

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
MICHAEL J. SCHALL ) CASE NO. 06-11244  
CYNTHIA K. SCHALL )  
 )  
Debtors )

**DECISION**

At Fort Wayne, Indiana, on August 31, 2006

The debtors in this case filed their petition on August 7, 2006. Accompanying the petition were certificates demonstrating that the debtors completed credit counseling on January 31, 2006. Because it appeared that the debtors completed this counseling more than 180 days prior to the filing of this case, the court issued an order on August 16, 2006, directing the debtors to demonstrate their eligibility for relief under Title 11 within fourteen (14) days. The failure to do so was to result in dismissal without further notice or hearing. In response to that order, the debtors, on August 30, 2006, filed a Motion to Accept Certificate of Credit Counseling accompanied by certificates demonstrating that they completed credit counseling on August 22, 2006.

The motion represents that counsel mistakenly believed that the initial certificates filed satisfied with the requirements of § 109(h), and provides the debtors, in response to the court's order, completed a second session of credit counseling. Though this counseling was completed after the petition was filed, the debtors ask the court to accept these new certificates of credit counseling and allow the case to continue. Despite the debtors' submissions, they have failed to that show they completed the counseling during the 180 days prior to filing.<sup>1</sup> 11 U.S.C. § 109(h). Furthermore, they have

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<sup>1</sup>Though the debtors may have signed the petition on June 21, 2006. It was not filed until August 7, 2006. Section 109(h) requires the debtors to complete credit counseling within the "180-

failed to demonstrate that they qualify for a waiver of that requirement by filing a certification describing “exigent circumstances” which necessitated the immediate filing of a bankruptcy petition without waiting for the completion of credit counseling, and which “states that the debtor requested credit counseling . . . but was unable to obtain [it]” within five days. 11 U.S.C. § 109(h)(3)(A)(i-iii). All the debtors have now done is show that they obtained credit counseling after the case was filed. That is not enough.

The debtors have not fulfilled the requirements of 11 U.S.C. § 109(h), are not eligible for relief under the United States Bankruptcy Code and this case should be dismissed. An order doing so will be entered.

/s/ Robert E. Grant  
Judge, United States Bankruptcy Court

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day period preceding the date of filing of the petition . . . .” 11 U.S.C. § 109(h)(1) (emphasis added).