


SO ORDERED.

SIGNED this 8th day of July, 2016.




LENA MANSORI JAMES
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION

In Re:)	
)	
Adam Edward Pollard and)	Case No.: 16-50278
Christy Lee Pollard)	
)	Chapter 7
Debtors.)	
)	

ORDER ON MOTION FOR WAIVER OF
FINANCIAL MANAGEMENT COURSE

THIS MATTER came before the Court on for hearing on July 6, 2016 upon the Motion for Waiver of Financial Management Course in the Chapter 7 case (the “Motion”) filed on behalf of Christy Lee Pollard on June 22, 2016.

Adam Edward Pollard and Christy Lee Pollard filed their Chapter 7 petition on March 22, 2016. The Section 341(a) meeting of creditors was held and completed on April 25, 2016. Christy Lee Pollard died on May 6, 2016. At the date of her death she had not completed the financial management course as required by 11 U.S.C. § 727(a)(11)¹ prior to receiving her discharge.

¹ 11 U.S.C. § 727(a)(11) provides in part:
(a) The court shall grant the debtor a discharge, unless –

Federal Rule of Bankruptcy Procedure 1016, Death or Incompetency of Debtor, provides in part as follows:

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

Several courts have held that a deceased debtor in a Chapter 7 case who had not completed his financial management course prior to discharge is “incapacitated” or “disabled” under 11 U.S.C. § 109(h)(4)² such that he is unable to complete the financial management course requirement. *See In re Thomas*, No. 07-00097, 2008 WL 4835911 (Bankr. D.C. Nov. 6, 2008) (“The debtor now being deceased, the court concludes that the debtor is ‘incapacitated’ such that he is unable to complete the [financial management course] requirement.”); *In re Henderson*, No. 06-52439, 2008 WL 1740529 (Bankr. W.D. Tex. Apr. 9, 2008) (“It is odd to think of death as a ‘mere disability,’ but the statutory language (added in 2005) seems not to have anticipated the possibility that debtor might die after filing but before completing the mandated instructional course.”); and *In re Trembulak*, 362 B.R. 205, 207 (Bankr. D.N.J. 2007) (“...[C]learly the [deceased] Debtor

(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who is a person described in section 109(h)(4) ...

² 11 U.S.C. § 109(h)(4) provides:

(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, “incapacity” means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and “disability” means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or internet briefing required under paragraph (1).

herein cannot participate in an instructional course on personal financial management and obviously such a course will not aid the Debtor in avoiding future financial distress.”)

The court determines that it is appropriate, especially in light of the mandate of Rule 1016 with regard to Chapter 7 cases, to waive the financial management course requirements of 11 U.S.C. § 727(a)(11) with respect to the deceased debtor, Christy Lee Pollard.

It is therefore ORDERED that the Motion for Waiver of Financial Management Course with respect to the debtor Christy Lee Pollard is GRANTED.

END OF DOCUMENT

PARTIES TO BE SERVED

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16-50278 C-7

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