

STATE OF MINNESOTA

IN SUPREME COURT

ADM05-8001

In re Administrative Suspension of
Timothy Paul Miller, a Minnesota
Attorney, Registration No. 354065.

O R D E R

OFFICE OF
APPELLATE COURTS

OCT 13 2009

FILED

RECEIVED

OCT 14 2009

OFFICE OF LAWYERS
PROF. RESP.

The Director of the Office of Lawyers Professional Responsibility has filed a motion under Rule 30, Rules on Lawyers Professional Responsibility (RLPR), for an order administratively suspending the license to practice law of Timothy Paul Miller for failure to pay court-ordered child support. Rule 30, RLPR, authorizes administrative suspension of an attorney, on motion of the Director, when the Director receives a court order or report from a public authority that the attorney is in arrears in payment of child support and has not entered into an approved payment agreement for such support.

Minnesota Statutes § 518A.66(b) (2008) authorizes a public authority responsible for child support enforcement to seek suspension of a child support obligor's license to practice law. The public authority is required to give the attorney obligor at least 90 days' notice of the authority's intent to seek license suspension. Minn. Stat. § 518A.66(c). To contest the suspension, the attorney obligor must request a court hearing or a hearing under Minn. Stat. § 484.702 (2008) within 30 days of receipt of the notice. *Id.* The obligor can also avoid license suspension by executing a payment agreement that is approved by the public authority within the 90-day notice period. *Id.*

The record before the court on the Director's motion consists of a copy of the county's notice of intent to seek suspension of respondent's license, an affidavit from a

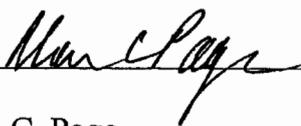
county employee establishing the amount of respondent's child support obligation and his arrearages, and an affidavit of service of the Director's motion. There is no affidavit of the county's service of the notice of intent to seek suspension upon the respondent and nothing in the affidavit of the county employee to establish that respondent failed to request a hearing and failed to enter into an approved payment plan within the required timeframes. The Director's motion indicates that he sent respondent a notice of investigation and gave respondent written notice of the Director's intention to seek suspension of respondent's license, but copies of the Director's correspondence were not made part of the record. The Director did file with the court an affidavit of service upon respondent of the Director's motion for administrative suspension.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the Director's motion is denied without prejudice. The Director may renew his motion for administrative suspension by establishing that: (1) respondent was served with notice of the county's intent to seek suspension of respondent's license; and (2) respondent did not seek a hearing to contest the suspension or enter into an approved payment agreement within the times required by Minn. Stat. § 518A.66(c).

Dated: October 13, 2009

BY THE COURT:



Alan C. Page
Associate Justice