

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

Dated this 19<sup>th</sup> day of June, 2006.

In re:

Case No. 6:06-bk-00592-ABB  
Chapter 7

JOSEPH PETER CHIMENTO,

Debtor.

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*/s/ Arthur B. Briskman*  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge

**ORDER**

This matter came before the Court on the Motion to Dismiss Case for Debtor's Failure to Comply with 11 U.S.C. Sections 109(h)(1) and 521(b) (the "Motion to Dismiss") (Doc. No. 11) filed by the United States Trustee seeking dismissal of this bankruptcy case filed by Joseph Peter Chimento, the Debtor herein (the "Debtor"), on March 28, 2006 ("Petition Date"). An evidentiary hearing on the Motion to Dismiss was held on May 15, 2006. Present at the hearing were the Debtor and counsel for the United States Trustee.

Section 109(h)(1) requires that a debtor receive credit counseling within 180 days *prior* to filing a petition in bankruptcy. A filer who fails to fulfill all of the requirements of § 109(h) "may not be a debtor" in bankruptcy. 11 U.S.C. § 109(h)(1) (2005). The Debtor did not obtain credit counseling within the 180-day prepetition period pursuant to § 109(h)(1). An individual, who is deemed ineligible to be a debtor pursuant to § 109(h), may not be a debtor pursuant to § 301(a). The Debtor was ineligible to commence a bankruptcy case on the Petition Date pursuant to § 109(h). No case resulted from the filing of the petition pursuant to § 301(a) and there is no case to dismiss. The Debtor's petition is due to be stricken pursuant to In re Carey, Case No. 6:06-bk-00490-ABB, 2006 Bankr. LEXIS 835, 2006 WL 1321419 (Bankr. M.D. Fla. May 16, 2006).

Accordingly it is,

**ORDERED, ADJUDGED AND DECREED** that the Debtor was ineligible to be a debtor on the Petition Date pursuant to 11 U.S.C. § 109(h)(1); and it is further

**ORDERED, ADJUDGED AND DECREED** that the Debtor did not commence a bankruptcy case pursuant to 11 U.S.C. § 301(a) and the petition is hereby **STRICKEN**.