

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
ANDREA RENEE HOLZINGER ) CASE NO. 07-11813  
 )  
 )  
Debtors )

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

At Fort Wayne, Indiana, on July 13, 2007.

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). This requirement may be waived, however, if the debtor files “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. 11 U.S.C. § 109(h)(3)(A)(i-iii). The certification must be filed with the petition, see, Interim Bankruptcy Rule 1007(b)(3), (c), and it 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. If the certification is satisfactory to the court, the debtor is then required to obtain credit counseling within the 30 days following the petition. 11 U.S.C. § 109(h)(3)(B).

The debtor in this case has failed to demonstrate that the eligibility requirements of § 109(h) have been fulfilled. Although the bankruptcy petition clearly instructs the debtor to complete and attach a signed copy of Exhibit D which certifies that the debtor completed credit counseling within

the time required or are requesting a waiver of that requirement, the debtor has not done so. The debtor has not attached a signed copy of Exhibit D to the petition. Neither has the debtor filed a certificate demonstrating completion of credit counseling or a certification, of any kind, attempting to set forth facts that might justify a waiver of that requirement.

Based upon the present record the debtor is not eligible for relief under Title 11. Debtor shall file a certification demonstrating eligibility for relief under Title 11, which must fully comply with all of the requirements of § 109(h)(3), within fourteen (14) days. 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