

17-BK-C



PAMELA S. HOLLIS

UNITED STATES BANKRUPTCY CHIEF JUDGE
NORTHERN DISTRICT OF ILLINOIS

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Via E-Mail

Hon. Sandra Segal Ikuta
Chair, Advisory Committee on Bankruptcy Rules
Administrative Office of U.S. Courts
One Columbus Circle, N.E.
Washington, DC 20544

RE: Official Form 423

Dear Judge Ikuta:

I write on behalf of the bankruptcy judges in my district to suggest that Official Form 423 (Certification About a Financial Management Course) contains an error. The form instructs an individual debtor: “you must take an approved course about personal financial management if: . . . you filed for bankruptcy under chapter 11 and § 1141(d)(3) applies.” We believe the form should be corrected to say: . . . “and § 1141(d)(3) does not apply.”

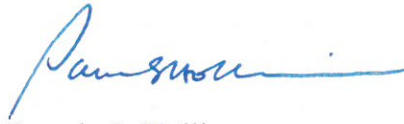
Section 1141(d)(3) of the Code applies to individual debtors and declares that plan confirmation does not result in the debtor’s discharge under the following specific circumstances: (A) the plan provides for the liquidation of all or most of the estate, (B) the debtor does not engage in business after consummation of the plan, and (C) the debtor would not receive a discharge if the case were a chapter 7 case.

These circumstances are obviously rare. As currently worded, however, Official Form 423 would require individual chapter 11 debtors to take the personal financial management course *only* in the rare cases. All other individual chapter 11 debtors would be exempt.

We believe the wording of the form should be reversed so that debtors are exempt from having to take the course only in the rare cases. Limiting the exemption to those cases makes sense: requiring a course in personal financial management as a condition of discharge has little value when the debtor will receive no discharge, will have little or no property left post-bankruptcy, and will not engage in business after the plan is consummated. But the vast majority of individual chapter 11 debtors should have to take the course, just as chapter 7 and 13 debtors do.

Accordingly, we suggest that the form should be changed to require the course for an individual who filed a chapter 11 case and to whom “§ 1143(d)(3) does not apply.”

Very truly yours,



Pamela S. Hollis
Chief Bankruptcy Judge

cc: Rules Support Office, AOUSC