

**SUPREME COURT OF WISCONSIN**

**OFFICE OF LAWYER REGULATION**

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Public Reprimand with Consent

JANET L. HEINS

2020-OLR-7

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In 2017, a man hired Attorney Janet L. Heins (Heins) to represent him in an employment discrimination and retaliation matter. Heins represented the man pursuant to a 40% contingent fee agreement. In December of 2017, Heins filed a lawsuit on her client's behalf in the United States District Court for the Eastern District of Wisconsin.

On August 27, 2019, Heins' client and his former employer entered into a settlement agreement. Under the terms of the agreement, Heins' client was to receive \$15,000.00.

Under cover of a letter dated September 9, 2019, the client's former employer sent a check in the amount of \$15,000.00, representing the client's settlement funds, to Heins. The check was made payable to Heins Employment Law Practice, LLC. On September 16, 2019, Heins deposited the settlement funds into her business account. According to a settlement statement prepared by Heins, \$8,580.20 of the funds were due to her client. The remaining funds were due to Heins for fees and costs.

On September 17, 2019, the client e-mailed Heins asking if there were any updates on his case. Heins responded, "I should hear shortly." Heins did not disclose to the client that she had already received and deposited his settlement funds. The balance of Heins' business account at the end of the day on September 17, 2019 was \$5,965.18. She should have been holding \$8,580.20 belonging to her client.

On September 20, 2019, the client e-mailed Heins and stated his belief that he thought the company had 30 days to send the settlement funds. Heins responded, "After you signed." Heins was presumably referring to the 30-day timeframe the man's former employer had to send the settlement funds after the settlement had been signed. Heins did not disclose to her client that she had already received and deposited his settlement funds. The balance of Heins' business account at the end of the day on September 20, 2019 was \$2,004.92. She should have been holding \$8,580.20 belonging to her client.

On October 4, 2019, the client again e-mailed Heins seeking an update as to the status of his case. Heins responded, "I will follow up with the company next week and find out what the delay is about." Heins did not disclose to her client that she had already received his settlement funds. The balance of Heins' business account at the end of the day on October 4, 2019 was -\$149.44. She should have been holding \$8,580.20 belonging to her client.

On October 14, 2019, Heins e-mailed her client and stated, "I have received the check from [your former employer] and it should clear shortly." In fact, Heins had received and deposited the check almost a month prior. The balance of Heins' business account at the end of the day on October 14, 2019 was -\$269.44. She should have been holding \$8,580.20 belonging to her client.

On October 24, 2019, Heins deposited \$2,000.00 into her business account. The source of those funds is unknown. That day, she issued a check from her business account to her client in the amount of \$1,000.00. At the end of that day, the balance of her business account was \$1,790.56. She should have been holding \$7580.20 of funds belonging to her client ( $\$8,580.20 - \$1,000.00 = \$7,580.20$ ).

On October 28, 2019, Heins e-mailed her client and informed him that a check in the amount of \$2,580.00 was available for him to pick up at her office.<sup>1</sup> The check was drawn on Heins' business account.

The balance in Heins' business account fell to -\$88.83 on October 28, 2019. The last transaction on October 28, 2019 was a deposit of \$3,019.84, which brought her balance to \$2,931.01. She should have continued to hold \$7,580.20 of funds belonging to her client.

The next day, October, 29, 2019, Heins' client e-mailed Heins and informed her there were not sufficient funds in the account on which the check was drawn and so he was unable to negotiate the check. The balance in Heins' business account had fallen to \$2,087.58. Heins replied to her client that "another charge hit her account" and she was "on the phone with the bank canceling that other payment" but that the check would clear the next day. Later that same day, she again e-mailed her client and told him that it may be 3-5 business days before the "credit hits the account" and she would let him know when the funds would be available. In fact, over the next several days the balance in Heins' business account continued to fall, having a balance of only \$59.69 at the end of the day on November 3, 2019.

Heins described the source of the funds for the \$1,000.00 and \$2,580.00 checks as "personal," saying she was unable to get to the office to do any "law firm bookkeeping." In fact, the checks were drawn on an account that should have been holding her client's funds.

On November 1, 2019, Heins emailed her client and informed him that there was a \$1,200.00 cashier's check at her office for him to pick up. The source of the \$1,200.00 is unknown, although it was not drawn on her business account.

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<sup>1</sup> Heins had also had a friend drop off the \$1,000 check at her office for her client to pick up. Heins asserts that she was ill and not going into the office during the time disbursements were being made to her client.

On November 15, 2019, Heins drafted a check on her business account made payable to her client in the amount of \$6,480.20, noting that the check represented the final settlement payment (\$6,380.20) plus \$100.00 “extra cash for inconvenience.”

The balance in Heins’ business account on November 15, 2019 was \$15.06. She should have continued to hold \$6,380.20 in funds belonging to her client (\$8,580.20 - \$1,000.00 - \$1200.00 = \$6,380.20). On November 16, 2019, Heins deposited \$7,500.00 into her business account. The source of those funds is unknown. Thus, when her client negotiated the \$6,480.20 check on November 18, 2019, there were sufficient funds to cover the check.

When asked to explain why she deposited her client’s funds into her business account instead of a trust account, Heins explained that it was “done to save [my client] taxes on the attorney fees in his case.” Regardless of any perceived tax benefits to her client, SCR 20:1.15(b) required Heins to deposit funds belonging to her client in a trust account.

By depositing her client’s settlement check into her business account when a portion of the funds constituted client property, and failing to hold the funds belonging to her client in trust, Heins violated SCR 20:1.15(b)(1), which states, “A lawyer shall hold in trust, separate from the lawyer’s own property, that property of clients and 3rd parties that is in the lawyer’s possession in connection with a representation. All funds of clients and 3rd parties paid to a lawyer or law firm in connection with a representation shall be deposited in one or more identifiable trust accounts.”

By converting funds belonging to her client to her own use, Heins violated SCR 20:8.4(c), which states, “It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.”

By failing to promptly notify her client of her receipt of his settlement funds and failing to promptly deliver the funds to him, Heins violated SCR 20:1.15(e)(1), which states in relevant part, “Upon receiving funds or other property in which a client has an interest...the lawyer shall promptly notify the client...in writing...[T]he lawyer shall promptly deliver to the client...any funds or other property that the client...is entitled to receive.”

By misrepresenting to her client that she had not yet received his settlement funds, when in fact she had, Heins violated SCR 20:8.4(c).

Heins was publicly reprimanded in 2017.

In accordance with SCR 22.09(3), JANET L. HEINS is hereby publicly reprimanded.

Dated this 2nd day of December, 2020.

SUPREME COURT OF WISCONSIN

/s/  
James J. Winiarski