

## **WARNING**

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Family Name					
Given Name/s					
Student Number					
Teaching Period	Semester 2, 2017				

LWZ320 – Professional Responsibility	<b>DURATION</b>	
	Reading Time:	20 minutes
	Writing Time:	120 minutes
<b>INSTRUCTIONS TO CANDIDATES</b>		
<p>The Examination is worth 60% of the total marks for Unit                  There are four questions (note questions 1 and 2 have two parts and question 4 has four parts). Candidates must attempt all four questions.                  Questions are <b>not</b> of equal marks and carry the marks indicated.</p>		
<b>EXAM CONDITIONS</b>		
<p><u>You may begin writing from the commencement of the examination session.</u> The reading time indicated above is provided as a guide only.</p>		
This is an OPEN BOOK examination		
No calculators are permitted		
Any handwritten material is permitted		
Any hard copy, English dictionary is permitted (annotated allowed)		
<b>ADDITIONAL AUTHORISED MATERIALS</b>	<b>EXAMINATION MATERIALS TO BE SUPPLIED</b>	
Any printed material with the exception of CDU Library books	1 x 20 Page Book 1 x Scrap Paper	

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### Question 1

- a) Distinguish between confidentiality and legal professional privilege. **(5 Marks)**
- b) To what extent did the *Evidence Act 1995* alter the common law with respect to legal professional privilege? **(10 Marks)**

**Total 15 marks**

### Question 2

- a) What is the purpose of maintaining separate client ledgers in a firm's trust account?  
**(3 Marks)**
- b) Is written authorisation required from the client before a payment is made from funds held in a firm's trust account on their behalf in all circumstances? If not, in what circumstances can a payment be made without such written authorisation?  
**(7 Marks)**

**Total 10 marks**

### Question 3

Anna is in a mainly commercial practice. A longstanding client of hers, Beth, comes to her with an associate, Caroline. Beth tells Anna that she (Beth) is going to borrow \$50,000 from Caroline and asks Anna to prepare the appropriate loan documentation. Beth tells Anna that Caroline will pay Anna her fees incurred in the loan document preparation. Caroline confirms to Anna that this is the case. Beth also says that she will put up her vintage 1962 Fiat 500 convertible as security for the loan. Anna is aware that the Fiat 500 is not functioning and in bad condition, she assumes that Caroline is also aware of this and that the 'security' is nominal.

Anna prepares the loan documentation which is duly executed and the loan proceeds. Beth takes the proceeds of the loan, purchases a brand new Fiat 500 and flees the jurisdiction. When Caroline seizes the vintage Fiat 500 and sells it the sale realizes on \$5,000. An angry Caroline goes to Anna and accuses her of professional negligence.

Anna comes to you to seek advice as to whether she may be liable for any negligent conduct and whether there may be any disciplinary consequences rising from her actions. Provide advice to Anna.

**15 marks**

#### Question 4

Briefly describe the meaning and significance of the following terms

- a) The Crown as a “model litigant”.
- b) The retainer.
- c) Transit Monies.
- d) An Information Barrier.

**Total 20 marks (5 marks each)**

**END OF EXAM**