

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 AND ORDER**  
**CONCERNING DEBTORS' COMPLIANCE WITH § 109(h)**

At Fort Wayne, Indiana, on August 16, 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), unless the debtor requests a temporary waiver of this requirement pursuant to 11 U.S.C. § 109(h)(3) 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> This certification must be filed with 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 August 7, 2006. Accompanying the petition were certificates demonstrating that the debtors completed credit counseling on January 31, 2006. This is more than 180 days prior to the date the case was filed. Therefore, based upon the present

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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).

record, it seems that the debtors are not eligible for relief under Title 11. Debtors shall have fourteen (14) days to comply with § 109(h) and demonstrate their eligibility for relief under Title 11 or to show cause, in writing, why this case should not be dismissed. 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