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THIS EXAMINATION CONSISTS OF 3 PAGES (INCLUDING THIS PAGE)
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THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW

FINAL EXAMINATION – April 2019

LAW 468/555C
ETHICS AND PROFESSIONALISM

Section 003
Professor Salter

TOTAL MARKS: 150

TIME ALLOWED: 2 HOURS

NOTE: 1. If writing by hand, candidates must fill in the front of each booklet provided with their Exam Code. Failure to do so may result in the answers not being read. Please indicate the total number of booklets used on each booklet. DOUBLE SPACE YOUR ANSWER. WRITE IN INK.

2. This is an open book exam. Candidates may take any non-electronic reference materials into the examination.

AT THE END OF THE EXAMINATION, PLEASE RETURN THIS QUESTION PAPER TO THE INVIGILATOR.

Part A. (Problems) Answer 4 of the 5 problems in Part A. Each problem is worth 30 marks and the recommended time for completion of Part A is 90 minutes. DO NOT ANSWER ALL 5 PROBLEMS. Assume all of the facts take place in British Columbia.

- A1** Janine is about to graduate from law school. She is a mature student who previously made a living through several odd jobs, some of which were legal, and some of which were not. Sometimes she didn't declare her income to avoid paying taxes. At one point, 8 years earlier, she was selling counterfeit purses out of the back of a van at a flea market, when she was arrested and later convicted of a fraud-related offense. When the time came to apply for articles, Janine left her conviction and most of her background off the application for admission to the law society. When she was found out, Janine enlisted several of her fellow students to provide positive references, but she was a bit vague about what the references were for, and only mentioned that she was having some trouble with her law society admission. She told her ethics professor about the conviction, and the professor wrote a reference for Janine which addressed that issue. Janine has devoted a lot of her time to school, and as the mother of a young child has not had time to participate in counselling or do volunteer work. She's come to you, her articling principal, for advice about the likely outcome of her law society hearing, and what, if anything she should do to prepare.
- A2** Kevin and Lisa are separated and are going through a contentious court battle. Kevin is a lawyer and has decided to represent himself in court. One day, Lisa informs Kevin that she has started dating again, and Kevin texts Lisa saying, "Hope your new guy makes you happy - you should warn him that you'll also bleed him dry like the leech you are." Furious, Kevin also makes an application to have the court reduce Lisa's spousal support payments. In making submissions to the judge, Kevin claims that Lisa is a gold digger who has found a new sucker to support her. On these facts, has Kevin done anything that is contrary to his professional obligations?
- A3** Mariam is a lawyer at a small non-profit organization that specializes in bringing test cases to court. Mariam is working on a test case to challenge a bylaw that prevents homeless people from sleeping on the sidewalk. Mariam is looking for the perfect plaintiff to bring the test case, and approaches Joan, who was sleeping on a sidewalk outside her office. Mariam explains that she's a lawyer and that she'd like to talk with Joan about whether she's been told by the police not to sleep on the sidewalk. Joan tells Mariam her story, including all the fines she's been given for sleeping on the sidewalk. Miriam listens sympathetically and mentions that Joan can challenge the fines in court, while pointing in the general direction of the courthouse. Miriam goes on to find the ideal plaintiff for her test case, who doesn't normally sleep on the sidewalk. Mariam persuades her to lie down on the sidewalk in front of a police officer, and the plaintiff was promptly arrested. Mariam begins to work diligently on the case. A month later, she is surprised to learn that Joan has filed a complaint to the law society, alleging that Mariam didn't show up at her court date, and as a result Joan lost her chance to challenge the bylaw fines. You are Mariam's supervising lawyer. What advice would you give her about her situation?

- A4** Daniel is a criminal defence lawyer representing Pearl, who has been charged with shoplifting. At any given time, Daniel juggles 300 legal aid files, and he struggles to make a living at it. On the day of Pearl's scheduled appearance in court, Daniel met with Pearl after briefly reviewing what he thought was her file, which showed video footage of a person putting something in a backpack, though the video quality was pretty grainy. Daniel told Pearl that he had reviewed her file and he didn't think there was much chance of her avoiding jail. He told her that he could get her a plea deal for 15 days in prison, but if she went to trial she might get 6 months in prison. Pearl, who had just started a job as a teacher's assistant and was the main caregiver for her elderly mother, reluctantly agreed. Just before the appearance, Daniel realized he had looked at the wrong file but thought that since Pearl was prepared to plead guilty, this didn't matter. After pleading guilty, Pearl lost her job because a criminal record barred her from working with children. Pearl filed a complaint against Daniel with the law society. What do you think is the likely outcome of the law society proceedings? Explain.
- A5** Gurprit represents Plentyland, an amusement park looking to expand by acquiring a neighbouring property. Gurprit learns that the property in question is a wetland home for water birds. Gurprit, a lifelong bird-lover, feels conflicted about enabling Plentyland to pave over the property to build more rollercoasters. When talking to the property's owner, Gurprit learns that there is a competing offer from Save the Quackers, a wildlife protection group, whose major donor is a wealthy environmentalist who Gurprit also represents with respect to his estate. The offer is slightly higher, and Gurprit, due to her workload but also feeling a little demoralized, forgets to mention the offer to Plentyland. On these facts, has Gurprit done anything wrong?

Part B. (Reflective Essay) Answer the one question in Part B. Your answer is worth 30 marks and the recommended time for completion of Part B is 30 minutes.

30 MARKS

Some lawyers argue that self-regulation of the legal profession is necessary to protect the rule of law. With reference to readings, class discussion, and caselaw (as applicable), to what degree do you agree or disagree with this argument? Which aspects of the existing regulatory system and BC Law Society Code of Professional Conduct could be altered to better protect the public interest?

END OF EXAMINATION