

UNITED STATES TAX COURT
WASHINGTON, DC 20217

CLC

KEVIN M. FLANNERY & MARGARET A.)	
FLANNERY,)	
)	
Petitioners,)	
)	
v.)	Docket No. 3106-16 L
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

ORDER

This I.R.C. §6330(d) case is before the Court on respondent’s motion for summary judgment, filed March 16, 2017. Petitioners’ objections to respondent’s motion are embodied in their response, filed April 11, 2017. By Order dated April 19, 2017, the motion was assigned for disposition to the undersigned, who is satisfied that the motion can be resolved without the need for hearing.

According to petitioners, respondent’s settlement officer abused his discretion by refusing to treat the underlying liabilities here involved as currently not collectible. According to respondent’s motion, petitioners are not entitled to that collection alternative because of their ownership interests in certain parcels of real estate. In their response to respondent’s motion, petitioners dispute those ownership interests.

Disposition by summary judgment is appropriate only if there are no genuine issues of material fact and the moving party is entitled to decision as a matter of law. See Rule 121(b), Tax Court Rules of Practice and Procedure; Naftel v. Commissioner, 85 T.C. 527, 529 (1985). Questions as to petitioners’ beneficial ownership interest in certain real properties, including whether petitioners’ daughter is petitioners’ nominee with respect to those properties, are raised in this matter. The resolution of the factual dispute between the parties on the point is material in the determination of which party is entitled to decision.

SERVED May 26 2017

Because of the above-described factual dispute between the parties, it is
ORDERED that respondent's motion is denied.

(Signed) Lewis R. Carluzzo
Special Trial Judge

Dated: Washington, D.C.
May 25, 2017