

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF  
LOCAL RULES OF PRACTICE AND  
PROCEDURE IN BANKRUPTCY COURT,  
DISTRICT OF VERMONT**

**STANDING ORDER  
# 07-02**

**REGARDING THE FILING OF CERTIFICATION  
OF A DEBTOR'S COMPLETION OF REQUIRED  
FINANCIAL MANAGEMENT COURSE ; AND  
NECESSITY FOR *NUNC PRO TUNC* MOTIONS**

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WHEREAS Federal Rule of Bankruptcy Procedure 1007(b)(7) [Interim] states:

An individual debtor in a chapter 7 or chapter 13 case shall file a statement regarding completion of a course in personal financial management, prepared as prescribed by the appropriate Official Form.

WHEREAS Federal Rule of Bankruptcy Procedure 1007(c) [Interim] states in pertinent part:

. . . In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1328(b). . . .

WHEREAS 11 U.S.C. § 727 states in pertinent part:

(a) The court shall grant the debtor a discharge, unless –  
    . . . . .  
    (11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management . . . .

WHEREAS this Court's Standing Order # 06-08 states in pertinent part:

. . . Every individual debtor in a chapter 7 or 13 must file the Official Form 23 *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*. Failure to file Official Form 23 by the 45th day after the first meeting of creditors in a chapter 7 case, or the date either the last payment is due from the debtor (under the terms of the confirmed plan) or the date the debtor files a motion for entry of discharge under § 1328(b) in a chapter 13 case, may result in the case being closed without a discharge.

It appears that there may be instances where debtors will seek to file such a Certification after the time period for filing has expired, in order to obtain a discharge, and a procedure for addressing such circumstances is necessary.

THEREFORE, IT IS HEREBY ORDERED that if a debtor fails to file timely the Official Form 23 *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management* (Form 23)<sup>i</sup> and seeks to file it thereafter, the debtor must file a motion to extend the time, *nunc pro tunc*, on notice to those parties designated under Federal Rule of Bankruptcy Procedure 1007(c) [Interim], and demonstrate cause to extend the time.

IT IS FURTHER ORDERED that a motion for discharge will not be granted unless the debtor has filed a *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management* (Form 23) within the timeframe specified in Federal Rule of Bankruptcy Procedure 1007(c) [Interim] or has obtained an order extending the time *nunc pro tunc*.

IT IS FURTHER ORDERED that if a case is closed without entry of a discharge due to the debtor's failure to file timely a *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management* (Form 23), the debtor may move to reopen the case to file it. The motion to reopen must (i) include a request to extend time to allow the late filing of the certification, (ii) be on notice to those parties designated under Federal Rule of Bankruptcy Procedure 1007(c) [Interim], (iii) demonstrate cause to extend the time and (iv) be accompanied by a filing fee.

SO ORDERED.

Rutland, Vermont  
January 12, 2007



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Colleen A. Brown  
United States Bankruptcy Judge

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<sup>i</sup> i.e., within 45 days after the first date set for the meeting of creditors under § 341 of the Code in a chapter 7 case, or either the date the last payment is due from the debtor (under the terms of the confirmed plan) or the date the debtor files a motion for entry of discharge under § 1328(b) in a chapter 13 case.