



**IT IS ORDERED as set forth below:**

**Date: November 8, 2012**

*Mary Grace Diehl*

Mary Grace Diehl  
U.S. Bankruptcy Court Judge

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re:	:	<b>CASE NUMBER</b>
	:	
<b>LEONARD STANLEY and</b>	:	
<b>VERONICA MARLENE STANLEY,</b>	:	<b>12-78056-MGD</b>
	:	
<b>Debtors.</b>	:	<b>CHAPTER 13</b>
	:	
	:	

**ORDER GRANTING EXTENSION OF TIME**

Debtors filed a certificate of exigent circumstances and seek to defer the 11 U.S.C. § 109(h) pre-petition credit counseling requirement. (Docket No. 2). Section 109(h)(1) 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 ending on the date of the filing of the petition. 11 U.S.C. § 109(h)(1). A debtor may obtain a deferral of the credit counseling requirement if the debtor submits a certification to the court that:

(i) describes exigent circumstances that merit a waiver of the requirements of the

requirements of paragraph (1);

(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 7-day period beginning on the date on which the debtor made that request; and

(iii) is satisfactory to the court.

11 U.S.C. § 109(h)(3)(A). Debtors' certificate satisfies all the statutory requirements. The certificate states that Debtors requested credit counseling services pre-petition. Yet, Debtors were unable to complete the briefing in advance of filing their chapter 13 petition because they needed to file immediately to stay a foreclosure scheduled for the same day. Imminent foreclosure constitutes an exigent circumstance and merits waiver. *E.g., In re Cleaver*, 333 B.R. 430 (Bankr. S.D. Ohio 2005); *In re Giambrone*, 365 B.R. 386 (Bankr.W.D.N.Y.2006); *In re Hess*, 347 B.R. 489 (Bankr. D. Vt. 2006).

Debtors' certificate also satisfies § 109(h)(3)(A)(ii). Although there is a split in authority regarding the meaning of the "7-day" period referenced in subsection (ii)<sup>1</sup>, the Court is satisfied with Debtors' efforts to seek the counseling pre-petition. The Court agrees with the analysis set forth in *In re Giambrone*, 365 B.R. 386 (Bankr. W.D.N.Y. 2007), which explained that the exigent services waiver would be rendered almost meaningless if this court were to deny bankruptcy relief in circumstances where the exigent event arises within five days of the first request for credit counseling services." *Id.* at 391 (the 2009 amendments increased the period from 5 to 7 days). By its very nature, there would likely be no exigency if such circumstances provided a debtor a 7-day cushion before bankruptcy protection was needed. Lastly, the circumstances set forth in Debtors' certificate satisfy the Court.

Because Debtors have satisfied the requirements of § 109(h)(3)(A), it is proper to

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<sup>1</sup> *E.g., compare In re Giambrone*, 365 B.R. 386, 391 (Bankr.W.D.N.Y.2007) with *In re Mason*, 412 B.R. 1, 4 (Bankr. D.D.C. 2009)

exempt Debtors from the § 109(h)(1) pre-petition requirement. This exemption does not waive the requirement, it only defers the relevant time period for obtaining the credit counseling services. Pursuant to § 109(h)(3)(B), the exemption shall not apply 30 days after the petition date with limited exceptions. Accordingly, it is

**ORDERED** that Debtors have until 30 days after their petition date to obtain the credit counseling services required under § 109(h).

The Clerk is directed to serve a copy of this order upon Debtors, their counsel, the Chapter 13 Trustee, and all creditors.

**END OF DOCUMENT**