

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re)
)
KEITH L. DIXON,) Case No. 05-61883-399
)
) Chapter 13
Debtor)
) Motion #6

Order Denying Request for Waiver of Pre-Petition Credit Counseling

On November 10, 2005, Keith L. Dixon filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code and a Debtors' Certification Requesting Waiver of Pre-Petition Credit Counseling (the "Certification"). An individual may not be a debtor under the Bankruptcy Code unless such individual has received pre-bankruptcy credit counseling as required by Section 109(h)(1) of the Bankruptcy Code. The requirement of pre-filing credit counseling may be waived by the court if the debtor submits to the court a certification that: (1) describes exigent circumstances that merit a waiver; (2) states that the debtor requested credit counseling but was unable to obtain such counseling during the five-day period beginning on the date of such request; and (3) the certification is satisfactory to the court. 11 U.S.C. § 109(h)(3)(A). The Certificate filed by Mr. Dixon does not describe exigent circumstances which merit a waiver of the credit counseling requirement. According to the Certificate, Mr. Dixon faces an imminent foreclosure sale of his residence. Missouri law requires at least twenty days' notice of a foreclosure sale. V.A.M.S. § 443.310. Accordingly, Mr. Dixon has had at least twenty days to complete the mandatory credit counseling prior to the foreclosure sale. The fact that he has not obtained the mandatory counseling within that time period does not constitute exigent circumstances

warranting the waiver of the mandatory counseling requirement.

Due to Mr. Dixon's failure to comply with Section 109(h), he is ineligible to be a debtor before this Court. Accordingly, this case shall be dismissed by separate order of dismissal.

DATED: November 16, 2005

St. Louis, Missouri



Barry S. Schermer
United States Bankruptcy Judge

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