

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

TERRY GENE AKEY,)
)
 Petitioner,)
)
 v.) Docket No. 18153-17 L.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER AND DECISION

This “collection due process” (“CDP”) case was set for trial at the Court’s Boston session beginning February 26, 2018, but the Commissioner filed a motion for summary judgment. We ordered petitioner Terry Gene Akey to file a response, but he failed to do so. We therefore ordered that we would hear argument on the Commissioner’s motion at the upcoming trial session, but there was no appearance by or on behalf of Mr. Akey at the February 26 calendar call. We will grant the Commissioner’s motion for summary judgment.

The sole contention in the petition that Mr. Akey filed in this case is that the liabilities that are the subject of the IRS’s proposed collection were discharged in bankruptcy. The IRS’s motion filed on December 6, 2017, gives a detailed accounting of Mr. Akey’s bankruptcy filings and his dealings with the IRS and shows that the relevant liabilities were not discharged. By our order of December 8, 2017, we explained the nature of a summary judgment motion and ordered Mr. Akey to respond to the IRS’s motion by January 5, 2018; but the Court has not received any response from Mr. Akey. By our order of February 6, 2018, we scheduled argument on the Commissioner’s motion at the session in Boston on February 26, 2018. We warned, “Unless Mr. Akey successfully rebuts the Commissioner’s motion, the Court will enter decision against him, and no trial will take place.”

When this case was called on February 26, 2018, there was no appearance by or on behalf of Mr. Akey.

It is therefore

ORDERED that the Commissioner's motion for summary judgment is granted, both on its merits (for the reasons stated in the motion) and, in the alternative, on the grounds that Mr. Akey failed to comply with the Court's Orders that he respond to the motion and for his non-appearance at the calendar call in Boston on February 26, 2018 (see Rules 121(d), 123(b)). It is further

ORDERED AND DECIDED that the IRS may proceed with the collection of petitioner's Federal income tax for 2001, 2002, and 2003 as described in the "Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 of the Internal Revenue Code" dated July 26, 2017.

**(Signed) David Gustafson
Judge**

ENTERED: **MAR 01 2018**