

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
ULA WHITE and) CASE NO. 05-69347 JPK
ROBERT L. WHITE,) Chapter 13
)
Debtors.)

ORDER SCHEDULING HEARING ON TRUSTEE'S
MOTION TO DISMISS

In this case, several matters have slipped through cracks; however, the matters did not escape the self-contained world of the Court's docket, and they now must be addressed.

First, when this case was initiated on December 18, 2005, the voluntary petition filed on that date did not indicate that it had been signed by the debtors as required by paragraph 11(c) of the Court's Fifth Amended Order Authorizing Electronic Case Filing. An order was entered on December 19, 2005, which was provided electronically to the debtors' counsel, concerning this deficiency. That order stated that the failure to file a document that properly indicated the original signatures of the debtors on the petition within three days of the date of that order "may result in the current filing being stricken without further notice". That order slipped through the review procedures of the Clerk's Office, and no action was ever taken on it. Meanwhile, the case has proceeded through a § 341 meeting, a confirmation hearing, and the filing of a first amended Chapter 13 plan by the debtors.

On January 13, 2006, the Trustee filed a Motion to Dismiss, the principal focus of which is the debtors' failure to comply with the requirements of 11 U.S.C. § 109(h) with respect to pre-petition credit counseling. That motion to dismiss was never set for hearing. On January 20, 2006, counsel for the debtors electronically filed a certificate issued by Advantage Debt Management of America, stating that the debtors received pre-petition credit counseling from that entity on December 20, 2005. However, this case was filed on December 18, 2005, and it

thus appears from the record that the debtors have failed to comply with the requirements of 11 U.S.C. § 109(h), and are in fact ineligible to be debtors in this case. It is now necessary to schedule a hearing on the Trustee's Motion to Dismiss.

Finally, on April 17, 2006, the Court entered an order with respect to the debtors' first amended Chapter 13 plan, which required that order to be served by debtors' counsel upon all creditors and parties-in-interest, and in addition required debtors' counsel to file a certificate of service evidencing that service by May 2, 2006. No certificate of service evidencing the service of that order has ever been filed.

IT IS ORDERED that a hearing will be held on **August 28, 2006, at 1:00 P.M.** with respect to the following:

1. Dismissal of this case upon the Court's initiative pursuant to 11 U.S.C. § 1307(c)/ 11 U.S.C. § 105(a) due to the lack of a legally cognizable petition in this case as a result of the failure to file originally executed signature pages;
2. The Trustee's motion filed on January 13, 2006 regarding the debtors' eligibility under 11 U.S.C. § 109(h); and
3. Failure of debtors' counsel to comply with the Court's order entered on April 17, 2006.

Dated at Hammond, Indiana on July 28, 2006.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtors, Attorney for Debtors
Trustee, US Trustee
All Creditors
All Parties-in-Interest