

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

Jeremy Lawrence Ellenburg,

Debtor(s).

C/A No. 22-00811-HB

Chapter 7

**ORDER DISMISSING CASE WITH
PREJUDICE**

THIS MATTER is before the Court on the *Motion to Dismiss Case with Prejudice pursuant to 11 U.S.C. § 109(h)(1) and § 707(a)* filed by the Office of the United States Trustee.¹ After due notice, no objection or response was filed by the Debtor Jeremy Lawrence Ellenburg.

The Debtor filed, *pro se*, a voluntary petition for Chapter 7 relief on March 29, 2022 (the “Petition”). The Debtor previously filed a Chapter 7 case with this Court, bearing Case No. 18-04823 (the “2018 Case”). In response to Part 5, item 15 of the Petition, the Debtor represented he “received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.” The Petition is signed by the Debtor under penalty of perjury. The Debtor filed with the Court the certificate of credit counseling, which bears Certificate Number 13858-SC-CC-031641852 and states he received the credit counseling on March 19, 2022 at 6:36 p.m. from MoneySharp Credit Counseling Inc.² A comparison of the credit counseling certificates filed in this case and the 2018 Case indicates the present certificate is a falsification of the 2018 certificate. The certificate filed in the 2018 case also bears Certificate Number 13858-SC-CC-031641852 and states the course was received on September 19, 2018 at 6:36 p.m. from MoneySharp Credit Counseling Inc.³ It appears the Debtor altered the month and year of the certificate filed in this case. Further, the Affidavit from a

¹ ECF No., 21, filed Apr. 21, 2022.

² ECF No. 3, filed Mar. 29, 2022.

³ ECF No. 3, filed Sept. 24, 2018, C/A No. 18-04823-hb.

representative of the credit counseling agency included with the Motion indicates the agency has no record of any contact with the Debtor in 2022, each certificate has a unique identification number, and the certificate dated March 19, 2022 was not issued by the agency and is not a valid certificate.

Section 109(h)(1) of the Bankruptcy Code requires that to qualify as a debtor in a bankruptcy case, an individual must obtain credit counseling within the 180 days prior to filing a bankruptcy petition and file a certificate to that effect. *See also* 11 U.S.C. § 521(b)(1). Section 707(a) provides the Court may dismiss a case for cause, including unreasonable delay by the debtor that is prejudicial to creditors. 11 U.S.C. § 707(a)(1). The Bankruptcy Code authorizes the Court to:

issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a). “[T]he Bankruptcy Code, both in general structure and in specific provisions, authorizes bankruptcy courts to prevent the use of the bankruptcy process to achieve illicit objectives.” *In re Kestell*, 99 F.3d 146, 149 (4th Cir. 1996). “Bankruptcy courts have inherent and statutory power to police the conduct of the parties who appear before them and to impose sanctions on those parties who abuse the judicial process.” *In re Banner*, C/A No. 15-31761, 2016 WL 3251886, at *7 (Bankr. W.D.N.C. Jun. 2, 2016) (quotation marks and citation omitted).

Here, the Debtor represented he received the requisite credit counseling, but the evidence shows he did not complete the credit counseling course and the certificate filed with the Court is invalid. Accordingly, the Debtor is not eligible to be a debtor under § 109(h). Additionally, filing for Chapter 7 relief when he was not eligible to be a debtor caused an unreasonable delay that was

prejudicial to the Debtor's creditors because it triggered the automatic stay under § 362(a). Therefore, dismissal is warranted under §§ 109(h) and 707(a).

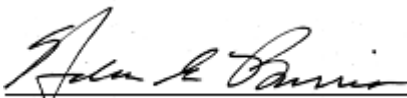
The Debtor signed the Petition under penalty of perjury and declared the information therein was true and correct, including that he completed the requisite credit counseling within 180 days of the bankruptcy filing. He filed a certificate that modified the dates to appear that he complied with the credit counseling requirements. Filing an invalid credit counseling certificate appears to be an attempted fraud upon the Court, is egregious, and warrants a significant penalty.⁴ Therefore, pursuant to § 105(a) and the Court's inherent authority, this case is dismissed with prejudice for a period of one year.

IT IS, THEREFORE, ORDERED that the above-captioned case is dismissed with prejudice to bar Debtor Jeremy Lawrence Ellenburg from filing under any chapter of the Bankruptcy Code for a period of **one year** from entry of this Order.

AND IT IS SO ORDERED.

**FILED BY THE COURT
05/18/2022**




Chief US Bankruptcy Judge
District of South Carolina

⁴ The imposition of this penalty is not intended to bar any other authority from seeking or imposing further or other penalties.