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NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
CARMEN REYES,
Debtor.

Case No. 2:16-bk-24200-RK
Chapter 7
ORDER DISMISSING CHAPTER 7 CASE
Hearing:
DATE: December 13, 2016
TIME: 1:30 p.m.
PLACE: Courtroom 1675
255 East Temple Street
Los Angeles, CA 90012

On November 16, 2016, the court entered an order to show cause, Electronic Case Filing No. (ECF) 9, which ordered Debtor Carmen Reyes (“Debtor”) to personally appear on December 13, 2016 and explain the exigent circumstances why Debtor could not take credit counseling before Debtor filed her bankruptcy petition on October 27, 2016 as required by 11 U.S.C. § 109(h)(1). The order to show cause further provided that “[t]he bankruptcy case will be dismissed unless Debtor appears at the hearing and satisfactorily explains why she did not take credit counseling before she filed her bankruptcy petition.” *Id.*

Section 109(h)(1) of the Bankruptcy Code, 11 U.S.C., generally provides that an individual may not be a debtor under the Bankruptcy Code unless such individual has,

1 during the 180-day period ending on the date of the filing of the bankruptcy petition,
2 received from an approved nonprofit budget and credit counseling agency described in
3 11 U.S.C. § 111 an individual or group briefing (including a briefing conducted by
4 telephone or on the Internet) that outlined the opportunities for available credit counseling
5 and assisted such individual performing a related budget analysis. Debtor is subject to
6 this requirement and is required to provide proof that she has satisfied this credit
7 counseling requirement in order to be a debtor under the Bankruptcy Code. Debtor did
8 not submit proof that she met the credit counseling requirement under 11 U.S.C. §
9 109(h)(1), and on October 27, 2016, the court issued a case commencement deficiency
10 notice to Debtor that this bankruptcy case may be dismissed if she failed to cure the
11 deficiency of failing to provide a certificate of credit counseling as required by 11 U.S.C.
12 §§ 521(b)(1) and 109(h)(1) and Federal Rule of Bankruptcy Procedure 1007(b)(3) and a
13 certification of exigent circumstances under 11 U.S.C. §.109(h)(3). ECF 1-1, Case
14 Commencement Deficiency Notice, filed on October 27, 2016. On her bankruptcy
15 petition, Debtor did not indicate that she received the required credit counseling and had
16 a certificate of completion, but instead indicated that she was asking for a 30-day
17 temporary waiver of the requirement based on “exigent circumstances” without attaching
18 any explanation sheet describing such exigent circumstances. ECF 1, Petition, filed on
19 October 27, 2016, at 5.

20 The case docket for this bankruptcy case shows that Debtor did not file any
21 certificate of completion of credit counseling or any other proof that she has satisfied the
22 credit counseling requirement of 11 U.S.C. § 109(h)(1).

23 Debtor did not file a certificate of completion of credit counseling within the 14 day
24 period after she filed her bankruptcy petition as indicated in the court’s case
25 commencement deficiency notice, which warned her that the case may be dismissed
26 unless she did so. Debtor did not file a certificate of completion of credit counseling
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1 within the 30-day temporary waiver period after she filed her bankruptcy petition as
2 indicated on her bankruptcy petition, which she asked for, but the court had not granted.
3 Debtor did not file the certificate of completion of credit counseling after the court issued
4 the order to Debtor to appear and show cause why the case should not be dismissed for
5 failure to satisfy the credit counseling requirement, and Debtor did not appear at the
6 hearing on December 13, 2016 or otherwise respond to the order to show cause as
7 ordered.

8 Under these circumstances, despite fair warning, the court must find that Debtor
9 may not be a debtor in this bankruptcy case under the Bankruptcy Code, and the court
10 should dismiss the case based on Debtor's ineligibility to be a debtor under the
11 Bankruptcy Code pursuant to 11 U.S.C. § 109(h)(1) due to her failure to satisfy the credit
12 counseling requirement.

13 Accordingly, the court hereby dismisses the above-captioned Chapter 7
14 bankruptcy case.

15 IT IS SO ORDERED.

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23 Date: December 19, 2016



24 Robert Kwan
25 United States Bankruptcy Judge
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