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1. What ethical violations, if any, has Laura committed?

Professional Corporation

Licensed professionals are permitted to either share an office, so long as they are practicing similar or the same profession or incorporate or hold a partnership.

Here, Laura (L) a family law attorney and Alex (A) is a tax attorney. L and A share a suite, but there is no indication from the facts that they are partners or a corporation together. Because they are both practicing attorneys in different areas, they are permitted to share office space as long as they keep their matters separate from one another and confidential. A and L do share a conference room, a printer and a receptionist. Further, A and L use separate letterhead, business cards and telephone numbers which further demonstrates their relative practice is each their own.

Therefore, A and L are permitted to share office space and demonstrate that each of their practices are separate and apart from one another.

Duty of Confidentiality

Lawyers owe their clients confidentiality to keep the communication, documents privileged while preparing and conducting the case.

Here, L was picking up papers from the office printer (shared by A and L) and read a document addressed to A left on the printer by Sam (L's son and receptionist). The document was a property deed in the names of Henry and Ginny (represented by A), Ginny's address was the same as Henry's. Because L was currently representing Wendy who was divorcing her Husband Henry L has happened upon confidential information of A's client on a different matter not related to L's representation of Wendy. The issue for L is that Henry had not disclosed the property on his financial statement as required to do because L has filed a request for child support from Henry. Wendy had told L that she suspected Henry was not being truthful that he had more income and assets than he claimed, and that he lived with and share expenses with his girlfriend, Ginny.

L breached her duty of confidentiality by reading the document that was addressed to A, rather than either setting it aside or handing it to the receptionist in order to protect the document or have it delivered to A. By L reading the document and learning information that was conflicting with her client Wendy's case L is now in a compromising position with her client and A's client.

Moreover, L did not disclose (**duty of candor**) to A that she had read the document related to Ginny's matter. A lawyer has the **duty of honesty** in relation to their practice as an attorney, to opposing counsel, the court and outside of their business in everyday matters. Because A and L share an office L owed these duties to A knowing that they share an office space, printer and receptionist an issue such as this might arise and L had the duty to disclose it to A in order for them to determine how to resolve the issue or what L has learned.

Therefore, L has breached her duty of confidentiality.

Supervising Subordinates

Lawyers are responsible to properly supervise subordinates whether they be junior attorney's or office staff and are ultimately responsible for the subordinates actions.

Here, Sam is L's son and the receptionist that A and L share in the office. Sam had left the document on the printer that L had read and L knew that Sam had left the deed on the printer and because Sam was her son she did not want to get her son into trouble. Because she did not want Sam to get into trouble she never mentioned the property deed to A, Wendy or the court.

Therefore, L has breached her duty to properly supervise a subordinate by not pointing out the document to Sam that he left on the printer, sharing the error with A, Wendy or the court in order to protect him.



Duty of Candor

Conflict of Interest

When an attorney believes or knows that she has a conflict related to the case, she must disclose it to her client and resolve the issue by either withdrawing, obtaining written consent from her client.

Here, Sam is L's son and has made rather significant error. While employing family members to work in an attorney's practice is not a breach of any duty, it is a breach when the lawyer has let her personal feelings get in the way of her representation of a client. L did not disclose to A, Wendy or the Court as to the information that she has obtained as a result of Sam, her son leaving the document on the printer.

In order to resolve the conflict, L should have first disclosed to A, which from the facts appears to not have happened, and they could have resolved the issue together. Second, L should have

disclosed the conflict to Wendy because it prevented L from using her best judgement in order to protect her son. If Wendy wants to continue having L represent her, CA requires written consent by the client to continue representation, or L may attempt to withdraw if it would not materially impact Wendy's case and either refer her to another lawyer and share case information or Wendy has the choice to hire another attorney herself. If it would be materially impactful, a judge would need to resolve how to handle the situation.

Therefore, L has breached her duty to share a conflict of interest with her client and the court and has let the conflict impair her judgement in relation to reporting it to A.

Duty of Competence

An attorney has a duty to represent her client with the knowledge and skill required.

Here, Wendy received a lower award of child support from the court that she should have, based on Henry's incorrect financial statement. L has demonstrated a lack of competence in her representation because Wendy received a lower award. If Wendy discovers what L knew about Henry's financial situation, Wendy may raise a malpractice claim against L should it be believed that had L handled the document disclosure matter properly, Wendy would have received a higher award.

Therefore, L has breached her duty of competence.

2. What ethical violations, if any, has Alex committed?

Duty of Candor

A lawyer has a duty of candor to her client, and the court when evidence or information is discovered whether or not in favor of their client.

Should A have been made aware of L's obtaining the document and reading the information A had a duty to share this with his client, which from the facts is not disclosed. A also had the duty to report the finding to the court handling the Ginny's matter in order to resolve the disclosure.

Therefore, A has breached his duty of candor.

Duty to Communicate

A lawyer has a duty to communicate with her client related to decisions, settlements and information about the case.

Here, L had a duty to communication to Wendy about what had occurred.

Therefore, L has breached her duty to communication.

Duty of Loyalty

An attorney has the duty of loyalty to her client and to represent the case with zeal.

Here, A if he was informed of the disclosure, out of loyalty to his client should inform her of the disclosure and explain how it can be resolved, if at all.

Duty to Keep Evidence Secure/Client's Information

Every lawyer has a duty to keep client information or case evidence secure to prevent, loss, damage.

Here, A had a duty to prevent the document left by Sam and found by L on the printer. Should he have been expecting the document, he should have communicated with Sam about it given him instruction about it, etc. Also, A perhaps should have checked the printer himself in order to keep the information confidential.

Therefore, A had breached his duty to keep his clients' information secure.

Question #2 Final Word Count = 1322

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