

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
DAVID CHARLES TODD ) CASE NO. 06-12039  
 )  
Debtor )

**DECISION AND ORDER**  
**CONCERNING DEBTOR'S COMPLIANCE WITH § 109(h)**

At Fort Wayne, Indiana, on November 14, 2006.

As a result of the bankruptcy reforms of 2005, to be eligible for relief under Title 11 an individual must have received credit counseling from an approved agency during the 180 days prior to filing the petition. 11 U.S.C. § 109(h)(1). The debtor may qualify for a temporary waiver of this requirement by filing a certification, which “is satisfactory to the court,” describing “exigent circumstances” necessitating 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.<sup>1</sup> 11 U.S.C. § 109(h)(3). This certification is supposed to accompany Exhibit D to the petition, see, Interim Bankruptcy Rule 1007(b)(3), (c), and must state the facts demonstrating both exigent circumstances and the debtor’s efforts to obtain credit counseling “with particularity.” Fed. R. Bankr. P. Rule 9013.

The debtors in this case filed their petition on November 8, 2006. Accompanying the petition was a certificate demonstrating that they completed credit counseling on May 3, 2006. This is more than 180 days prior to the date the case was filed. Therefore, based upon the present record, it seems that the debtors are not eligible for relief under Title 11. Debtors shall have fourteen (14) days to

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<sup>1</sup>Debtors may also file a motion asking the court to completely waive the requirement because they are disabled, incapacitated, or on active duty in a military combat zone. 11 U.S.C. § 109(h)(4).

comply with § 109(h) and demonstrate eligibility for relief under Title 11. The failure to do so will result in the dismissal of this case without further notice or hearing.

SO ORDERED.

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