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1. What ethical violations has Laura committed?

Advertising

Advertising must not be misleading or false and must include the attorney name and address. If a lawyer holds himself out to be a specialist then it must have been certified by the state authorities.

Here, Laura and Alex both practice in a suite and thereby work together presumably even if it is not a partnership. However, the facts indicate that each use separate letterhead, business cards, and telephone cards. This is important because both parties must not have any misleading or false information on their letterheads, business cards, and telephone cards. Moreover, if one or both parties are claiming they are a specialist whether in the field of family law or tax law. Both parties specialization must have been approved by state authorities.

Therefore, both parties most likely did not have false advertising.

Duty of competence

A lawyer must have the legal knowledge, skill, thoroughness and preparation necessary to represent a client. In Ca, A lawyer shall not intentionally, reckless, with gross negligence, or repeatedly fail to perform legal services competently.

Here, Laura practices family law, so she has legal knowledge in the field of divorces as she is representing Wendy. The facts indicate that Laura filed a request for child support from Henry, which presumably indicates that Laura in a good faith manner had used her research, knowledge, and thoroughness, and preparation necessary to represent Wendy. Thereby, Laura was competent under AbA rules.

On the other hand, the facts do not indicate that Laura ever intentionally, recklessly, with gross negligence, or repeatedly fail to perform competently on Wendy's case. Therefore, Laura did not violate her rules under California.

Concurrent conflict of interests

A lawyer must not represent a client if doing so will be directly adverse to another client or significant representation will be materially limited due to personal interests/others unless client provides reasonable competent representation, not prohibited by law, and both sides are from the same litigation. Informed consent, confirmed in writing (ABA) and in California written disclosure and informed written consent.

Actual conflict

Here, there is possibility of an actual conflict of interests because Laura is representing Wendy in a suit that their colleague Alex has previously represented Ginny, Henry's gf, on a matter not related to Henry's divorce. The fact that she did not mention this to Wendy an actual conflict of interest would arise because Wendy is suing her husband, Henry, because Wendy suspected that Henry was not being truthful. Thereby, because Alex and Laura both work in the same suit there is an actual conflict of interest.

Potential conflict of interest

Here, there is a potential conflict of interest because of Laura's own personal interests. This is because her receptionist is Sam, her son, and because she did not want to get her son into trouble. She had never mentioned to deed that Alex had received from Henry that Laura had seen and read that the document was addressed to Alex left on the printer by Sam. Moreover, because Wendy is suing her husband about the financial statements as she suspects they are

not truthful and because she believes he is sharing these expenses with his girlfriend, Ginny she should have mentioned this information to both Alex and Wendy.

All in all, there was a conflict of interest.

Consent

Here, under both ABA and CA, Laura never got the consent of both parties because she did not want to ever mention the deed to Alex, Wendy, or the court.

Therefore, Laura failed to get consent.

Duty of Candor (court)

A lawyer may not knowingly make/fail to correct a false statement of law or disclose adverse authority. A lawyer cannot communicate ex parte to judge/jury

Here, the fact that Laura knowingly knew that the document was a property deed and she did not want her son to get in trouble, so she decides to never mentioned the property to Alex, Wendy, or the Court, She failed her duty to the court. This is because not only did Wendy receive a lower award of child support from the court than she should have, based on Henry's incorrect financial statement. After knowing she had presented this evidence, she never notified the court about her knowingly to correct the issue.

Therefore, Laura violated her duty to the court.

Duty to opposing party

A lawyer may not falsify evidence or obstruct evidence from parties/witnesses.

Here, the court most likely would find that Laura obstructed the evidence by not telling Alex because she was representing Wendy in a case that although is not related to Alex's former case representing Ginny (in a unrelated case to Henry's divorce). The fact that she did not mention to Alex and it could get him into legal trouble would be a violation on her part to the opposing party. Therefore, Laura violated her duty to Alex.

Duty of confidentiality

A lawyer must not reveal information relating to a client unless client gives informed consent, permitted by law, or authorized implied by law. A lawyer disclose information to prevent death, substantial injury (not in CA "criminal act), or substantial financial injury. In CA, a lawyer has a duty to dissuade the client as well as reveal information that a lawyer can reveal information.

Here, Laura most likely failed her duty of confidentiality. Although, she needed to get the informed consent of her client. She should have disclosed the information about the property deed to Alex, so Wendy would not have been substantially injured because Wendy had received a lower award of child support from the court. Moreover, Laura could also have injured Wendy by not disclosing this information because Wendy might have had emotional distress after the judgement from the court that she was going to receive lower award. On the other other, Laura most likely did not violate her duty under CA law because she should have disclosed information if Wendy was committing a criminal act as well as persuading her not to take this course of action that could be unethical and violate the rules of professional responsibility.

On the other hand, Laura would argue that the client holds the privilege of duty of confidentiality and because her client was not committing any harmful acts of fraud nor was she assessing the her client in doing so, she did not violate her duty of confidentiality.

In conclusion, whether Laura violated her duty of confidentiality is debatable.

Duty to communicate

A lawyer has a duty to inform the client about the case (includes settlement offers/plea bargains) and must reasonably comply with requested information.

Here, Laura failed to communicate to Wendy that she knew about the property deed that Alex had received and she should have complied with this new information to let Wendy know that her colleagues also represented Ginny in another case.

Therefore, Laura violated her duty to communicate.

Scope of representation

A client decides the objectives of a case and a lawyer decides the legal strategies

Here, Wendy decided the course of action she wanted to take when she had suspected that Henry was not being truthful, and Laura complied with this by filing a request for Child support from Henry. However, when she knew the information about the property deed to Alex, Laura should have disclosed this information and told Wendy what would be a preferable method, so she wins the case. The fact that she did not mention the deed to Alex nor Wendy. Wendy received a lower award of child support from the court than she should have.

Therefore, Laura most likely failed this duty.

Vicarious liability (supervise subordinates)

A lawyer has a responsibility to ensure subordinates are working under the supervision of the attorney in a reasonable and prompt manner.

Here, Laura could be vicariously liable to both Alex and Sam. First, she could be liable to Sam because he is working as a receptionist in her suit and when he had received the document he failed to promptly give it Laura, which might indicate that she had not trained him properly to do this. Additionally, because Laura and Alex both share the same suite and Laura presumably knew that Alex represented Ginny (Henry's gf) in a case not related to her case. She would be liable to Alex because she should have notified him that she is representing Wendy in a case related to financial matters that he as a tax attorney (as it deals with financial statements) because Alex could get into trouble by not being able to reveal to Laura that he once represented Ginny.

2. What ethical violations has Alex committed?

Conflict of interest

A lawyer must not represent a client if doing so will be directly adverse to another client or significant representation will be materially limited due to personal interests/others unless client provides reasonable competent representation, not prohibited by law, and both sides are from the same litigation. Informed consent, confirmed in writing (ABA) and in California written disclosure and informed written consent.

Here, Alex presumably violated a potential conflict of interest because he did not mention to Laura that he represented Ginny in a suit that was unrelated to the suit that Laura is currently presenting Wendy. However, there must be more facts to indicate whether Alex knew that Laura was representing Wendy and because of her representation with Wendy, he should have

known that it is related to Henry's case because he represented Henry's girlfriend, Ginny, in another case.

Thus, more facts need to be given if there is a conflict of interest.

A lawyer must have the legal knowledge, skill, thoroughness and preparation necessary to represent a client. In Ca, A lawyer shall not intentionally, reckless, with gross negligence, or repeatedly fail to perform legal services competently.

Here, Alex might have violated his duty of competence because he is a tax attorney and he represented Ginny in a matter related to property deed. If Alex did not seek the right legal knowledge nor skill and prepare himself to represent Ginny in a field unrelated to tax attorney. He could have violated his duty of competence. Moreover, the fact do not indicate that he intentionally, recklessly, or with gross negligence failed to represent Ginny competently.

Therefore, Alex most likely did not violate his duty of competence.

Vicarious liability (supervise subordinates)

A lawyer has a responsibility to ensure subordinates are working under the supervision of the attorney in a reasonable and prompt manner.

Here, Alex could be liable to both Sam and Laura because of vicarious liability. This is because Alex was sharing a suite with Laura and knew that when Sam had received the document about the property deed, he should have told Sam to give it to Laura. This is because Laura herself found the paper without Sam actually giving it to her. Alex knew that the document was related to a property deed, which is not in the field of practice as he is practicing. Also, because he is sharing the conference room, printer, and Sam. Alex and Laura most likely on a day to day basis have talks about the law and their private lives. Alex should have told Laura because

Laura most likely did tell Alex that he is representing Wendy in a case against her husband. This is important to note because Alex would thereby reveal to Laura that he previously represented Ginny and both parties would have dealt with the issue of conflict of interests.

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END OF EXAM