



on the reality television show, Real Housewives of Atlanta. He is loved and respected by his community. He is a supportive father and loyal brother and son. He has used his social media platform to encourage others, in particular, small business owners, to prioritize their obligations to the IRS.

The defense seeks a sentence of 12 months and one day which is sufficient but not greater than necessary to accomplish the goals of sentencing.

### FACTS

#### *1. Nature and circumstances of the offense*

The Factual Basis filed in this matter accurately depicts the offense conduct and nothing that the defense offers is intended to minimize his conduct, rather to add context to aid in determining the appropriate punishment.

Mr. Thomas was born in Kingston, Jamaica but brought to the United States as a baby. He was raised primarily in Brooklyn, New York in a loving household where he developed close relationships with his siblings and parents.

While he obtained his associate's degree in mechanical engineering<sup>2</sup>, Mr. Thomas' passion was in hospitality. Particularly adept at designing spaces and events where patrons felt special, Mr. Thomas managed and owned restaurants and nightclubs for nearly forty years.

Mr. Thomas first owned Bar One- Atlanta, a temporarily popular night

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<sup>2</sup> Presentence Report, Paragraph 67.

spot in Atlanta, whose popularity coincided with his reality television fame. In 2014, Mr. Thomas closed the restaurant and sought to invent this concept in Charlotte at, first, Sports One, and later, Club One. Both businesses struggled since nearly inception. As Mr. Thomas struggled to keep the businesses afloat, he chose not to pay trust fund taxes from the employee payroll. Mr. Thomas hoped that business would pick up and he could rectify his obligations, however, the debt hole continued to grow.

As Mr. Thomas closed one club, he would open another in hopes that the new location or city would bring success and allow him to recover these debts. In 2018, he opened Bar One- Miami that had some success but struggled to offset the high rent and cost of upfit. In 2020, the Covid-19 pandemic was a death knell to the Miami location. Bar One- Baltimore never got off the ground. With each business, the obligation became larger and larger.

Mr. Thomas promptly accepted responsibility for his offense conduct and has demonstrated remorse for failing to pay due taxes.

## *2. Offender history and characteristics*

Mr. Thomas is known for his work ethic and entrepreneurial spirit. Leonard Burnett, urban media pioneer and founder of Uptown Magazine, writes, "In our community, Peter stands as a beacon of hope and inspiration. His

journey from humble beginnings to successful entrepreneur serves as a powerful narrative for those who dare to dream big. He doesn't just talk about success; he actively mentors and supports other aspiring entrepreneurs, particularly within the Black community. Peter's commitment to lifting others as he climbs is a testament to his character and his belief in the power of community.”<sup>3</sup>

Dr. Nia Banks considers Peter Thomas a rare and valuable friend that could “relate and encourage, reassure and cheer on”. “He is a source of inspiration for many in his community who dare to achieve more than what was designed for them”. <sup>4</sup>

Ryan Glover, the co-founder of Greenwood, a mobile banking platform for Black and Latinx communities writes, “Peter has been a well-respected business leader in the African American community. Being an entrepreneur and business owner in my own right, I fully understand the challenges that exist with business operation in America specifically as a minority founder. Owning and operating business ventures catered to our community is tough but Peter has done so, employing hundreds if not thousands of young men and women throughout his professional career.”<sup>5</sup>

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<sup>3</sup> Letter from Leonard Burnett, Jr., attached hereto as Exhibit A.

<sup>4</sup> Letter from Nia Banks, MD, PhD, FACS, attached hereto as Exhibit B.

<sup>5</sup> Letter from Ryan Glover, attached hereto as Exhibit C.

Mr. Thomas' connection with his community is important to him and he felt compelled to apologize to his community, many of his friends, small business owners like him. Days before entering his plea, Mr. Thomas filmed a statement taking responsibility for what he did wrong, stating, "I've did some wrong that I have to make right. I have to stand up, I have to be accountable, I have to be responsible, and I have to pay my debt." Mr. Thomas went on to encourage others, "Make sure you can cover those withholding taxes. Make sure on the 20th of every month you pay those revenue taxes. When those things add up, Uncle Sam is your partner. They're not getting their piece, it keeps on adding up, it's gonna come and it's gonna bite you," he stated.<sup>6</sup>

Mr. Thomas' message was covered widely in the media and throughout social media.<sup>7</sup> Friend, Vivian Scott Chew writes, "Although we as his tribe are

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<sup>6</sup> Mr. Thomas' full statement can be found here:  
[https://www.instagram.com/reel/C8nqCSbO0fS/?utm\\_source=ig\\_embed&ig\\_rid=46f2e107-a049-48d3-969f-2e098949ce14](https://www.instagram.com/reel/C8nqCSbO0fS/?utm_source=ig_embed&ig_rid=46f2e107-a049-48d3-969f-2e098949ce14)

<sup>7</sup> <https://www.msn.com/en-us/money/taxes/peter-thomas-admits-to-not-paying-business-taxes-i-ve-done-some-wrong-that-i-have-to-make-right-video/ar-BB1oSsSY>;  
<https://straightfromthea.com/2024/06/24/exclusive-reality-star-peter-thomas-publicly-apologizes-for-irs-issues-video/>; <https://rickeysmileymorningshow.com/3492102/peter-thomas-apologizes-after-not-paying-his-business-taxes-for-10-years/>;  
[https://www.yahoo.com/entertainment/peter-thomas-takes-plea-deal-210129678.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce\\_referrer\\_sig=AQAAAG3d4shWyh-dGIgGdwHEn467CQz2gfw3oEwFkGbvzQ--iftgsCXALA5vfRjMP4m9ATGxFh5vO3UwVzmTjwixbqphE2DXJubYca4e-127PnHhl\\_\\_8LxM2goWs-KJtpxi5VZc-GQ2fteslrc4Lvpzdo-sGjo9YfLpyp4ZcOwHTlqQ](https://www.yahoo.com/entertainment/peter-thomas-takes-plea-deal-210129678.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAG3d4shWyh-dGIgGdwHEn467CQz2gfw3oEwFkGbvzQ--iftgsCXALA5vfRjMP4m9ATGxFh5vO3UwVzmTjwixbqphE2DXJubYca4e-127PnHhl__8LxM2goWs-KJtpxi5VZc-GQ2fteslrc4Lvpzdo-sGjo9YfLpyp4ZcOwHTlqQ)

saddened that he will be away from us for a period of time, we are also equally proud of how he is handling this part of his journey.”<sup>8</sup>

Veronica Foster, retired Assistant Chief of Police of the Charlotte Mecklenburg Police Department writes about Peter Thomas, “I have always known him to be a hard worker from meager beginnings in another country. He often times would hire people with not enough experience just to give them a chance. He has always believed in giving people opportunities and often times second chances. He believes it is part of his responsibility to help people and truly wants everyone to be successful.”<sup>9</sup>

This theme of giving people who need a chance the opportunity to work is echoed by his daughter, Porsche Thomas, who writes, “One of the most admirable qualities about him is his deep sense of responsibility to underdogs. For instance, I remember when a young man came to a venue of his in South Beach, about two decades ago, and introduced himself to my father. He was new in the city and was looking for work and was sent to my father by a friend. My father hired him to work in his bar and invited the man, who was also looking for a place to live, to stay in his spare bedroom. That man eventually became a friend of mine and never stopped expressing his gratitude to my father, and to this day, credits my dad for giving him his start in his professional life.

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<sup>8</sup> Letter from Vivian Scott Chew, attached hereto as Exhibit D.

<sup>9</sup> Letter from Veronica Foster, attached hereto as Exhibit E.

Throughout my adult life, I constantly encounter people who tell me similar stories about my father's generosity and kindness."<sup>10</sup>

Mr. Thomas' youngest daughter, Blaze Thomas recalls watching him work long hours, from scrubbing floors to making high level decisions she writes, "My father is one of the hardest working people I know. Throughout my childhood, I saw him work tirelessly toward his dreams, which not only fueled his own success but also inspired me to forge my own path."<sup>11</sup>

## **DISCUSSION**

### *1. Applicable legal provisions and case law*

In *Gall v. United States*, 552 U.S. 38, 50 (2007), the Supreme Court stated that a district court "may not presume that the Guideline range is reasonable," but rather "must make an individualized assessment based on the facts presented." Furthermore, the Court rejected the idea that "extraordinary circumstances" are required to justify a sentence outside the Guidelines' advisory range. *Id.* at 47. Finally, the Court rejected the use of rigid mathematical

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<sup>10</sup> Letter from Porsche Thomas, attached hereto as Exhibit F.

<sup>11</sup> Letter from Blaze Thomas, attached hereto as Exhibit G.

formulas to determine whether a variance from the Guidelines' sentence range is justified. *Id.*

Accordingly, after calculating the proper offense level under the Guidelines and giving the government and the defendant the opportunity to argue for the sentence they believe to be appropriate, the district court must consider each of the § 3353(a) factors and "tailor the sentence" to fit the circumstances of the case. *United States v. Booker*, 543 U.S. 220, 245 (2005).

Here, application of the § 3553(a) factors lead to the conclusion that a sentence of a year and a day is appropriate. Indeed, this case exemplifies why the Supreme Court rejected mandatory and mechanical application of the Sentencing Guidelines and restored district courts' discretion "to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue." *Pepper v. United States*, 131 S.Ct. 1229, 1239-40 (2011) (internal quotations and citations omitted). The factors addressed below, both individually and in combination, illustrate why a sentence of one year and one day is a punishment "sufficient, but not greater than necessary, to accomplish the sentencing goals advanced." *Kimbrough*, 552 U.S. at 111.

#### **18 U.S.C. §3553 Factors**



**a. Reflect the Seriousness of the Offense**

Peter Thomas is a 64-year-old man who has never spent a day in jail. The weight of any jail sentence will be felt by Mr. Thomas.

**b. Afford Adequate Deterrence**

Mr. Thomas' lack of criminal history suggests that he will not reoffend. The Court should not be concerned with specific deterrence for this defendant.

However, Mr. Thomas and his response to how he has handled his own misconduct have deterred the misconduct of others. First, Mr. Thomas is known to much of America as a partner to a "Real Housewife", a reality television character known for a high end lifestyle. Watching Mr. Thomas go to federal prison is a stark contrast from that world and a stern message for the public to pay your tax obligations. Mr. Thomas has taken this a step further. Before entering his plea, Mr. Thomas fully took responsibility and urged people to pay their taxes. He reminded small business owners not to get behind and to pay all obligations.

**c. Protect the Public from further crimes of this Defendant**

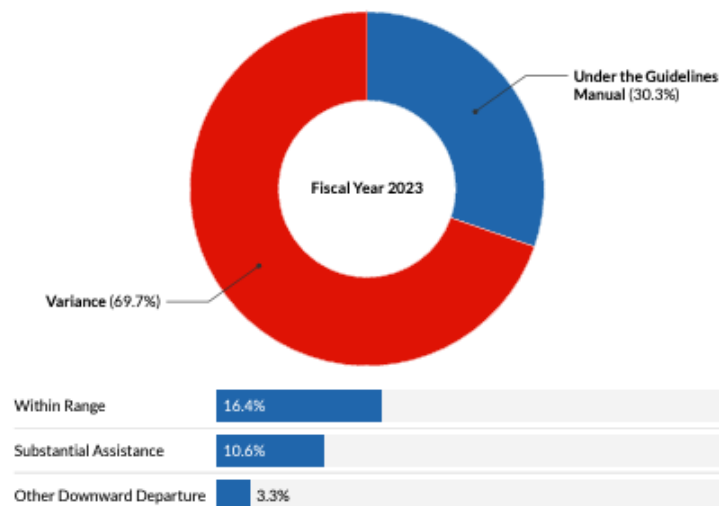
Mr. Thomas is old enough to draw Social Security and is being sentenced for his first and only nonviolent criminal offense. He quickly admitted to the

wrongdoing and very publicly owned where and how he went wrong. A lengthy sentence is wholly unnecessary to protect the public from Mr. Thomas.

**d. Avoid any unwarranted sentencing disparities**

Downward variances in tax cases are not unusual, in fact, they are the norm. In 2023, only 16.4% of all defendants sentenced for tax fraud cases received a guideline sentence.<sup>12</sup> 69.7% of individuals sentenced in tax fraud cases received a variance, and 97.2% of those individuals received a downward variance.<sup>13</sup>

**Sentences Relative to the Guideline Range**



Of the downward variances imposed, the average sentence reduction was 65%.

<sup>12</sup> [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Tax\\_Fraud\\_FY23.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Tax_Fraud_FY23.pdf)

<sup>13</sup> [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Tax\\_Fraud\\_FY23.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Tax_Fraud_FY23.pdf)

The sentence that is being requested for a man who has lived an honorable life, has been well respected by those around him, earned success through hard work, and openly and fully took responsibility for what he did wrong and encouraged others through his vast media network to avoid the errors of his ways, is sufficient but not greater than necessary to accomplish the goals of sentencing.<sup>14</sup>

### CONCLUSION

For the reasons stated herein, the defense requests that this Court grant Mr. Thomas a downward variance and impose a sentence of one year and one day.

Dated: December 12, 2024

Respectfully submitted,

/s/ C. Melissa Owen

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<sup>14</sup> The evidence of significant variances is demonstrated through individual cases, *U.S. v. Yong Lee*, Eastern District of Pennsylvania, 24-CR-80, the Court varied to probation for 12-18 month guideline range after fully accepting responsibility and supplying letters of support; *U.S. v. Parlato*, Western District of New York, 15-CR-149, Defendant sentenced to home confinement facing guideline range of 18-24 month sentence; *U.S. v. Kenneth Sumner*, Western District of North Carolina, 3:13-CR-257, court varied to probation from guideline sentence of 18-24 months.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served the foregoing pleading with the Clerk of Court using the CM/ECF system, which will send notification of such filing to opposing counsel:

Caryn Finley  
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Dated: December 12, 2024

/s/ C. Melissa Owen \_\_\_\_\_