

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Brunswick Division

FILED

Lucinda B. Rauback, Clerk
United States Bankruptcy Court
Brunswick, Georgia
By cking at 10:20 am, Jul 14, 2016

IN RE:)	CHAPTER 13 CASE
)	NUMBER <u>15-20270</u>
KENNETH ANTHONY ADKINS)	
)	
Debtor)	

**ORDER DENYING MOTION TO REOPEN CASE AND
BARRING REFILING FOR 180 DAYS**

This matter is before me on motion by Kenneth Anthony Adkins to reopen his chapter 13 case under 11 U.S.C. § 350(b). The case was dismissed more than a year ago, on April 28, 2015, for failure to file all necessary papers. Adkins, then proceeding pro se, now seeks through counsel to reopen the case in order to reopen his adversary proceeding against a creditor for violation of the automatic stay.

However, Adkins was not eligible to be a debtor at the time he filed the case, not having received prepetition credit counseling as required under the Bankruptcy Code. Adkins then lied by certifying that he did receive credit counseling, thereby transforming what might have been an honest mistake into the offense of perjury. Thus, I not only deny the Motion to

Reopen but also impose a bar to the filing of any new case for the next 180 days.

"[An] individual may not be a debtor" unless that individual has received a briefing on opportunities for credit counseling and help with budget analysis from an approved nonprofit budget and credit counseling agency during the 180 days ending on the date of the filing of the bankruptcy case. 11 U.S.C. § 109(h)(1). As I have consistently ruled, compliance with § 109(h)(1) is a condition of eligibility to be an individual debtor. See, e.g., In re Johnson, No. 15-20750 (Bankr. S.D. Ga. Sept. 15, 2015); In re Foutz, No. 11-21368 (Bankr. S.D. Ga. Mar. 9, 2012); In re Barlow, No. 11-21067 (Bankr. S.D. Ga. Sept. 26, 2011); In re Asbell, No. 11-20560 (Bankr. S.D. Ga. June 17, 2011).

Here, Adkins's failure to receive prepetition credit counseling did not become apparent until after he moved to reopen, because he did not file a Certificate of Counseling during the pendency of the case. However, he did file an Exhibit D, in which he certified under penalty of perjury that he had obtained credit counseling within the 180 days before the filing of the case. (ECF No. 1 at 4-5.) That statement is belied by the Certificate of Counseling Adkins filed the day he actually received the counseling, which was June 30, 2016. (See ECF No. 26.)

The Motion to Reopen is therefore **ORDERED DENIED**, and **FURTHER ORDERED** that Adkins is barred from filing any bankruptcy case under any chapter for 180 days from the date of this order.



JOHN S. DALIS
United States Bankruptcy Judge

Dated at Brunswick, Georgia,
this 13th day of July, 2016.