

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
GREGORY A. BLOOM) CASE NO. 06-10619
DEBORAH BLOOM)
)
Debtors)

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

At Fort Wayne, Indiana, on May 11, 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). 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 is to 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 debtors in this case have asked the court to waive the requirement of pre-petition credit counseling. The certification for that waiver, however, is insufficient and, therefore, not satisfactory to the court. To begin with, the bankruptcy petition clearly instructs the debtors that if they are

seeking a waiver of the pre-petition credit counseling requirement they “must attach [a] certification describing” the facts justifying that request. The debtors did not do so. Instead, they waited about one week before filing the required certification. More fundamentally, however, that certification is not signed by the debtors, but by their counsel. Thus, it does not constitute a certification as required by § 109(h). See, In re DiPinto, 336 B.R. 693, 696 (Bankr. E.D. Pa. 2006); In re Rodriguez, 336 B.R. 462, 469 (Bankr. D. Idaho 2005).¹

Debtors shall file an amended certification which fully complies 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

¹Since the document the debtors filed does not constitute a certification as required by § 109(h), the court expresses no opinion as to whether any statement concerning unsuccessful efforts to obtain credit counseling is “satisfactory to the court” or whether the debtors’ situation qualifies as exigent circumstances.