

# Frostburg Fit

## **Scenario C:** Moonlighting

## PROJECT TEAM

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**Please note:** All company and individual names in this case are fictional.

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The case begins with introductory information about the organization and is then divided into three scenarios.

Each scenario includes question sets for **undergraduate** and **graduate** students. A debrief is included with each scenario, but because management dilemmas can be resolved using a variety of solutions, expect that students may come up with solutions that differ from those included in the scenarios. This document contains only Scenario C: Moonlighting. The scenarios are as follows:

- **Scenario A:** Fair Labor Standards Act
- **Scenario B:** Employee Conduct/HR Strategy
- **Scenario C:** Moonlighting

# Overview

Frostburg Falls is a thriving community 125 miles northwest of Minneapolis recently voted as one of the top 100 small towns in the United States by a major travel and tourism publication. Located in Otter Tail County with a population of nearly 15,500, Frostburg Falls is described by many as having active, engaged residents. Because of its access to numerous biking and hiking trails, lakes, golf courses and retail stores within a vibrant downtown district as well as to a major shopping outlet 10 miles from the town, Frostburg Falls has become a popular destination for retirees. It is also known for its Frostburg Falls Fest in early October, which brings more than 60,000 visitors to the town over a four-day period.

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### Figure 1: Community Data—Frostburg Falls

Population (2015): 15,447 (90% urban, 10% rural)  
Population change since 2005: +0.8%  
Male: 48.2% (7,445)  
Female: 51.8% (8,002)  
Median Age: 42.1 years (Minnesota: 37.7)  
Median household income: \$45,260 (Minnesota: \$61,702)

#### National Origin

White:	91.5
Hispanic:	2.8
African American:	2.3
American Indian:	1.2
Asian:	1.2
Other:	1.0

Unemployment rate: 4.5% (Minnesota: 4.6%)

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Frostburg Fit is a nonprofit recreational facility that was established as the Frostburg Falls Recreation Center in 1993 for the purpose of offering opportunities for the community’s youths to increase their level of physical activity. At that time Gail Wolfe, the founder and executive director, served as a physical education teacher at Frostburg Falls Middle School. In her role as an educator, she became increasingly frustrated with witnessing the majority of her students engaging in exercise only during physical education

classes. In the early 1990s video games and television were viewed as the primary culprit for inactivity, which has only magnified with other sedentary activities driven by technology, including the Internet, and in more recent years, by social media and texting. Gail's passion for physical activity and a report at the time by the Otter Tail Health Foundation (see below) that listed childhood obesity as a top-five health concern for Otter Tail County inspired Gail to want to do more than just teach gym classes to a limited number of students. Although she felt she made a difference in her position, she believed physical activity must play an important role outside of school as well.

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## Figure 2: Highlights of the 1993 Otter Tail Health Foundation Community Assessment—Childhood Exercise and Nutrition

### Physical Activity

About one-fifth of county students reported engaging in 60 minutes of physical activity every day:

- 17 percent of 5th graders
- 21 percent of 8th graders
- 22 percent of 9th graders
- 16 percent of 11th graders

Forty-six percent of 5th graders, 57 percent of 8th and 11th graders, and 56 percent of 9th graders reported 10 or more hours of screen time per week.

### Nutrition

Rates of overweight and obesity have increased in adults and children.

Among children ages two to five enrolled in the community health study, 13 percent had a body mass index (BMI) greater than or equal to the 95th percentile for their age. For children ages six to 10, the percentage was 17 percent, and for children ages 11 to 15, the percentage was 19 percent.

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With her vision to create meaningful change within the Frostburg Falls community, Gail first approached the borough council with a proposal to build a recreation center at the site of an abandoned shoe factory, which closed its doors due to economic conditions shortly beforehand. Gail's bid included offering after-school and summer programming exclusively for the children (ages 9 to 18) of Frostburg Falls. Gail collected more than 250 signatures from parents and concerned community members, which she presented to the council. In addition, she also brought to the city council meeting several of her current and former students who expressed a concern for the limited areas for physical activity, particularly during the harsh winter months. In comparison to warmer climates, the opportunity for children to experience outdoor activity in Minnesota can be limited to six months out of the year.

Gail's persuasive presentation convinced the council to dedicate start-up funding to open a section of the shoe factory to offer group-facilitated strength and conditioning classes five days each week. Additional funding would have to be approved by the council each year. The borough's agreement included a stipulation of various performance metrics, including number of members, retention of members, and a series of community-based studies focused on improved fitness levels and nutrition of the community's youth in partnership with the Otter Tail Health Foundation. Shortly after the initial funding was approved, two local businesses committed sizable donations to create a basketball court and to purchase exercise equipment. Parents could purchase different levels of membership based on how often their children attended and the types of activities they participated in at the center. The recreation center, referred to as the "Shoe Box" by one of the council members, opened for business on June 11, 1993.

In 1997, the owner of the town's only adult-centered fitness facility approached the borough about purchasing the facility's equipment because he was planning to close the business. The borough agreed to the purchase and relocated the equipment to the recreation center, requiring it to expand to an additional area of the factory and thus increasing the square footage from 2,500 to 6,000 square feet. The borough, shortly after the purchase, opened membership to adults, which increased its membership from 250 children to 650 total members within the first 12 months. The facility expansion also required an increase in the operating hours of the center. The borough manager approached Gail about becoming the full-time director of the center. Gail was conflicted with this offer given that she had dedicated nearly 20 years of her life to the Frostburg Falls School District. However, she accepted the position because she felt she could create more of a lasting impact on the community in this role.

The center now included a kids' gym, adult weight training and cardio room, an exercise room for fitness classes, and an additional room for day care. Locker rooms were also installed shortly after the expansion thanks largely in part to another community donation. To help fund the costs, the borough leased four areas of the factory for retail space, including an athletic apparel store and a nutritional supplement store. A year later, an indoor kid's playground was installed next to the day care location, and the center was at maximum capacity.

In 2005, the recreation center received a state grant to begin construction of a facility next to the existing location that would house a hockey rink and turf field. The hockey arena was named Nichols Arena after Bret Nichols, a native of Frostburg Falls who played in the National Hockey League (NHL) from 1991 to 2003. It was Nichols who had the idea to build an arena in his hometown to provide local opportunities for the youth of Frostburg Falls

and the surrounding communities. Nichols' donation helped pay for almost half of the initial expenses, including the rink, turf field, and equipment for the hockey teams. The rink is used throughout the year and serves as a venue for many local and state hockey tournaments as well as for open skating sessions and group lessons.

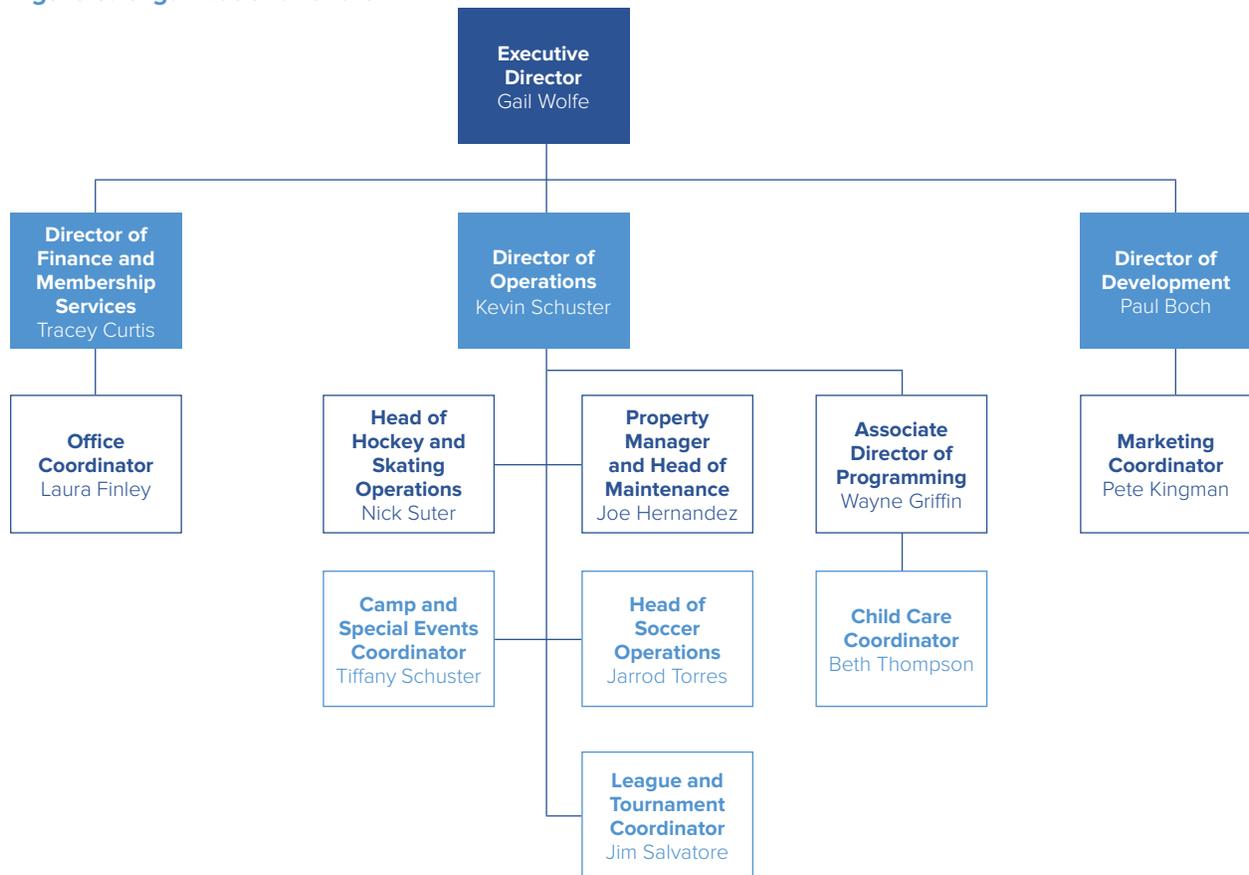
In 2007, the recreation center began to expand its reach beyond Frostburg Falls, allowing residents from other local communities to be members. This angered some community members, but most realized it was necessary given the increased labor and capital costs with the continued growth of the center. The membership fees for individuals who were not residents of Frostburg Falls were 20 percent higher. That same year, the borough initiated a marketing study to strengthen the footprint of the center. Among the outcomes, the borough changed the official name of the center to Frostburg Fit. Unfortunately, a year later, the economic recession hit the community of Frostburg Falls quite hard. Beyond just witnessing a decrease in membership, many businesses were forced to close because of the financial environment. The borough, already forced to lay off 5 percent of its staff, including some employees at the center, gave serious consideration to selling Frostburg Fit to a for-profit fitness franchise based out of Minneapolis. However, the leagues and tournaments were still having a positive impact on the hospitality industry within the community, and the borough decided against selling the center.

Gail was recently awarded a humanitarian award by the state of Minnesota and traveled to Saint Paul to accept the award. In her acceptance remarks, Gail commented that there is nothing that can stop a community when everyone is going in the same direction. Her remarks only strengthened her position among the residents of Frostburg Falls. Now that the center is only a few years away from celebrating its 25-year anniversary, Gail can look back with pride on all of the accomplishments that have been made, particularly during the difficult economic challenges. Gail is most proud to offer employment opportunities to residents interested in the area of health and well-being. She feels many of the center's exceptional employees would have left the area if it were not for Frostburg Fit.

However, the growth Frostburg Fit has experienced during the past several years has come with its own set of challenges, especially in the area of human resources, which Gail has realized. What began as a community recreation center with five part-time employees in 1993 has now increased to 28 full-time employees and 43 part-time employees, although some questions about the classification of many employees are beginning to surface. Currently, Frostburg Fit does not have a person dedicated to human resources. Laura Finley serves as the office coordinator and is responsible for several aspects of the operations. Among her growing list of responsibilities includes human

resources, but her background in the field is limited, and her role has not been clearly defined. The growth, coupled by a lack of a strong human resource presence to provide both structure and consistency, has placed a pillar in the community at serious risk.

**Figure 3: Organizational Chart**



**Figure 4: Performance Metrics (2010-2015)**

	2010	2011	2012	2013	2014	2015
<b>Number of Members</b>	673	662	692	723	762	796
<b>Annual Increase in Membership</b>	-1.6%	-1.2%	4.4%	4.3%	5.2%	4.3%
<b>Membership Retention</b>	86%	87%	87%	89%	87%	86%
<b>Number of Children (Youth Fit Camp)</b>	53	51	62	68	65	71
<b>Member Satisfaction Score</b>	73%	72%	77%	78%	77%	74%
<b>Annual Giving</b>	<b>\$332,684</b>	<b>\$318,902</b>	<b>\$330,653</b>	<b>\$328,257</b>	<b>\$334,590</b>	<b>\$337,720</b>

# Scenario C: Moonlighting (Holding a Second Job)

Wayne Griffin serves as the associate director of programming at Frostburg Fit. In his role, he is responsible for scheduling all group fitness and nutrition classes. He also is responsible for organizing both indoor and outdoor team competitions, including the state hockey, soccer and lacrosse tournaments, along with 11 summer camps. This requires reviewing member feedback on offerings as well as meeting regularly with instructors and coaches and revising the programs as needed. Wayne is also involved in hiring instructors and coaches and must secure substitute instructors if someone is unable to work. Wayne's role expanded last year to include planning community bus trips to sporting events and shopping trips to venues such as the Mall of America in Bloomington.

Wayne is an exempt employee, meaning his position does not qualify for overtime payment. Typically he is able to complete his responsibilities in 40 hours but is required to work during certain times of the year to oversee special events such as tournaments and camps. Also, when Kevin Schuster, Wayne's immediate supervisor, is on vacation, Wayne is asked to fill in and assume many of Kevin's responsibilities. On a few occasions, Wayne has been called in when there has been an emergency situation such as a serious injury to a member or assisting with snow removal.

Wayne recently completed his associate's degree in sports and fitness management from a local community college by taking evening classes while working full time at Frostburg Falls during the day. Kevin has been supportive of Wayne as he completed his studies. He also understands that Wayne is looking to own his own gym when the right opportunity presents itself. Wayne has been working with the owner of Apollo Fitness, a new personal fitness training studio, to gain experience on the administrative, marketing and financial aspects of operating a business in the industry. As Kevin did with Wayne's education, Kevin continues to support Wayne, providing him with flexibility when possible. Gail was supportive of Kevin when he wanted to participate in a community leadership program sponsored by the chamber of commerce last year, which had him out of the office for extended periods of time, and thus Kevin feels it is right to offer the same to Wayne.

With the local economy improving over the past few years, Frostburg Fit has had difficulty in retaining its instructors and coaches, who, with the exception of the hockey coach, are part-time. Benefits to part-time employees include only a reduced membership rate to the center. Hiring has required a significant amount of time from the center's staff and is one of Wayne's essential functions. Whereas Kevin is ultimately responsible for hiring all personnel, he has allowed Wayne to take the lead role in filling instructor and coaching positions, and Kevin's focus is on administrative positions. However, recent events have Kevin reconsidering this strategy.

Wayne's outside work has not appeared to be an issue until recently when two instructors approached Kevin in the same week expressing their frustration about Wayne's oversight and lack of responsiveness. Janice McCall, a fitness instructor, tried to contact Wayne both in person and by e-mail the past week to arrange a substitute instructor for her class while she is away on vacation. Later in the week, Peggy Rowan, the center's part-time nutrition counselor, wanted to speak with Wayne about a breakdown in communication when she was scheduled to facilitate a workshop that was never on the center's schedule. With these two conversations so close to one another, Kevin grew more concerned.

While this was happening, Kevin was also beginning to question why some instructor positions were taking longer than usual to fill. In most instances, Wayne is able to secure substitutes, but there have been times in which classes have had to be canceled because no one was available to teach. This frustrates members, particularly when they travel to the center only to learn there is no one to lead some of the sessions. Although he fully supports Wayne as he looks to transition his career, Kevin is beginning to wonder if Wayne is taking the support a bit too far and compromising his work with the center. Kevin also recalls occasions when he stopped by the office to ask Wayne a question and Wayne quickly reached for the mouse button on his computer to click away from a webpage or program. Kevin would not be completely surprised if Wayne was conducting his work at Apollo Fitness on the center's computer, but he would have no way of knowing unless someone searched Wayne's Internet activity.

Frostburg Fit does not have a policy in the employee handbook addressing employees who work other jobs. The only related information is within the section on operating hours that states that the administrative office is open from 8:30 a.m. to 4:30 p.m. Monday through Friday. Wayne's office is down the hall from Kevin, who has noticed Wayne's absence from time to time. He also knows that Wayne's position requires him to be out of the office regularly to speak with instructors, coaches, other employees and members. Kevin never wants to micromanage any of the employees who report to him. However, he feels he needs to discuss his concerns with Wayne.

### Later that day in Wayne's office

“Hey, Wayne,” stated Kevin as he lightly knocked on the Wayne’s door unannounced. “Oh, hey Kevin. What’s up?” replied Wayne. “What are you working on?” Kevin asked. Wayne looked somewhat puzzled given that Kevin had never asked him such a question in the four years they have worked together. In a surprised, somewhat anxious tone, Wayne said, “I’m reviewing applications for the water aerobics instructor position. Why do you ask?” Kevin replied, “No reason, but it is good to see you are moving closer to filling that position. It has been three weeks.” Wayne, clearly sensing that Kevin came to his office for some reason, spoke in a more direct tone. “Kevin, what is going on? I know you well enough that you don’t stop by the office unless you have a reason.” Kevin, lowering his head while closing the door behind him, realized this was not going to be an easy conversation.

As he sat down in the chair across from Wayne, Kevin stated, “OK, two instructors came to see me this week clearly upset. Both have tried to get a hold of you on multiple occasions. I also was told there was a scheduling error with one of the sessions.” Wayne shook his head in disbelief and quickly responded, “Are you referring to Janice and Peggy?” Kevin replied, “I am, but it doesn’t matter who this is about.” In a dismissive tone, Wayne said, “I have Janice’s substitute, and the scheduling snafu was not a big deal. I’m sure Peggy came to you as if the world was going to end. That’s how she is.” Kevin, sensing Wayne’s frustration, tried to calm the situation by stating, “I just want to get your take on both matters. You said it was not a big deal with Peggy, but you did call it a ‘snafu.’ Can you tell me what happened?” Wayne, not appearing any calmer, admitted that he asked Peggy to lead a discussion on low-carb dieting a couple of months ago but never added it to the master schedule. Kevin replied, “Can you see why she would be frustrated? Not only did she arrive to the program with no attendees, but she spent several hours preparing for the session. We have to pay her for her time.” Wayne, realizing the hardship his error caused, said, “I will talk with Peggy and apologize to her. I’ll get that session on the schedule for the future.” Kevin replied, “Thanks. What about Janice?” Wayne responded, “I feel like I am on trial here.” Kevin, now becoming frustrated himself, asked, “Don’t I have a right to ask you questions when issues come up?” Wayne, looking at the clock to see how close it was to 4:30 p.m., hoping to end the conversation soon, said, “You do. I’m sorry. I will let Janice know that I have her classes covered.” In a dismissive tone, Wayne asked Kevin, “Anything else?” Kevin felt upset about how Wayne has responded to him despite Kevin’s support of his academic work and career interests, and he decided he was not going to wait any longer to address his hiring concerns. “Wayne, you are usually on top of things whether it is scheduling, hiring or anything else that is asked of you. We have a number of openings that have not been filled for weeks. This, along with the issues with Janice and Peggy,

have me concerned.” As Kevin was about to continue, Wayne interrupted and asked, “Why does this have you concerned?”

Kevin got up from the chair and approached the door to initiate the end of the conversation because both were feeling quite uncomfortable at this stage. Before doing so, he looked at Wayne and said, “I have been in your corner since you decided to go for your degree. In return, you have performed exceptionally well, but I am truly concerned that your outside work is affecting the operations of the center.” Wayne, almost smiling in frustration said, “I was waiting for you to say that. There is no way my work at Apollo is affecting this job.” Having heard Wayne’s response, Kevin simply said, “Alright,” clearly not convinced and proceeded to leave Wayne’s office.

As he walked back to his office and reflected on the conversation, Kevin saw Gail approaching from the opposite section of the hall. Gail sensed that Kevin was not in the right frame of mind and asked, “Hey Kevin, what’s going on?” Kevin, simply shaking his head in disbelief, said to Gail, “Come on in, I’ll tell you about it.”

## UNDERGRADUATE QUESTIONS

### **How should Kevin respond to Wayne after the interaction in Wayne’s office? Should Wayne be disciplined?**

The case outlines what appears to be a positive working relationship between Kevin and Wayne up until this point. Kevin has provided Wayne the flexibility to pursue his career goals, and, in return, Wayne has performed to meet Kevin’s expectations. There are multiple issues at stake in this scenario. What might be the most straightforward of the issues to address is the recent performance issues involving the fitness and nutrition classes. In their book *Crucial Confrontations*, authors Kerry Patterson, Joseph Grenny, Ron McMillian, and Al Switzler stated that when an employee’s performance falls short of a supervisor’s expectations, there is a performance gap that exists that must be addressed. Based on the conversation between Kevin and Wayne, it appears that both class issues will be resolved once Wayne contacts both of the instructors. Of course, it is Kevin’s responsibility to follow up to ensure Wayne completed the tasks. The second issue is how Wayne spoke with Kevin, which could be perceived as insubordinate in nature. Let’s assume that this is the first time that Wayne has spoken with Kevin in this manner. Wayne has the right to defend his actions, but he should not question why Kevin wants to understand what happened in the two scenarios involving the instructors.

Given that Kevin is speaking with Gail, he should recommend to her a course of action for her consideration. Let's assume that a progressive discipline policy is in place, and it states that the first offense constitutes a verbal warning. Kevin should then document the conversation that occurred with Wayne and follow up with him the next day. The document should include the content of the conversation, what Kevin's expectations are of Wayne and what the ramifications will be if Wayne fails to comply. The expectations should include Wayne following up with both Peggy and Janice as well as Wayne agreeing not to speak to Kevin as he did, because his tone can be interpreted as defensiveness at a minimum and possibly insubordinate.

### **What actions should Kevin take to ensure that Wayne's outside responsibilities do not affect his duties at Frostburg Fit?**

Employees working outside their primary employment is not uncommon, particularly during difficult economic times. According to the Bureau of Labor and Statistics (BLS), approximately 6.8 million Americans work at a second job of some kind (Desilver, 2014). We know that Wayne's primary reason for working at Apollo Fitness is to gain experience to someday own his own business. Although legal experts believe it would be problematic to prevent someone from working at another organization, the primary employer does have the right to expect the employee to be focused, present and productive while on the job (Robinson, 2009). Furthermore, Sangwan (2014) advised that the focus should not be on preventing the employee from working a second job but on preventing a conflict of interest from occurring.

For the best interest of the center and all involved, it is important for Kevin not to escalate the matter after this unfortunate conversation. Kevin should examine Wayne's entire body of work as an employee while making it clear to Wayne that it is important to be organized and to communicate with his colleagues in a timely manner. Documenting the conversation will put Wayne on notice. This matter should resolve itself if Wayne follows up with Peggy and Janice and does not have any similar incidents in the future. However, if there are similar instances, Kevin will have to not only address the instances himself but also determine if Wayne's outside responsibilities are indeed affecting his performance at Frostburg Fit.

In the case, Kevin recalled times when Wayne quickly clicked away from a program or website on his computer when Kevin would stop by Wayne's office. Wayne may indeed be working on his Apollo Fitness projects while at work at Frostburg Fit and using the center's resources to complete the projects. As the supervisor, Kevin (and the center) has the right to review an employee's computer because the computer and anything produced on the computer is considered the property of the center. Frostburg Fit must also, if

it has not already been done, develop a responsible use policy for computer, software and electronic communication that should be linked directly to a conflict of interest policy.

## GRADUATE QUESTIONS

**Given the facts presented in the case, do you feel an employee with Wayne's responsibilities at Frostburg Fit should be allowed to work elsewhere? Does Wayne's employment with Apollo Fitness present a conflict of interest? Please explain.**

Responses to this question will vary. Most human resource professionals and employment law attorneys would agree that Wayne should be able to seek additional employment elsewhere as long as it does not interfere with his duties at Frostburg Fit. However, it is important to note that Wayne is an exempt employee, and his responsibilities require him to be available to work outside of the normal operating hours of the center. This includes coming into work at a moment's notice in case of an emergency. Will he be able to do this if he is working for another employer?

Audrey Mross, a former HR professional and current head of the labor and employment section at law firm Munck Carter, stated that employers cannot provide an adverse employment action against an employee for participating in activities outside of their primary occupation (Grensing-Pophal, 2009). However, moonlighting is not considered a protected legal right, and many employers feel that, regardless of what the law states, employees should be fully committed to their full-time positions. It is at the employer's discretion to terminate an individual's employment if it deems the outside work is negatively affecting the employee's primary occupation. One could argue that Wayne's performance has not met expectations recently and could point to his work at Apollo Fitness as a possible reason for his mistakes and for not completing tasks in a timely manner (Robinson, 2009). Kevin should be applauded for having Wayne's best interest in mind in wanting to support his career development. However, the issue of working for Apollo Fitness must be addressed. Without knowing the exact business model of Apollo Fitness, it is safe to consider the organization to be a competitor of Frostburg Fit (note: a conflict of interest statement does not currently exist at Frostburg Fit). If the worker is moonlighting for a competitor, all kinds of issues can arise. Employees owe their employers loyalty, meaning they cannot violate confidences or take advantage of proprietary or secret information to moonlight. Allowing Wayne to participate in this type of outside employment puts Frostburg Fit at serious risk. Mross pointed out that the exception to not being able to provide an adverse employment action against an employee would be if there were a conflict of interest involved (Grensing-Pophal, 2009).

**Does Frostburg Fit, as the employer, have the right to access the files and Internet history on Wayne’s computer? Assume the role of Kevin. Would you want to take this action? Explain your position.**

First, employee theft is a tremendous cost to businesses. Some have estimated the overall cost to be between \$20 and \$50 billion annually (Foley, 2014). In fact, some experts believe that organizations with fewer than 100 employees experience more theft than their larger counterparts. In addition, the United States Department of Commerce estimated that approximately a third of all business failures can be attributed to criminal behaviors of their employees, including theft (Association of Certified Fraud Examiners, 2014). A major reason for this is that smaller organizations lack the resources and sophistication to target such theft. Students may not first realize this to be an issue of theft. However, it is a very serious issue of theft if Wayne is indeed spending time working on his Apollo Fitness duties while in his office at Frostburg Fit. He could be performing any type of work to benefit Apollo Fitness, from working on promotional materials to actually extracting Frostburg Fit files that could provide a competitive advantage to his second employer. So there is the potential issue of stealing time as well as proprietary information. However, Kevin and Frostburg Fit are not fully confident that either is occurring at this time.

Secret electronic monitoring of employees is certainly a controversial topic in which employers should exercise caution before proceeding. Gomez-Mejia (2012) suggested that such monitoring should be isolated solely to employees who organizations have strong suspicion are in fact stealing from the company. It is not clear if Frostburg Fit developed a policy on responsible computer use when it created the employee handbook last year. Such a policy should articulate that the computer systems, software and files are the property of the organization. A policy should also make it clear that the organization does have the right to routinely monitor activity, deny future access and administer discipline, including termination (SHRM, 2014).

To access a sample policy that is provided by the Society for Human Resource Management, go to [http://www.shrm.org/templatestools/samples/policies/pages/cms\\_006400.aspx](http://www.shrm.org/templatestools/samples/policies/pages/cms_006400.aspx).

**Given what you know about the case, draft a moonlighting policy that would be applicable to Frostburg Fit.**

Most human resource professionals would agree that having a moonlighting policy in place makes perfect sense from a business perspective. The primary purpose of a moonlighting policy is to communicate performance expectations to employees who are currently participating in or are

considering outside employment. In addition, the policy should clearly discuss conflicts of interest and protection of proprietary information of the organization (Hirschman, 2007).

The content of the moonlighting policy will differ depending on the type of employment and organization. Below are core components that should be considered essential to any policy:

- **Introduction.** This is a general statement explaining the reason for the policy and how the employee's performance cannot be compromised if the employee engages in outside employment.
- **Performance expectations.** This is typically a broad statement to address all employees indicating that they must perform in a way that meets the expectations of their supervisors and employer.
- **Schedule.** This section states that all employees, whether classified as exempt or nonexempt, must adhere to the scheduling demands of the primary employer, which may require them to work outside of their normal schedules. If a scheduling conflict is identified, an employee may be asked to terminate his or her outside employment or risk being terminated in his or her primary employment.
- **Conflict of interest.** Language in the moonlighting policy should connect with a separate conflict of interest policy developed by the organization. This simply states that if a conflict of interest is identified that could have a potential impact on the primary employer, then the individual's outside employment must be terminated.

Below is a sample policy that addresses each of these areas:

Frostburg Fit hopes that its employees will find it unnecessary to acquire outside employment. However, if an employee chooses to work outside the organization, he or she may do so, as long as it does not interfere with his or her work schedule or performance at Frostburg Fit.

Full-time employees are expected to consider Frostburg Fit to be their primary employer. Outside employment that affects an employee's attendance, work performance, productivity or conduct, either directly or indirectly, or that creates a conflict of interest of any kind, is strictly prohibited. Frostburg Fit relies on the best efforts of all our employees; therefore, work schedules will not be adjusted, and special considerations cannot be made for employees who have outside employment.

If considering outside employment, the employee must consult with his or her supervisor and the branch executive to determine whether a conflict of interest could arise. The employee may be asked to refrain from accepting the outside employment if it is determined that there is a conflict of interest.

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