

The document below is hereby signed.
Dated: December 14, 2011.



A handwritten signature in black ink, reading "S. Martin Teel, Jr." with a stylized flourish at the end.

S. Martin Teel, Jr.
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
WESLEY KEVIN DAVIS,)	Case No. 11-00903
)	(Chapter 7)
Debtor.)	Not for Publication in
)	West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER DENYING REQUEST FOR
TEMPORARY WAIVER OF THE PREPETITION CREDIT COUNSELING
REQUIREMENT AND TO SHOW CAUSE WHY CASE OUGHT NOT BE DISMISSED

On his Exhibit D, the debtor has requested a temporary waiver of the prepetition credit counseling requirement based upon exigent circumstances. In support of that request, the debtor states simply that he "did not have internet access." The debtor has also filed a credit counseling certificate reflecting that he obtained the requisite counseling on December 5, 2011, three days after the filing of the petition. For reasons explained in more detail below, the court will deny the debtor's request for a temporary waiver of the prepetition credit counseling requirement of 11 U.S.C. § 109(h).

Section 109(h) of 11 U.S.C. provides that all individuals filing for bankruptcy must obtain an individual or group briefing

that outlines the opportunities for available credit counseling and assists the individual in performing a related budget analysis from an approved non-profit budget and credit counseling agency during the 180-day period preceding the date of the filing of the individual's petition. 11 U.S.C. § 109(h)(1).

Pursuant to 11 U.S.C. § 109(h)(3)(A), the court can waive this requirement temporarily if (i) the debtor certifies that there are exigent circumstances that merit a waiver of the credit counseling requirement, (ii) the debtor certifies that he requested credit counseling services from an approved non-profit budget and credit counseling agency before he filed his petition, but was unable to obtain the necessary services within seven days of the request, and (iii) the debtor's certification is satisfactory to the court. This exemption applies only for the first thirty days following the filing of the debtor's petition, although the court may grant a fifteen day extension of the exemption for cause. 11 U.S.C. § 109(h)(3)(B).

The debtor has not described any circumstances that qualify as exigent circumstances within the meaning of 11 U.S.C. § 109(h)(3)(A)(i), and the request for temporary waiver could be denied on that basis alone. Moreover, the debtor has failed adequately to describe any prepetition request he made for credit counseling services from an approved non-profit budget and credit counseling agency (and has likewise failed to explain why he was

unable to obtain the necessary services within seven days of making such a request). Finally, if the debtor contends that he was altogether unable to make a request for credit counseling based upon his lack of internet access, the court would note that credit counseling is available through means other than the internet, and the mere lack of internet access does not excuse a debtor from the prepetition credit counseling requirement of 11 U.S.C. § 109(h). It thus appearing that the debtor is ineligible for waiver, it is

ORDERED that the debtor's request for a temporary waiver of the prepetition credit counseling requirement of 11 U.S.C. § 109(h) based upon exigent circumstances is DENIED. It is further

ORDERED that within 7 days after entry of this order, the debtor shall either file a valid prepetition credit counseling certificate or show cause, by a writing filed with this court, why this case ought not be dismissed based upon the debtor's ineligibility to be a debtor pursuant to 11 U.S.C. § 109(h).

[Signed and dated above.]

Copies to:
Debtor; Chapter 7 Trustee; Office of United States Trustee.