sup>29</sup>

By contrast, a survey of public relations practitioners found that more than 70 percent approved of “undisclosed organizational ghost blogging, provided that the ideas for the content come from the stated author and the stated author gives content approval.”<sup>30</sup> The researchers cite a separate study showing that corporate blogs are trusted by only 16 percent of people who read them, and suggest that “radical transparency”—fully disclosing the role of the ghostwriter—may be an antidote to this distrust. They note that “radical transparency,” which they define as privileging “transparency above all other competing values, with the exception of disclosing information that violates regulations or ethical principles,” has been embraced by some in the public relations field.<sup>31</sup> For many others, however, the concept would likely appear risky, especially if applied to all forms of corporate communication.

## IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

### *Is it ghostwriting?*

The corporate use of public relations professionals or others to produce written or spoken work is widely acknowledged, and perhaps even expected. However, ghostwriters are generally expected to work in relative secrecy, with all credit given to the named author—generally a CEO or other top executive.

### *Why are ghostwriters involved? What alternatives are available?*

The most common rationale for the involvement of a ghostwriter is the time constraints of CEOs and other busy executives. Further, relying on a public relations team to craft communications helps corporations ensure that executives transmit consistent and cohesive messages. Another reason, though not as publicly stated, is that some CEOs lack the necessary skills to excel as communicators. As with Bill Marriott, the businessman did not lack for ideas, but instead lacked the technological savvy to tackle the world of social media alone.

As with any use of ghostwriters, one alternative would be to end the practice and require executives to write their own material. But since it cannot be expected that busy executives will find extra time in their schedules for research and writing, this would be impractical. As described in our discussion of social media, another alternative would be to bring the practice fully into the open—at least in situations where full authenticity

and transparency are expected. Where should businesses draw this line? In what communications should the involvement of a ghostwriter be disclosed?

*Whose interests are at stake in these projects?*

In this context, multiple interests are at stake: employees, shareholders, customers, communities, suppliers, and others that depend on effective communication from authentic leaders.

*What consequences may result from a decision to use a ghostwriter?*

Corporate communications, regardless of who crafts them, may have a profound impact on the stakeholders mentioned above. Indeed, this may be a persuasive argument for using a ghostwriter—or in some cases, a *team* of ghostwriters. Significant consequences might arise from *not* using professional assistance.

We should also weigh the consequences for the individual businessperson, as when Alfred Sloan utilized ghostwriters with noticeably different styles to write his two memoirs, or when the new CEO found himself reading a speech ill-suited to his personal style.

*What principles or duties are at stake?*

Perhaps more than any other area discussed in this volume, the professional standards described in Chap. 2 are significant. Similarly, depending on the industry, other industry-specific standards might also apply. Did John McDonald violate his duty of confidentiality when he wrote his own book telling the inside story of the creation of Sloan's memoir?

*How might the ghostwritten work affect the personal authenticity of the client?*

We might expect little effect on an executive using routine ghostwriting services in her professional capacity. For instance, a CFO's ghostwritten presentation to analysts conveys factual information and is a reflection of her professional, not personal, identity. It is also a requirement of the position she holds. However, a ghostwritten blog or Twitter account—or a ghostwritten commencement address—may more significantly affect her personal authenticity, as these communications are more likely to be seen as the personal perspectives of the named author.

A question to consider: given their influence over the words of CEOs and other top executives, it could be argued that corporate ghostwriters—like their political peers—hold a disproportionate amount of power. Should this be a concern?

Finally, the roles of ghostwriters in political and corporate communications bear striking similarities, as they frequently support the careers of highly visible individuals, who may occupy positions of significant power. Their involvement is known, but given the demands of their clients, not significantly frowned upon. However, the use of ghostwriters is also common in far more diverse arenas. Before turning to our next chapter, where we will focus on less famous individuals, consider the following question: Do you find it more acceptable for someone who holds a visible role, and whose words will be heard by large audiences, to rely on professional help in crafting their messages? Why or why not?

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## Judicial Opinions and the Legal Profession

For nearly 30 years, Texaco was a constant but not always welcome presence in Lago Agrio, Ecuador. Between 1964 and 1992, the company drilled for oil, profiting substantially—Texaco to the tune of \$500 million and its partner Petroecuador, \$23 billion. But drilling for oil is not without its costs, both financial and environmental, and the company was ultimately accused of causing environmental harm estimated to be “larger than the Chernobyl disaster.”

Twenty years after pulling out of its operations in Ecuador, Texaco and its parent Chevron paid \$19 billion in a lawsuit initiated by American lawyer Steven Donziger on behalf of residents of the area surrounding the drilling project. But this victory came at a cost. According to both Chevron and most recently US District Judge Lewis Kaplan, the justice system was seriously compromised during the trial by bribery, falsified records, and yes, even ghostwriting.

The accusations of ghostwriting were plentiful, with two primary accusations made. First, Chevron argued that Donziger and colleagues not only wrote an “independent” report for an expert, but created legal and media buzz around it:

[A report by neutral expert Richard Cabrera] had been secretly authored by Donziger’s retained experts at Stratus Consulting, in Boulder, Colo. . . . Donziger then had his co-counsel in Ecuador file “objections” to the report his experts had just ghostwritten, purporting to find fault with it, and humbly beseeching Cabrera to increase his damages recommendation accordingly.

Next, Donziger instructed his experts in Boulder to ghostwrite Cabrera’s purported response to Donziger’s purported objections. . . . Then, to cap it off, Donziger had his experts in Boulder, whom he touted in a press release as “independent,” issue a public endorsement of “Cabrera’s” findings, while failing to disclose that they had secretly written the findings for which they were vouching.<sup>1</sup>

In addition, there were heavily disputed accusations that Donziger’s group wrote the original judgment against Chevron for presiding Judge Nicholas Zambrano, who was also the subject of bribery allegations. Among the evidence: the judge was unable to define a technical term that he used 38 times in his judgment, nor could he define an English word that he used more than once. What’s more, US District Judge Kaplan had given Chevron access to hard drives from Donziger and his firm, which Chevron then used to check for document matches to Zambrano’s opinion. The company hit gold, matching “lengthy passages of the opinion—150-word stretches, in some instance [sic]” to documents on Donziger’s hard drives, documents which had never been available in court or publicly.<sup>2</sup>

The evidence gave Chevron a temporary reprieve. When Donziger, the pivotal person in this case, was accused of either direct or indirect involvement in fraudulently ghostwriting the judicial opinion, he responded somewhat cryptically that “[t]here is simply no credible evidence that any ghostwriting involved any non-Ecuadorian—if it occurred at all.” And in response to the ghostwritten expert report, He said simply that it didn’t “[violate] any Ecuadorian ethical norm or procedural law.”<sup>3</sup>

While this provides just one example of how ghostwriting is used—or misused—in legal settings, it is instructive by touching on both the use of ghostwritten legal materials in court, and the ghostwriting of judicial opinions. We’ll begin with the latter, but at a much higher level: The Supreme Court of the United States.

## THE LAW CLERK AS GHOST: BEHIND THE CURTAIN OF THE SUPREME COURT

Top grades at a ranked law school. Stellar recommendations. Work experience on a prestigious (or at least reputable) law review. Political leanings that correspond with those of your justice of choice. These are the minimum requirements to land a position as a law clerk for a justice of the US Supreme Court. And the odds of actually achieving that dream? For those

who dare to try—which comes out to roughly 1000 applicants each year—only 3.6 percent make it into one of the coveted spots.<sup>4</sup>

By comparison, there are no formal qualifications for Supreme Court Justices, although certainly the resumes of recent appointees read like an Ivy League Who’s Who. What law clerks lack in years of experience, the justices more than make up. The justices in 2015 represented 397 combined and 44 average years of experience, post-law school.<sup>5</sup> Presumably, it is this level of experience—and the proficiency gained through continual practice on the bench—that the justices rely on when making difficult decisions that have the potential to affect the lives and livelihoods of millions of Americans every time the Court convenes.<sup>6</sup>

Yet according to some, many of the most critical decisions reached by the Supreme Court—and by lower courts<sup>7</sup>—are penned not by the justices, but by their law clerks: young lawyers who, in many cases, have no substantial experience outside of the classrooms they have just left.<sup>8</sup> While justices often hire clerks who share their ideological and political views,<sup>9</sup> significant legal precedent is apparently set by the clerks, at times without any significant review or revision by the justices:<sup>10</sup>

“We have created an institutional situation where 26-year-olds are being given humongous legal authority in the actual wording of decisions, the actual compositional choices,” Garrow said. . . . Thirty percent of [clerks surveyed] said their drafts had been issued without modification at least some of the time. . . . Posner, a close student of the court, wrote that “probably more than half the written output of the court is clerk-authored.”<sup>11</sup>

Beyond the *amount* of ghostwritten work issued under the names of Supreme Court justices lies the question of authenticity. Knowledge and expertise are critical to authentic communication. To what extent might justices be seen as evading their responsibility to be fully engaged? Might giving clerks the responsibility for interpreting the law impact the justices’ collective ability to bring their best judgment to their work? Or might the opposite be true?

The answer is almost certainly that it depends. For instance, in a *New York Times* article, Justice Ginsberg is profiled as an “energetic supervisor and editor” ensuring that “the final product faithfully reflected her views.”<sup>12</sup> Some critics suggest that this level of participation may be the exception, as some other justices are thought to provide far less oversight. They argue that the political power and influence now held by the

clerks—who, it is worth noting, have not gone through the vetting process required of the justices themselves—should require nearly obsessive review of clerk-drafted opinions by the justices. That is, “[a]re the clerks deciding cases, interpreting the Constitution, and constructing their own jurisprudence? Or, are the justices merely using the clerks as instruments to construct the opinions that they would write if they were to do it themselves?” Or even more simply, who is influencing whom?<sup>13</sup>

However, as we have discussed, the physical act of writing does not necessarily equal authorship:

If every justice took the initial crack at putting thoughts to paper or keyboard, as does Justice John Paul Stevens, their opinions might come out sounding somewhat different. But would they really differ in substance? If you give clear and detailed direction for a piece of writing, laying out its argument, order, and building blocks, and then you edit it extensively, you’re the one in control. That’s reportedly the norm on the Supreme Court.<sup>14</sup>

From this perspective, regardless of who actually writes an opinion, the justice has made a significant intellectual contribution to the work throughout the entire process, giving him or her a claim to authorship and investment in the final product. If we view Supreme Court ghostwriting in this way, it is probably right to say that as long as a justice is truly involved in the process from beginning to end, and is involved in such a way as to be intellectually engaged, his or her authenticity is uncompromised. Further, the involvement of others in the process is openly acknowledged in this arena as a tool that provides clarity, encourages the creative resolution of an issue, and strengthens the final product significantly.<sup>15</sup>

However, this is not the only perspective on the roles of ghosts in Supreme Court decisions. Another, perhaps more critical, question relates to whether the justices are personally willing to admit that their opinions are ghostwritten. They may not always do so, though some readily acknowledge the systematic and multi-constituent nature of opinion writing.<sup>16</sup> In fact, the available data on the involvement of clerks in published opinions is overwhelmingly from anonymous sources and surveys, as clerks are generally forbidden by justices to speak to the press during their employment and, while perhaps not expressly forbidden to speak after the fact, they typically opt not to discuss their roles or take credit for written opinions.<sup>17</sup> And even though some justices—Ginsberg, for

instance—are open about the process, opinions are ultimately presented without acknowledging any author other than the justice in whose name it is presented.<sup>18</sup> Even when practiced with some openness, then, transparency is not the norm.

Evidence gathered from the survey responses of former clerks shows that not only is secrecy an inherent part of clerical ghostwriting, but the ways in which this secrecy is maintained are becoming increasingly sophisticated. Using a Likert scale, Artemis Ward and David Weiden asked former clerks from four courts<sup>19</sup> to respond to three prompts, gauging the ways in which the clerks interacted with the justices and conducted their work. The more recently clerks served, the more likely they were to respond in the affirmative to the prompt “I attempted to draft opinions as if the justice were writing the opinion himself/herself,” with an average score of 3.2 (neutral) from respondents from the Vinson court (1946–1952) and an average score of 4.67 (agree to strongly agree) from respondents from the Rehnquist court (1986–2002). However, a decreasing number of respondents over time responded affirmatively to the prompts “I sometimes drafted the opinion using language that differed from the justice” (from 2.56 to 2.07) and “[t]he justice and I often disagreed on the format and content of opinion” (from 2.50 to 2.19, with even lower responses in intervening years). Thus, it seems that as time goes on, clerk-produced opinions more closely resemble the work of the justices themselves<sup>20</sup>—a fact that, perhaps, obscures the ghostwriting even more thoroughly.<sup>21</sup>

Up to this point, we have determined that the practice of opinion ghostwriting, at least at the level of the Supreme Court, is a high-stakes game perpetuated through secretive practices. However, the one question that we have not yet examined is perhaps the most compelling: Why do justices of the US Supreme Court need ghostwriters? After all, they are hired for the purpose of interpreting the law at the highest level of the US judicial system. Further, the Court decides fewer cases per year now than it did in the mid-1940s, with cases heard dropping from approximately 160 to 80. During the same time period, the modern clerkship has developed and more clerks are now available to each justice than in the past.<sup>22</sup> So if justices are hired for—essentially—a single job, and now have better tools and resources with which to do less, why do they pass along so much responsibility to their clerks?

Before we look more closely at this question, it will be worthwhile to review briefly what the job of a Supreme Court justice actually entails. It’s true that justices write books and make speeches and appearances in

addition to their judicial responsibilities<sup>23</sup>—but that is not what we are primarily concerned with here. What is of far greater interest is whether justices’ written opinions represent themselves and their own opinions or whether they only represent the Court as an institution. This point is certainly debatable; after all, justices are chosen by presidents for the perspectives and values they hold, and may vote and issue opinions according to individual conscience and interpretations of the law.<sup>24</sup> Nonetheless, it may be argued that justices rarely speak just for themselves, but for a segment of the Court—either the majority or the dissenting side. Viewing the justices in this light would certainly make personal authenticity a less critical lens through which to view their actions.

To return, though, to our earlier question, why would a justice delegate some of his or her primary responsibility to the Court? If, in fact, our suggestion is correct that justices view themselves as instruments of the institution, this would explain the sharing of responsibility, since clerks would be viewed as part of the same institutional apparatus. Still, some argue that regardless of the personal or impersonal nature of the work, the introduction of fresh perspectives is a benefit to be celebrated:

If Supreme Court justices had to go it alone . . . they’d all finally learn to use the legal research tool called Lexis. They’d give fewer speeches. They would also stagnate alone in chambers with diminishing access to new ideas. They’d undoubtedly survive. But they’d be more isolated and less likely to chase down a hunch, or look at a broad range of historical or lower court sources.<sup>25</sup>

This may be a valid point of view, as clerks fulfill more functions than simply drafting opinions; presumably, they also conduct legal research, brainstorm ideas with the rest of the team, and so on. Why, then, do justices—as reported in the literature—generally outline their opinions, but not draft them? Why is the opposite not true? This would allow the justices to retain their identities as authors, in the fullest sense of the word.

To look at this another way, we’ll turn again to Ward and Weiden’s 2006 book on the clerkship, in which they present a typology of involvement in the creation of judicial opinions. In their conceptualization, the three possible options are collaboration, where the team brainstorms to identify and incorporate new perspectives; retention, where the clerk predominantly takes on the role of researcher; and delegation, the truest representation of ghostwriting, where the clerk is asked to draft the opinion in its entirety.<sup>26</sup>

This captures nicely the nuance of being a clerk, and reminds us of the essential question: To what extent should clerks—who have neither the years of experience nor the positional security and supposed objectivity of justices—be involved in authoring opinions with such significant impact?

Opinion on this point varies widely. Some, including three former justices, certainly view it in a serious light, with Justice Jackson noting in 1949, presumably not through the pen of his law clerk, that “[g]hostwriting has debased the intellectual currency in circulation here (Washington) and is a type of counterfeiting which invites no defense.”<sup>27</sup> And according to Justice Douglas, Justice Brandeis would have agreed: “[he] was correct in believing that the totality of one decision should rest wholly on the Justice. That simply could not happen unless he was the architect, carpenter, mason, plumber, plasterer and roofer who put the whole structure together.”<sup>28</sup>

Even so, opinion may be changing. In addition to the anecdotal evidence that today’s justices support and actively engage in this practice, one former clerk identified it as part of a larger societal trend toward delegation, comparing it to an increasing practice in medical schools, where “[b]rain surgeons are delegating the entire performance of delicate operations to nurses, orderlies, and first-year medical students.”<sup>29</sup> This seems an apt analogy to the practice of legal ghostwriting for the Supreme Court judiciary, but what of other legal arenas—law offices, clinics, and even lower courts?

### THE LAWYER AS GHOST, PART I: ETHICS, PRECEDENT, AND THE LAW

It probably comes as no surprise that lawyers are often not the sole authors of their arguments or briefs, given the involvement of associates and paralegals who doubtless bear the brunt of much legal writing and drafting in modern law offices. However, it might come as a surprise that some lawyers play the ghost themselves, for clients who are, by definition, representing themselves—or in legal terms, *pro se*.

Defined more fully, *pro se* defendants or litigants are those who “represent[] themselves in a legal procedure **without the aid of an attorney** [emphasis added].”<sup>30</sup> Individuals representing themselves in a court of law are expected to fulfill all the legal responsibilities of a lawyer, and may or may not be given additional support or leniency by the court. In other



words, “[a]s a *pro se* litigant. . . it is your responsibility to do everything necessary to prepare your case for trial. . . you are representing yourself and can present only your own claims and defenses.”<sup>31</sup>

These brief definitions—which are provided by courts but which are not direct statements of law—suggest that an individual acting in a *pro se* capacity is expected, both legally and practically, to perform the work him- or herself. Despite this apparent clarity, however, it is widely accepted both that *pro se* litigation is increasing—as a result, in part, of increasing technical and general literacy, the availability of resources online, and the declining ability of individuals to pay for legal services—and that attorney-generated resources for *pro se* litigants are increasing as well. Consider this:

As educated people of modest means become computer literate, they increasingly take advantage of court web sites that make forms available, clinics that provide instruction on proceeding *pro se*, and *pro se* self-service centers. This segment of the *pro se* population. . . [needs] more legal assistance than court staff or a *pro se* clinic instructor can provide. Many prospective *pro se* litigants seek assistance from either non-lawyer practitioners . . . or lawyers willing to provide “unbundled” legal services, such as reviewing client-drafted pleadings or ghostwriting papers that will be signed by the client and filed *pro se*.<sup>32</sup>

This seems straightforward enough, with clients unable to pay full freight for legal services and instead opting for less expensive *à la carte* selections. Inherently, there is nothing wrong with this concept, as it increases access to legal assistance for those who likely need it most, those who cannot or for other reasons will not pay for such assistance. In this sense, the “unbundling” of legal services<sup>33</sup> is no different from other kinds of unbundling—for instance, the unbundling of media, auxiliary business, and educational services. However, in the legal arena, this practice can backfire—and badly.

Consider the 2009 case of Stephen Vincent Grigsby, attorney at law. Grigsby, a Minnesota criminal defense attorney, made the dubious decision to draft a *pro se* brief for a client while suspended for other reasons. Grigsby wrote the draft *pro bono* and filed it on behalf of and in the name of his client. Ultimately, the court discovered Grigsby’s involvement and—because of his ongoing suspension—filed ethics complaints. These resulted in an additional 60-day suspension, based both on the fact that he was suspended at the time and that he had positioned the client as acting in a *pro se* capacity, which was, of course, untrue.<sup>34</sup>

At first glance, this may seem like a reasonable outcome. If a lawyer does work for a defendant or litigant who is representing him- or herself, it is disingenuous, if not outright deceitful, to claim that the individual is *pro se*, while providing benefits to both the client and the lawyer. This was the conclusion also reached during a similar case in 2001:

This court is concerned with attorneys who “author[] pleadings and necessarily guide[] the course of the litigation with an unseen hand.” . . . Mr. Snow’s action in providing substantial legal assistance to Mr. Duran without entering an appearance in this case not only affords Mr. Duran the benefit of this court’s liberal construction of *pro se* pleadings . . . but also inappropriately shields Mr. Snow from responsibility and accountability for his action and counsel.<sup>35</sup>

However, not all cases end this way: A US Appeals court found that a New York lawyer did *not* commit violations in preparing *pro se* briefs for clients, nor did she violate ethical norms. The judges further noted that Fengling Liu, the lawyer in question, was in the clear as her intention was to help her clients and “not to deceive the court.”<sup>36</sup>

These conflicting outcomes reflect the difficulty of interpreting the law regarding appropriate lawyer–client interactions, specifically related to the practice of legal ghostwriting. However, these are just two cases among countless others, to which we will now turn in an attempt to determine whether there is binding legal precedent governing the practice, how that precedent is applied, and what the various governing bodies of the profession have to say.

### *Legal Precedent*

Perhaps the most commonly cited statute governing the practice of attorney ghostwriting is Rule 11 of the Federal Rules of Civil Procedure, which states that “[e]very pleading, written motion, and other paper **must be signed by at least one attorney of record in the attorney’s name—or by a party personally if the party is unrepresented**” [emphasis added].<sup>37</sup> This seems to almost unequivocally prohibit the practice of legal ghostwriting in civil cases, as a party cannot be truly considered unrepresented if an attorney is in any way involved; however, the scope is nonetheless limited, leaving plenty of room for interpretation.

In addition to court rulings applying Rule 11, judges also frequently point to the fact that *pro se* actors are afforded less scrutiny. This is addressed in a number of court cases where judges note that *pro se* litigants enter

the courtroom less prepared and should therefore be treated with more consideration than attorneys; for instance, “[w]e must construe the allegations in Day’s *pro se* petition liberally, and we may not subject his petition to the standards that we would apply to pleadings drafted by lawyers”; “[h]owever unartfully drafted, *pro se* pleadings are held to less stringent standards than formal pleadings drafted by lawyers”; and “[i]t is elementary that pleadings filed *pro se* are to be interpreted liberally.”<sup>38</sup> While this is not an across-the-board practice—some have argued, for instance, that *pro se* actors in family law cases are not given additional leniency, given the commonality of the practice<sup>39</sup>—it is certainly a critical point to consider.

The outcome of this leniency is ultimately the unfair advantage afforded to *pro se* litigants who employ the partial services of a lawyer, without disclosure:

[The defendant’s] pleadings seemingly filed *pro se* but drafted by an attorney would give him the unwarranted advantage of having a liberal pleading standard applied whilst holding the plaintiffs to a more demanding scrutiny. . . . The *pro se* litigant would be granted greater latitude as a matter of judicial discretion. . . . **The entire process would be skewed to the distinct disadvantage of the nonoffending party.** [emphasis added]<sup>40</sup>

Similar sentiments are expressed in *Laremont-Lopez v. Southeastern Tidewater Opportunity Center* (1997) (“the indulgence extended to the *pro se* party has the perverse effect of skewing the playing field rather than leveling it”); *Delso v. Trustees for the Retirement Plan for the Hourly Employees of Merck & Co, Inc.* (2007) (“courts often act as referees charged with ensuring a fair fight . . . an obvious problem when the Court is giving extra latitude to a purported *pro se* litigant who is receiving secret professional help”); and *Klein v. H.N. Whitney, Goadby & Co.* (1971) (“this practice . . . is grossly unfair to both this court and the opposing lawyers and should not be countenanced”).<sup>41</sup> Specifically, rulings note that *pro se* actors are granted leniency on the format and preparation of written documents, making ghostwriting by trained and competent legal experts—not legal assistance writ more broadly—the primary cause of this unfair advantage.<sup>42</sup>

These examples suggest that many civil courts rule against the use of legal ghostwriters in *pro se* cases. This is based largely on “the duties of candor to the Court and fairness to the opposing party, prohibitions against dishonesty, fraud, deceit or misrepresentations, [and] conduct prejudicial to the administration of justice.”<sup>43</sup> The weight of case law on this side of the issue may be attributable to the strength of sentiment against *pro se*

ghostwriting, for judges who accept the practice may have no reason to issue opinions in its support.

The case law in civil proceedings is only part of the picture; *pro se* pleadings occur regularly in criminal cases as well. In this arena, though, the practice seems to be largely accepted—or at least meets with fewer objections. For example, the Federal Rules of Criminal Procedure (the criminal counterpart to the previously cited Federal Rules of Civil Procedure) do not address the issue directly,<sup>44</sup> nor is the topic as widely discussed in the literature or in resources for practitioners.

In all likelihood, this is due almost exclusively to practical considerations:

Compared with other litigants, *pro se* prisoners are at an inherent disadvantage. They lack many of the resources enjoyed by non-prisoner litigants. They have limited finances and restricted access to libraries, legal materials, computers, the Internet, and even items that the non-incarcerated take for granted—such as paper, pens, and telephones. In addition, many attorneys are unwilling or unable to take on full representation of prisoner litigants [footnotes removed].<sup>45</sup>

This author also points to a barrier addressed in *Johnson v. Avery* (1969), a US Supreme Court case in which the justices observed a high degree of illiteracy among the prison population.<sup>46</sup> This concern has since been empirically confirmed, with a recent study showing that “over 70 percent of inmates in America’s prisons cannot read above a fourth grade level.”<sup>47</sup> While the courts’ objections to *pro se* ghostwriting in civil proceedings highlighted the inherent unfairness of the practice, in criminal cases involving prisoners this unfair advantage is unlikely to be an issue due to the widespread use of unbundled legal services to compensate for educational and financial disadvantages.

Clearly, the landscape of legal precedent varies, but judges and courts are only one part of the picture. As an established profession, external bodies also govern the conduct and practices of attorneys.

### *Professional and Legal Ethics*

Ethics policies in the legal profession carry significant weight and can even lead to prosecution for violations, thus creating legal precedent for future cases.<sup>48</sup> In condemning legal ghostwriting, the *Delso* ruling cited earlier gave equivalent weight to state and professional ethics codes and opinions as it did to case-based legal norms. But like legal precedent, ethics policies

are open to interpretation, and loopholes allow for ambiguity about the appropriateness of ghostwriting.

As of the year 2000, the American Bar Association's (ABA) Ethics 2000 Commission determined during a revision of its professional ethics policies that a "lawyer shall not give legal advice to an unrepresented person, other than advice to secure counsel." This is, admittedly, in the larger context of advice given to unrepresented individuals, which may conflict with the interests of the lawyer's actual client(s);<sup>49</sup> nonetheless, this statement would suggest that any such advice, up to and including the ghostwriting of briefs and other legal documents, would be questionable.<sup>50</sup>

However, in a more nuanced analysis of the Ethics 2000 Commission revisions, David Walther notes that in divorce cases, the application of this policy, like the application of legal precedent, is actually quite unclear. For one thing, because the number of *pro se* litigants in divorce cases is naturally quite high, judges are far less likely to be lenient on *pro se* litigants or defendants, alleviating some of the aforementioned concerns about fairness. Further, Walther notes that the ABA rules were amended to allow lawyers to serve as "third party neutrals," who would be able to assist in resolution of disputes without representing either party. While this could be interpreted as placing the lawyer in the role of ombudsman and negotiator, Walther construed it instead as permitting legal ghostwriting in such cases—but not *carte blanche*, given other relevant concerns: would the lawyer's invisible role as ghost be inherently deceptive, and therefore violate ethical transparency rules? Would such representation rise to the prohibited level of giving legal advice to unrepresented individuals?<sup>51</sup>

As noted earlier, such ethics rules can become legal precedent under the appropriate conditions. In this context, judicial interpretations of ethics rules have coincided with Walther's concerns, noting that a "breach of ethical duties" may include any conduct that involves "dishonesty, fraud, deceit, or misrepresentations"<sup>52</sup>—conduct that courts have interpreted to include ghostwriting for *pro se* parties:

Having a litigant appear to be *pro se* when in truth an attorney is authoring pleadings and necessarily guiding the course of the litigation with an unseen hand is . . . far below the level of candor which must be met by members of the bar.<sup>53</sup>

Similarly, one of the ethical duties identified by both the *Delso* and *Johnson* rulings was candor, which—citing New Jersey's Rules of Professional Conduct—requires attorney-initiated disclosure of facts which, if omitted,

would deceive or mislead the court. Further, “New Jersey’s courts have held that the duty of disclosure is an affirmative one, and **supercedes the attorney’s duties to his client**” [emphasis added].<sup>54</sup> This would seem to imply that the judicial interpretation of professional conduct standards actively discourages ghostwriting for *pro se* clients, an implication that is further confirmed by *Delso’s* continued emphasis on the application of professional standards by other courts:

The Tenth Circuit Court of Appeals has held that the duty of candor to the court is “particularly significant to ghostwritten pleadings”. . . . “[i]f neither a ghostwriting attorney nor her *pro se* litigant client disclose the fact that any pleadings ostensibly filed by a self-represented litigant were actually drafted by the attorney, this could itself violate the duty of candor”. . . . The Eleven Vehicles Court continued that “[a] lawyer should not silently acquiesce to such representation...[as these] arrangements interfere with the Court’s ability to superintend the conduct of counsel and parties during the litigation.”<sup>55</sup>

As with legal precedent, however, there is certainly disagreement on the application of ethical standards. For example, the New York County Lawyers’ Association (NYCLA) issued an opinion on an updated 2009 ethics rule reflecting the organization’s belief that it made ghostwriting permissible under certain carefully constructed situations. While sharing some of the previously identified concerns about the implications of *pro se* ghostwriting, the opinion defends the practice as providing access to indigent clients. Further, the opinion argues that judges are aware of the practice, and that “permitting ghostwriting is consistent with practice in other areas of the law, in which lawyers draft documents for their clients’ signatures . . . without disclosing the lawyer’s authorship.”<sup>56</sup>

These defenses fall in line with similar arguments advocating for *pro se* ghostwriting as a way to promote fairness, particularly in cases where a *pro se* actor faces off against an attorney-represented opponent. Likewise, proponents argue that a system that permits true *pro se* representation strains the judicial system, with judges and court staffs providing guidance to parties who compromise the efficiency of the system. Behind-the-scenes lawyers, the arguments go, ease this strain.<sup>57</sup>

Despite the broad interpretation offered by the NYCLA and the advantages identified above, and perhaps because of the organization’s concerns over what it views as judicial hostility toward the practice, it does provide parameters within which lawyers should disclose their involvement in *pro se*

cases, specifically when courts require disclosure or when “it is obvious that the court or opposing counsel is giving special consideration to an ‘unrepresented party’ as a result of his or her *pro se* status.”<sup>58</sup> Other state ethics organizations take this even further, requiring disclosure of ghostwriting assistance in all circumstances (e.g., Kansas) or when the lawyer is involved to such an extent that he or she gains control of the case (e.g., New Jersey).<sup>59</sup>

In general, the primary concern over ghostwriting for *pro se* clients is the same for those who interpret the law strictly and those who interpret it more liberally, as both point to the potential unfairness of the practice. However, there is a secondary concern to which we will now turn briefly: professional accountability.

In the 1970s, the First Circuit Court of Appeals ruled that because attorneys who ghostwrote for clients without disclosure would “escape the obligation imposed on members of the bar,” any brief “prepared in any substantial part by a member of the bar . . . must be signed by him.”<sup>60</sup> In other words, not only would the client gain an unfair advantage, but so would the attorney, who would—by merit of his or her undisclosed participation—be shielded from prosecution or censure. This is certainly as much of a concern, or perhaps even a greater one, as the attorney is inherently better informed of the advantages he or she will accrue by playing an invisible role.

It seems, then, that while there are strongly motivating factors to continue the practice of ghostwriting for *pro se* actors—most notably the provision of resources for those who could not otherwise procure them—there are also legitimate concerns in need of resolution. Disclosure is certainly one solution, bringing ghosts into the light and legitimizing the practice as simply one of the “unbundled” services offered by lawyers to clients who can’t afford the whole package. Likewise, continued discussion within the legal community is critical, specifically within state ethics commissions and professional associations—if for no other reason than to develop a greater consensus on the potential benefits and harms of the practice, and to identify the best practices in its management.

## THE LAWYER AS GHOST, PART II: JUDICIAL INDEPENDENCE

Some forms of ghostwriting in the judicial context are inherently more problematic than others. This is how we would categorize a final category of legal ghostwriting: judicial opinions written by lawyers, as discussed in the opening anecdote of *Chevron v. Donziger*. There is certainly room for

debate on the merits of having employees write opinions for judges or justices, and of having lawyers draft documents for clients. But there is less room for argument on the question of lawyers writing opinions for judges in the cases they are arguing.

While there are many angles from which to consider this question, the most germane involves the principle of judicial independence:

[A] truly independent judiciary has three characteristics. First, it is impartial. Judicial decisions are not influenced by the judge's personal interest in the outcome of the case. . . . Second, judicial decisions, once rendered, are respected. . . . The third characteristic of judicial independence is that the judiciary is free from interference. **Parties to a case, or others with an interest in its outcome, cannot influence the judge's decision** [emphasis added].<sup>61</sup>

Does ghostwriting of a judge's opinion by a lawyer representing either side of a case violate this standard, promoted as a universal benchmark of transparency and fairness for the judiciary?

## IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

### *Is it ghostwriting?*

In all the formats we have discussed, judicial or legal ghostwriting is, in fact, ghostwriting. Our definition underscores this point. For example, legal ghostwriting is the writing of material by a lawyer (the writer) for use by another (the client). The client receives credit; the lawyer, none. Similarly, judicial ghostwriting is the writing of material by a lawyer, a clerk, or another party (the writer) for use by a judge (the client). Again, all credit goes to the judge.

### *Why was a ghostwriter involved? What alternatives were available?*

The reasons for involvement of ghostwriters vary based on context, as do the alternatives. In the case of lawyers who write briefs for clients, the practice is often to a good end, as it serves those who cannot afford more complete legal services. In terms of judicial ghostwriting, the rationale is less clear. Certainly, in the opening anecdote—assuming the allegations against the judge were true—there was no legitimate reason for ghostwriting to occur. In other contexts, such as the Supreme Court, clerk-drafted opinions are likely an extension of research done by clerks,



with the ultimate purpose of freeing up the Justices for other professional responsibilities.

In any of these scenarios, one alternative would simply be to end the practice. However, there are consequences of this option. Lawyers could also work to extend the concept of *à la carte* legal services, openly providing only the services individual clients can afford. But where does this leave clients who can afford nothing? And what of the Supreme Court and other courts where clerks pen opinions? Should jurists be required, as part of their judicial duties, to write all of their own opinions? Or are their other professional duties a legitimate reason to rely on clerks as ghostwriters?

*Whose interests are at stake?*

For lawyers who represent indigent clients, the primary interest at stake is that of the client—legally speaking, the one in a potentially precarious situation. However, the interest of the lawyer comes at a close second, as violation of rules may prevent a lawyer from practicing and benefiting other clients in the future. And of course, the court may have an interest in ghostwritten work as a matter of judicial and professional procedure.

For judges, the interests of many may be at stake. With some cases affecting the lives and livelihoods of millions, opinions must be drafted with accuracy and reflect the true intent of the jurists under whose names they are published.

*What consequences may result from a decision to use a ghostwriter?*

While lawyers who act as ghosts for their clients may find themselves under sanction and unable to practice, the consequences of *not* using a ghostwriter might be more significant, at least from the client's perspective. If legal ghostwriting ceased to exist, indigent clients might find themselves completely without legal assistance, which would surely have a negative impact on them and their families. *Pro bono* work is, of course, an option, but likely an unsustainable one on any large scale.

The consequences of ghostwriting in the context of the Supreme Court (and other courts where clerks draft judicial opinions) depends largely on the involvement of the justice(s), specifically their level of oversight and knowledge.

*What principles or duties are at stake?*

As discussed earlier, there are many—albeit competing—legal standards governing the involvement of lawyers in the drafting of clients' statements.

Similarly, judges and justices are bound by the law—or at least their interpretation of it—when issuing opinions, ghostwritten or not. What other general standards might apply to lawyers and jurists when ghostwriting is involved?

*How might the ghostwritten work affect the personal authenticity of the client?*

For clients who rely on lawyers to ghostwrite their documents, there is likely little conflict with personal authenticity, except if they explicitly represent the work as their own.

But what about clerk-written opinions for judges and justices? If Supreme Court Justices derive their primary professional identity from their work, some dissonance may result. Given that perceived conflict between ghostwriting and authenticity varies among professions and professional roles (e.g., CEO, professor, scientist, elected official), how do you think a Supreme Court justice’s situation compares with that of other professionals?

For further reflection, consider the following:

1. As we discussed, the civil and criminal court systems in the USA seem to have very different perceptions of the legitimacy of *pro se* ghostwriting. In your opinion, should these differ? If so, why?
2. Unbundling legal services may be seen as a means to improve access, but is also criticized for depriving clients of the full range of needed services. What do you see as the ethical implications of this, specifically providing ghostwriting services to *pro se* parties representing themselves in court, while providing no other legal assistance?

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4. (1) Adam Liptak, “Choice of Clerks Highlights Supreme Court’s Polarization,” *sltoday.com*, last modified September 7, 2010, [http://www.sltoday.com/news/national/govt-and-politics/choice-of-clerks-highlights-supreme-court-s-polarization/article\\_d5a32186-ba20-11df-b33f-0017a4a78c22.html](http://www.sltoday.com/news/national/govt-and-politics/choice-of-clerks-highlights-supreme-court-s-polarization/article_d5a32186-ba20-11df-b33f-0017a4a78c22.html). (2) Stephanie Francis Ward, “Lucky 36: What It Takes to Land a Supreme Court Clerkship,” *ABA Journal*, last modified October 1, 2012, [http://www.abajournal.com/news/article/podcast\\_monthly\\_episode\\_31](http://www.abajournal.com/news/article/podcast_monthly_episode_31).
  5. These calculations were made prior to Justice Antonin Scalia’s death in 2016; see “Biographies of Current Justices of the Supreme Court,” *Supreme Court of the United States*, accessed July 31, 2015, <http://www.supremecourt.gov/about/biographies.aspx>.
  6. While most of our readers will likely be familiar with the kinds of cases decided by the Supreme Court, it is still well worth noting the gravity of cases that reach the highest court in the land. For instance, in their book *Sorcerers’ Apprentices*, Artemus Ward and David Weiden point out that significant decisions on civil rights and interpretations of the Fourth Amendment of the United States Constitution (“[t]he right of people to be secure. . . against unreasonable searches and seizures”) were likely ghostwritten (and in some cases barely edited) by law clerks. The significance of these cases is also highlighted by how few are ever actually heard by the Court: according to its website, the Supreme Court only hears roughly 80 cases out of the 7,000+ submitted each year. See (1) Artemus Ward and David L. Weiden, *Sorcerers’ Apprentices: 100 Years of Law Clerks at the United States Supreme Court* (New York: New York University Press, 2006). (2) “Frequently Asked Questions (FAQ),” Supreme Court of the United States, accessed February 15, 2016, <http://www.supremecourt.gov/faq.aspx>. (3) *The Constitution of the United States of America*, accessed February 15, 2016, [https://www.law.cornell.edu/constitution/fourth\\_amendment](https://www.law.cornell.edu/constitution/fourth_amendment).
  7. The Catholic University of America, “What Does It Mean to be a Judicial Clerk?,” last modified May 10, 2013, <http://www.law.edu/career/clerk-ingwhat.cfm>.
  8. The phenomenon of judicial delegation even appears in pop culture. Just ask Justice Robert Jacobs, the fictitious Supreme Court Justice on the third

- season of Netflix’s political drama *House of Cards*, who comments that his eloquent resignation speech was written entirely by his law clerks (season 3, episode 12).
9. As Justice Clarence Thomas once quite colorfully said, “I won’t hire clerks who have profound disagreements with me. . . . It’s like trying to train a pig. It wastes your time, and it aggravates the pig.” See Liptak, “Choice of Clerks Highlights Supreme Court’s Polarization.”
  10. (1) Liptak, “Choice of Clerks Highlights Supreme Court’s Polarization.” (2) Ward and Weiden, *Sorcerers’ Apprentice*.
  11. Liptak, “Choice of Clerks Highlights Supreme Court’s Polarization.”
  12. *Ibid.*
  13. (1) *Ibid.* (2) Ward and Weiden, *Sorcerers’ Apprentice*.
  14. Emily Bazelon and Dahlia Lithwick, “Endangered Elitist Species: Defending the Supreme Court Law Clerk,” *Slate Magazine*, last modified June 13, 2006, [http://www.slate.com/articles/news\\_and\\_politics/jurisprudence/2006/06/endangered\\_elitist\\_species.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2006/06/endangered_elitist_species.html).
  15. Bazelon and Lithwick, “Endangered Elitist Species.”
  16. Ward and Weiden, *Sorcerers’ Apprentice*.
  17. (1) Bazelon and Lithwick, “Endangered Elitist Species.” (2) Liptak, “Choice of Clerks Highlights Supreme Court’s Polarization.”
  18. Ward and Weiden, *Sorcerers’ Apprentice*.
  19. *Ibid.* The four courts in question were overseen by Chief Justices Vinson (1946–1952), Warren (1953–1968), Burger (1969–1985), and Rehnquist (1986–2002).
  20. If the 2015 Supreme Court rulings have shown us anything, it is that Antonin Scalia—author of phrases like ‘jiggery-pokery’ and ‘pure applesauce’—either is entirely responsible for his own opinions or has the most remarkably in-sync team of law clerks! See, for instance, Ben Jacobs, “Antonin Scalia Decries ‘Jiggery-Pokery’ of ‘SCOTUSCare’ in Scathing Dissent,” *The Guardian*, last modified June 25, 2015, <http://www.theguardian.com/law/2015/jun/25/antonin-scalia-dissent-jiggery-pokery-scotuscare-king-v-burwell>.
  21. As noted earlier, justices and clerks also increasingly resemble each other ideologically. Whether this ideological resemblance is at all correlated with the increasing coherence of the voices of clerks with their justices or whether the two are entirely unrelated, however, is unknown.
  22. Bazelon and Lithwick, “Endangered Elitist Species.”
  23. *Ibid.*
  24. Some judges, and the individuals who appoint them, appear to subscribe to this philosophy, known as legal realism, which “maintain[s] that common-law adjudication is an inherently subjective system . . . based on the political, social, and moral predilections of state and federal judges.” Conversely, legal formalists believe that the law should be distanced from personal emotion,

- and that a universal set of truths govern judicial outcomes. See (1) Dennis Babish, quoting West's Encyclopedia of American Law, "Legal Realism, Legal Formalism, and Judge Sotomayor," last modified July 28, 2009, <http://www.thepointradio.org/tp-home/blog-archives/blog-archives/entry/4/7348>. (2) Brian Leiter, "Legal Formalism and Legal Realism: What is the Issue?" *Legal Theory* 16, no. 2 (2010): 111–133.
25. *Ibid.*
  26. Ward and Weiden, *Sorcerers' Apprentice*, 212.
  27. James Marlow, "Supreme Court Justice Condemns Ghost Writing," *The Deseret News* (Salt Lake City, UT) December 2, 1949.
  28. Ward and Weiden, *Sorcerers' Apprentice*.
  29. *Ibid.*
  30. Better Business Bureau, "What Exactly Does It Mean to Act Pro Se in a Legal Proceeding?" *BBB*, last modified July 10, 2009, <http://www.bbb.org/wisconsin/industry-tips/read/tip/what-exactly-does-it-mean-to-act-pro-se-in-a-legal-proceeding-2040/>.
  31. United States District Court, District of Vermont, "Representing yourself as a *pro se* litigant guide," accessed February 15, 2016, <http://www.vtd.uscourts.gov/sites/vtd/files/ProSeGuide.pdf>.
  32. (1) Jona Goldschmidt, "In Defense of Ghostwriting," *Fordham Urban Law Journal* 29, no. 3 (2001): 1145–1212. (2) Dave Collins, "Courts Flooded with Poorer Americans Representing Themselves," *NBC News*, last modified August 20, 2012, <http://business.nbcnews.com/news/2012/08/20/13375779-courts-flooded-with-poorer-americans-representing-themselves>. (3) Andria Simmons, "More People Forgo Lawyers, Represent Themselves," *The Atlanta Journal-Constitution*, last modified September 7, 2010, <http://www.ajc.com/news/news/local/more-people-forgo-lawyers-represent-themselves/nQjzc/>.
  33. Unbundled legal services are defined as "an alternative to traditional full-service representation [where] the lawyer only provides limited or discrete services [and] can include advising the client, researching the law, drafting documents, and representing the client in court." It is less expensive, as clients do not pay by retainer, but by the service. This is a commonly used phrase, found in many of the resources cited here. Our definition is taken from Goldschmidt, "In Defense of Ghostwriting," 1146.
  34. Martha Neil, "Suspended Defense Lawyer Gets 60 Days More for Ghostwriting Client's Winning 'Pro Se' Appeal Brief," *ABA Journal*, last modified July 11, 2012, [http://www.abajournal.com/news/article/suspended\\_defense\\_lawyer\\_gets\\_60\\_days\\_more\\_for\\_ghostwriting\\_clients\\_winning/](http://www.abajournal.com/news/article/suspended_defense_lawyer_gets_60_days_more_for_ghostwriting_clients_winning/).
  35. *Duran v. Carris*, 238 F.3d 1268 (2001), quoted in David L. Walther, "Ghostwriters in the Sky," *American Journal of Family Law* 17, no. 2 (2003): 61–63.

36. Basil Katz, "Attorneys Can Lend a Hand in Pro Se Briefs," *Reuters*, last modified November 22, 2011. Original link is no longer available; text of article is available at the following URL: [http://investorshub.advm.com/boards/read\\_msg.aspx?message\\_id=69259031](http://investorshub.advm.com/boards/read_msg.aspx?message_id=69259031).
37. "Federal Rules of Civil Procedure, Title III, Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions," *Legal Information Institute*, accessed February 15, 2016, [https://www.law.cornell.edu/rules/frcp/rule\\_11](https://www.law.cornell.edu/rules/frcp/rule_11).
38. (1) *U.S. v. Day*, 969 F.2d 39 (3<sup>d</sup> Cir. 1992). (2) *Laremont-Lopez v. Southeastern Tidewater Opportunity Center*, 968 F.Supp. 1075 (1997). (3) *Johnson v. Board of County Commissioners for County of Fremont*, 868 F. Supp. 1226 (1994). See also *Haines v. Kerner*, 404 U.S. 519 (1972) and *Bryen v. Becker*, 785 F. Supp. 484 (D.N.J. 1991).
39. Walther, "Ghostwriters in the Sky."
40. *Johnson v. Board of County Commissioners for County of Fremont* (1994).
41. (1) *Laremont-Lopez v. Southeastern Tidewater Opportunity Center*, 968 F. Supp. 1075 (1997). (2) *Delso v. Trustees for the Retirement Plan for the Hourly Employees of Merck & Co, Inc.*, WL 766349 (D.N.J. 2007). (3) *Klein v. H.N. Whitney, Goadby & Co., et al.*, 341 F. Supp. 699 (1971).
42. *Delso v. Trustees for the Retirement Plan for the Hourly Employees of Merck & Co, Inc.*, WL 766349 (D.N.J. 2007).
43. *Ibid.*
44. The Committee on the Judiciary, House of Representatives, "Federal Rules of Criminal Procedure," last modified December 1, 2015, <http://www.uscourts.gov/uscourts/rules/criminal-procedure.pdf>.
45. Ira P. Robbins, "Ghostwriting: Filling in the Gaps of Pro Se Prisoners' Access to the Courts," *Georgetown Journal of Legal Ethics* 23, no. 2 (2010): 271–321.
46. *Johnson v. Avery*, 393 U.S. 483 (1969).
47. "The U.S. Illiteracy Rate Hasn't Changed in 10 Years," *The Huffington Post*, last modified December 12, 2014, [http://www.huffingtonpost.com/2013/09/06/illiteracy-rate\\_n\\_3880355.html](http://www.huffingtonpost.com/2013/09/06/illiteracy-rate_n_3880355.html).
48. Neil, "Suspended Defense Lawyer Gets 60 Days."
49. American Bar Association, "Rule 4.3: Dealing with Unrepresented Person," accessed February 15, 2016, [http://www.americanbar.org/groups/professional\\_responsibility/policy/ethics\\_2000\\_commission/e2k\\_rule43.html](http://www.americanbar.org/groups/professional_responsibility/policy/ethics_2000_commission/e2k_rule43.html).
50. Of course, a pro se actor who had contracted for unbundled legal services would not technically be unrepresented, but would just appear as such to the court.
51. Walther, "Ghostwriters in the Sky."

52. *Delso v. Trustees for the Retirement Plan for the Hourly Employees of Merck & Co, Inc.*, WL 766349 (D.N.J. 2007), quoting in part Goldschmidt, “In Defense of Ghostwriting.”
53. *Johnson v. Board of County Commissioners for County of Fremont* (1994).
54. (1) *Delso v. Trustees for the Retirement Plan for the Hourly Employees of Merck & Co, Inc.*, WL 766349 (D.N.J. 2007). This is supported by Rule 3.3 of the New Jersey Rules of Professional Conduct, which requires “candor toward the tribunal.” See (2) “Rule 3.3, Candor Toward the Tribunal,” *New Jersey Rules of Professional Conduct*, accessed February 15, 2016, [https://www.law.cornell.edu/ethics/nj/code/NJ\\_CODE.HTM#Rule\\_3.3](https://www.law.cornell.edu/ethics/nj/code/NJ_CODE.HTM#Rule_3.3).
55. *Delso v. Trustees for the Retirement Plan for the Hourly Employees of Merck & Co, Inc.*, WL 766349 (D.N.J. 2007), quoting in part *Duran v. Carris*, 238 F. 3d 1268 (2001) and *U.S. v. Eleven Vehicles*, 966 F. Supp. 361 (E.D. Pa. 1997).
56. (1) NYLCA Committee on Professional Ethics, “Opinion 742,” last modified April 16, 2010, [https://www.nycla.org/siteFiles/Publications/Publications1348\\_0.pdf](https://www.nycla.org/siteFiles/Publications/Publications1348_0.pdf). (2) Debra Cassens Weiss, “Ethics Opinion Says Lawyers May Ghostwrite Court Papers and Not Disclose It,” *ABA Journal*, last modified May 4, 2010, [http://www.abajournal.com/news/article/ethics\\_opinion\\_says\\_lawyers\\_may\\_ghostwrite\\_court\\_papers\\_and\\_not\\_disclose\\_it](http://www.abajournal.com/news/article/ethics_opinion_says_lawyers_may_ghostwrite_court_papers_and_not_disclose_it).
57. Goldschmidt, “In Defense of Ghostwriting.”
58. NYLCA, “Opinion 742.”
59. (1) NYCLA, “Opinion 742.” (2) Debra Cassens Weiss, “Kansas Ethics Opinion Requires Disclosure on Ghostwritten Pleadings,” *ABA Journal*, last modified December 1, 2009, [http://www.abajournal.com/news/article/kansas\\_ethics\\_opinion\\_requires\\_disclosure\\_on\\_ghostwritten\\_pleadings/](http://www.abajournal.com/news/article/kansas_ethics_opinion_requires_disclosure_on_ghostwritten_pleadings/). (3) Debra Cassens Weiss, “N.J. Ethics Opinion Allows Ghostwritten Pleadings for Indigent Clients,” *ABA Journal*, last modified January 29, 2008, [http://www.abajournal.com/news/article/nj\\_ethics\\_opinion\\_allows\\_ghostwritten\\_pleadings\\_for\\_indigent\\_clients/](http://www.abajournal.com/news/article/nj_ethics_opinion_allows_ghostwritten_pleadings_for_indigent_clients/).
60. *Ellis v. State of Maine*, 448 F2d 1325 (1971).
61. Matthew Stephenson, “Judicial Independence: What It Is, How It Can Be Measured, Why It Occurs,” accessed February 15, 2016, <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/JudicialIndependence.pdf>.

## Academic Dishonesty

Dave Tomar wasn't always a cynic. An aspiring writer, he began his studies at Rutgers University excited to take on a new intellectual challenge, free from the dull repetition of high school. He soon started writing his first novel, which he finished before the start of his junior year. In short, everything seemed to be going exactly as planned.

But that, of course, is not how the story ends. By his own account, Tomar found undergraduate life at Rutgers uninspiring. Grades were the ultimate goal of most of his peers, won through routine class attendance and performance on multiple-choice exams. Upon finishing his novel, he asked his academic department to develop an independent study course that would give him the opportunity to have it published, but his request was rejected. His career as a novelist was at a standstill.

Later a friend asked Tomar to write an academic paper for him. In no time he was building a small writing business crafting essays for his fellow undergraduates. After graduation, this turned into a decade-long career working for an online essay company, a career that abruptly ended in 2010 when, under the pseudonym of Ed Dante, Tomar revealed his line of work to *The Chronicle of Higher Education*—along with his intent to retire from it. In his own words, “I’m tired of helping you [faculty] make your students look competent.”

During his decade as an academic ghost, Tomar wrote about virtually every subject, from ethics to biology to accounting, for clients ranging from prospective students to doctoral candidates. He could produce 5000 anonymous pages a year, and made up to \$66,000 annually. He wrote



primarily for international students, domestic students who were ill prepared for college, or those who simply wanted a credential, not an education—and who had the funds to pay for it.<sup>1</sup> Education and nursing students were the most likely to use his services. In Tomar’s mind, the reason for his success was the faculty who—in his opinion—caused students to cheat by ignoring the dishonesty they knew was occurring, and by failing to inspire students to excel.

Truthfully, Tomar’s cynicism is not all that different from other attitudes expressed in academe toward students who cheat. It is often true that the faculty bemoan the systemic nature of student cheating, but pay little attention to their own roles in allowing the behavior to continue.<sup>2</sup> Remarkably, though, many faculty are enthusiastic about Tomar’s message, despite the fact that he has—in more ways than one—made a career of cheating. Today he continues to profit from his past career by writing articles, making television and radio appearances, and even writing a book based on his experiences.

So why are people willing to ignore his career as an “academic mercenary” and enable him to continue to profit from that work?<sup>3</sup> Perhaps Dave Tomar fascinates precisely because he is a manifestation of an academic illness that we know is pervasive, and yet have no idea how to stop.

### GHOSTWRITING VERSUS PLAGIARISM

Academic dishonesty is defined as “any type of cheating that occurs in relation to a formal academic exercise,” including plagiarism, fabrication, deception, cheating, or academic sabotage.<sup>4</sup> Informally, there is a completely different language that surrounds academic dishonesty, and informal ways in which we define those acts. For instance, to make such concepts more accessible to students, we might define academic dishonesty as an act that provides an unfair advantage to one student over another. A student who employs a ghostwriter has a clear, and demonstrably unfair, advantage over a peer who does all his own work.

Likewise, we might define an act of academic dishonesty as one that a student would be unwilling to tell her professor about. Needless to say, a student who employs a ghostwriter has no intention—at least not voluntarily—of admitting this to a professor. Thus, it would seem likely that students who use ghostwriting services recognize this as cheating.

Of course, not all ghostwriting involves academic dishonesty, nor does all academic dishonesty involve ghostwriting. So how do we determine what instances of ghostwriting constitute cheating in the academic context? And how can we differentiate the practice from its closest relative: plagiarism?

As we previously defined it, ghostwriting is the writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer's role will be invisible to readers or hearers of the words. Plagiarism, on the other hand, is the theft and fraudulent use of someone else's words or ideas, without the consent of the original author and without attribution of the source.<sup>5</sup>

Teddi Fishman, an internationally-recognized expert on academic integrity and director of the International Center for Academic Integrity (ICAI), more explicitly defines plagiarism as follows:

Plagiarism occurs when someone (1) uses words, ideas, or work products (2) attributable to another identifiable person or source (3) without attributing the work to the source from which it was obtained (4) in a situation in which there is a legitimate expectation of original authorship (5) in order to obtain some benefit, credit, or gain which need not be monetary.<sup>6</sup>

Based on this definition, ghostwriting might well be classified as plagiarism. The named author uses the “words, ideas, or work products” of the writer without attribution and obtains a tangible benefit. This benefit might be monetary, as in the case of a celebrity who uses a ghost to write a tell-all autobiography, or reputational, as in the case of a student who uses a ghost essayist in order to appear more competent than she actually is. As we have already seen, however, there are instances of ghostwriting where an audience has little “legitimate expectation of original authorship”—for example, the State of the Union address. Even in instances where original authorship is expected, ghostwriters do not expect attribution, but instead expect anonymity.

Ghostwriting, then, is not plagiarism—despite a number of notable similarities. It is, however, a form of academic misconduct increasingly practiced by students—and sometimes professors, as we will explore in the next chapter—at all stages of the educational enterprise, starting in the high-pressure arena of college admissions.

## GHOSTWRITING IN THE ADMISSIONS GAME

Imagine for a moment you are a high school junior beginning to apply to colleges. The big question, of course, is whether you will be accepted to the college of your dreams. And the odds aren't good: in 1980, 12.1 million students were enrolled in a degree-granting institution in the USA. By 2021, 23.8 million students are expected to enroll.<sup>7</sup> Your fellow applicants are seeking to improve their odds of acceptance by applying to record numbers of colleges. Close to 30 percent of them will apply to seven or more schools.<sup>8</sup> This begs the question: How will you differentiate yourself from the rest of the crowd?

The answer may lie in the personal statement that many schools require of their applicants. Individually, the personal statement allows students to share an inside glimpse of their personalities, interests, and life experiences. Collectively, a competent admissions staff can use these insights to shape the culture and identity of an incoming freshman—or graduate school—class. The type of questions, then, that admissions committees pose, often read like this:

- Some students have a background, identity, interest, or talent that is so meaningful they believe their application would be incomplete without it. If this sounds like you, then please share your story.
- The lessons we take from failure can be fundamental to later success. Recount an incident or time when you experienced failure. How did it affect you, and what did you learn from the experience?
- Reflect on a time when you challenged a belief or idea. What prompted you to act? Would you make the same decision again?
- Describe a problem you've solved or a problem you'd like to solve. It can be an intellectual challenge, a research query, an ethical dilemma—anything that is of personal importance, no matter the scale. Explain its significance to you and what steps you took or could be taken to identify a solution.
- Discuss an accomplishment or event, formal or informal, that marked your transition from childhood to adulthood within your culture, community, or family.<sup>9</sup>

Of course, responses to these questions are supposed to be unique, and deeply personal. These five questions come from the Common Application, accepted by more than 500 post-secondary institutions.<sup>10</sup> Such questions may be retained for more than one year.<sup>11</sup> Thus, with the wide use of these

questions, opportunities for fraud abound: students post their personal statements online for peer review;<sup>12</sup> essay editing services publish sample essays, “for review only”;<sup>13</sup> and even credible journalistic sources publish the best sample essays on the web.<sup>14</sup> Any student motivated enough to avoid real work can find ample inspiration online.

This, however, merely highlights the risk of plagiarism. In the race to deter such copy-and-paste activities, many schools have become ever more creative—or bizarre, as the case may be—in their pursuit of questions that require students to respond insightfully and uniquely. To be sure, they are at least partially motivated by a desire to test the creative mettle of their applicants, but assuring individuality seems to be a primary goal of questions like these:<sup>15</sup>

- Have you ever walked through the aisles of a warehouse store like Costco or Sam’s Club and wondered who would buy a jar of mustard a foot and a half tall? We’ve bought it, but it didn’t stop us from wondering about other things, like absurd eating contests, impulse buys, excess, unimagined uses for mustard, storage, preservatives, notions of bigness...and dozens of other ideas both silly and serious. Write an essay somehow inspired by super-huge mustard. (University of Chicago)
- Make a bold prediction about something in the year 2020 that no one else has made a bold prediction about. (University of Virginia)
- You have just finished your three hundred page autobiography. Please submit page 217. (University of Pennsylvania)
- You have 150 words. Take a risk. (University of Notre Dame)
- So where is Waldo, really? (University of Chicago)<sup>16</sup>

No assignment is plagiarism-proof, but a quick Google search reveals that ready-made essays in response to these questions are much harder to find (and are predominantly found in online forums, where student authors seek peer critiques). More importantly, since these questions are school specific, the same admission staffs will review the essays, making plagiarism easier to spot. But while such efforts have succeeded in reducing opportunities for plagiarism in the admission process, they may have bred a monster of a different kind: the ghostwritten admission essay.

Before we examine this issue further, it will be helpful to step back for a moment to consider that applying to college is not inexpensive, especially as students apply to (and often pay application fees to) an increasing number of schools.<sup>17</sup> Campus visits can also add substantially to the cost of the

college search. In the process, much effort is expended to make the right impression and convey the right fit to the college(s) of choice.

The pressure to impress is even more intense for international students. International enrollment in American institutions is growing, with much of this increase coming from China.<sup>18</sup> The prestige of a Western education draws many to the USA,<sup>19</sup> and international students—especially those with money to spare and no expectation of a tuition discount—are sought after by American institutions.<sup>20</sup>

However, the American application process is a mystery to many of them—and not only from a linguistic perspective. For example, China’s educational system stresses memorization and repetition, and admission to a post-secondary institution is based on a placement test with no requirement for personal essays or recommendation letters.<sup>21</sup> In Japan, it is considered inappropriately boastful to write about one’s own accomplishments.<sup>22</sup> In short, while not every international student will deal with each of these issues, such factors create pressures that domestic applicants may not face—pressures that can lead some to seek help.<sup>23</sup>

Enter admission “editing services.” Andrew Ferguson, journalist and author of *Crazy U: One Dad’s Crash Course in Getting His Kid into College*, offers a compelling look at this cottage industry. On one end of the continuum, he discovered many cases where parents ghostwrite or heavily edit their children’s essays, often to the point of depersonalization. At the other end, he found the truly ghostwritten essays, purchased online and delivered complete and ready for submission. For Ferguson, the process of ordering one of these ready-made essays for his research confirmed his moral distaste for the concept, and his disdain for the quality of the products. He concluded, “You [prospective student] write the check, we [custom essay companies] write the dreck.”<sup>24</sup>

Based on Ferguson’s research and the continued existence of these companies, we can assume that some personal statements of domestic applicants are less than personal. The situation may be worse with international applicants. A small survey of 250 Chinese applicants to US institutions of higher education found that 70 percent of these applicants submitted ghostwritten admission essays. Some companies even pride themselves on providing a higher level of security—at least for the fraudulent applicants—by testing their essays against plagiarism detection software. Furthermore, up to 90 percent of Chinese applicants in this survey sample faked their recommendation letters, in some cases by providing a pre-written letter to the recommender—along with a token bribe.<sup>25</sup>

As students have developed new ways to game the system, universities have broadened their focus on plagiarism prevention to include ghostwriting prevention, a more daunting task. At the graduate admissions level, the Haas Business School at UC Berkeley compares admission essays—especially those that seem particularly well written for a non-native English speaker—to the content and score of the applicant’s GMAT analytical writing section. Interviews are also commonly used to assess applicants who seem a little too good to be true.<sup>26</sup>

Such measures, employed at the graduate level, might be impossible to implement in undergraduate situations where thousands of applicants are under consideration. Admissions officers simply cannot have the level of personal knowledge of each of their applicants, or their writing skills, to spot ghostwritten work in every case. So if ghostwriting helps students get admitted, might they continue to rely on it after they arrive on campus?

### GHOSTWRITING IN THE COLLEGE CLASSROOM

Cheating is a problem at all colleges and universities, an indisputable fact borne out by research again and again. How students cheat, how much they cheat, and why they cheat, on the other hand, are not easily ascertained. Many researchers have tried to answer these questions over the years, but perhaps none with such commitment as Rutgers University professor Donald McCabe. Since 1990, McCabe and his colleagues have surveyed thousands of students and faculty at hundreds of institutions, trying to gain some insight into the how and why of the cheating culture.

Among other factors, McCabe’s research examined faculty and student perceptions of a number of behaviors commonly identified as academically dishonest. In his book, *Cheating in College*, he compares his findings to similar research conducted by Bill Bowers in the early 1960s. At first glance, the trends look encouraging: while 20 percent of student respondents from Bowers’ 1962–1963 study had “turned in papers done entirely or in part by other students,” only 13 percent of respondents to McCabe’s 1990–1991 survey reported doing so. And between 2002 and 2010, a mere 6 percent of student respondents self-reported such misconduct.<sup>27</sup>

It is worth noting, of course, that this is a very broad category with a number of possible interpretations. It could include ghostwritten work in the form of a paper intentionally created by one student (the ghost) for the use of another (the client or friend). Alternatively, it could simply refer to shoddy group work, where one student completes a paper for the

rest of a group, or even to outright plagiarism. The only certainty is that students admit to less academically dishonest behavior, which may or may not include ghostwriting, than they did in the early 1960s. Nonetheless, this suggests an interesting longer-term trend.

Using McCabe's findings, we can be much more confident in the number of contemporary students who *have* contracted the services of a ghostwriter or used a website that provides ready-made papers to students.<sup>28</sup> A sample of the specific behaviors that McCabe has studied includes the following:

- Turning in work done by someone else.
- Turning in a paper from a 'paper mill' (a paper written and previously submitted by another student) and claiming it as own work.
- Submitting a paper purchased or obtained from a website (such as schoolsucks.com) and claiming it as own work.

The first of these behaviors is open to interpretation; the latter two directly pertain to academic ghostwriting, differentiating such conduct from simple plagiarism. In a version of McCabe's survey conducted at a private university in Birmingham, Alabama in 2011, findings showed that 3.54 percent of undergraduates and 1.62 percent of graduate students admitted to having turned in work done by someone else within the previous year. No graduate students admitted to engaging in the latter two behaviors; only 1.19 percent and 0.89 percent (respectively) of undergraduate respondents had done so. If applied to the entire population of students at the institution in question, these seemingly small percentages represent a significant number of students—between 40 and 60 each year. However, when compared to the prevalence of almost any other form of academic dishonesty—plagiarism, unauthorized collaboration, outright cheating—the amount of ghostwriting that occurs in the college classroom seems relatively insignificant.<sup>29</sup>

But is this an accurate conclusion? In the early 2000s, British researchers Thomas Lancaster and Robert Clarke embarked on an ambitious project to monitor essay mills over a nearly eight-and-a-half-year period. During that time, they recorded close to 19,000 student requests for custom work.<sup>30</sup> Regardless of the study's limitations—we can't know, for instance, how many individuals or what percentage of students made these requests—this represents a significant amount of ghostwritten material making its way into the college classroom.

When faculty perceptions of student cheating are taken into consideration, the accuracy of the students' self-reported conduct is thrown further into question. In just one example from the previously cited version of McCabe's survey, 15.31 percent of faculty said they had experience with students submitting papers obtained from sample essay sites. While there are many possible reasons for this discrepancy—including the fact that faculty respondents were asked to consider the previous three years, and students only one—this is still a significant departure from fewer than 1 percent of students who admitted to such conduct.<sup>31</sup>

Finally, a close examination of McCabe's findings further confirms that self-reported data, while useful, should be viewed with healthy skepticism. As noted earlier, academic dishonesty involving ghostwriting declined significantly between the 1960s and 2010, as did behaviors in the other eight broad categories. Is this a decrease in these behaviors or in self-reporting?<sup>32</sup> Collaborative cheating appears to have increased during this period, including unauthorized collaboration where one student does all the writing on a project credited to multiple authors.<sup>33</sup>

So far, we have suggested that a small but significant number of college students submit ghostwritten material as their own, but that the practice is far less widespread than plagiarism. Plagiarism, of course, is easier; with so many resources available online, students can copy and paste, creating their own custom essays. But as with all trends in academic dishonesty, this is changing. We refer to the influence and rapid rise of plagiarism detection software, most notably Turnitin. As more institutions adopt this type of software, fewer students may be able to copy and paste their way to a good grade—and even the products of traditional paper mill sites will be more easily detected. Custom essay providers will become an even more valuable commodity, especially those that guarantee an original essay and minimize risk of detection by software.<sup>34</sup>

Even custom essays can be spotted, though. Researchers who have purchased such papers are highly critical of the end products; dishonesty expert Dan Ariely referred to them as “awful” and “gibberish.”<sup>35</sup> Could this be intentional since faculty should be familiar with the writing capabilities of students, and would likely catch those who spent a semester producing mediocre work, only to turn in a polished and presentable final paper? Some essay sites actually take pride in advertising that their writers do not edit their work, apparently assuming that students who need ghostwriting assistance would be less-than-competent writers in their own right, or at least less competent than the professional writers employed by such services.<sup>36</sup>



So who are these ghosts, and how do they view their own work? Increasingly, academic writers-for-hire seem to be disillusioned faculty or students. This may be one of the most insidious things about this industry: ghostwriting—to some extent in college admissions, but even more so in the classroom—has its roots in the academy. This irony is not lost on some writers like former Texas Tech instructor Jennifer Sunseri, who describes her behavior as “[u]nethical, though completely legal.” An anonymous ghost from the UK confesses that he cannot “justify the work I’m doing on ethical grounds,” and notes that his work is “a symptom of an illness, a fracture, in our universities.” By contrast, an anonymous Temple University student describes his work as “certainly not morally wrong,” and posits that “[i]t’s not the ghostwriting that stops students from learning, it’s themselves.”<sup>37</sup>

It’s certainly true that these services wouldn’t exist without all the players involved making it possible, willingly or not. As evidence of this, we turn now to one of the most systematized forms of academic ghostwriting—ghostwriting that doesn’t happen in the classroom or in the race to gain access to higher education, but in the locker room, especially of Division I schools.

### GHOSTWRITING IN THE LOCKER ROOM

I didn’t write any papers. I didn’t write any papers, but I know that the tutors did help guys write papers—as far as help them through the grammar, the structure, paragraphs, so on and so forth. But, for some of the premier players, we didn’t write our papers. It was very simple. When it was time to turn in our papers for our “paper classes,” we would get a call from our tutors, we would all pack up in one big car . . . and ride over to the tutor’s house, pick up our papers and go about our business.<sup>38</sup>

In the hypercompetitive, commercialized world of big-time intercollegiate athletics, massive academic support structures buoy student-athletes, some of whom are woefully unprepared—and often lack time—for the academic demands of college. These support structures, which involve a host of tutors, advisors, coaches, and faculty, provide legitimate assistance to struggling students.<sup>39</sup> But ghosts lurk where opportunity exists, in some cases as part of a scheme that purportedly functions with the best interests of student-athletes at heart but which only serves to further disadvantage those it is supposed to help. As the

stark accusations presented above by Rashad McCants suggest, not everyone plays fair.

The larger story that McCants points to is an academic scandal that blanketed the University of North Carolina (UNC), Chapel Hill, after it was brought to light in 2010. Through investigative reports, culminating in 2014 with a comprehensive analysis by consultant Kenneth Wainstein,<sup>40</sup> the public became aware of a practice that over an 18-year period involved 3100 students, of whom nearly half were athletes. Students registered for lecture courses that never met and were graded on a single research paper. Otherwise known as “paper classes,” these would not inherently have been illegitimate (the courses were originally designed as independent studies) if not for the fact that an administrative assistant graded nearly all of the papers, and awarded students—and especially student-athletes—with A or B grades for work that often was not their own.

This system, devised by Debby Crowder, who graded many of the questionable papers, proved beneficial to athletes and non-athletes alike, particularly, in the latter group, fraternity members. However, student-athletes arguably benefited the most as a result of the massive support system that worked to keep them academically eligible to play sports. Their academic advisors and tutors crossed multiple lines, requesting specific grades on papers from Ms. Crowder, even going as far as ghostwriting their advisees’ work.

The assistance offered to student-athletes ranged from wholesale writing of term papers to more limited, but nonetheless substantial, assistance, as in the case of Jan Boxill, the former director of UNC’s Parr Center for Ethics and an advisor to the women’s basketball team. She admitted to writing introductions and conclusions for students, but argued that her assistance was minimal and did not rise to the level of academic fraud. Wainstein’s report undermines this argument, noting that “many paper class students and student-athletes would submit a paper with quality text in the introduction and conclusion and nothing but ‘fluff’ or largely unoriginal material in between.”<sup>41</sup>

This account, with those of other tutors involved in ghostwriting for student-athletes,<sup>42</sup> substantiates McCants’ interpretation of events, to an extent. Though the credibility of his allegations has been heavily debated, especially in the absence of other student-athletes willing to corroborate his claims, it is indisputable that, while plagiarism and lack of academic oversight were the significant problems at UNC, some level of ghostwriting did occur.

And UNC is not alone. While reported incidents of ghostwriting in intercollegiate athletics are rare, they do exist, largely publicized through sanctions handed down by the National Collegiate Athletic Association (NCAA). Another scandal was reported in the mid-1990s at the University of Minnesota, where a former tutor wrote 400 papers for 20 student-athletes over a period of five years.<sup>43</sup> In 2009, it was revealed that at Florida State University football players were provided with ghostwritten term papers. Both schools received NCAA sanctions in these incidents.<sup>44</sup> And for years, a freelance “fixer” wrote papers for student-athletes at institutions including the University of South Florida and the University of Texas at Austin to help them maintain eligibility or even to gain admission to these schools in the first place.<sup>45</sup>

The use of ghostwriters by students can negatively affect others by increasing the competitiveness of otherwise less competitive students and by providing an unfair advantage over peers. The use of ghostwriters, while temporarily helping students get ahead, ultimately fails them in the end. But given the relatively limited and localized impact of ghostwriting within intercollegiate sports, how important is this to institutions as a whole?

In the UNC scandal, one of the key actors who helped bring the matter to light was a learning specialist named Mary Willingham. She worked with athletes for several years and became uncomfortable with the work she was asked to do as it became apparent to her that many of her student-athletes were functionally illiterate and had been brought to UNC under apparently false pretenses, such as promises of careers the school would be unable to prepare them for. Willingham blogs that one student-athlete “thought that he had come to UNC to be a barber,” while Michael McAdoo, a former star football player who has played a recurring role in the scandal and its aftermath, was told “that he could study criminal justice at UNC, though no such major exists here.”<sup>46</sup>

Similar concerns are raised by scholars who study the constant tension between athletics and academics, specifically vis-à-vis the academic unpreparedness of athletes when they enter college, and the lack of rigorous and meaningful academic opportunity once there.<sup>47</sup> Thus, it becomes apparent that the student-athlete is not the beneficiary but the victim of ghostwriting in this context. Yet, unlike the cynical ghostwriters described earlier, the ghosts of intercollegiate athletics seem a warm and sympathetic bunch, who want to help academically underprepared athletes. Tutor Jennifer Wiley Thompson “simply felt sorry for them,” and “felt she had little choice but to cross the line.”<sup>48</sup> Boxill apparently felt such students needed

a “cushion.”<sup>49</sup> And Crowder, although not one of the active ghostwriters, devised the scheme because of her sympathy for student-athletes and her own negative experiences in college, where she felt a lack of support from faculty and staff—interestingly enough, a motivation not dissimilar from that of Dave Tomar.

This, of course, represents a misguided view of help, but nonetheless represents not only an ethical lapse on the side of both client and ghost, but a radical departure from an authentic representation of self. However, while most ghostwriting clients in academia operate under their own agency and violate their own personal authenticity, this cannot *necessarily* be said about the student-athletes just described.<sup>50</sup>

### GHOSTWRITING BY FACULTY

We would be remiss if we did not touch, albeit briefly, on the issue of faculty who engage in academic dishonesty. In the next chapter, we will focus more exclusively on ghostwritten academic, especially scientific, publications, many of which are created through the actions of professors and academic researchers. Journal articles, books, or other evidence of a professor’s research prowess can be judged by strict standards, especially since tenure and promotion are largely based on the quality of faculty research output. While the cases are few, they show that faculty may be caught in much the same way as students: by using shoddy ghostwritten work.

In a striking case, a Harvard Law professor was accused of plagiarizing parts of his 2004 book, *All Deliberate Speed*. He could not deny that plagiarism occurred, but could deny his personal involvement: he instead pointed the finger at a research assistant and ghost.<sup>51</sup> The use of research assistants to produce a book that reflects the faculty member’s area of expertise is questionable at best, but failing to credit them with authorship implies an intent to deceive, not dissimilar from the more blatant forms of academic and scientific fraud that we will discuss in the following chapter.

### IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

*Is it ghostwriting?*

Any form of academic ghostwriting involves writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer’s role will

be invisible to readers or hearers of the words. In fact, academic ghostwriting is one of the most secretive forms of ghostwriting, as the personal stakes for clients are often so high.

*Why was a ghostwriter involved? What alternatives were available?*

In the case of students who make use of academic ghostwriters, a ghost may have been involved for many reasons: lack of time, lack of confidence or actual ability, parental pressure, and so on. The alternative, of course, would be for the student to do her own work. Admittedly, these are the same pressures that lead students to cut corners or to cheat in other ways. In what ways is ghostwriting different from other forms of cheating?

*Whose interests are at stake in the project?*

For students and faculty who rely on academic ghosts, the stakeholders are numerous, ultimately including the reputations of the institution and the academy as a whole. In the admissions process, students who use professional writing services gain an unfair advantage, perhaps excluding other qualified students whose work was simply not up to the level of a professional. Similarly, in the classroom, students who do not make use of ghosts may find themselves at a disadvantage—either real (i.e., because of scaled or curved grades) or perceived. However, we must also consider the interests of the client, as they often choose to hire ghostwriters for personal, high-stakes reasons: enrollment in and completion of college.<sup>52</sup> Indeed, future employers and graduate schools rely on student records to make important decisions.

*What consequences may result from a decision to use a ghostwriter?*

As noted above, students who use ghostwriters may gain an unfair advantage and exert negative influence over the opportunities of their classmates. What other consequences might arise from a student's decision to use a ghostwriter to complete coursework? And what of the consequences of a professor's decision to use a ghostwriter—perhaps a graduate assistant—to write a journal article?

*What principles or duties are at stake?*

While plagiarism and the use of ghostwritten work in academia are distinct, both practices require deliberate deception to succeed. Thus, the general duty of students to do their own work is particularly critical. Institutions have a duty as well, however, to defend academic honesty—but how can

they do so in situations, such as ghostwriting, where dishonesty is almost entirely concealed? And what duties or obligations do ghostwriters have in these situations? Professionally, some are employees—even academic advisers—at the institutions where the clients are enrolled. For ghosts with good intentions and a desire to help students remain enrolled, which duty rises above the rest?

*How might the ghostwritten work affect the personal authenticity of the client?*

For students who outsource work, the practice hinges on deception, a false portrayal of their own abilities. Might they even come to overestimate their own expertise or skill, given the positive feedback they receive? Can a credible argument be made that student-athletes turning in ghostwritten work are behaving with authenticity if the athletics enterprises at their schools treat them as athletes first and students only incidentally?

For further reflection, consider the following:

1. When ghostwriters are used in an academic setting, whose interests are most at stake? Why?
2. If blame can be assigned for perpetuating academic ghostwriting, who is more culpable, the students who seek the product, the ghostwriters who supply it, or the institutions that permit it or fail to find ways to stop it?

## NOTES

1. Fellow academic ghost Nick Mamatas, in a 2008 interview with *On the Media*, added a fourth category: the “one-timers,” desperate students who felt they had no choice but to buy and submit a custom essay. See Nick Mamatas, interview by Brooke Gladstone and Bob Garfield, *On the Media*, November 28, 2008.
2. Author and scholar James Lang directly confronts this issue, pointing out that faculty hold some responsibility for student misconduct, and that the same teaching strategies that promote academic success also tend to deter cheating. See James M. Lang, *Cheating Lessons: Learning from Academic Dishonesty* (Cambridge, MA: Harvard University Press, 2013).
3. Ed Dante, “The Shadow Scholar,” *The Chronicle of Higher Education*, last modified November 12, 2010, <http://chronicle.com/article/The-Shadow-Scholar/125329/>.
4. “What is Academic Dishonesty?” Berkeley City College, accessed February 13, 2016, <http://www.berkeleycitycollege.edu/wp/de/for-students/what-is-academic-dishonesty/>.

5. “What is Plagiarism?” Plagiarism.org, accessed February 13, 2016, <http://www.plagiarism.org/plagiarism-101/what-is-plagiarism>.
6. Teddi Fishman, “‘We Know It When We See It’ Is Not Good Enough: Toward a Standard Definition of Plagiarism that Transcends Theft, Fraud, and Copyright” (presentation, 4th Asia Pacific Conference on Educational Integrity, Wollongong, Australia, September 28–30, 2009).
7. Admittedly, the number of institutions has increased, but this increase has not kept up with the number of students. Using rough figures, there was one institution for every 3745 students in 1980. By 2011, the ratio was 1:4515. See (1) National Center for Education Statistics, “Table 5. Number of Educational Institutions, by Level and Control of Institution: Selected Years, 1980–81 through 2011–12,” *Digest of Education Statistics*, accessed February 12, 2016, [http://nces.ed.gov/programs/digest/d13/tables/dt13\\_105.50.asp](http://nces.ed.gov/programs/digest/d13/tables/dt13_105.50.asp). (2) National Center for Education Statistics, “Table 3. Enrollment in Educational Institutions, by Level and Control of Institution: Selected Years, 1869–70 through Fall 2021,” *Digest of Education Statistics*, accessed February 12, 2016, [http://nces.ed.gov/programs/digest/d12/tables/dt12\\_003.asp](http://nces.ed.gov/programs/digest/d12/tables/dt12_003.asp).
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11. (1) Carol Barash, “The New Common Application Essays #1: Tell the Story Only You Can Tell,” *College Greenlight*, last modified July 23, 2013, <http://blog.collegegreenlight.com/blog/the-new-common-application-essays-1-tell-the-story-only-you-can-tell/#sthash.xlK49XuM.dpbs>. (2) The College Whisperer, “Common App Essay Prompts Are Keepers for Class of 2015,” *Patch*, last modified February 20, 2014, [http://patch.com/new-york/plain-view/common-app-essay-prompts-are-keepers-for-class-of-2015\\_012efeel](http://patch.com/new-york/plain-view/common-app-essay-prompts-are-keepers-for-class-of-2015_012efeel).
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23. An interesting, tangentially related example also comes from China. In a 2011 article on the robust business of test prep for Chinese students, Daniel Golden profiled a Princeton Review competitor in China, New Oriental, that has become well-known for its ability to propel students with poor English skills into Western universities. The culprit here was not the Common Application or its essay questions, but the Test of English as a Foreign Language, or TOEFL—a test required of all non-native English speakers applying to English-speaking schools. The TOEFL requires students to write an essay under supervised conditions, which theoretically should deter, or even eliminate, cheating. But companies like New Oriental have devised a way around this, by identifying the common themes on exams like the TOEFL, and essentially ghost-scripting portions of answers for their clients. For students who have been raised in an educational environment that values rote memorization and repetition, it's simple enough to memorize these scripts and reproduce them on test day. See Daniel Golden, "China's Test Prep Juggernaut," *Bloomberg Business*, last modified May 5, 2011, [http://www.bloomberg.com/bw/magazine/content/11\\_20/b4228058558042.htm](http://www.bloomberg.com/bw/magazine/content/11_20/b4228058558042.htm).
24. Andrew Ferguson, *Crazy U: One Dad's Crash Course in Getting His Kid into College* (New York: Simon & Schuster, 2011), 148.
25. (1) Winn, "Elite Asian Students Cheat Like Mad on US College Applications." (2) Lincoln and Ages, "Ghostwriting for Chinese College Applicants." (3) Anonymous, "Ghostwriting Haunts China's Expat Students," last modified February 2, 2014, <http://www.globaltimes.cn/content/840597.shtml>.
26. Kubo, "The Ghost is in the Details."
27. Significantly, the sample size of McCabe's aggregated 2002–2010 data ( $n =$  between 58,168 and 73,738, depending on the question) is far larger than any of the previous samples collected by either McCabe or Bowers ( $n =$  2313), resulting perhaps in a more accurate reflection of the situation. See Donald L. McCabe, Kenneth D. Butterfield, and Linda K. Treviño, *Cheating in College: Why Students Do It and What Educators Can Do About It* (Baltimore, MD: The Johns Hopkins University Press, 2012), 53, 66.
28. For the purposes of this book, we will categorize the use of these websites as ghostwriting, not plagiarism. It is not unreasonable to assume that the original authors provide their work with the expectation that it will be used, in part or verbatim, without citation. While they are not providing the same personalized ghostwriting that authors like Tomar do, what they provide can be considered part of the broad practice of ghostwriting.
29. Even though the survey was small, we are confident in the broad applicability of our findings, which were compared to a significant pool of aggregated data taken from versions of the same survey conducted at several

- other universities between 2009 and 2011. Universities of all sizes, affiliations, and locations were represented, and the findings across all institutions were remarkably similar. See Samford University, *Survey on Academic Integrity* [unpublished], 2011.
30. David Matthews, "Essay Mills: University Course Work to Order," *Times Higher Education*, last modified October 10, 2013, <https://www.timeshighereducation.com/features/essay-mills-university-course-work-to-order/2007934.article>.
  31. The truth probably falls somewhere between these two extremes. This survey was entirely voluntary and required self-selection. Faculty, unsurprisingly, were more than happy to participate, but students were not quite as eager to do so. We can guess which way the survey results are skewed, but we can't know for sure.
  32. This might be observed, for instance, if students consider their behaviors to be less than serious. In such a situation, they might not see their actions as cheating—and therefore would not report them.
  33. (1) McCabe, Butterfield, Treviño, *Cheating in College*. (2) Samford University, *Survey on Academic Integrity* [unpublished], 2011.
  34. A good example of these services is found online at <http://www.academic-ghostwriting.com/>, accessed February 12, 2016.
  35. (1) Dan Ariely, "Essay Mills—A Coarse Lesson on Cheating," *Los Angeles Times*, last modified June 17, 2012, <http://articles.latimes.com/2012/jun/17/opinion/la-oe-ariely-cheating-20120617>. (2) Coryander Gilvary, "Plagiarism Compromises Integrity," *The Temple News*, last modified April 17, 2012, <http://temple-news.com/opinion/plagiarism-compromises-integrity/>.
  36. Dante, "The Shadow Scholar."
  37. (1) Lincoln and Ages, "Ghostwriting for Chinese College Applicants." (2) Gilvary, "Plagiarism Compromises Integrity." (3) Arthur Delaney, "Unemployed for Years, Professor Turns to Ghostwriting for Students," *The Huffington Post*, last modified April 9, 2012, [http://www.huffingtonpost.com/2012/04/09/unemployed-professor-texas-tech\\_n\\_1412585.html](http://www.huffingtonpost.com/2012/04/09/unemployed-professor-texas-tech_n_1412585.html). (4) Anonymous, "Why I Write for an Essay Mill," *Times Higher Education*, last modified August 1, 2013, <https://www.timeshighereducation.com/comment/opinion/why-i-write-for-an-essay-mill/2006074.article>.
  38. Rashad McCants, interview by Andy Katz, *Outside the Lines*, ESPN, June 11, 2014, quoted in Kenneth L. Wainstein, A. Joseph Jay III, and Colleen Depman Kukowski, *Investigation of Irregular Classes in the Department of African and Afro-American Studies at the University of North Carolina at Chapel Hill*, last modified October 16, 2014, <http://3qh929iorux3fdpl5>

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40. Unless otherwise noted, all information on the scandal at UNC is from Wainstein, Jay, Kukowski, *Investigation of Irregular Classes at UNC*.
41. *Ibid*, 20.
42. *Ibid*, 121–122: Jennifer Wiley Thompson reported that “it became easier to suggest how to phrase something and the student-athletes would write the statement down verbatim. . . . [then] it became faster for her to type and write portions of papers for them. . . . she eventually would write significant portions of student-athletes’ papers.” Whitney Read likewise indicated that she “would provide student-athletes with paper topics that she developed [and] aggressively guided student-athletes to the content they should include in their papers, and would heavily edit their papers.”
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[com/2014/11/09/sports/ncaafotball/michael-mcadoo-former-north-carolina-player-files-a-suit.html](http://com/2014/11/09/sports/ncaafotball/michael-mcadoo-former-north-carolina-player-files-a-suit.html).

47. (1) Richardson and McGlynn, “Blowing the Whistle Off the Field of Play.” (2) Calhoun, *Division I Student Athletes*. (3) Browning, *Chasing Paper*. (4) Berry, “Educating Athletes.”
48. Wainstein, Jay, Kukowski, *Investigation of Irregular Classes at UNC*, 20, 56.
49. Wainstein, Jay, Kukowski, *Investigation of Irregular Classes at UNC*, 100.
50. While not an argument that student-athletes lack agency completely, there is considerable scholarship indicating that these students hold very little power, and are steered to courses and majors—and perhaps, to accept completed coursework from advisors and tutors—that will keep them academically eligible, and consequently financially dependent on the athletics department in exchange for their service as athletes. See (1) Richardson and McGlynn, “Blowing the Whistle Off the Field of Play.” (2) Calhoun, *Division I Student Athletes*. (3) Browning, *Chasing Paper*. (4) Berry, “Educating Athletes.”
51. Kara Contreary, “Ghost Writers in Academia Alive and Well,” *ScienceBlogs*, last modified January 11, 2008, <http://scienceblogs.com/purepedantry/2008/01/11/ghost-writers-in-academia-aliv/>.
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## Scientific Publications

Twelve years and \$1.3 billion: the typical cost to bring a new drug to market.<sup>1</sup> This staggering sum, according to a representative of Indianapolis-based pharmaceutical company Eli Lilly, could pay for two professional football stadiums, 12.4 million National Football League (NFL) tickets, or 371 Super Bowl Ads. It could buy 11,000 houses in Indianapolis, the host for Super Bowl XLVI, or pay the salaries of 99.53 percent of NFL players.<sup>2</sup> The comparisons are endless, but the point is that new drugs are both expensive and time-consuming to develop.<sup>3</sup>

For Wyeth Pharmaceuticals, 1996 was a big year. Fen-Phen, the company's newly approved diet drug combination, was wildly popular, earning \$305 million in its first year of availability. At that rate, the company would break even in a few short years.<sup>4</sup>

Then the worst happened, at least for the company's bottom line. Half of the drug combo was abruptly pulled from the market in September 1997, and lawsuits began to mount alleging that Fen-Phen was killing people. To make matters worse, there was speculation that the company knew about the drug's risks in advance, but had largely ignored them. Instead, it had launched a publication and education campaign attacking obesity and promoting Fen-Phen as the solution.

In order to manage the extensive campaign, Wyeth hired Excerpta Medica, a medical communications company, to write ten articles for publication in medical journals, all of which were published by media giant and the owner of Excerpta Medica, Reed Elsevier. The articles would minimize the risks of Fen-Phen and emphasize the need to treat obesity, and

would be bylined not by the company's medical writers, but by respected physicians and academic researchers. Wyeth hoped to use academic credibility to persuade patients and physicians that Fen-Phen was the answer to an ever-growing obesity epidemic.

In the end, however, Wyeth's marketing plan backfired and the drug was withdrawn. Over the years, 70,000 lawsuits were filed, costing the company billions of dollars in legal expenses. Despite the financial and reputational costs, Wyeth is still a player in the pharmaceutical industry, as a wholly owned subsidiary of Pfizer.<sup>5</sup> And industry-sponsored ghostwriting is still widely accepted—or at least widely practiced—in the medical and pharmaceutical fields. The practice continues to thrive in spite of near-constant criticism and serious concerns about its ethics.

### MEDICAL GHOSTWRITING: A FEW DEFINITIONS

Before going further, it will be helpful to quickly define some concepts used widely in the literature. In the discussion that follows, we will use the terms “medical ghostwriting” and “scientific ghostwriting” interchangeably, referring primarily to the third-party production of scientific journal articles on behalf of pharmaceutical companies, with respected medical experts typically serving as named authors. An “honorary author,” “guest author,” or “gift author” is the named author of a publication, especially one who is paid for his or her contributions and who in actuality contributed little or nothing to the project. Finally, “medical communications company” and “medical writer” are industry terms that refer to the third-party entities that provide many of the ghostwriting services used by pharmaceutical companies.

With these terms in mind, we might define medical ghostwriting in this way:

Medical ghostwriting is a practice where pharmaceutical or medical device manufacturers hire medical education, marketing or communications firms to draft articles that are presented to prominent physicians and scientists to sign on as authors. Ghostwritten articles also include those drafted by pharmaceutical or device company employees who are not acknowledged in the final publication. The articles may be review articles, editorials or primary research papers. The named authors may not be intimately familiar with the underlying data or relevant research, and their input may be very limited. Authors who make little to no contribution to a publication are also referred to at times as “guest” authors.<sup>6</sup>

With these working definitions in place, we can now proceed to a more nuanced analysis of the pitfalls and advantages inherent in medical ghostwriting as a practice.

### ACADEMIC DISHONESTY, SOUND BUSINESS STRATEGY, OR BOTH?

Is the practice of medical ghostwriting academic fraud, or is it merely an accepted and effective business practice? In the case described above, Wyeth's use of ghostwriters seemed both dishonest and fiscally irresponsible. The company made a poor business decision, and the honorary authors practiced irresponsible scholarship.

But does this question present a false dichotomy and encourage an emotional response? As consumers, we want to believe the medical information we receive is unbiased and accurate. Hearing Wyeth's story, we might assume the company's only intent was to deceive. We might imagine the named authors were lazy or trying to get ahead through fraudulent means. Because of the grave consequences of medical misinformation, we choose to believe the worst simply because it protects us.

To be sure, medical ghostwriting has the potential to result in harm to patients, and scholars credited with the work may obtain unfair advantages over their peers,<sup>7</sup> especially if it is not clear that the authorship is "honorary."<sup>8</sup> Significantly, the practice exists in the dark, in large part due to the euphemistic vocabulary surrounding it.<sup>9</sup> From this perspective, then, scientific ghostwriting meets the same informal definition for academic dishonesty that we developed in the previous chapter. Because establishing credible expertise is the reason for the use of honorary authors for scientific publications, this would suggest that any physician or researcher who is the honorary author of a scientific publication he or she did not write is in jeopardy of committing academic fraud.

This may be an oversimplification nonetheless. In our examples in the previous chapter, the clients initiated the projects and outsourced the work. In the world of medical ghostwriting, however, pharmaceutical companies initiate projects, outsource the work, and select the named authors, often after the fact. In other words, the author's decision to become involved is more passive and is made in a context where the use of ghostwriting is encouraged. This is a significant concept that we will explore in more depth later.

A pharmaceutical company, of course, cannot be party to academic fraud *in the same way* as a member of a university faculty. The organization's role in initiating ghostwritten work is not committed as an act of academic dishonesty, even if it does entail an intent to deceive. It may be considered a violation of honest, straightforward marketing standards, but as we discussed in Chap. 4, there are situations in business where the use of ghostwriting is acceptable and readily acknowledged. Is this the pharmaceutical industry's version of such business practices? This is the second significant issue that we will consider in this chapter.

Let's not decide, then, if ghostwriting is either academic misconduct or sound business strategy until we have explored these critical concepts in more depth, beginning with the question of scientific authorship.

### DEFINING SCIENTIFIC AUTHORSHIP

Think back to the last time you searched for a new physician. You might have asked your friends for recommendations or researched physicians online before making your pick, hoping to find a competent and caring doctor who was up to date in his or her area of practice. You might have used websites that provide consumer ratings and reviews of doctors and medical facilities. In fact, the ranking of physicians is big business, and not just for consumers. Pharmaceutical companies, hospitals, and other firms associated with the medical industry rely on such information,<sup>10</sup> as well as more sophisticated data, to determine which physicians are the best.

A key metric in rankings is the number of publications that any given physician has authored or co-authored.<sup>11</sup> As with other fields, physicians and medical researchers gain prestige through published works demonstrating their expertise and leadership. Thus, physicians who publish extensively may be considered better and more knowledgeable doctors, and more desirable to both patients and corporations.

To test this argument, we examined sample groups of high-achieving doctors within two specialties: oncology and endocrinology. So as not to imply that anyone is involved in scientific misconduct, the origin and makeup of these samples are confidential. Suffice it to say that the samples include top-rated researchers and innovators in their respective fields, and could easily be replicated in any field, and with any group of highly ranked physicians.<sup>12</sup>

In both samples, we examined the level of physician publication between January 2002 and mid-2014, including publications in which one of the physicians was listed as either an author or a co-author. The first sample



group, comprising 10 oncologists, published 973 articles over the roughly 12½-year period—an average of 77.8 per year, or 97.3 per doctor over the period reviewed. This sample exhibited a wide range, with a difference of 201 total articles between the lowest- and highest-performing physicians. Regardless, the least prolific author still published at least one article in most years, while the most prolific published, on average, 17.5 articles each year.<sup>13</sup>

Meanwhile, the sample of endocrinologists included 11 physicians, with a total of 711 publications. It is noteworthy that one physician in this group published nothing over the 12½-year period. Even so, this represents a massive body of work over a relatively short period of time. How are physicians and researchers capable of producing this amount of scholarship? And should this lead us to assume that most—or even all—of these scientific publications are ghostwritten?

The answer lies, in part, in the scientific understanding of the concept of authorship, a concept we touched on earlier. When asked to define authorship, most would likely identify the author as the individual who actually wrote the work in question.<sup>14</sup> In contrast, someone may be named an author of a scientific paper without writing a single word of it. What matters in that case is whether the named author made “a substantial intellectual contribution” to the research project at hand.<sup>15</sup> Thus, academics may collaboratively “author” many more publications than they could individually, even without the services of a third-party ghostwriter.

Using this understanding, a physician or researcher may serve freely as the named author of ghostwritten work, assuming she has no concerns regarding sponsorship, reviews and supports the research, and provides unique insights to the paper before publication. These criteria are critical, yet the honorary, or guest, author is often one with little to no significant involvement in the production or authorship of the publication. By ordinary academic standards, scientific authorship requires meaningful knowledge and involvement, but honorary authorship fails this basic test and may thus be viewed as academic fraud.<sup>16</sup>

Perhaps an even more interesting feature of honorary authorship relates to a perplexing and troubling trend in the literature, namely the convention of distinguishing between ghostwriting and honorary authorship and uncoupling honorary authors almost entirely from the broader practice of ghost authorship.<sup>17</sup> This is perhaps unsurprising, as the phrase connotes nothing dishonorable, and may serve to absolve the named authors from blame. Indeed, the three descriptors we have used—guest, gift, and honorary author—all appear to carry overtly positive connotations.

Before we go further, then, it will be helpful to consider the practice of honorary authorship through the lens of our working definition of ghostwriting, reproduced here with a few minor, italicized changes. In this context, ghostwriting is the writing of material by one person (the writer) *for use by other parties, including an honorary author* who will be credited with its authorship, and where *all* parties agree that the writer's role in producing this material will be invisible to readers or hearers of the words. By this definition, the honorary author is no different than any other named author, making her participation a form of ghostwriting. And in practice, the main difference lies in the fact that the ghost may not be entirely invisible, but will have more of an authorship role than he or she will receive credit for.<sup>18</sup>

In recent years, several surveys have identified large numbers of ghostwritten articles in reputable scientific journals. The distinction between honorary and ghost authorship, though, renders the data nearly meaningless. For instance, in one study of 809 articles, 19 percent were found to have honorary or guest authors, while only 11 percent had ghost authors and 2 percent had both. Similarly, a study of 104 articles found 25 percent with honorary authors and 16 percent involving ghosts.<sup>19</sup> In yet another study, 14.3 percent were found to have honorary authors while only 0.9 percent had ghosts.<sup>20</sup>

But if articles with honorary authors are assumed to be ghostwritten, how can we reconcile these findings? It seems reasonable to say that if 25 percent had honorary authors, then 25 percent listed an author who was credited with the work of someone else. In these studies, however, a ghost is consistently defined as one who “was not listed as an author [but who] made contributions that merited authorship,” or “an unnamed individual [who] participated in writing the article.”<sup>21</sup> Even so, one may argue that even someone who is named as an author or co-author may be thought of as a ghostwriter, if the full extent of his contributions cannot be acknowledged due to the presence of one or more honorary authors.

This results in a substantial amount of at least partially ghostwritten work: for instance, in calendar year 2013, PubMed.gov records 163,730 publications on cancer. Applying the percentages provided earlier, this results in between 1474 and 26,197 publications with ghost authors, and between 23,413 and 40,933 with honorary authors—or according to our definition, up to 40,933 publications with at least the partial involvement of a ghost. Similar calculations reveal that, in 2001, the year before its approval by the Food and Drug Administration (FDA), up to 4415 of

the articles on 2013's top-grossing drug Abilify (a medication to treat schizophrenia) might also have involved a ghostwriter.<sup>22</sup> These are only two examples, but telling ones, and given the potential scope and impact of this practice, it is worth asking whether there should be more transparency about who was actually involved in the creation of these articles, and to what extent.

To provide clarity and, perhaps, move the industry away from such a broad definition of authorship, the International Committee of Medical Journal Editors (ICMJE) has developed a number of helpful, albeit voluntary, guidelines, which require that a named author must engage with all parts of the process, and be responsible for:

Substantial contributions to the conception or design of the work; or the acquisition, analysis, or interpretation of data for the work; AND

Drafting the work or revising it critically for important intellectual content; AND

Final approval of the version to be published; AND

Agreement to be accountable for all aspects of the work in ensuring that questions related to the accuracy or integrity of any part of the work are appropriately investigated and resolved.<sup>23</sup>

This is only one of many industry statements on authorship, some of which directly forbid ghost authorship (“[The European Medical Writers Association (EMWA)] is an association for professional medical writers, and deplores ghostwriting . . . A medical writer . . . **must** be listed in an acknowledgements section to avoid ghostwriting”<sup>24</sup>), while others dance around the issue (“Biomedical communicators who contribute substantially to the writing or editing of a manuscript **should** be acknowledged with their permission and with disclosure”<sup>25</sup>), emphasis added in both. Any of these statements, especially in partnership with recent government regulations,<sup>26</sup> can be seen as fostering transparency and redefining authorship in medical publications.

This is true only to a point, however, for in practice the use of ghostwriters remains what might best be called an open secret. Phrases like “technical expert” and “author’s editor” are used in lieu of medical writer or ghostwriter.<sup>27</sup> To anyone familiar with the industry, this may be understood. But to someone less in the know, these terms can deceive.

Of course, while patient harm is not the intention of physicians and researchers who participate in this system of ghostwritten publications, assignment of authorship is critical to scientific researchers. And claims of

authorship are “important to disputes and allegations of research misconduct, . . . [access to] [f]unding, . . . [as] evidence of creative contributions that warrant promotion, . . . as a mechanism to attract both new trainees and willing collaborators, . . . [and] in an era of increasing emphasis on commercialization, authorship and credit help to define intellectual property rights.”<sup>28</sup>

Authorship as “evidence of creative contributions that warrant promotion” is perhaps the most critical to an understanding of the practice of ghostwriting, as many academics live by the mantra publish or perish. Junior researchers whose full contributions are minimized to make room for honorary authors may actually benefit from publications where the appearance of collaboration with recognized experts can boost their profile.<sup>29</sup> The factors supporting this system of perverse incentives are numerous, and include both the means by which tenure is assigned and the corporatization of the academy:

[The increase in multi-author publications] is due in part to the modern focus on conducting multidisciplinary research projects . . . the move to an industry-like, team-based approach within an academic research group, and the counting of publications for promotion and tenure review. These changes have led to “deceptive authorship. . . .” The standards for determining legitimate authorship have also been diluted.<sup>30</sup>

Thus, while intent to deceive may not be a motivating factor, it is surely an influence, although perhaps a subtle one. The consequences for some scientists and researchers have included accusations of lending their names to projects without vetting them thoroughly or engaging fully in the work;<sup>31</sup> this is a hazard of the practice.

To be sure, many researchers fully accept the responsibilities of named authorship, and reject opportunities that simply don’t feel right.<sup>32</sup> After all, “[a]uthorship of a scientific paper is a privilege that is all too easily abused. Attempts to solve the problem with general rules encounter insurmountable obstacles, but individual accountability is unavoidable.”<sup>33</sup>

The difference in how one makes this decision may be a matter of professional authenticity. A physician who lends his name to a publication but fails to engage with the project in any meaningful way may be less than authentic as an actor within a profession. But intent is difficult to determine, and academics are far from the only players whose actions and intentions bear on our discussion of scientific ghostwriting.

## BUILDING TRUST AND TRANSPARENCY

As of December 2013, Gallup's ongoing study of honesty and ethics in the professions revealed that 69 percent of the American public rated the ethical standards of medical doctors as high or very high; only 3 percent felt that physicians had low or very low ethical standards. By contrast, just 22 percent had confidence in the honesty of business executives.<sup>34</sup> In a similar study, the Edelman Trust Barometer, 67 percent of respondents said they consider information presented to them by an academic or expert to be very credible, while only 43 percent would place confidence in the same message delivered by a CEO.<sup>35</sup> We might conclude, then, that the public is more likely to blame executives at pharmaceutical companies for critical medical errors than physicians.<sup>36</sup>

This research confirms the obvious: for a health-related enterprise, credibility is of utmost importance. Pharmaceutical companies know this, and see physician support of their products as essential for public acceptance. Thus, ghostwritten, industry-sponsored articles are a strategy to promote the scientific legitimacy of their products and "explain how awesome [insert drug name here] is and why people should buy it."<sup>37</sup>

But as with Wyeth, these strategies can backfire. Other examples include the Parke-Davis anti-seizure drug Neurontin, where ghostwritten articles touted unproven, off-label uses of the drug; Vioxx, where Merck's ghostwritten articles omitted troubling data on related cardiovascular fatalities; Prempro, where Wyeth was accused of using ghostwritten articles to sell hormone replacement therapy to millions who simply didn't need it; and Zolof, where Pfizer's medical communications company downplayed negative side effects in 55 ghostwritten journal articles. The reputation of each of these companies suffered and legal remedies were pursued by plaintiffs.<sup>38</sup>

Yet medical ghostwriting persists as a marketing strategy.<sup>39</sup> It is even considered by some as "the greatest marketing triumph of the pharmaceutical industry."<sup>40</sup> When such messages are backed by sound research, presented accurately, they may be helpful in making prescribers and patients aware of products. Unfortunately, this is not always the case.<sup>41</sup>

The debate over medical ghostwriting is part of a larger debate over the appropriate means of marketing for pharmaceuticals. Other forms of pharmaceutical marketing—such as print and television ads—are widely accepted by patients, even if unpopular among physicians.<sup>42</sup> Ghostwritten, industry-sponsored journal articles, on the other hand, are a source of

much contention, with some professionals arguing that they masquerade as “seemingly respectable academic review articles, original research articles, and even reports of clinical trials.”<sup>43</sup> Others note that competent medical writers, as part of the marketing team, participate in a collaborative system of authorship that offers balance and enhance such articles by providing valuable technical expertise.<sup>44</sup> This is, to an extent, true. Pharmaceutical companies have resources and perspectives that others lack, and medical writers may possess academic and technical qualifications equivalent to those held by physicians and academic researchers.<sup>45</sup> It’s also important to stress that ghostwriting cannot be the scapegoat for all questionable medical writing, as academics, entirely free from the influence of pharmaceutical companies, may at times conduct shoddy research or cause direct harm to patients.

To resolve these conflicting points of view, some advocate the use of paid medical writers, credited with authorship, as an alternative to ghostwriters.<sup>46</sup> This would at least enhance transparency and encourage other named authors to engage more with the process, strengthening collaboration. This may be an idealistic position, though, as incentives abound to maintain the status quo. Medical communications companies profit handsomely from work quietly conducted on behalf of pharmaceutical companies, while academics and researchers profit both from corporate research funding and the prestige of honorary authorship.

While the burden of incentives is shared, it is nonetheless possible that—given our construct of medical writing as marketing—most of the responsibility for the status quo should lie there. Marketing, after all, is built to persuade. Companies rely on the cachet of physician expertise to persuade the public that their drug is the best. An open admission that the experts have little true involvement would be—and indeed, has been, as we saw in our earlier examples—seriously damaging to the bottom line. Pharmaceutical companies necessarily absorb most of this damage, but there are plenty of incentives to go around. This creates a web of relationships criticized—with good reason—for being less than transparent.<sup>47</sup>

To combat these conflicts and promote transparency, an earnest, cross-sector effort is underway. Leading academic institutions<sup>48</sup> and pharmaceutical companies<sup>49</sup> alike have robust conflict of interest guidelines, some specifically addressing the practice of ghostwriting, and government has also begun to play a larger role. Significantly, regulation has been enhanced by the Sunshine Act, a recently enacted provision of the Affordable Care Act (ACA), which is administered by the Centers for Medicare & Medicaid Services (CMS) and primarily serves to curate information on financial

relationships between physicians and the pharmaceutical industry. It does not specifically categorize payments to honorary authors as such, but does capture such transactions in a broader category, “compensation for services other than consulting.”<sup>50</sup>

In addition to the Sunshine Act, Congress has taken significant interest in the practice. Between 2008 and 2010, as a response to earlier Congressional investigations into grant funding for continuing medical education, Iowa Senator Chuck Grassley investigated medical ghostwriting. This investigation culminated in a report that encouraged greater transparency in research conducted under the auspices of the National Institutes of Health (NIH). Much of Grassley’s work was concerned with payments to physicians and researchers by pharmaceutical companies for journal articles (in this sense, a precursor to the Sunshine Act). However, his report—a product of direct research into the practices of pharmaceutical companies, medical communication companies, medical schools, and medical journals—is primarily useful in succinctly summing up the issues that we have discussed to this point:

Despite acknowledgement of medical writers for “editorial assistance,” the role of pharmaceutical companies in medical publication remains veiled or undisclosed, . . . Detection of ghostwriting by medical schools is limited, . . . Strengthening journal authorship policies appears to have limited effect on ghostwriting and disclosure of industry financing of medical articles, . . . National Institutes of Health does not have explicit policies on disclosure of industry financing of ghostwritten articles.<sup>51</sup>

The efforts outlined here may help reduce conflicts of interest, and may clarify the roles of most of the parties involved. As so clearly stated in Senator Grassley’s findings, however, true transparency cannot be legislated, nor can organizational policy completely reveal the intent behind the use of ghostwritten articles as marketing tools. Nonetheless, these efforts are essential as we balance the need for industry–academy collaboration in the development and promotion of new drugs with the vital need for credible and reliable information.

### FRAUD, OR GOOD BUSINESS?

We began this chapter with a twofold question: Is the practice of medical ghostwriting academic fraud, or is it just good business? As we have seen, these are difficult questions to answer. As it is currently conceptualized, the structure of scientific authorship does nothing to discourage

ghostwriting, and may in fact encourage it; thus, to call medical ghostwriting academic fraud would be inaccurate in most cases. Enough has been said on this subject to make it clear that, for this to change, authorship must be redefined.

And while medical ghostwriting is risky for businesses, the benefits are great—perhaps even outweighing the risks. From that standpoint, then, it is good for business. But we also asked whether medical ghostwriting should be a widely accepted business practice, as it is in other industries. It is one thing to employ a ghostwriter on a corporate blog, or social media account, or even as the voice of the CEO, when the topic is the quarterly earnings report or the philanthropic activities of the company. The ramifications are, perhaps, entirely different in the medical enterprise. Medical journal articles are designed to convey highly credible information about vital medications and devices that have life-altering consequences.

Again, a critique of the practice cannot single out any of the parties involved in medical ghostwriting, as the practice could not exist without the engagement of all. And in partnership with academic researchers, physicians, and pharmaceutical companies, medical writers fulfill a critical need. This shared expertise can be used to create much more reliable, accurate, and useful analyses.

Regardless of what any of us may personally feel about the practice of medical ghostwriting, however, it is unlikely to disappear—at least not without a number of truly radical changes, such as the legal and industry modifications discussed throughout this chapter. Whether or not it is an advisable, or safe, business strategy, it is undeniably ingrained very deeply in the habits of both the corporate world and the academy.<sup>52</sup>

## IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

### *Is it ghostwriting?*

At its heart, medical ghostwriting meets our standard definition of the practice, involving the writing of material by one person (the writer) for use by another (the client) who will be credited with its authorship, and where both parties agree that the writer's role will be invisible to readers or hearers of the words. However, as discussed, not all agree that it is necessarily an illicit—or even completely hidden—practice. What is your opinion? Is medical ghostwriting *actually* ghostwriting? Ultimately, is it helpful? Harmful? Or simply context- or practice-dependent?



*Why was a ghostwriter involved? What alternatives were available?*

Some medical ghostwriters are hired to provide technical expertise, and others for their writing skills. Some—specifically, honorary authors—are hired because a company wishes to add prestige to their product. Others are hired to craft a specific marketing message. The alternative to the use of ghosts would be public acknowledgment of all authors and contributors, not necessarily elimination of the practice altogether—but simply an increase in transparency. Complicating this, however, is the fact that some industry partners—and even academics—will simply view medical writers as a part of the public relations team. In this terrain, how can alternatives like greater transparency be enforced? Or is (are) there (a) better alternative(s), similar to practices in other parts of the corporate world?

*Whose interests are at stake in the project?*

The interests at stake in scientific ghostwriting are nearly limitless, given the wide-ranging and nearly incomprehensible impact of medical and scientific research. Obviously, the interests of beneficiaries are paramount and demand transparent and reliable research. However, entities—both education- and research-oriented institutions and for-profit corporations—have a stake in the dissemination of their research through publications, as this allows companies to promote their medical interventions and other products, recouping R&D funds and allowing them to conduct future research. This, of course, drives the use of honorary authors to increase the prestige of publications and products. Who else might have interests at stake? And whose interests are the most important? Why?

Do the benefits of medical ghostwriting or honorary authorship—all in the ultimate interest of the beneficiaries of scientific research—outweigh the risk that entities will, in some cases, commit deliberate fraud? Put another way, how do we balance the legitimate interests of those who practice ghostwriting with good intentions against those with bad?

*What consequences may result from a decision to use a ghostwriter?*

Quite simply, there are three consequences that may result from the use of a medical or scientific ghostwriter: (1) the research product will be strengthened; (2) the research product will remain unchanged; or (3) the integrity of the research project will be compromised. Similarly, the use of an honorary author will either increase the prestige and impact of the research product, or have no positive effect. For each outcome, are the consequences long-term or short-term? On which stakeholder(s) would each outcome have the greatest impact?

*What principles or duties are at stake?*

For academics who engage or participate in medical ghostwriting, the principle of academic integrity remains paramount. For corporations, both the company's bottom line and reputation are at stake, necessitating attention to basic principles of business ethics and social responsibility. Medical professionals are bound to do no harm, and the law provides standards of openness and responsibility that all must adhere to. In short, all participants in the practice of scientific ghostwriting have a duty to perform good work in the interests of their stakeholders. Are any of these principles or duties more compelling than others? Which one(s)? Why or why not?

*How might the ghostwritten work affect the personal authenticity of the client?*

Academic or medical researchers are experts in their field, raising the same concerns about faculty—more broadly—in the previous chapter. Honorary authors are at the most risk of conflating their false identity as prolific author with reality, but all faculty who participate in projects that utilize ghostwriters may find their personal authenticity as scholars and researchers compromised. But what of the corporation as client? Is it capable of having “personal” authenticity? Can that authenticity, or identity, be compromised?

To explore these ethical constructs further, consider the following:

1. The position of first author on a publication is very desirable in the academic community, as it indicates a substantial contribution and is often the only name utilized, especially for publications with more than three authors.<sup>53</sup> Is it right or wrong, then, for a physician or researcher to accept first authorship on a paper without physically writing at least a portion of it? Explain your rationale.
2. Ghostwriting would be unlikely to exist in the scientific community (or for that matter, any area or discipline) without an incentive. It seems that, in this case, physicians and researchers are incentivized to publish extensively in order to build up their reputations and gain the professional and academic support they need. What other incentives do you believe contribute to the use of ghostwriters in scientific publishing?
3. As we discussed, scientific publishing houses have taken significant responsibility for putting a stop to ghostwriting in their journals, but have not been able to (and likely cannot) completely eradicate the practice, due in large part to the compelling incentives discussed

in the previous question. What other individuals (e.g., physicians) or entities (e.g., tenure review boards at research universities) might be able to minimize the practice?

## NOTES

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2. O'Connor, "Football—By the Numbers."
3. (1) Herper, "The Cost of Creating a New Drug Now \$5 Billion." (2) Roger Collier, "Drug Development Costs Hard to Swallow," *Canadian Medical Association Journal* 180, no. 3 (2009): 279–280. (3) Matthew Herper, "The Truly Staggering Cost of Inventing New Drugs," *Forbes*, last modified February 10, 2012, <http://www.forbes.com/sites/matthewherper/2012/02/10/the-truly-staggering-cost-of-inventing-new-drugs/#7429ed1f4477>.
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5. Company information accessed online at [www.pfizer.com](http://www.pfizer.com).
6. United States Senate Committee on Finance, Minority Staff Report, "Ghostwriting in Medical Literature", last modified June 24, 2010, <http://www.grassley.senate.gov/sites/default/files/about/upload/Senator-Grassley-Report.pdf>.
7. Another lens through which to view this is through the concept of the Matthew Effect. Proposed in the late 1960s by Robert Merton, the theory "consists in the accruing of greater increments of recognition for particular scientific contributions to scientists of considerable repute and the withholding of such recognition from scientists who have not yet made their mark." In the case of scientific ghostwriting, the "particular scientific contributions" may consist solely of the scientist or researcher accepting a position as guest author, but the end result is the same. See Robert K. Merton, "The Matthew Effect in Science," *Science* 159, no. 3810 (1968): 56–63.
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9. Medical Writer, interview by Azalea M. Hulbert, May 22, 2014.
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11. “Key Opinion Leader Management: Identify, Profile, Engage and Monitor the Right Set of Influencers for Measurable Business Impact,” *Genpact*, accessed February 13, 2016, <http://beta12.genpact.com/docs/resource-/key-opinion-leader-management.pdf>.
12. Publication histories of the selected samples of physicians were obtained online at PubMed.gov.
13. It’s also important to note that, in this sample, we only examined specialty-specific publications. If a physician specialized in genitourinary cancers, we only examined his contributions in that field. Many of the physicians in this sample, though, also published widely in other areas of special interest or expertise.
14. Definition accessed online at [www.merriam-webster.com](http://www.merriam-webster.com).
15. There are also pertinent culture considerations. For one, scientists do not necessarily enter the academy to write, in contrast to many of their peers in the humanities. Others consider the use of graduate students or junior colleagues as ghosts to be part of academic training, or a token of respect that is given to superiors. In other words, while they may or may not be legitimate, there are nonetheless systemic forces in place that significantly affect practices of scientific authorship. See (1) Moffatt and Elliott, “Ghost Marketing.” (2) Elizabeth Wager, “What Medical Writing Means to Me.” (3) Medical Writer, interview by Azalea M. Hulbert, May 22, 2014. (4) Viroj Wiwanitkit, “Ghostwriting: An Existing Problem.”
16. To better understand this concept, let’s look at it another way. An author should have intellectual ownership of the project and the data; a ghost-writer lacks such intellectual ownership. This distinction, made by a medical writer we interviewed in May 2014, separates named authors who are invested in a project and make significant intellectual contributions from those who are content to rest on reputation and make no such contribution.
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18. This would, in particular, be the case in a scientific publication where one researcher wrote the entire paper, giving honorary author status in that sense to the other named authors, while also being given the privilege of authorship. In the situation where a pharmaceutical company or medical communications company wrote the paper, though, the actual writer would truly be invisible.
19. (1) Christine Laine and Cynthia D. Mulrow, “Exorcising Ghosts and Unwelcome Guests,” *Annals of Internal Medicine* 143, no. 8 (2005): 611–612. (2) Annette Flanagan, Lisa A. Carey, Phil B. Fontanarosa, Stephanie G. Phillips, Brian P. Pace, George D. Lundberg, and Drummond Rennie, “Prevalence of Articles with Honorary Authors and Ghost Authors in Peer-Reviewed Medical Journals,” *Journal of the American Medical Association* 280, no. 3 (1998): 222–224.
20. Bryan Dotson and Richard L. Slaughter, “Prevalence of Articles with Honorary and Ghost Authors in Three Pharmacy Journals,” *American Journal of Health-System Pharmacy* 68, no. 18 (2011): 1730–1734.
21. Flanagan et al., “Prevalence of Articles with Honorary Authors and Ghost Authors.”
22. (1) “U.S. Pharmaceutical Sales—Q4 2013,” *Drugs.com*, accessed February 13, 2016, <http://www.drugs.com/stats/top100/sales>. (2) Miranda Hitti, “FDA OKs Abilify for Depression,” *WebMD*, last modified November 20, 2007, <http://www.webmd.com/depression/news/20071120/fda-oks-abilify-for-depression>.
23. Encouragingly, many of the top journals are members of the ICMJE, and many more follow the committee’s recommendations. Of those who are members, the list includes top journals like *Annals of Internal Medicine*, *JAMA* (*Journal of the American Medical Association*), *New England Journal of Medicine*, *The Lancet*, and *PLoS Medicine* (*Public Library of Science*). Despite their involvement, however, many of these publications have reported incidences of ghostwriting, in part—presumably—because of the near-impossibility of detecting or tracking ghostwritten work. See ICMJE, “Journals Following the ICMJE Recommendations,” accessed February 11, 2016, <http://www.icmje.org/journals-following-the-icmje-recommendations/>.
24. European Medical Writers Association, “Ghostwriting Positioning Statement,” accessed February 11, 2016, [http://www.emwa.org/EMWA/About\\_Us/Position\\_Statements/Ghostwriting\\_Positioning\\_Statement/EMWA/About\\_Us/Ghostwriting\\_Positioning\\_Statement.aspx?hkey=83fb6c11-f5a8-4e72-ac9d-5da8e7961184](http://www.emwa.org/EMWA/About_Us/Position_Statements/Ghostwriting_Positioning_Statement/EMWA/About_Us/Ghostwriting_Positioning_Statement.aspx?hkey=83fb6c11-f5a8-4e72-ac9d-5da8e7961184).
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30. (1) Sean B. Seymore, "How Does My Work Become Our Work? Dilution of Authorship in Scientific Papers, and the Need for the Academy to Obey Copyright Law," *Richmond Journal of Law & Technology* 12, no. 3 (2006): 1–28. See also (2) Dianne M. Bennett and David McD Taylor, "Unethical Practices in Authorship of Scientific Papers," *Emergency Medicine* 15, no. 3 (2003): 263–270.
31. (1) Josh Fischman, "Medical Academics Could Be Legally Liable for Ghostwritten Articles," *The Chronicle of Higher Education*, last modified January 24, 2012, <http://chronicle.com/article/Medical-Academics-Could-Be/130443/>. (2) Anonymous, "Games People Play with Authors' Names," *nature* 387, no. 6636 (1997): 831.
32. Jim Edwards, "AZ Seroquel Trial: Was It 'Ghostwriting' or 'Professional' Writing?" *CBS News*, last modified March 20, 2009, <http://www.cbsnews.com/news/az-seroquel-trial-was-it-ghostwriting-or-professional-writing/>.
33. Anonymous, "Games People Play with Authors' Names."
34. (1) "Honesty/Ethics in Professions," *Gallup*, accessed February 13, 2016, <http://www.gallup.com/poll/1654/honesty-ethics-professions.aspx#1>. (2) J. Duncan Moore, Jr., "U.S. Physician Leaders Suffer Loss of Public Trust," *MedPage Today*, last modified November 4, 2014, <http://www.medpagetoday.com/PublicHealthPolicy/GeneralProfessionalIssues/48402>.
35. "2014 Edelman Trust Barometer," *Edelman*, accessed February 13, 2016, <http://www.edelman.com/insights/intellectual-property/2014-edelman-trust-barometer/>.
36. Similarly, when asked to share their overall view of the pharmaceutical industry, only 35 percent of respondents in a related Gallup poll reported a positive impression; 43 percent had a negative impression. In Edelman's study, on the other hand, 59 percent felt confident that pharmaceutical companies would do the right thing. It is worth noting, though, that the Gallup polls use only a 5-point scale, ranging from very negative to very positive, while the Edelman instrument uses a 9-point scale. It is also interesting to note that, while this reports that a majority of respondents viewed physicians as ethical, another survey found a significantly smaller majority (58 percent) of Americans agreed that physicians were trustworthy ("All things considered, doctors in [America] can be trusted."). Regardless of the precise level of trust, however, the data is clear that physicians are still more trustworthy—in the eyes of the public—than their corporate counterparts. See (1) "Honesty/Ethics in Professions." (2) Moore, "U.S. Physician Leaders Suffer Loss of Public Trust." (3) "2014

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  44. (1) Medical Writer, interview by Azalea M. Hulbert, May 22, 2014. (2) Logdberg, “Being the Ghost in the Machine.”
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  46. Logdberg, “Being the Ghost in the Machine.”

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48. For example, see "Policy and Guidelines for Interactions between the Stanford University School of Medicine, the Stanford Hospital and Clinics, and Lucile Packard Children's Hospital with the Pharmaceutical, Biotech, Medical Device, and Hospital and Research Equipment and Supplies Industries ("Industry")," *Stanford Medicine*, last modified July 1, 2014, <http://med.stanford.edu/coi/siip/policy.html>.
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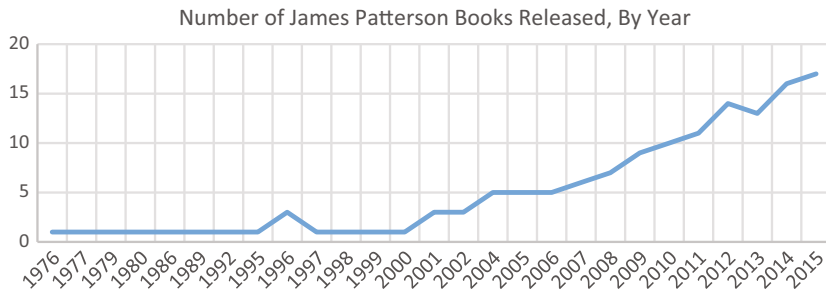


## Book Publishing

“Kentucky fried books.”<sup>1</sup> “Publishing’s answer to Henry Ford’s assembly line.”<sup>2</sup> These may not be the descriptions most authors would like for their work. But James Patterson, the prolific and perennially popular American fiction writer, is not most authors.

Patterson started his career as an ad man at the New York-based firm J. Walter Thompson after turning down the opportunity to pursue an academic career. His motivation? He feared that academia would taint his love of literature and cause him to dislike both reading and writing. Instead, he chose to pursue advertising to make a living while indulging his avocational interest in writing fiction after hours. He published his first book, *The Thomas Berryman Number*, in 1976, selling the manuscript for \$8500. Ten thousand copies sold and the book won an award from the Mystery Writers of America. In the 19 years that followed, Patterson published 10 more books—including the first in his blockbuster series, the Alex Cross mysteries.

Thirteen books in 20 years is a major achievement for any author, but Patterson wanted to pick up the pace. In the next two decades, from 1997 until the end of 2015 he released an incredible 130 books averaging 373 pages each. They included children’s books, mystery series, romance novels, and non-fiction works. And nearly 100 of those books list a co-author, with a total of 25 different collaborators acknowledged over the years.<sup>3</sup> How, then, did a self-professed lover of literature become the overseer of a prolific, well-oiled “literary assembly line?”<sup>4</sup> (Fig. 8.1).



**Fig. 8.1** Number of James Patterson books released, by year

In actuality, Patterson sees no dissonance in the use of ghostwriters, and is unembarrassed by the fact that he does not always recognize quotations from his own work. He sees himself as the idea generator for his brand, acknowledging that plot development is his real strength and leaving the bulk of actual writing to his bevy of co-authors. Indeed, Patterson is more than open about his use of collaborators, and acknowledges writing assistance clearly in many of his books—which, of course, raises the question of whether his collaborators fully qualify as ghostwriters. His methods don't necessarily create a full and equal partnership, though: in the words of Peter de Jonge, Patterson's original co-author, "It's a very good job . . . the pay is very generous. But you're not a co-author in the traditional sense. It's his book. . . . The publisher doesn't invite you to the book party."<sup>5</sup>

Regardless of how one defines Patterson's method of collaboration, it is irrefutable that he has capitalized on the idea of author-as-brand with such success that even Harvard Business School has taken note; the author has also portrayed himself (and been portrayed by a double) on ABC's television hit *Castle*.<sup>6</sup> Most recently, Patterson has partnered with Little Brown & Company to create "jimmy patterson," a youth publishing imprint, and has launched a writing course to "[reveal] his tricks of the trade for the very first time," guide students "through every part of the book writing process," and even offer a co-authorship to one lucky participant.<sup>7</sup> Undeniably, the James Patterson® juggernaut is a force to be reckoned with in the publishing world.

## AUTHORSHIP AS BRANDING: THE UNIQUE WORLD OF GHOSTWRITTEN BOOKS

James Patterson may be the best-known example of the construct of author-as-brand, but the concept is by no means new. As previous chapters suggest, the phenomenon of ghostwriting is—to an extent—an exercise in branding, promoting the reputation of the named author through the technical expertise of the ghost. In many of the cases we have explored up to this point, however, personal branding was a secondary or tertiary consideration, subordinate to organizational concerns. Indeed, the individual personality of the named author is often subsumed under his or her professional identity (e.g., the Justices of the Supreme Court or the CEO of a company), with the employment of a ghostwriter a practical consideration given the many other time-consuming professional duties at hand. For instance, in Chap. 4 we saw that some corporate leaders' books may be part of a larger institutional branding strategy, while in Chap. 3 we saw that politicians' books may be part of a plan to gain support and win elections.

Whether part of a larger strategy or purely for personal interests, incentives to write books are abundant. And there is no shortage of ghostwriters to help meet this demand. Indeed, ghostwritten books are all around us. They may bear the names of celebrities, of political icons, or of entrepreneurs. They may be fiction, non-fiction—or some combination of the two. They may be mere status symbols, or late-life attempts to set a record straight.<sup>8</sup> Because of their unique form and the sometimes-personal stories they tell, books can give rise to a tension between an exercise in personal authenticity and the creation of a branded product, a situation where both client (named author) and ghostwriter have a stake.

Before we explore this matter further, however, we must point to certain realities that can complicate attempts at ethical analysis. For one, the field of ghostwritten books represents a virtual kaleidoscope of possibilities, from the collaborative novels of James Patterson, to tell-all memoirs that detail sensational crimes,<sup>9</sup> to serial children's tales,<sup>10</sup> to what might be considered pure efforts in branding—whether for a businessperson, politician, or celebrity.<sup>11</sup> Other complicating factors include the difficulty of spotting a ghostwritten book, in the absence of the telltale “with” that so many of James Patterson's books feature. For instance, Hillary Clinton's books are widely believed to be ghostwritten, but they bear little such

acknowledgment.<sup>12</sup> This has not prompted much controversy for her, but as we saw in Chap. 3, such was not the case for John F. Kennedy.

Another complicating factor is that ghostwritten books live in a sort of Wild West, without the agreed-upon standards that govern some of the other sectors of ghostwriting we've examined (for instance, academic dishonesty or even scientific publishing). This matters as we seek to weigh the authenticity of many named authors. It is clear that industry standards are elusive: in researching a subset of publishing houses, we found no information about the standards governing ghostwritten work on publicly accessible websites, nor did we receive responses to email queries seeking the same information.<sup>13</sup> Further, the visible practices of publishers vary widely, including the quasi-ghostwriting model embraced by Patterson, whose co-writers exist on the continuum between ghostwriting and co-authorship. A different practice is used by publishers of popular series like the Nancy Drew mysteries, where ghostwriters pen the work of a fictitious author, and where publishers may rely on a "book packager," a middleman whose role closely resembles that of Patterson himself.<sup>14</sup> In short, a reader can find few reliable clues as to the presence of ghosts.

An analysis of each form of literary ghostwriting could fill its own chapter. However, as suggested above, one common theme emerges: dissonance between the authentic self and the self as brand. We will begin to explore this phenomenon as it relates to the client, through the lens of identity.

## IDENTITY AND THE AUTHENTIC SELF OF THE NAMED AUTHOR

At its simplest, a memoir is "a written account in which someone . . . describes past experiences," and may be considered either an autobiography or a biography.<sup>15</sup> It may matter little, then, whether a memoir is ghostwritten or not. The subject of the memoir is still the storyteller using a ghostwriter as intermediary. Indeed, a ghostwritten memoir may reflect more personal authenticity and truth than a biography by a third party, given the ghost's outside perspective and close relationship with the subject.<sup>16</sup>

Further, the involvement of a ghostwriter in crafting such an account does not necessarily reflect poorly on the abilities or expertise of the named author in other arenas, but simply recognizes that "individuals have a repertoire of identities [and skills] . . . made salient by various roles and contexts."<sup>17</sup> Hillary Clinton is an intelligent and accomplished politician.

Charles Barkley is a skilled athlete.<sup>18</sup> This does not *necessarily* translate to skill with the pen—or as one commentator put it (albeit in an attempt to discourage *any* form of ghostwriting), “[t]he writer shouldn’t pretend to be a world-class athlete or movie star, and the celebrity shouldn’t pretend to be a writer.”<sup>19</sup>

Nor does expertise in any given field mean that one has the time to commit to crafting a memoir or other book; in fact, for many, it means the opposite. In this sense, individuals who commission memoirs are no different from the busy CEO who delegates responsibility for the corporate blog to a subordinate, or the scientific author who leaves the nuanced work of creating an informative and readable manuscript to a professional writer. Thus, individuals who use the services of a ghostwriter in the creation of a memoir have the capacity to stay true to self, and to the specific expertise that they purport to have. Even in the presence of a ghost, Alfred P. Sloan’s identity as a CEO, or Andre Agassi’s as an athlete, remains authentic—especially given the assumed cultural knowledge that many such works are ghostwritten.<sup>20</sup>

Unlike memoirs, novels *do* carry a connotation of literary expertise. Because such a work is not intended to convey one’s personal experiences or opinions, it may be assumed that only someone with actual expertise in writing would become a successful novelist. Yet this is not always the case. Celebrity Kim Kardashian, for instance, contracted with a ghostwriter to produce her first novel, a “saucy” work that closely follows her own life story.<sup>21</sup> Or recall that James Patterson, a skilled writer in his own right, chooses to contract with co-authors to expand his brand. What motivates these individuals who cannot have the personal satisfaction of having actually written a book? If their sole motivation is to build a brand or reap profits, can they be seen as authentic authors?

It may be said that entertainment, not authenticity, is the primary concern of the consuming public; as a result, celebrities-turned-author (whether reality stars, politicians, or athletes) deliver what that public wants and is willing to purchase. A sales success, in turn, enhances celebrity. If Patterson can write 11 books in 20 years, then he surely will be more popular if he can write 5 books a year, or 10, or 15. If Kardashian can supplement her eponymous brand with a novel, she may gain access to a larger audience. Consumers are more likely to purchase a book by a well-known name than by a relative unknown. Surely the parade of ghosts behind the Nancy Drew mysteries could have written their own sleuth novels—but would they have sold? Likewise, Mark Greaney—the

ghostwriter helping to carry on the brand of the late Tom Clancy—has written his own novels—but his name fails to carry the force of Clancy’s.<sup>22</sup>

In other words, consumer interest creates an incentive for celebrities to expand their brands into other arenas, sometimes far from their original, or most notable, areas of expertise. On the surface, this is hardly a problem, as many people have multiple talents to share.<sup>23</sup> Besides, it might be assumed that the public knows (or, some would argue, should know)<sup>24</sup> that celebrities use ghostwriters, especially when they branch out into new subject matter. However, not all celebrities are comfortable with this assumption, leading to visible clashes between some authors and their ghosts.

### “GhostwritingGate”

In recent years, the status of chefs as TV personalities has grown greatly. Some early examples (e.g., Julia Child and Martha Stuart) found a national stage through public television, but the concept of chef as TV star was not prevalent until the launch of the Food Network channel in 1993.<sup>25</sup> TV chefs like Mario Batali or Emeril Lagasse are celebrities in their own right, thanks to their skill in the kitchen and magnetic personalities. An online search finds that chefs like Batali and Lagasse have released numerous cookbooks over the years. But does a world-class chef and celebrity really have the time or inclination for authorship? Unsurprisingly, many of them turn to ghostwriters or co-authors for help. Some of Batali’s bylines, for instance, include fellow chef Mark Ladner and Washington Post copy editor Jim Webster, while Lagasse’s recognize collaborations with the “queen of Cajun cooking” Marcelle Bienvenu, chef Felicia Willett, and cookbook author Jessie Tirsch.<sup>26</sup>

In many ways, the cookbook of a world-famous chef is a memoir. It chronicles the chef’s life work, and may be recorded by a ghostwriter who works closely with and takes time to learn the voice of the chef.<sup>27</sup> Because the work of a chef involves such extensive, and uncommon, expertise, ghostwriters must dive wholeheartedly into learning in order to deliver a high-quality, convincing product. Michael Ruhlman, the ghost behind Michelin-rated chef Thomas Keller, reports that he had to bring “a cook’s knowledge and a journalist’s approach” to *The French Laundry Cookbook*, learning not only about Keller, but also the culinary process.<sup>28</sup> In return, this model of cookbook co-authorship is frequently an open one, of which

neither party is ashamed. Cookbooks often display the names of the ghostwriters, leaving their exact roles unclear; meanwhile, many chefs willingly acknowledge their own lack of time and expertise, and their need for a skilled writer who can convey the content they desire.<sup>29</sup>

This is, perhaps, what made 2012's "GhostwritingGate" so intriguing.<sup>30</sup> In a world where fans and followers may not really care,<sup>31</sup> two celebrities—Gwyneth Paltrow and Rachael Ray—were both reported to have used ghostwriters in their respective cookbooks, allegations they vehemently denied. The flurry of articles that appeared around this time provided seemingly convincing evidence of the presence of ghosts, prompting even firmer denials.<sup>32</sup> However, one ghostwriter (and author of one of the aforementioned articles) Sari Botton sheds light on what may be the truth.

Botton's perspective revolves around one concept: identity. Paltrow identified herself, correctly, as the originator of the ideas, recipes, and stories in the book, and as a result—according to Botton—felt that she should be named as the sole author. This relates to a concept explored briefly in the previous chapter, the concept of ownership. In that context, we noted that when someone makes a "significant intellectual contribution" to a project but does not engage in the act of writing, intellectual ownership of the project may be ascribed to the named author, excluding the ghost.

On this basis, Botton argues that "GhostwritingGate" involved a semantic misunderstanding of the role of the ghost. This is a reasonable analysis, but raises the critical question of whether, in such a case, the significant contributions of co-authors, or ghostwriters, must be invisible to the reader. Paltrow's identity as the subject, originator, and author of her cookbook is secure, regardless of whether she actually wrote the book. Would acknowledgment of a ghostwriter or collaborator have diminished her reputation, assuming she is known as a celebrity with a passion for lifestyle work,<sup>33</sup> including cooking?

Despite its apparent personal importance to some celebrities, the external importance of true authorship is, as noted earlier, likely of much less importance to the consumer. However, not all ghostwritten books deal with superficial themes, and some address serious life events or contain stories that may, at a later date, gain importance to those involved, as well as to a larger audience. While such books, when ghostwritten, may implicate the authenticity of the client, or named author, they may also lead to issues of authenticity for ghostwriters.

## THE AUTHENTIC SELF OF THE GHOST

A celebrity football star is acquitted of murder, but hires a ghostwriter to document his hypothetical crime. A well-known former assistant football coach is charged with child molestation, and his ghostwriter speaks out. A global whistleblower engages a ghostwriter for a controversial tell-all book, but backs out at the last minute; his publisher ignores his objections, using the ghostwritten manuscript to publish an “unauthorised autobiography.”<sup>34</sup>

Up to this point in our study, we have examined issues that may have serious and extensive implications. A CEO’s statements can affect the value of shares, and consequently the livelihoods of others. Legal briefs and rulings can have real-world impacts. Admissions essays control access to higher education. Scientific journal articles directly impact patient health and the future directions of research and medical development. In each of these contexts, revealing the involvement of a ghostwriter can have a detrimental effect on the trust placed in communications and the institutions or individuals behind them. In most cases, such works are accepted by others because they are perceived to be the authentic words of the named author.

Similarly, the legitimacy and reliability of claims made in books dealing with sensitive and even criminal topics is based on the author’s perceived credibility or authenticity.

### *If I Did It: Confessions of the Killer*

The tragic story of Nicole Brown Simpson and her friend Ron Goldman made sensational headlines during 1994, surpassed only by the ensuing arrest and trial of Nicole’s husband and American football star, O.J., for a double homicide. A criminal court ultimately acquitted Simpson of the murders, although a civil court found him liable for the deaths and ordered restitution of more than \$33 million. But Simpson’s legal troubles were far from over: 13 years later, he was convicted of armed robbery and kidnapping, among other offenses, and sentenced to jail.

The once-wealthy star was unable to make full restitution, and in 2007, a judge awarded rights to a book that Simpson had penned—with the help of Pablo Fenjves, a writer and neighbor of Nicole Brown at the time of her death—to the Goldman family. The book, *If I Did It: Confessions of the Killer*, contains a hypothetical confession in Simpson’s own words.



When asked about his role in drafting the book, Fenjves said he had no moral qualms and pointed to the popularity of such a book, even comparing it to a snuff film. In his own words, “I think you’d be hard pressed to find a reporter in the country who, given the opportunity to sit down and take a confession from O.J. Simpson, no matter how oblique, would have refused to do so.”<sup>35</sup>

### *Touched: The Jerry Sandusky Story*

In 2001, former assistant football coach Jerry Sandusky published his autobiography, *Touched*. He had just retired from a long and illustrious career at Penn State, during which he also founded a charity for young boys, Second Mile. Ten years later, however, Sandusky was arrested on allegations of widespread and long-term child molestation, for which he was later indicted and convicted. Mere days after his arrest, Kip Richeal, Sandusky’s ghostwriter from so many years before, reflected in interviews on his original discomfort with the title of the book, and how in retrospect, some of Sandusky’s stories could be interpreted in a different light.<sup>36</sup>

Richeal’s decision to make public statements could be interpreted in many lights. Perhaps he felt that he could provide a unique perspective on the character and actions of someone he once held in high esteem. However, his statements raise larger questions about the circumstances when it is appropriate for ghostwriters to reveal confidential information learned during the writing process. Is a violation of confidentiality acceptable in a criminal matter, but less so in other circumstances?

### *Julian Assange: The Unauthorized Autobiography*

A very different set of questions arises with the story of Julian Assange, the founder of whistleblowing website WikiLeaks. Assange, who founded WikiLeaks in 2006, helped facilitate the release of classified American military files related to the Iraq and Afghanistan conflicts, and the treatment of prisoners at the Guantanamo Bay detention center, among other matters. After this controversial and bold move, Assange was investigated by the USA, specifically in relation to his actions vis-à-vis the Espionage Act of 1917; the Swedish government also took out warrants against him. In the face of his mounting legal troubles, Assange in 2012 sought—and received—asylum from Ecuador, in whose embassy he remained for a number of years.<sup>37</sup>

As these issues continued to unfold, Assange decided to publish a memoir, a work that he hoped would become “one of the unifying documents of our generation.”<sup>38</sup> It was ghostwritten, in the truest sense: the identity of the ghost remained a secret until 2014, when Andrew O’Hagan spoke out in damning terms about Assange and the book. Among excerpts from media interviews, O’Hagan stated, “The story of his [Assange’s] life mortified him and sent him scurrying for excuses,” and that the controversial figure likened the publication of such a work to prostitution.<sup>39</sup> Ultimately, the book was published, but without Assange’s support. After his failed attempt to cancel the contract, Canongate published *Julian Assange: The Unauthorised Autobiography* in 2011, listing Assange as the author.<sup>40</sup>

This case raises questions about not only the role of the ghost, but the role of the publisher and, more importantly, about ownership. When signing a contract with Canongate, Assange apparently relinquished ownership of his memoir, which was written by O’Hagan, and gave the publisher the right to go to press against his wishes. We do not know what contractual arrangements existed between Assange and O’Hagan, so it is not clear what rights the ghostwriter had to reveal his identity, his role in the process, and his opinions on Assange’s story and actions. It is also unclear whether he had a responsibility to support the wishes of his client (the named author) in opposing publication of the work.

These anecdotes highlight two dimensions of authenticity for the ghostwriter: authenticity to role and authenticity to self. The former, authenticity to role, involves the most fundamental responsibility assumed by the role: “a ghostwriter works in secret.”<sup>41</sup> While this is implicit in the definition of ghostwriting, it may also be made explicit in contracts, raising not only ethical but legal concerns over the actions described above. For instance:

Writer acknowledges and agrees that all information related to Book, including without limitation, its content, writings, work product, audio recordings, video, notes and diagrams, and pictures is of great value to Author (“Confidential Information”). Accordingly, Writer agrees not to divulge to anyone, either during or after the term of this Agreement, any Confidential Information obtained or developed while working on Book and related projects.<sup>42</sup>

Other contracts go a step further, assuming confidentiality to mean total non-disclosure:

I . . . agree to keep my role in the project and all associated materials confidential. The author (name) is the owner of the manuscript and holds the right to choose who knows of my involvement. Permission for me . . . to discuss the project with the public or any third party must be given in writing by the author (name).<sup>43</sup>

Even where contracts do not enforce silence, self-revelation still puts the ghostwriter's actions in conflict with his or her role, as implicitly understood. By revealing not only his involvement in their failed collaboration, but also describing in detail personal conversations with Julian Assange, did Andrew O'Hagan break the code of silence expected of ghosts?<sup>44</sup> Did Dave Shiflett, co-author of a 2000 Donald Trump book, break this code when he described his involvement as, "I kind of prefer author but I think he has his name on it . . . Well, I put a lot of the words down but it's his book"?<sup>45</sup> Some may see this as a positive thing, as it promotes greater openness about the practice overall. But from the standpoint of the client, these individuals may have committed a significant breach of trust and—in the absence of any other consequences—potentially make themselves less employable in the field.

Even more serious questions about authenticity arise when ghostwriters find that their own values and those of their clients are at odds, as was the case with both Richeal (after the fact) and Fenjves. In another such case, NPR asks, "[h]ow did Jerry Falwell come to publish his autobiography with the help of a gay ghostwriter?"<sup>46</sup> This case and its broader implications for Falwell, as a prominent pastor, will be discussed in Chap. 9. But it also involves the struggle of Mel White, a gay man, who wrote books over many years for not only Falwell, but Billy Graham and Pat Robertson—all individuals whose views of homosexuality contrasted with his own. White acknowledges that he was still coming to terms with his sexuality at the time he was writing for these clients, so he may have felt a growing divide between his own values and those of his clients.<sup>47</sup>

These anecdotes are also significant, in part, because of the external impact of the work that the ghostwriters undertook and the ethical responsibilities they perceived themselves to hold. First, they were responsible to their authors, to narrate the story as desired and instructed. Second, they also had responsibilities to themselves, to readers, and to society. In the first three anecdotes given, Richeal, Fenjves, and O'Hagan all gained significant insight into the lives of men charged—at some point—with criminal misconduct.

Telling all, as a ghostwriter, might represent a breach of trust, but might reconcile dissonance between the ghost's personal values and those of the named author. Similarly, revealing portions of a story that give one pause—as Richeal did after Sandusky's arrest—might benefit the public, helping to absolve the ghostwriter's responsibility to that audience, but compromising authenticity to his or her agreed-upon role.<sup>48</sup> This is not, however, an impossible balance to keep, as demonstrated recently by the (acknowledged) ghostwriter behind 2016 presidential candidate Ben Carson's 1990 book, who—when asked about allegations of outright lies in the work—simply stated, “I want to keep my silence on that. . . . I believe he's a man of integrity and that's really about all I want to say.”<sup>49</sup>

This final point is particularly salient in the arena of ghostwritten books, compared to other forms of ghostwritten communication. During Carson's—or Trump's, or Clinton's—presidential campaign, his (or her) ghost might be seen as a valuable source of information into the candidate, a reality that the ghostwriter may or may not have foreseen during the writing process. After Sandusky's arrest, Richeal might have been assumed to hold insider knowledge that would help solve the crime—a burden he could not have anticipated at the time of his agreement with Sandusky. In a similar case, the alleged ghostwriter behind reality television stars the Duggars might have known in advance about the scandal that would break in 2015 involving the family's oldest son, but, again, might have been completely blindsided.<sup>50</sup> This lack of foresight does not absolve ghostwriters of any of the competing ethical claims we have described to this point; however, it is a compelling and unique factor tied to many of the attributes of the field that we have discussed, especially the special appeal of such books to consumers, and the personal dramas they contain.

Ghostwriting is nonetheless a long tradition in the world of book publishing, and it can spark challenging questions of ethics and authenticity. This is not a field as clear-cut as admission application ghostwriting, for instance. With this in mind, however, we now offer a brief summary and analysis of the primary ethical issues involved.

### *In Brief: Applying the Ethical Framework*

#### *Is it ghostwriting?*

There is ongoing debate on the topic, with some arguing for a distinction between collaborators (who are acknowledged) and ghostwriters (who are not).<sup>51</sup> Even when acknowledged, however, such work falls on the spectrum of ghostwriting, in that the extent and exact nature of their

responsibilities are cloaked. Further, even a collaborator who is acknowledged is employed for the writing of material for use by another (the client) who will be *at least largely* credited with its authorship, and where both parties agree that the writer's role will be *largely or entirely* invisible to readers or hearers of the words. In short, yes.

*Why was a ghostwriter involved? What alternatives were available?*

The use of ghostwriters in the development of books seems to be an exercise primarily in branding. A secondary consideration involves the lack of time or skill of named authors, although it does not necessarily connote a lack of skill in other areas. However, some celebrities do use ghostwriters for areas far outside of their area of expertise (e.g., novels), again for the purpose of promoting a brand or enhancing public appeal.

For many individuals who are open about the practice of using a ghostwriter, the alternative of not using one at all is quite simply not an alternative, given the constraints (particularly of time and skill) described above. As a result, an alternative practice that is commonly used is that of partnership with a collaborator or co-author, whose name is listed with some degree of prominence on the book. However, this is inconsistently applied and murky in its own right, since there is little indication of the extent of collaborative involvement inherent in this practice. Further, industry standards are unclear, and it is unknown if named authors who list collaborators on some works but not others are being entirely transparent about works published exclusively in their own names.

*Whose interests are at stake in the project? What consequences may result from a decision to use a ghostwriter?*

The interests at stake are broad, and may relate to the audience of the book. Significantly, that audience may be substantial: for instance, when political candidates release memoirs in an election year, the audience is the electorate. Thus, the consequences vary widely, from who is elected President of the USA in a given year (which is clearly consequential) to whether the audience enjoys the recipes in a particular cookbook by Mario Batali (which is, obviously, of far less consequence). However, while these consequences represent the interests of the audience that flow from the publication of a range of books, they do not per se describe the consequences of using a ghostwriter. Perhaps the most relevant consequences that arise from such a decision, then, lie with the possible dissonance between the ghost and client, as was the case in some scenarios described above. Similarly, the client may suffer long term through his or her decision

to hire a ghostwriter, should that individual speak out about the relationship at a later date. Thus, the interests of the client are essential, as are the interests of the ghost herself, as discussed at length above.

*What principles or duties are at stake?*

Like interests and consequences, the principles and duties at stake vary widely. For those presenting a story with real or potential implications on the audience, the writer (both named and invisible) must seriously consider the effect the work will have. Named authors must ensure that they are relating the story to the ghost in a truthful and authentic way, and that the use of a ghost allows them to maintain personal authenticity. Similarly, the ghosts themselves must ensure that no conflict arises between their own values and those of the client, and must recognize that circumstances may arise where the various principles they adhere to may be in conflict. Further, because of the longevity of so many books, these duties remain intact for an extended period of time, for both client and ghost.

*How might the ghostwritten work affect the personal authenticity of the client?*

Because this has been explored in some depth already, a brief summary will suffice. In short, if the work reflects the expertise or experiences of the client in some other way, especially if the work in question is a memoir, personal authenticity is less compromised; the use of a ghostwriter is simply a reflection of a lack of either time or skill in writing, or both. However, if the work is a more literary endeavor that implies some skill in writing, such as a novel, the client's personal authenticity may, in fact, be called into question—depending, in the end, on the degree of openness with which the client treats the ghostwriting relationship.

To further explore these questions, consider this:

1. In the previous chapter, we asked whether ghostwriting would exist in the scientific community without an incentive. In this context, we have identified branding and popular appeal as a major incentive for celebrities and other notable individuals who choose to use ghostwriters. What other incentives do you believe contribute to the use of ghostwriters in book publishing, regardless of the field?
2. Throughout this chapter, we have identified many types of books that are ghostwritten, that cover a variety of fields and are authored by people who hold many different roles. Taking the examples from

this chapter, rank them according to ethical impact on the external audience, the client, and the ghostwriter.

3. The assumption throughout this chapter, confirmed by others, has been that the public truly does not care if celebrity authors—be they politicians, actresses, or CEOs—make use of co-authors. However, this could just as easily not be the case; to that end, develop and defend three reasons you believe that the public would—and should—care about the use of co-authors by celebrities.

## NOTES

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2. Minzesheimer, “Publishing Juggernaut Patterson Keeps Rolling Along.”
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4. John Deighton, “Marketing James Patterson,” *Harvard Business Review*, last modified August 10, 2004, <https://hbr.org/product/Marketing-James-Patterson/an/505029-PDF-ENG>.
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9. Consider the following examples: (1) Julian Assange, *Julian Assange—The Unauthorised Autobiography* (Edinburgh, UK: Canongate Books, 2011). (2) O.J. Simpson, *If I Did It: Confessions of the Killer* (New York: Beaufort Books, 2007).
10. Daniel A. Gross, “The Mystery of the Hardy Boys and the Invisible Authors,” *The Atlantic*, last modified May 27, 2015, <http://www.theatlantic.com/entertainment/archive/2015/05/hardy-boys-nancy-drew-ghostwriters/394022/>.
11. Consider the following examples: (1) S. Truett Cathy, *Eat Mor Chikin: Inspire More People* (Decatur, GA: Looking Glass Books, 2002). (2) Ben Carson and Cecil Murphey, *Gifted Hands: The Ben Carson Story* (Grand Rapids, MI: Zondervan, 1990).
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16. Ryan E. Smith, “Hidden Ingredients,” *Chicago Tribune*, last modified November 24, 2012, [http://articles.chicagotribune.com/2012-11-24/features/ct-prj-1125-cookbook-ghostwriter-20121124\\_1\\_executive-pastry-chef-top-chef-contestant-cookbook](http://articles.chicagotribune.com/2012-11-24/features/ct-prj-1125-cookbook-ghostwriter-20121124_1_executive-pastry-chef-top-chef-contestant-cookbook).
17. (1) Glen E. Kreiner, Elaine C. Hollensbe, and Matthew L. Sheep, “On the Edge of Identity: Boundary Dynamics at the Interface of Individual and Organizational Identities,” *Human Relations* 59, no. 10 (2006): 1317. (2) Alex Mayyasi, “The Ghostwriting Business,” *Priceonomics*, last modified December 3, 2013, <http://priceonomics.com/the-ghostwriting-business/>.
18. Suspicions over Barkley’s use of a ghostwriter are reported in Queenan, “Ghosts in the Machine.”
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20. As we noted briefly in Chap. 2, the public acknowledges that speechwriters are relied upon in certain circumstances. Our assumption here is that the average consumer would be similarly unsurprised to learn that celebrities—including politicians and CEOs—make use of ghostwriters for their memoirs and other, similarly personal communications.  
As we saw in Chap. 4, Sloan’s use of a ghostwriter was revealed by the ghost himself. In Agassi’s case, the athlete does not openly acknowledge ghostwriting assistance on the cover of his book—but such assistance is widely reported. See, for instance, Charles McGrath, “A Team, but Watch How You Put It,” *The New York Times*, last modified November 11, 2009, <http://www.nytimes.com/2009/11/12/books/12agassi.html>.
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28. *Ibid.*
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## Personal Contexts

Thus far in this volume, we have explored ghostwriting in many of its contexts, from *pro se* briefs written by lawyers for clients, to medical journal articles penned by trained technical writers, to the speeches of famous politicians and CEOs written by members of their staffs. While the contexts have varied widely, each in some way involves a formal system: industry, academia, or the government. In other words, while every case involves some level of individual identification or involvement with the communication, the primary purposes of the ghostwritten material are to improve efficiency or gain legitimacy relative to the interests of those systems.

We will now turn our attention to individuals' communications that others are less likely to imagine are ghostwritten. This was touched on previously when discussing the use of ghostwriters for celebrity memoirs, novels, or other works. We felt it was safe to guess that many readers assume celebrities are not the sole authors of their books, regardless of topic, nor is there much sleep lost over that fact.<sup>1</sup> And despite the fact that such books are written for personal consumption, they are still connected in a way to business, since their purpose is, in all likelihood, the enhancement of the celebrity's brand and the production of profit for a publisher. Many celebrities also use a variety of other means to communicate with their fans, including social media, personal appearances, performances, or other creative activity; we will explore this further toward the end of this chapter. But first, let us turn to two deeply personal contexts for communication: religion and romance.

## HOLY GHOST OR GHOSTWRITER?

Being a member of the clergy is far from easy. From weddings to funerals to hospital visits, it can be difficult to find the time to prepare for, at minimum, one sermon or homily every week. Fortunately for the busy clergyperson, *desperatepreacher.com* is there to help, with a “[w]eekly tool kit . . . published four weeks ahead of . . . schedule.” For the low, tax-exempt price of \$39.95 a year—with discounts for students, lay speakers, or retired clergy—busy preachers gain access to “full-length sermons based on texts, sermons for children, commentary on texts/discussions of texts by peers, prayers, . . . hymns and songs, . . . resources for holidays and other church feast days,” and more.<sup>2</sup>

If this prompts a bit of cynicism, it may be because religious faith and personal authenticity go hand in hand, making the thought of outsourced sermons innately dissonant. Wouldn’t congregants question the credibility and authenticity of a member of clergy who read a third party’s sermon or prayer without acknowledging the source?<sup>3</sup> Yet given the availability of books of sermons, subscription websites, and the like, it seems that divine inspiration may at times come more from ghostwriters than from the Holy Ghost.<sup>4</sup>

This is but one way ghostwriting stirs controversy within the religious community<sup>5</sup>—all jokes about scriptural texts being “wholly ghostwritten” aside<sup>6</sup>—for significant issues have arisen concerning the celebrity aspirations of preachers and other religious leaders who use ghostwriters for memoirs and books designed to give spiritual guidance. Some critics argue that preaching, narrowly, and religious leadership, more broadly, require strictly authentic interpersonal communication.<sup>7</sup> Still others raise questions about failures to acknowledge sources, or they worry about the influence of behind-the-scenes writers whose beliefs or ideologies may have influence.

Consider again the case of the Rev. Jerry Falwell, whose autobiography was published in 1987. Falwell acknowledged the help of an editor, Mel White, who subsequently claimed a much greater role: author. This would not be outside the realm of possibility, as White’s credentials for such a role were impressive. With a doctorate in religion, and experience in writing for other notable evangelists like Billy Graham and Pat Robertson, White was the ideal ghost, except for one thing: he was gay. Early in his career as a writer, he struggled privately with his sexual orientation, but later became a public activist and founder of *Soulforce*, a gay rights organization. This

discovery must have been quite a shock for Falwell, a polarizing figure who blamed the 9/11 attacks on homosexuals, among others.<sup>8</sup>

Earlier, we addressed a critical component of the partnership between ghosts and clients, especially in more intimate projects like memoirs—namely, the trust that must exist in a relationship requiring mutual respect. White’s acknowledgment that he did not discuss his personal struggle with Falwell begs the question: do ghostwriters have a professional responsibility to disclose personal beliefs that may conflict with those of their clients? If not, might these affect the final project, especially if the client is less than vigilant in reviewing the finished product? These would seem to be relevant questions, given the potential for religious books to personally influence readers. In 2010, the market for Christian books was at \$3 billion, despite the dampening effects of the 2008 recession.<sup>9</sup> The books in this market segment span a vast array of topics and authors, the more famous of whom often use ghostwriters. Christian businessman Truett Cathy, famed preacher Billy Graham, and prison reformer Charles Colson are just a few whose bestsellers, or at least significant portions of them, were ghostwritten.<sup>10</sup> If a minister who uses ghostwritten sermons is thought of as less than authentic, how would readers feel about one who relies on a ghostwriter for a religious memoir or book offering spiritual advice? Or should readers accept the practice as—in the words of one religious ghostwriting service—an effective means to spread the named author’s beliefs, a relationship of convenience with “your kingdom building partner committed to helping you spread the gospel of Jesus Christ?”<sup>11</sup>

As in other contexts we’ve discussed, a continuum is worth exploring here. Surely there is a difference between a personal memoir, a sermon, and a fundraising pitch—all genres where religious ghostwriters ply their trade.<sup>12</sup> One might also make a distinction between Truett Cathy, a businessman, and the evangelist Billy Graham. However, the fact remains that these books—whatever the subject—are written with the intent of influencing others in some way, making it imperative that the personal message of the named author be effectively and accurately conveyed. Yet at least one writer has attributed the flourishing of religious ghostwriting to “a slow desensitization to standards of truthfulness that authors and publishers never anticipated nor desired.”<sup>13</sup>

These issues have come to the fore in the faith community in recent years. Some Christian publishers have recommended that the practice of “undisclosed ghostwriting” be eliminated completely in the industry, due in part to concerns about perceived deception, but also because the idea of

“celebrity Christians” is troubling to some.<sup>14</sup> Since the 1980s, critiques of the practice have increased with the growing prevalence of ghostwriting, which has been called:

- a canny but this-worldly approach to life . . . a cunning attempt to skirt the edge of moral forthrightness
- grinding away for people long on reputation but short on time, self-discipline, or writing ability
- [A tool to bolster the reputation of celebrities while ignoring] gifted but lesser known writers out there with something important to say.<sup>15</sup>

Some argue that Biblical commands for Christians to be set apart as models of integrity and humility make ghostwriting wholly incompatible for people of faith.<sup>16</sup> As one critic puts it, “Every church and ministry leader should ask, ‘What are we doing that would make us embarrassed or uncomfortable if people knew?’”<sup>17</sup> Such questions from within the faith community have led to an anecdotal increase—reported by *World* magazine writer Edward E. Plowman—to create and enforce standards vis-à-vis ghostwriting.<sup>18</sup>

However, this is not where the critique ends: others argue that the use of ghostwriters builds up ego and encourages individuals to take credit for work they did not do—which in turn encourages a self-deceptive belief that one is more capable or qualified than may be true.<sup>19</sup> Critics argue that the practice is always dishonest, with intent to deceive<sup>20</sup>—presumably in contrast to contexts where it is a practical, quasi-transparent practice—while others call it out as idolatry.<sup>21</sup> An even more pragmatic consideration is also raised: the fact that many who use ghostwriters in the religious context are employed specifically for the purpose of communicating their own views. While a CEO is not hired to write speeches or press releases but to run a company, a spiritual leader is employed to provide guidance through his or her chosen media, be they sermons, books, or another means of communication—which carries with it an implicit promise:

When a pastor or ministry leader publishes a book with his name on it he is making a [sic] unstated promise to the reader that [sic] the material is his, it’s coming directly from his heart and mind, and he’s personally presenting it in the form of this book.<sup>22</sup>

As a result, the discussion about ending “undisclosed ghostwriting” in the Christian publishing industry may well be irrelevant, as even “disclosed

ghostwriting”—although perhaps an oxymoron—might still be considered outside the scope of appropriate conduct for a spiritual leader.

A final consideration in this context is proposed by one author, who notes that he “never hear[s] people offer biblical and ethical justifications for [ghostwriting], only practical ones.”<sup>23</sup> In other contexts, we have already seen that a practical defense can be adequate. CEOs and politicians who involve ghostwriters—in appropriate roles—may be understood as making a choice that is both practical and authentic to the task at hand. The difference lies in the personal connection to the communication, which one successful ghostwriter sees as very different for a CEO than for a preacher:

The public could handle knowing about the extensive use of ghostwriters. We tend to think the public is naive, but our job is to get the word out that ghostwriting goes on all the time. I don’t think congregants, though, would approve of their local preacher using a canned sermon or a ghostwriter.<sup>24</sup>

This suggests, as we have noted elsewhere, that the threshold for ethics in ghostwriting is context specific. The personal connection is one important component of this threshold, and a factor we will weigh in our next context, that of romance.

### THE CYRANO EFFECT

Have no fear, it is yourself she loves—give her yourself put into words—my words, upon your lips. . . . I’ll be your cloak of darkness, your enchanted sword, your ring to charm the fairy princess!<sup>25</sup>

“My words, upon your lips!” If any phrase can succinctly sum up ghostwriting, this is it. These words, penned by Edmond Rostand, were spoken by the title character in his play *Cyrano de Bergerac*, a fictionalized account of a real person. Cyrano was a romantic, a soldier and a poet—but lacking in physical beauty. In the story, he finds himself hopelessly in love with his beautiful cousin, Roxane, who does not return his feelings but instead falls in love with a handsome, but intellectually vacant young man named Christian. Christian returns Roxane’s feelings, but finds himself unable to even speak in her presence. He confesses this to Cyrano—completely unaware of his captain’s feelings toward Roxane—who, after much internal (and some external) conflict, determines that Roxane’s happiness is paramount, and that he will craft words for Christian to profess his love to



Roxane. From there, as may be expected, the story quickly devolves into a comedy of errors, as Christian uses Cyrano's words to woo Roxane.

Though a fictionalized account, it is frequently referenced in articles about the modern dating scene. And for good reason: You don't have the right words to sell yourself on a dating profile? There's a ghostwriter for that. You don't have the time—or finesse—to respond to the avalanche of emails precipitated by your professionally polished dating profile? There's a ghostwriter for that too. You don't want to be bothered responding to your significant other's daily texts? There's an app that delivers pre-loaded, ghostwritten responses for that.<sup>26</sup> And if you are afraid you'll embarrass your friend as you give your best man's speech, someone can take care of that for you, too. In short, whatever your romantic need, there's a "Cyrano-for-hire"<sup>27</sup> ready and willing to help you out.

The going rate for these services varies widely, with one woman offering her help on Craigslist for \$25/profile, while a Craigslist opportunist in the Bay Area offered \$200 for a ghostwritten profile, plus a \$40 commission on each "successful" first date that the ghostwriting procured.<sup>28</sup> On the other end of the spectrum, a company called Virtual Dating Assistants offers multiple packages, guaranteeing a certain number of dates at each price point: \$600 for two dates a month, and \$1200 for five.<sup>29</sup> A similar company, A Little Nudge, will write profiles and provide photo consultations for \$195; select 8 matches per week, write 20 introductory emails, and offer advice for \$325; or, for a mere \$595/month for three months, they will "schedule dates, offer coaching and handle all pre-date communication."<sup>30</sup> While costly, this option is still far cheaper than hiring a professional matchmaker at an estimated cost of \$5000–\$50,000.<sup>31</sup>

This depersonalization, or outsourcing, of romance, may strike some as even more dissonant than outsourced Sunday sermons. As in most ghostwriting contexts, the practice is defended as a practical solution for busy people who lack time to date, or to respond to personal emails amidst work obligations.<sup>32</sup> In fact, some compare the practice to the long-established business of resume writing,<sup>33</sup> a ghostwriting service that would surprise few, while still others compare it to the purchase of other services and amenities, like a day at the spa.<sup>34</sup> By this logic, the use of a ghostwriter to bolster one's online dating performance is based on a risk-reward calculation and a desire, by those who can afford it, to "off-load the things they don't have time to do themselves."<sup>35</sup> Romantic, isn't it?

Of course, it is not without risk, as in the case of the online dating client whose prospective beau made use of a ghostwriter to craft pre-dated

emails. When it came time to talk by phone, the disconnect between his email skills and his finesse (or lack thereof) by telephone became obvious. When he was forced to own up to the source of his writing prowess, a relationship—albeit a short one—was born.<sup>36</sup> His honesty may have been appreciated, but how many suitors in similar situations would admit to the use of a ghostwriter, which is likely to be seen as an act of deceit to create the illusion of authenticity where it does not exist.

This is especially apparent when one considers how such ghostwriters do their work, whether crafting dating profiles or email communications. Companies hawk their boilerplate approaches to online dating, even comparing their work to “lead generation” in sales.<sup>37</sup> Consider this:

- [S]ites such as TheProfileCoach.com and E-Cyrano.com serve up **prefab** profiles [emphasis added].<sup>38</sup>
- He’s never needy—always charming and a little flirtatious. He keeps his missives short and usually includes a question or a subtle challenge. He’s witty, a touch aloof, and not overly complimentary.<sup>39</sup>

Prefab profiles and signature approaches to e-flirting are unlikely to be the recipe for true love. Of course, not all services take this depersonalized stance, with one commenting:

It doesn’t matter what a professional ghostwriter is writing about. **It is my job to investigate and divulge information from a client in order to make their project successful** [emphasis added], no matter if I am writing a book, a resume or an online dating profile. A trained ghostwriter is an investigative journalist by nature.<sup>40</sup>

Another ghost prides herself on an ability to incorporate her clients’ personalities and cultural values into profiles and emails. Yet she does all this *without any personal contact with the client*.<sup>41</sup> This contrasts starkly with our earlier discussion of memoir writing, which emphasized the relationship between ghost and named author, a relationship that—one would think—might be even more crucial in such an intimate area as romance. The idea of “outsourced sentiment”<sup>42</sup> just feels hollow.

Of course, it would be impossible to discuss ghostwriting in this context without acknowledging the humor of it all. Imagine both parties in a prospective dating relationship using ghostwriters for all pre-date communications. The outcome of a first date could make romantic comedy

gold. Or consider speechwriting for best men (and women), with websites providing canned sample toasts, “from treacle to frat-boy humor,” and customizable templates that require purchasers to complete detailed questionnaires<sup>43</sup>—a practice that brings to mind a scene from 2001’s *The Wedding Planner*, where Jennifer Lopez’s character feeds the speech to the best man through an earpiece.

This humor simply serves to disguise the reality that romantic ghostwriting is bound to depersonalize one of the most personal experiences of life. As we noted earlier, the use of ghostwriters may be imminently practical in many contexts, but in some personal contexts it is difficult indeed to justify a third-party script in place of words intended to be an authentic representation of self.

### OUTSOURCED ENTERTAINMENT: ART, MUSIC, AND MEDIA

Let’s look now at one more context involving consumers in a personal way. This one, however, isn’t as intimate *in the same way* as the previous two. Nonetheless, it involves communications that can touch us at a personal level.

The world of arts and entertainment is a place where ghostwriting thrives, and some of it does not even involve the written word. From ghostwritten rap lyrics, to ghost-painted works of art, to ghost-composed classical scores, this context is rife with work created by one person but credited to another. This is a frequent tactic for enhancing the status of celebrities, something we’ve already discussed in relation to the written word. At the same time, a work of any kind may be more valuable if thought to be the creation of a celebrity. On the one hand, this reflects a certain market orientation, with the celebrity not a person but a brand—a position more akin to a corporate or political spokesperson, not a private citizen, which may alter expectations of authenticity. Nonetheless, celebrity uses of ghostwriters present interesting variations on the theme of this book, some of which are illustrated by the following anecdotes.

#### *The Ghosts of Twitter*

Some of the most ubiquitous and superficial types of communication are conveyed through social media—and especially, for celebrities, through Twitter. Nearly every celebrity has a Twitter account to share photos, opinions—sometimes of a regrettably controversial nature—and more. But for some, the thought of writing their own 140-character insights

seems too daunting, causing them to turn to ghosts to feed the interests of their followers. This is a practice met with scorn by some, including basketball great Shaquille O’Neal, who sums it up in these words: “It’s 140 characters. It’s so few characters. If you need a ghostwriter for that, I feel sorry for you.”<sup>44</sup>

The difference in opinion between Shaq and the celebs he criticizes seems to lie in an understanding of the purpose of social media. Many athletes, for instance, seem to use it as a direct and personal way to connect with their fans without intermediaries. As we have seen, others, including President Obama, make this clear on social media, noting that any tweets signed “-bo” are written by the Commander-in-Chief himself, while all others are attributable to staff<sup>45</sup>—a reasonable compromise, it seems, although even this apparent transparency is disputed.<sup>46</sup> But a great many celebrities have no problem creating an illusion of authenticity by paying ghostwriters to keep the quips and comments coming.

How do the ghostwriters view such work? Some acknowledge the need for perceived authenticity on social media, and one writer limits her client list to ten at a time, saying she otherwise would not be able to maintain the personal relationships necessary to craft effective communications. These writers, like the celebrities they serve, view social media as just another way to “booze and schmooze people” and market a brand.<sup>47</sup>

By seeing it in this way, many celebrities feel no personal responsibility for the words attributed to them on Twitter or other social media. Take the athlete Jose Canseco, who responded to press questions about controversial tweets, “I can’t claim that one.” He even tweeted at one point, “I finally took over my Twitter account, and you will get direct info from me from here on out daily.”<sup>48</sup>

### *“Keeping It Real”*

Real, adv.: The action of being true to the code of ethics of one’s self, culture, and environment, i.e., “keep it real”<sup>49</sup>

No musical genre relies more on the idea of “keeping it real,” or authentic, than rap. This has been the history of the genre, and may still be relevant today, as rap artists are judged by fans on how “real” they are.<sup>50</sup> Consider the lyrics from the 2014 smash song “Fancy,” by Iggy Azalea, with the bold opening statement, “First things first, I’m the realest (realest).”<sup>51</sup>

Of course, “real” can mean different things in different songs and contexts. Lyrical authenticity is seen as a way to “[illustrate] self-creation and individuality,” a concept that Edward Armstrong argues permeates all kinds of music, as a way to build a connection between the performer and the music, but perhaps especially rap. This notion of authenticity is not without its critics,<sup>52</sup> but it provides an interesting lens for viewing ghostwriting within the genre.

Armstrong states that “‘first person authenticity’ arises when artists succeed in conveying the impression that their utterances are ones of integrity,”<sup>53</sup> telling their true story. This may be attributable to the fact that, for many years, African Americans lacked many legitimate outlets to publicly share their lived experience.<sup>54</sup> Thus, while performers in many genres make use of songwriters, the entire hallmark of rap is authenticity.<sup>55</sup>

Even so, some in the rap music industry accept the practice as a means of collaboration, albeit one that sometimes involves exploitation of the actual writers.<sup>56</sup> Others see ghostwriters as a competitive edge in a cutthroat industry, where a skilled rapper/singer who lacks writing talent may be at a disadvantage.<sup>57</sup> Still others condemn the practice, noting that listeners may “feel somewhat cheated”—or to use language we’ve already introduced, betrayed—upon learning that lyrics supposedly describing personal experience were penned by someone else. One critic sums up the views of many: “Considering so much of the lyrical content of rap consists of boasting about your skills on the mic, using an uncredited ghostwriter seems deeply dishonest. . . . Surely if you can’t come up with decent lyrics, you should be doing something else.”<sup>58</sup>

Despite these concerns, ghostwriting persists in the rap industry, with even big-name artists like Jay-Z and Eminem reportedly having worked as ghosts themselves.<sup>59</sup> And as with other contexts that require at least a façade of authenticity, some ghostwriters report working hard to take on the persona of their artists.<sup>60</sup>

### *Ghostcomposing*

For many readers, the name Mamoru Samuragochi may not sound familiar. But in Japan, Samuragochi—or the “Japanese Beethoven,” as he is better known—is famous for his ability to compose moving classical music while completely deaf. The composer, who attributes his adult-onset deafness to a degenerative illness and was born to a survivor of the Hiroshima bombings, may not be as well-known as the original Beethoven, but is famous in his own right, with a custom piece composed for a figure skater in the Sochi Olympics, among others. There’s just one problem: Samuragochi

does not compose his own music. Reports surfaced in 2014 that he has paid 7 million yen (roughly US\$58,000) over 18 years for his compositions, to the actual composer behind his work, Takashi Niigaki.

In early 2014, Niigaki went public with accusations that he had written Samuragochi's music, but even worse, that the noted composer wasn't even deaf. Later tests required by the city of Yokohama—needed to prove that Samuragochi was eligible to continue receiving disability services—showed that he, in fact, did not meet the level of deafness required to be considered disabled, a fact that he disputes (while conceding some improvement in his ability to hear). He does, however, acknowledge contracting with Niigaki for the compositions. Niigaki reports he had wanted to come clean earlier, but that Samuragochi threatened suicide. Niigaki also admits his role in the ongoing deceit, noting, "I continued to write pieces under Samuragochi's instruction, knowing that he was deceiving the public. . . . I'm [his] partner in crime."<sup>61</sup>

But while historical sources say little, it seems that Samuragochi may not be the first composer to engage ghostwriters—but for different motivations. It is believed that until the time of his death, Mozart was working to complete a commissioned piece for Count Franz von Walsegg, who was known for using ghost composers but claiming attribution himself—a practice that, perhaps, his audience was aware of. While Walsegg was capable of limited composing, the requiem he requested of Mozart needed to be on a far grander scale, one that Walsegg felt inadequate to complete.<sup>62</sup>

The question of authenticity here is an interesting one, since the "writing" in question reflects not just the ability to craft the words to tell a story, but to use a rare skill that can bring great fame to a composer. As a result, the deceit practiced is perhaps more egregious than in other contexts, for claiming to be a composer when one is not implies a gift that *very* few people can claim. An interesting twist appears, though, in the fact that in one case—Samuragochi's—the famous composer was on the receiving end of the ghostwritten work, while in Mozart's case, the famous composer was the one producing it. The common theme is that both Samuragochi and Walsegg clearly wanted to appear competent for the sake of personal gain.

### *Ghostsculpting and Ghostpainting*

The visual arts provide a final context for personal "ghostwriting." There is little scholarship surrounding this, but the practice nonetheless exists. For instance, the Wikipedia entry on ghostwriters acknowledges visual arts as a category, giving the following description:

Ghost-authorship also applies to the visual arts, most commonly paintings. The extent of the master artist's contribution varies widely, as little as composition adjustments and corrective brush strokes, or as much as entire works. A common practice is the use of the art instruction class milieu in which the master artist makes significant contributions to the work of the student who then signs the work as his or her own. Services addressing complete works have historically been highly confidential. Less prevalent are advertised commercial services which may use the term 'vanity artwork' as suggestive of 'vanity publishing'.<sup>63</sup>

However, there are no sources provided, and the editing of such articles is, of course, anonymous. More compelling, then, is the explicit acknowledgment that museums offer the practice, with the National Gallery of Art in Washington, D.C., for instance, relying on the equivalent of the novelist's "and" or "with." Consider a few examples in the range of acknowledgments given to the works of the Old Masters:

- Rembrandt van Rijn and Workshop
- Rembrandt van Rijn (and Workshop?)
- Sir Peter Paul Rubens (and possibly Jacob Jordaens)
- Gerard David and Workshop
- Master of Saint Giles and Assistant<sup>64</sup>

Whether the true artist is named or not, it is clear that ghosts are known—or at least suspected—to be behind some of the most notable paintings of the Western world.

However, this is not merely a historical phenomenon; indeed, one modern artist freely admits to his use of "ghost-authors," with statements that sound oddly similar to those made by James Patterson, vis-à-vis his role in the creation of his book empire. We refer to Jeff Koons, notable pop artist and sculptor, who had this to say:

I'm basically the idea person. I'm not physically involved in the production. I don't have the necessary abilities, so I go to the top people, whether I'm working with my foundry—Tallix—or in physics. I'm always trying to maintain the integrity of the work.<sup>65</sup>

Given the dearth of additional information in this area, we will not explore it in any more depth. Yet it raises the question of whether our earlier definition of ghostwriting should be extended to the visual arts, perhaps along these lines:

Ghosting is the creation of material by one person (the artist/designer/etc.) for use by another (the client) who will be credited with its creations, and where both parties agree that the creator's role will be invisible to readers or hearers of the words.

Thus, ghosting may not be limited to the written or spoken word, but can be seen in other contexts where one person takes credit for a creative work of an artist hired explicitly for this purpose.

### IN BRIEF: APPLYING THE ETHICAL FRAMEWORK

#### *Is it ghostwriting?*

This question has been explored sufficiently throughout this chapter; in short, all of the activities described here involve the creation of something by someone (the creator) for someone else (the client). To varying degrees, the involvement of the creator is hidden.

#### *Why was a ghostwriter involved? What alternatives were available?*

Broadly, we can summarize the rationale for using a ghost in two ways. First, the individuals described here use ghosts because of time or other resource constraints. Second, they use ghosts because they believe they lack a particular skill—crafting a sermon, composing a piece of music, finding a romantic partner, or creating a sculpture.

Some of the individuals and scenarios described have relied on the alternatives presented in earlier chapters. For instance, some celebrities make it clear that a ghost is behind at least some of their tweets. Similarly, Jeff Koons openly acknowledges his only partial involvement in his craft, à la James Patterson. In other words, one alternative is to openly treat the practice as collaborative, while still maintaining some of the mystery around the actual role of the ghost and giving the bulk (if not all) of the credit to the client. Does this seem a reasonable alternative? Or is it simply inauthentic for individuals who lack certain expertise—say, sculpting—to present themselves as experts nonetheless?

#### *Whose interests are at stake in the project? What consequences may result from a decision to use a ghostwriter?*

Interests at stake vary widely, and are best viewed through the possible consequences of the use of a ghostwriter. As explored above, the



consequences of a clergyperson using a ghost may be significant, especially in regard to loss of trust in the institution. Thus, those with the greatest interests include the congregation and others who may gain a negative perception of the faith (or the minister) upon learning of the involvement of ghosts. Similarly, while the interests in online dating are limited to a small number of potential romantic partners, the consequences of deception are significant.

The consequences of celebrities using ghosts on social media may also be significant, by sparking controversy. However, as with other contexts, then—assuming the client is in agreement with the ghost—the consequences are not a direct result of the act of ghostwriting. The fleeting nature of social media is also relevant: In the long term, do ghostwritten tweets have significant consequences? Sometimes, yes, an ill-chosen phrase can spark a major controversy.

The other contexts discussed in this chapter have arguably fewer consequences. Individuals close to the clients might be hurt to learn of the use of ghostwriters, but it is unlikely that even those with an interest—those who are beneficiaries of the art—would be impacted in the long term. What of other artists, though? Would artists or musicians who use ghostwriters gain an unfair advantage over others in the field?

*What principles or duties are at stake?*

Here, it seems that the primary principle is in fact authenticity. By engaging in work that is either personal or affects others in a deeply personal way, the actors have an obligation to present their authentic selves. This is a voluntary, self-imposed duty, however; what other duties, as defined by other actors in a given context (e.g., the clergy) might be imposed? Is the principle of academic integrity, more broadly defined, relevant to some of the fields here—for instance, the composition of music?

*How might the ghostwritten work affect the personal authenticity of the client?*

Because each of these contexts is deeply personal in some way, it is almost certain that the use of ghostwriters would negatively affect the personal authenticity of the client. With, perhaps, the exception of celebrities and social media, all the individuals discussed here (should) connect in a significant, personal way with their work. Artists and musicians are sharing their personal vision of the world. Clergy are sharing their personal

interpretation of their faith. Online daters are hoping to initiate one of the most personal relationships possible. By introducing an element of fraud, no matter how open, these individuals ultimately fracture their own authenticity.

To further explore these questions, consider this:

1. Would you be upset (and why or why not) if you discovered that:
  - (a) Your spiritual mentor was using the words and reflections of someone else?
  - (b) Your favorite painter did not actually do her own work, but instead was simply the visionary behind her projects?
  - (c) Your favorite celebrity used a ghostwriter to compose his or her insightful/humorous/otherwise intriguing tweets?
2. The material we covered in this chapter ranges widely. With that in mind:
  - (a) Rank each type of ghosting according to the ethical impact of the practice on the intended audience, and explain your rationale. For instance, what ethical impact does the use of a ghostwriter to create an online dating profile have on the intended significant other(s) of the client?
  - (b) Rank each type of ghosting according to its relationship with the personal authenticity of the ghost and named author/artist/presenter, and explain your rationale. For instance, how authentic is it for someone to write dating profiles for a client, and for the client to use the service?

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## EPILOGUE

As we conclude this journey through ghostwriting, its history, and its many contexts, we return to our ethical framework. Throughout this volume, we have used this to tease out and examine issues of ethics and authenticity arising from the practice of ghostwriting. For instance, does a particular work meet the standard of authorship proposed in Chap. 1? If it were disclosed that the work was ghostwritten, how would the audience react? Would the named author lose credibility as a result of disclosure? Would the communication itself lose credibility? Is deception necessary for the communication to achieve its intended results?

To recall the framework, variations of which appeared in the preceding chapters, we reproduce it below with a number of reflective questions that might apply *across* contexts. We would ask the reader to reflect on these broader questions and the scenarios that follow:

- **Is it ghostwriting?** Is the work in question ghostwritten or plagiarized? Ghostwritten or edited? Ghostwritten or written under a pseudonym? Is any acknowledgment given to the role of the ghostwriter, and if so, how? If you suspect ghostwriting, but have no proof, why?
- **Why was a ghostwriter involved?** Is the communication required of the author as part of his or her job duties? Does the author possess special expertise in one area, but lack the knowledge or skill to craft a book, speech, or other communication on this topic? In other words, will the use of a ghostwriter strengthen the final communication in



a significant way? Does the author need a ghostwriter to reinforce her image of self, or “to make himself or herself appear to possess personal qualities that he or she does not really have?”<sup>1</sup> Or is the author simply unprepared for the responsibilities of her position, or too busy with her career to write?

- **What alternatives were available?** Could the author have made the time, or developed the necessary skills, to script the communication himself? Could the author have disclosed the ghost’s participation?
- **Whose interests are at stake in the project?** Does the communication affect a political outcome? A business outcome? A legal outcome? A scientific or medical outcome?
- Is it designed primarily for entertainment? For personal growth or change? For career advancement?
- What individuals and entities might be affected? For any who have a stake in the communication, how significant is that stake? In other words, how much does the communication matter?
- **What consequences may result from the decision to use a ghostwriter?** How big an effect does the communication have and on whom? Is the effect long term or short term?
- Will the author face career or personal repercussions from using a ghostwriter? What about the ghostwriter?
- Does the audience know that a ghostwriter is involved? Would the reader, hearer, or viewer feel betrayed if she learned this?
- **What principles or duties are at stake?** Are there industry norms or standards that make ghostwriting more or less acceptable? Academic norms? Professional codes? Duties to the public?
- **How might the ghostwritten work affect the personal authenticity of the client?** How personal is the communication? Did the author contribute to its preparation?<sup>2</sup>
- Would the author “accept responsibility for the message he or she presents?”<sup>3</sup>
- Would the author admit to the work being ghostwritten? What factors, other than personal pride, might affect the author’s willingness to admit to the use of a ghostwriter (e.g., legal sanctions, professional standards)?

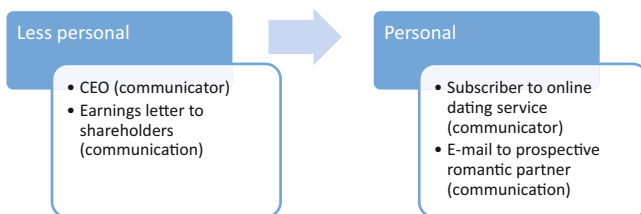
Individually, these questions present ample opportunities for reflection, and they become particularly intriguing in the places where they intersect.

It may be helpful to consider how personal a consideration is; but it becomes more compelling when we consider its intersection with other factors—the effect of the communication, for example, or the interests at stake. To illustrate this, and to prompt further reflection by the reader, we will briefly explore three such intersections through four unique scenarios drawn from the preceding pages.

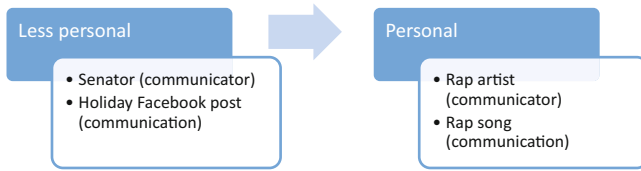
### PERSONAL CONNECTION VERSUS EFFECT

Ghostwritten communications may have implications for all parties involved. At this intersection, we explore the consequences for the audience (“how great an effect does the communication have?”) and the author (“how might the ghostwritten work affect the personal authenticity of the client, and how personal is the communication?”). In Fig. 1, we look at two communications with potentially significant effects on the audience: a CEO’s communication to her shareholders and an individual’s e-mail correspondence with a prospective romantic partner. In these situations, the significance and longer-term effects of using a ghostwriter will vary based on how personal each communication is.

Conversely, in Fig. 2, see two communications of a different type: holiday well-wishes posted on social media by a state Senator and a song produced by a noted rap artist. While both might have a minimal effect on followers or fans, the personal significance of using a ghostwriter is likely to be greater in the case of the rapper who is presumed to write his own lyrics based on his authentic life experience.<sup>4</sup>



**Fig. 1** Significant effects

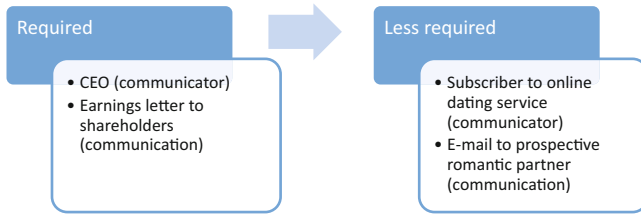


**Fig. 2** Minimal effect

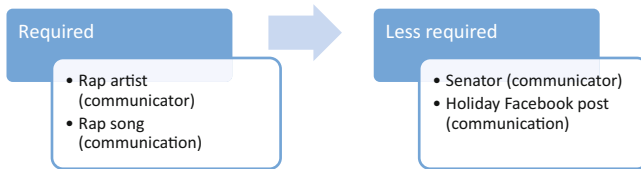
Using this framework—and the spaces that fall between each sector—how would you categorize a ghostwritten Supreme Court decision? An admissions essay? A medical journal article? A sermon? Why?

### REQUIREMENT VERSUS INTERESTS

Many communications discussed in this book are, to an extent, required by the author’s position—although the use of a ghostwriter may not be. In significant ways, a ghost can increase the volume and reach of the author’s communications to those who may be interested. At this intersection, we explore the required nature of the communicator’s work (“why was a ghostwriter involved, and is the communication required of the author as part of his or her job duties”) and the interests of those involved (“for any individuals who have a stake in the communication, how significant is that stake—or in other words, how much does the communication matter?”). In Fig. 3, we show two communications where the individuals affected by the communication have significant interests at stake: the shareholders who receive the CEO’s earnings report and the prospective romantic partner. In the first scenario, the CEO is required to issue the particular communication—and is expected, in many ways, to utilize external help. However, in the second, the communication is not a requirement of any position the communicator holds, nor is the use of a ghostwriter expected. Figure 4 tells a different story. While there are certain individuals—for instance, the rap artist’s manager or the rap artist himself—who have a significant interest in a given song, the vast majority of the intended audience has no real interest in its release. Similarly, a holiday posting on social media may engender certain effects that benefit the Senator, but ultimately, his constituents have no real interest in the publication of that particular communication. Again, though, one communication is required; the other is less so.



**Fig. 3** Significant interests



**Fig. 4** Less significant interests

Thinking about these four quadrants and areas in between them, how would you categorize the following ghostwritten communications: A brief prepared by a lawyer for an indigent client? A book written by a university professor’s graduate assistants? A celebrity cookbook? A corporate blog?

### WILLINGNESS TO ACKNOWLEDGE VERSUS SENSE OF BETRAYAL

One way to assess the ethics and authenticity of ghostwritten work is by imagining how acknowledging it would be viewed by the communicator (“would the author tell others that the work was ghostwritten, and if so, how might this affect her personal authenticity?”) and by the audience (“how betrayed would the reader, hearer, or viewer feel if she learned that the communication was ghostwritten?”). We may assume that the online dating client and the rap musician are likely to deny their use of a ghost and likely to elicit strong responses if their actions become known (Fig. 5).<sup>5</sup> By contrast, both the CEO and the Senator are likely to admit their use of a ghost—or at least not deny it if pressed for an answer—and likely to elicit weak reactions from their respective audiences (Fig. 6).

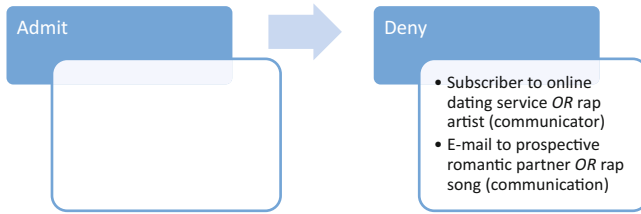


Fig. 5 Greater sense of betrayal

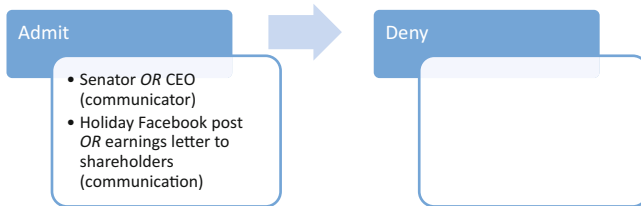


Fig. 6 Less sense of betrayal

In other scenarios in this book, authors might deny the involvement of a ghost, despite the relative lack of concern of the audience: the cookbook authorship feud described in Chap. 8 comes to mind. However, we find it difficult to imagine scenarios where an author would *freely* admit to the involvement of a ghost, if the audience were likely to react with a strong sense of betrayal. Any admission would likely be made under duress.

Outside of these scenarios, how might the audience react upon learning that a work by a respected physician was ghostwritten? Would it depend on whether the work was a memoir or a scientific publication? What of a Supreme Court justice who made such an acknowledgment? Again, would it matter if it were a judicial opinion or a memoir? Would it matter—in the case of either a memoir or a work-related communication—that the named authors were assumed to have earned their positions through their subject-matter expertise and intellect? Might such expectations make these individuals more or less likely to admit to their reliance on a ghost?

Consider how these intersections would manifest in the case of the head lawyer of a legal team who employs junior associates in his firm to write briefs. A pastor using ghostwritten sermons? A college athlete whose tutors write her papers?

## OTHER ETHICAL FRAMEWORKS

We acknowledge the work of others who have studied the ethical impact of ghostwriting with varying conclusions. For instance, questions raised by Cheryl Conner's analysis—which, in turn, is based on the work of Richard L. Johannesen—corresponds to some of the considerations we have highlighted throughout this volume: is the audience aware? Why is the communicator using a ghostwriter? Is the author involved? Does she believe what her ghostwriter says?<sup>6</sup> These questions bear directly on the ethics of authenticity.

Still others take a broader, but nonetheless instructive, view. Ethicist and blogger Jack Marshall argues that ghostwriting is too often deceptive and self-interested and proposes a scale of ethicality that increases with the degree to which the named author is involved in a communication, but decreases with the influence of special interests.<sup>7</sup> In short, what we have provided in these pages is only one approach, of many, to assessing the ethics of ghostwriting; the interested reader may find many additional resources useful.

## CONCLUDING THOUGHTS

The exploration we have started here—both within specific contexts and more generally—could go on much longer, as there is seemingly no limit to the places where ghosts lurk. But instead, we end this work with a different sort of question: what, if anything, can consumers, citizens, employees, and others do to address *illegitimate* ghostwriting?

We have seen that some professions and disciplines are taking active steps to address ghostwriting that may be ethically questionable. We have seen the example of scientific journals addressing a glut of ghostwritten medical articles and legislation enacted to promote transparency in the field. However, efforts to curb the practice depend on the cooperation of many parties, cooperation that may be hard to gain given the incentives to turn to ghostwriters when time or expertise are limited. Ghostwriting, almost by definition, is built on deceit and must be concealed, so it is unlikely laws, policies, or standardized practices will completely eradicate it, just as they have failed to eradicate plagiarism. Other approaches, of a voluntary nature, seem even less likely to succeed; for example, one writer, a former ghostwriter herself, advocates for total transparency when ghosts are employed (which would, of course, negate the very concept of ghostwriting).<sup>8</sup>

Illegitimate practices notwithstanding, we recognize that there are many venues where ghostwriters provide not only an accepted but also a necessary and valuable service. It would be unnecessary for the president of the USA to open every State of the Union speech with an acknowledgment of his or her speechwriters by name (and, to take the argument to its logical conclusion, the assistants to the speechwriters or the research staff). It seems safe to assume that a significant portion of the American population accepts the fact that presidents rely on the assistance of others to craft speeches. It would be unreasonable to expect presidents or many other leaders to write all of their own material.

Society would be well served by better understanding ghostwriting, its definition and its role in daily life. Our hope is that our exploration of this topic helps to serve that end or has at least helped you as a reader to think more critically about the practice in its various contexts.

## NOTES

1. Cheryl Conner, “Is Ghostwriting Ethical?” *Forbes*, last modified March 13, 2014, <http://www.forbes.com/sites/cherylsnappconner/2014/03/13/is-ghostwriting-ethical/#f1a405533a0d>.
2. Ibid.
3. Ibid.
4. Recall, from our final chapter, that rap music is noted for its authenticity, and that—even if it is ghostwritten—is intended to portray something deeply personal about the artist.
5. While our brief exploration of rap music in Chap. 9 showed that reactions to ghostwriting varied—both within and outside of the industry—we know that at least *some* hearers would feel quite betrayed. In short, enough controversy exists to justify placing rap music in this category.
6. (1) Conner, “Is Ghostwriting Ethical?” (2) Richard L. Johannesen, *Ethics in Human Communication*, 4th ed. (Prospect Heights: Waveland Press, 1996), 138–139.
7. Jack Marshall, “The Ghostwriting Ethics Scale,” *Ethics Alarms*, last modified April 22, 2013, <http://ethicsalarms.com/2013/04/22/the-ghostwriting-ethics-scale/>.
8. Jane Robbins, “The Ethics of Authorship: Is Ghostwriting Plagiarism?” *Inside Higher Ed*, last modified February 23, 2015, <https://www.insidehighered.com/blogs/sounding-board/ethics-authorship-ghostwriting-plagiarism>.

# INDEX

## A

academic dishonesty. *See* ghostwriting, academic

Agassi, Andre, 131, 143n20

American Legislative Exchange Council (ALEC), 28, 29, 40, 44n11, 47n71

Antiphon, 13

Askew, Ken, 53, 60n15

Assange, Julian, 135–7, 142n9, 145n38

authenticity

culture of authenticity, 1, 2

ethopoiia, 14

inauthenticity, 4, 5

personal authenticity, 10–11, 23, 58, 68, 79, 97, 99, 120, 129, 130, 140, 148, 160, 161

philosophy, 37 (*see also* (Lasch, Christopher; MacIntyre, Alasdair; Sartre, Jean-Paul; Taylor, Charles))

role authenticity, 1–12, 41

authorship. *See also* definitions, authorship

copyright, vii, 7, 9

honorary/guest, 108, 109, 111, 112, 114, 119

ownership, 7

## B

Bacon, Francis, 3, 15

Barkley, Charles, 131, 142n18

Batali, Mario, 132, 139

Berra, Mary, 54, 60n21

Bertolini, Mark, 54

Bethune, Gordon, 51, 60n13

Biennu, Marcelle, 132

Botton, Sari, 133, 144n32

Boxill, Jan, 95, 96

Broussard, Bruce, 54

Byrne, John A., 60n13

## C

Caesar, Julius, ix, 14, 30

Canseco, Jose, 155

Carr, Patrick, viii

Carson, Ben, 138, 142n11, 145n49



Cash, Johnny, xi  
 Cathy, S. Truett, 149  
 Chrysler, Walter P., 51, 59n10  
 Clancy, Tom, 132, 143n22  
 Clendenin, John, 53  
 Clinton, Hillary, 129, 130  
 codes of ethics. *See* professional organizations, codes of ethics  
 Colson, Charles (Chuck), 149  
 Cook, Tim, 54  
 Crowder, Debby, 95, 97

## D

David, Gerard, 24n3, 30, 38, 40, 51, 60n13, 67, 74, 80n6  
 definitions  
   author, 7  
   authorship, 110–14  
   editing, 90  
   ghostwriting, vi, 29, 42, 136  
   ghostwriting, medical/scientific, 108–9  
   honorary/guest author, 109  
   memoir, 149  
   plagiarism, 86, 87  
   writer, 7  
 De Jonge, Peter, 128, 141n5  
 Demosthenes, ix, 13  
 De Vere, Edward, 15  
 Devon Energy, 40  
 Douglas, Stephen A., 32, 69  
 Duggar Family, 138

## E

Earl of Derby, 15  
 Earl of Essex, 15  
 Earl of Rutland, 15  
 Earl of Southampton, 15  
 Eminem, 156  
 ethical framework

How might the ghostwritten work affect the personal authenticity of the client?, 10–11, 23–4, 58–9, 79, 99, 120–1, 140–1, 160–1  
 Is it ghostwriting?, 8, 22, 42, 57, 77, 97, 118, 138, 159  
 What consequences may result from a decision to use a ghostwriter?, 9–10, 58, 78, 98, 119, 139, 159–60  
 What principles or duties are at stake?, 10, 43, 58, 78–9, 98–9, 120, 140, 160  
 Whose interests are at stake in the project?, 9, 98, 119, 139, 159–60  
 Why was a ghostwriter involved? What alternatives were available?, 8–9, 77–8, 98, 119, 139, 159

## F

Falwell, Jerry, 137, 148, 149  
 Fenjves, Pablo, 134, 135, 137  
 Foucault, Michel, 3, 11n6

## G

General Motors, 49, 50, 54  
 ghostwriters (speechwriters), presidential  
   Bancroft, George, 31, 32  
   Cobb, David, 30  
   Favreau, Jon, 38  
   Goodwin, Dick, 34  
   Hamilton, Alexander, 15, 31, 40  
   Hardesty, Robert, 34  
   Howe, Louis McHenry, 6, 33, 34  
   Humes, James C., 35  
   Humphreys, David, 30

- Kendall, Amos, 31, 44n23  
 Khachigian, Ken, 32  
 Madison, James, 15, 31  
 Moley, Raymond, 6, 33, 34,  
 36, 142n8  
 Noonan, Peggy, 35, 46n44  
 Organizing for Action (OFA), 41  
 Powell, Jody, 35  
 Rosenman, Sam, 33, 34  
 Seward, William, vi  
 Smith, Craig R., 6  
 Sorensen, Theodore (Ted), 32,  
 36–8, 42, 43, 51, vi  
 Trumbull, Jonathan, Jr., 30  
 Valenti, Jack, 34  
 Welliver, Judson, 32
- ghostwriting  
 contracts, 136, 137  
 motivations (*see* (ghostwriting,  
 literary; ghostwriting,  
 medical/scientific;  
 ghostwriting, musical;  
 ghostwriting, religious,  
 motivations))  
 prevalence (*see* (ghostwriting,  
 medical/scientific, prevalence))  
 prevention, 91 (*see also*  
 (ghostwriting, academic;  
 ghostwriting, corporate;  
 ghostwriting, medical/  
 scientific; ghostwriting,  
 religious, prevention))  
 services (*see* (ghostwriting,  
 academic; ghostwriting,  
 political; ghostwriting,  
 religious; ghostwriting,  
 romantic; ghostwriting,  
 visual arts, services))
- ghostwriting, academic  
 academic dishonesty, 86, 87,  
 93, 130  
 admissions, 88–91, 94, 138  
 Dante, Ed, 85  
 plagiarism (*see* (academic dishonesty;  
 ghostwriting, academic))  
 prevention, 91  
 services, 10, 58, 79, 86, 108  
 Sunseri, Jennifer, 94  
 Tomar, Dave, 85, 86, 97  
 University of North Carolina,  
 Scandal, 95 (*see also* (Boxill,  
 Jan; Crowder, Debby;  
 McAdoo, Michael; McCants,  
 Rashad; Thompson, Jennifer  
 Wiley; Willingham, Mary))
- ghostwriting, arts and entertainment.  
*See* ghostwriting, musical;  
 ghostwriting, visual arts
- ghostwriting, corporate  
 acceptance, 17, 20  
 challenges, 52, 88  
 notable individuals (*see* (Askew,  
 Ken; Berra, Mary; Bertolini,  
 Mark; Bethune, Gordon;  
 Broussard, Bruce; Byrne, John  
 A.; Chrysler, Walter P.;  
 Clendenin, John; Cook, Tim;  
 Gordon, Joanne; Huler, Scott;  
 Iacocca, Lee; Immelt, Jeffrey;  
 Iverson, Ken; Krzanich, Brian;  
 Marriott, Bill; McDonald,  
 John; Molinaroli, Alex;  
 Murdoch, Rupert; Packard,  
 David; Schultz, Howard; Sloan,  
 Alfred P., Jr.; Sparks, Boyden;  
 Varian, Tom; Welch, Jack;  
 Whitney, Catherine))  
 prevention, 91
- ghostwriting/ethics of authenticity,  
 1–12, 18
- ghostwriting, history of  
 ancient China, 15, 28  
 ancient Egypt, 28 (*see also* (Khety))  
 ancient Greece, 13, 14 (*see also*  
 (Antiphon; Demosthenes;  
 Isocrates; Lysias))

- ghostwriting, history of (*cont.*)  
 ancient Rome, 14, 28 (*see also*  
 (Caesar, Julius; Hirtius, Aulus;  
 Oppius, Gaius))  
 biblical times, 15  
 Elizabethan Era, 15 (*see also*  
 (Shakespeare, William))  
 public relations, 17, 18, 56 (*see also*  
 (Goebbels, Herman; Hitler,  
 Adolf; Lee, Ivy Ledbetter))
- ghostwriting, legal  
*Chevron v. Donziger*, 76  
 Federal Rules of Civil Procedure,  
 71, 73  
 Federal Rules of Criminal  
 Procedure, 73  
 Justices, Supreme Court of the  
 United States, 64 (*see also*  
 (Justices, Supreme Court of the  
 United States))  
*pro se* ghostwriting (*see* (*pro se*  
 ghostwriting))
- ghostwriting, literary  
 celebrities, other (*see* (Assange,  
 Julian; Carr, Patrick; Cash,  
 Johnny; Cathy, S. Truett;  
 Colson, Charles (Chuck);  
 Duggar Family; Kardashian,  
 Kim; O'Hagan, Andrew;  
 Richeal, Kip; Sandusky, Jerry))  
 celebrity athletes (*see* (Agassi, Andre;  
 Barkley, Charles; Fenjves,  
 Pablo; Simpson, O.J.))  
 celebrity chefs, 132 (*see also* (Batali,  
 Mario; Bienvenu, Marcelle;  
 Botton, Sari; Keller, Thomas;  
 Ladner, Mark; Lagasse, Emeril;  
 Paltrow, Gwyneth; Ray,  
 Rachael; Ruhlman, Michael;  
 Tirsch, Jesse; Webster, Jim;  
 Willett, Felicia))  
 children's books (*see* (The Hardy  
 Boys and Nancy Drew))  
 motivations, 139, 142  
 notable authors (*see* (Bacon,  
 Francis; Clancy, Tom; de Jonge,  
 Peter; de Vere, Edward; Earl of  
 Derby; Earl of Essex; Earl of  
 Rutland; Earl of Southampton;  
 Greaney, Mark; Jonson, Ben;  
 Marlow, Christopher;  
 Patterson, James; Raleigh, Sir  
 Walter; Shakespeare, William))
- ghostwriting, medical/scientific  
 Grassley, Charles E. (Chuck), 117  
 medical communications  
 company, 108  
 medical writer, 108, 113  
 motivations, 157  
 prevalence, 92, 150  
 prevention, 91 (*see also*  
 (ghostwriting, medical/  
 scientific, Sunshine Act;  
 Grassley, Charles E. (Chuck)))  
 services, 10, 58, 79, 86, 108  
 Sunshine Act, 116, 117  
 Wyeth Pharmaceuticals, 107
- ghostwriting, musical  
 motivations, 157  
 notable individuals (*see* (Eminem;  
 Iggy Azalea; Jay-Z; Mozart,  
 Wolfgang Amadeus; Niigaki,  
 Takashi; Samuragochi,  
 Mamuro; von Walsegg, Franz))
- ghostwriting, personal. *See*  
 ghostwriting, musical;  
 ghostwriting, religious;  
 ghostwriting, romantic;  
 ghostwriting, social media;  
 ghostwriting, visual arts
- ghostwriting, political  
 Arizona SB 1070, 27, 28  
 politicians (*see* (American Legislative  
 Exchange Council (ALEC);  
 Caesar, Julius; Carson, Ben;  
 Clinton, Hillary; Devon

- Energy; Douglas,  
Stephen A.; Hirtius,  
Aulus; Kerry, John; Oliver,  
Robert T.; Oppius, Gaius;  
Palin, Sarah; Paul, Rockwell,  
Llewellyn, Jr.; Pearce, Russell;  
Pruitt, Scott; Rhee, Syngman;  
Ron; Shiflett, Dave; Trump,  
Donald))
- presidential (*see* (ghostwriters  
(speechwriters), presidential;  
Presidents, U.S.))
- services, 10, 58, 79, 86, 108
- ghostwriting, religious
- celebrities, other (*see* (Cathy,  
S. Truett; Colson, Charles  
(Chuck); Duggar Family))
- celebrity preachers (*see* (Falwell,  
Jerry; Graham, Billy;  
Robertson, Pat; White, Mel))
- motivations, 157
- prevention, 91
- services, 10, 58, 79, 86, 108
- ghostwriting, romantic
- Cyrano de Bergerac*, 151
- services, 10, 58, 79, 86, 108
- ghostwriting, social media
- celebrity athletes (*see* (Canseco,  
Jose; O'Neal, Shaquille))
- corporate, 52, 118
- ghostwriting, visual arts
- artists (*see* (David, Gerard;  
Jordaens, Jacob; Koons,  
Jeff; Master of Saint Giles;  
Rubens, Peter Paul; van Rijn,  
Rembrandt))
- services, 10, 58, 79, 86, 108
- Goebbels, Herman, 17
- Gordon, Joanne, 51, 60n13
- Graham, Billy, 137, 148, 149
- Grassley, Charles E. (Chuck), 117,  
126n51
- Greaney, Mark, 131, 143n22
- H**
- The Hardy Boys and Nancy  
Drew, 142n10
- Hirtius, Aulus, 14
- Hitler, Adolf, 17
- Hobbes, Thomas, 4
- Huler, Scott, 60n13
- I**
- Iacocca, Lee, 51, 53
- Iggy Azalea, 155, 165n56
- Immelt, Jeffrey, 54
- Isocrates, 14
- Iverson, Ken, 51, 60n13
- J**
- Jay-Z, 156
- Jonson, Ben, 15
- Jordaens, Jacob, 158
- Justices, Supreme Court  
of the United States
- Brandeis, Louis, 69
- Douglas, William O., 32, 69
- Ginsberg, Ruth Bader, 65, 66
- Jackson, Robert H., 69
- Jay, John, 31
- Stevens, John Paul, 66
- K**
- Kardashian, Kim, 131
- Keller, Thomas, 132
- Kerry, John, 38
- Khety, 14
- Koons, Jeff, 158, 159
- Krzanich, Brian, 54
- L**
- Ladner, Mark, 132, 143n26
- Lagasse, Emeril, 132

Lasch, Christopher, 2, 11  
 Lee, Ivy Ledbetter, 18  
 Lysias, 14

**M**

MacIntyre, Alasdair, 5  
 Marlowe, Christopher, 15  
 Marriott, Bill, 56, 57  
 Master of Saint Giles, 158  
 McAdoo, Michael, 96, 104n46  
 McCants, Rashad, 95  
 McDonald, John, 50, 51, 58  
 Molinaroli, Alex, 54, 60n21  
 Mozart, Wolfgang Amadeus, 157  
 Murdoch, Rupert, 54

**N**

Niigaki, Takashi, vii, 157

**O**

O'Hagan, Andrew, 136, 137, 145n39  
 Oliver, Robert T., 5, 10  
 O'Neal, Shaquille, 155  
 Oppius, Gaius, ix

**P**

Packard, David, 51, 60n13  
 Paltrow, Gwyneth, 133, 144n33  
 Patterson, James, 3, 7, 127–31,  
 141n1, 141n5, 141n7, 158, 159  
 Paul, Ron, 38, 39, 47n63, 47n65  
 Pearce, Russell, 28  
 Presidents, U.S.  
   Bush, George H.W., 6, 35  
   Carter, Jimmy, 33, 35  
   Clinton, Bill, 38  
   Coolidge, Calvin, 30, 32  
   Eisenhower, Dwight, 33, 35

Ford, Gerald R., 6  
 Harding, Warren G., 30, 32  
 Jackson, Andrew, 31, 69  
 Johnson, Andrew, 32  
 Johnson, Lyndon B., 34  
 Kennedy, John F., vi, 6, 30, 32,  
 35–8, 42, 43, 51, 130  
 Lincoln, Abraham, vi, 29, 32,  
 36, 38  
 Madison, James (*see* (ghostwriters  
 (speechwriters), presidential,  
 Madison, James))  
 Nixon, Richard, 30, 33, 35  
 Obama, Barack, 38, 41, 45n36, 155  
 Polk, James K., 31, 32  
 Reagan, Ronald, 32, 35, 39  
 Roosevelt, Franklin Delano, 6, 33,  
 34, 36  
 Roosevelt, Theodore, 29  
 Truman, Harry, 30, 33, 38  
 Van Buren, Martin, 31, 32  
 Washington, George, 15, 29–31  
 professional organizations  
   American Bar Association (ABA), 74  
   American Medical Writers  
     Association (AMWA), 19  
   codes of ethics, 18, 19  
   European Medical Writers  
     Association (EMWA), 113  
   Global Alliance for Public Relations  
     and Communication  
     Management, 18  
   International Association of Business  
     Communicators (IABC), 17  
   International Center for Academic  
     Integrity (ICAI), 87  
   International Committee of Medical  
     Journal Editors (ICMJE), 113  
   New York County Lawyers'  
     Association (NYCLA), 75  
   Public Relations Society of America  
     (PRSA), 17

*pro se* ghostwriting

*Delso v. Trustees*, 72, 83n41,  
83n42, 84n52, 84n54,  
84n55

*Duran v. Carris*, 82n35

*Ellis v. State of Maine*, 84n60

*Johnson v. Avery*, 73, 83n46

*Johnson v. Board of County  
Commissioners*, 83n38, 83n40,  
84n53

*Klein v. H.N. Whitney*, 72, 83n41

*Laremont-Lopez v. Southeastern  
Tidewater Opportunity Center*,  
72, 83n38, 83n41

professional violations, 73

unbundling, 70, 79

*U.S. v. Day*, 83n38

*U.S. v. Eleven Vehicles*, 84n55

Pruitt, Scott, 39, 40

## public relations

Barnum, P.T., 16

Bernays, Edward L., 16, 25n17

Michaelis, George V.S., 16

*Public Relations Journal*, 20

*Public Relations Research, Journal  
of*, 20

*Public Relations Review*, 20

Public Relations Society of America  
(PRSA) (*see* (Professional  
Organizations, Public Relations  
Society of America (PRSA)))

Rockefeller, John D., 17

Pulitzer Prize, 37, 42, 47n78

**R**

Raleigh, Sir Walter, 15

Ray, Rachael, 133

Rhee, Syngman, 5

Richeal, Kip, 135, 137, 138

Robertson, Pat, 137, 148

Rockwell, Llewellyn, Jr., 39

Rubens, Peter Paul, 158

Ruhlman, Michael, 132

**S**

Samuragochi, Mamuro, vii, 156, 157

Sandusky, Jerry, 135, 138

Sartre, Jean-Paul, 5, 12n14

Schlesinger, Robert, 6, 9, 12n20

Schultz, Howard, 51

self-deception, 2, 4, 23, 150

Shakespeare, William, 3, 15

Shiflett, Dave, 137

Simpson, O.J., 134, 135

Sloan, Alfred P., Jr., 49–52, 58,  
59n1, 59n2, 59n9, 131

Sparkes, Boyden, 51, 59n10

**T**

Taylor, Charles, ix, 1, 2

Thompson, Jennifer Wiley, 96,  
104n42, 127

Tirsch, Jesse, 132, 143n26

Trump, Donald, 137

**V**

van Rijn, Rembrandt, 158

Varian, Tom, 60n13

von Walsegg, Franz, 157

**W**

Webster, Jim, 132

Welch, Jack, 51

White, Mel, 137, 148

Whitney, Catherine, 60n13

Willett, Felicia, 132

Willingham, Mary, 96, 104n46