

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 21 CR 279
v.)	
)	Hon. Franklin U. Valderrama
PATRICK THOMPSON,)	
)	
Defendant.)	

DEFENDANT'S SENTENCING MEMORANDUM

Chris Gair (cgair@gairlawgroup.com)
Jeff Eberhard (jeberhard@gairlawgroup.com)
Carly Chocron (cchocron@gairlawgroup.com)
Gair Eberhard Nelson Dedinas, Ltd.
1 East Wacker Drive, Suite 2600
Chicago, Illinois 60601
(312) 600-4900

TABLE OF CONTENTS

Overview	1
I. Guidelines Calculations	1
II. Analysis of Sentencing Factors and Defense Sentencing Recommendation.....	4
A. Subsection (a)(1): The nature and circumstances of the offense.....	6
B. Subsection (a)(1): The history and characteristics of Mr. Thompson	8
1. Character letters.	8
2. Mr. Thompson’s character for caring for and helping others in need.	9
3. Mr. Thompson’s dedication to his family.....	14
4. Mr. Thompson’s charitable and civic endeavors and passion for his community.	16
5. Mr. Thompson is highly respected as a lawyer.	18
6. Mr. Thompson is highly respected as a public servant.....	19
C. Subsection (a)(6): The need to avoid unwarranted sentence disparities	22
1. Offenders in fraud cases are typically sentenced far below the Guidelines range in this District, and very frequently receive sentences of probation.	22
2. Comparison of this case to other tax cases, Section 1014 prosecutions, and other false statement and fraud prosecutions demonstrates that a non-custodial sentence should be imposed here.	23
a. Almost every tax case with a tax loss of \$100,000 or less has resulted in a sentence of probation, including cases involving far more aggravated conduct and far greater losses.	23
b. Many tax cases involving exponentially greater tax losses have resulted in sentences of probation.	25

c. There are few, if any, comparable Section 1014 cases, but the cases with far greater intended losses strongly suggest a non-custodial sentence here.....	27
d. Sentences imposed under the false-statements statute (18 U.S.C. § 1001) and other fraud statutes likewise show that comparable—and even more culpable—offense conduct warrants a non-custodial sentence.....	28
False statements cases	28
Fraud cases.....	32
D. Subsection (a)(2)(A): the need to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense	33
E. Subsections (a)(2)(B) and (C): general and specific deterrence.....	34
Defense Sentencing Request	35

Overview

The defense respectfully submits that the defendant should be sentenced to a term of one-year's probation on Counts 3-7 and a term of one-day's imprisonment with time considered served on Counts 1-2, for the reasons explained below.

I. Guidelines Calculations

The defense agrees that the guideline calculations submitted by the Probation Office are technically correct. However, the Guidelines calculations are fatally inappropriate as a guide to the sentence here for two fundamental reasons. First, as discussed in this section, the Guidelines themselves overstate the seriousness of the offense in the circumstances at issue here and thus overstate the offense level.

Second, and independently, as explained in Section II, the Guidelines range is dramatically higher than actual sentences imposed for far more egregious crimes in this District and throughout the country. The underlying purpose of the Guidelines is to achieve uniformity in sentencing, but the best guide to uniformity is actual sentences imposed. For the reasons explained below, the Court should depart and vary downward from the Guideline range in imposing a sentence here.

Both departing and varying downward from the Guidelines are well within the Court's discretion. As the Supreme Court has held: "a judge . . . has the legal authority to impose a sentence outside the range either because he or she 'departs' from the range (as is permitted by certain Guidelines rules) or because he or she chooses to 'vary' from the Guidelines by not applying them at all." *Chavez-Meza v. United States*, 138 S. Ct. 1959, 1963 (2018). While departure other than for cooperation is relatively

rare, variance downward, and variance from a Guidelines range of incarceration to probation is extremely common. See, e.g., *Gall v. United States*, 552 U.S. 38, 49 (2007) (upholding reasonableness of a sentence of probation when the Guidelines called for a sentence of 30-37 months' imprisonment).

With respect to a departure, the Guidelines here overstate the seriousness of the actual offense conduct as to both types of offenses of convictions. On the tax charges, the Probation Office has calculated a guideline level of 14, which consists of a base offense level of 6 (no loss) and an upward adjustment of 8 levels for a tax loss of more than \$15,000 but less than or equal to \$40,000. It is undisputed here that (a) there was no actual loss at all because Mr. Thompson submitted payment for the entire \$15,586 once he discovered the error; and (b) his unpaid taxes were near the very bottom of this range. It simply makes no sense at all from a culpability perspective to treat Mr. Thompson like someone who committed a \$40,000 tax fraud and did not pay the money back when the potential loss was only just over \$15,000, and he did tender full payment of the taxes owed. In these circumstances, the Guideline range overstates the offense, and the Court should depart downward in setting the final guideline level.

The same is true for the FDIC false statement counts. It is undisputed that there is no actual loss and that Mr. Thompson paid back the full amount of the principal he borrowed, \$219,000. Nevertheless, a technical application of the Guidelines sets his offense level at 15 based on a base offense level of 7 and an enhancement of 8 levels representing an "intended" loss of \$109,000 (the difference

between the \$219,000 borrowed and the \$110,000 Mr. Thompson told the FDIC representatives he remembered borrowing.)¹ But calling this an intended loss is sophistry. The intention—had it existed—only persisted for a few days. Mr. Thompson made the alleged statements on February 23 and March 1, 2018 without seeing any documents or being informed of the amounts of the funds he had received years earlier. On March 5, the FDIC representatives told him the actual amount, he realized he was mistaken, and never disputed the principal balance, that is, the “intended loss,” again. The Guidelines overstate the seriousness of the offense in the context of this case because they do not take account of the fact that the supposed “intention” lasted, at most, a few days and was immediately remedied by Mr. Thompson’s acknowledgement of the amount borrowed and prompt efforts to repay the debt. The defense position is that based on these factors, the Court should depart down from the lowest available Guideline range of 0-6 months. See U.S.S.G. § 2B1.1, Application Note 21(C); *United States v. Roen*, 279 F.Supp.2d 986, 991-92 (E.D. Wis. 2003) (finding intended loss substantially overstated the seriousness of the offense); *United States v. Rosen*, 726 F.3d 1017, 1026 (7th Cir. 2013) (affirming district court’s downward departure regarding intended loss); *United States v. Redemann*, 295 F.Supp.2d 887, 897-98 (E.D. Wis. 2003) (same).

In any event, whether or not it departs from the Guidelines range, the Court’s

¹ The base offense level is increased by two to 17 due to grouping of the tax counts.

sentence should vary downward to a non-custodial sentence² as explained in the following section.

II. Analysis of Sentencing Factors and Defense Sentencing Recommendation

While the calculation of the Guidelines range is the step required to “begin all sentencing proceedings,” it is just one of the factors the Court is required to consider under 18 U.S.C. § 3553(a). *Gall v. United States*, 552 U.S. 38, 49 (2007). Indeed, the court “may not presume that the Guidelines range is reasonable.” 552 U.S. at 50 (emphasis added). And there is no requirement of “extraordinary” circumstances to justify a sentence outside the Guidelines range. *Id.* at 47.

District courts enjoy broad discretion to fashion an appropriate, individualized sentence in light of the factors in 18 U.S.C. § 3553(a). *United States v. Warner*, 792 F.3d 847, 850 (7th Cir. 2015) (upholding sentence of probation in a case involving a \$5.6 million tax evasion). This Court “is in a superior position to find facts and judge their import under § 3553(a) in the individual case. The judge sees and hears the evidence, makes credibility determinations, has full knowledge of the facts and gains insights not conveyed by the record.” *Gall*, 552 U.S. at 51. “It has been uniform and constant in the federal judicial tradition for the sentencing judge 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.” *Koon v. United States*, 518 U.S. 81, 113 (1996).

² Probation is technically unavailable under 18 U.S.C. § 1014. In such situations, courts in this District use the functional equivalent of probation, namely, a term of imprisonment of one day time served. See cases cited, *infra*, at pp. 24-30.

Under Section 3553(a), the Court must consider the following factors:

- (1)** the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2)** the need for the sentence imposed—
 - (A)** to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B)** to afford adequate deterrence to criminal conduct;
 - (C)** to protect the public from further crimes of the defendant; and
 - (D)** to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3)** the kinds of sentences available;
- (4)** the kinds of sentence and the sentencing range established for—
 - (A)** the applicable category of offense committed by the applicable category of defendant as set forth in the Guidelines—
 - (i)** issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such Guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28). 18 U.S.C.A. § 3553.
 - (B)** in the case of a violation of probation or supervised release, the applicable Guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such Guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);
- (5)** any pertinent policy statement—

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

Analysis of these factors powerfully suggests that the sentence here should be a sentence of probation and one-day's imprisonment time considered served.

A. Subsection (a)(1): The nature and circumstances of the offense

The Defendant's Version of the Offense, supported by extensive evidence at trial, lays out the nature and circumstances of the offense. There was significant evidence to show that the false statements charged in Counts One and Two were not made at all, but at the very least were made unknowingly and without intention to deceive the FDIC or Planet Home Lending. While the jury rejected the defense's conclusion, it is not disputed that within days after the relevant conversations, Mr. Thompson was shown the checks reflecting the full amount he borrowed, and he immediately cooperated to pay off the full amount of principal. (Tr. 860-62, G-199, DX 49.) And he did this even though Planet Home Lending concluded that the debt was likely uncollectible given the problems with the loan documentation. (DX 77, p. 12, 29-30, 40.) Thus, if Mr. Thompson indeed held the intent to deceive the FDIC, he

held that intent only for days, a fact that is surely mitigating. And it is highly mitigating that whatever the Guidelines definition of loss, there was actually no financial loss at all.

Likewise, within days of the December 3, 2018 visit by the agents and his conversation with Mr. Hannigan four days later, Mr. Thompson set in motion the process to amend his returns and pay the full amount of the \$15,589 tax deficiency. Mr. Hannigan testified that he recommended that Mr. Thompson only amend and pay for the three latest years, but that Mr. Thompson amended the returns for each of the years and tendered full payment. (Tr. 737, Dkt. 91 Evidentiary Hearing Tr. 52.) These are both mitigating facts on the tax charges.

Other circumstances involving the filing of the tax returns are also mitigating. The amount at issue was small. It is undisputed that Mr. Thompson was disorganized in his preparation of tax documents. (Tr. 648, 678.) It is also undisputed that he did not affirmatively claim the mortgage interest deduction on his tax planner. (Tr. 667-68.) And it is mitigating that the amount of taxes not paid as a result of the deduction was a tiny fraction of his income, and less than 2% of his tax liability. See *United States v. Warner*, 792 F.3d 847, 850 (7th Cir. 2015) (upholding sentence of probation in a case involving a \$5.6 million tax evasion in part because the taxes evaded were a small part of the defendant's overall income).

In short, the nature and circumstances of the offense weigh heavily in favor of a non-custodial sentence.

B. Subsection (a)(1): The history and characteristics of Mr. Thompson

Mr. Thompson grew up in the Bridgeport neighborhood, one of three children of Patricia, a former public school teacher, and Bill, a real estate developer, who divorced when he was very young. He attended St. Ignatius High School before attending St. Mary's University in Minnesota. After earning his undergraduate degree, Mr. Thompson worked in commercial real estate development and attended law school at night. In 1993, Mr. Thompson married his childhood sweetheart, Kathleen, and they have three extraordinary children together – Nora, Grace, and [REDACTED]. Their family lives in the modest home built by Mr. Thompson's grandparents in Bridgeport.

Since earning his law degree, Mr. Thompson has devoted his life to his family, his faith, his real estate law career, and to his role as a public servant, serving first as the Metropolitan Water Reclamation District commissioner and later as the 11th Ward Alderman.

Prior to this case, Mr. Thompson's legal record was completely unblemished. He has never before been accused of, arrested for, charged with, or convicted of any criminal misconduct. He has a spotless record with the Attorney Registration and Disciplinary Commission.

1. Character letters.

We have received over 130 character letters addressed to the Court in support of Mr. Thompson. They represent an unprecedented and heartfelt outpouring of support replete with details of his good works. With a handful of exceptions, none of

the people who have written are public figures. Rather, they are individuals that Mr. Thompson has helped along the way, representatives of civic organizations for which he has volunteered, business, political and professional associates, family members and those he has treated as family members, and friends who have known him for decades.

What emerges from these letters, from people whose knowledge of Mr. Thompson spans his entire life, are consistent themes. He is selfless. Unlike most politicians, he does not seek out acclaim or aggrandizement. He will help anybody in need, without being asked, from consoling the families of shooting victims to treating a college kid whose parents were absentees like one of his own children. He is devoted to his family above all, creating—in partnership with his wife Katie—an incredible home for his children, caring for his mother, his stepfather, and his brother in their illnesses. He is devoted to his community. He has shown that devotion both by actively participating in many civic organizations, but also by connecting with victims of violence, checking in on ill and elderly neighbors, and much more. Patrick Thompson is, and always has been a decent man, in the most exalted sense of that word.

2. Mr. Thompson's character for caring for and helping others in need.

The Court heard significant evidence at trial concerning Mr. Thompson's character, which evidence is reaffirmed by the outpouring of letters from those who know him best.

Marc Davis, a friend since high school and a referee in the NBA testified that:

We've been dear friends for 40, 39, 40 years. I know him to be a sweet, honest gentleman, someone who cares more about others than himself. (Tr. 1233.)

This theme of compassion and caring for others is repeated over and over by those who know and work with Mr. Thompson. Christine Roder, a childhood friend, now lives in Michigan, but her elderly parents are still in Chicago. She writes:

My parents are in their late 70s. My dad will be 80 in June. COVID was and is so frightening for them due to several underlying health conditions. Patrick constantly checks on them with food & visits. . . . (Ex. 1, C. Roder Ltr.)

Angela Wilkinson has known Mr. Thompson “about as long as [she] can remember,” first as a teenager when he worked for her father’s meat business, and now as a constituent in the 11th Ward and fellow member of the South Loop Chamber of Commerce. She testified, “I know him to be one of the most honest people, kind hearted, hard working, would do anything to help anyone.” (Tr. 1222.) John Chandler, president of St. Ignatius College Prep, has known Patrick since he was a child, taught him and coached him in soccer in high school, and has seen his devotion to St. Ignatius College Prep as an alumnus and a parent. Chandler writes: Patrick “demonstrates exceptional care and concern for all those who are a part of his life. . . . He would give you the proverbial shirt off his back.” (Ex. 2, J. Chandler Ltr.) These traits were confirmed by Father Jozo Grbes, who testified that Patrick is a “gentle man, always willing to help people . . . ready to help people in need. Just a good decent human being.” (Grbes Tr. 1212.)

Community activist and former chief of staff Denise McBroom says: “[H]e is such a decent man, a decent person. He is genuine in his intentions and actions. I

cannot tell you how many times I have witnessed him helping others. He never leaves a stranded driver, whether it is in sunshine or snow. He is the first person to help push a car to safety or sit with a stranger until help arrives.” (Ex. 3, D. McBroom Ltr.) He is “the most genuine, generous and hard working person” I’ve ever known. (Ex. 4, J. Keating Ltr). “He stops his car to help people with their groceries, offers rides to the elderly on their way to an errand and listens to people who have issues with City services.” (Ex. 5, T. Dart Ltr.)

The letters document Patrick’s innumerable acts of private kindness and grace to others, irrespective of what was going on in his own life. On the day of his arraignment, he reached out to a childhood friend whose mother had just been hospitalized. (Ex. 6, C. Funda Ltr.) Michelle Thompson, who is in the process of divorcing Patrick’s brother, writes that he has “supported me with kindness and loving presence as I go through [the] divorce. . . . He checks in on me to make sure that I am ok and treats me as his sister regardless.” (Ex. 7, Michelle Thompson Ltr.)

Helping out people in need is “second nature” to Patrick. Mary Kate Bertane, a neighbor in Michigan, calls him “one of the finest men I know” and says:

There is no pretense to Patrick, he is the “real deal”. . . . [H]e is a man who is passionate about serving others and doing what is right. Patrick naturally reaches out whenever and wherever there is a need: attending a community meeting, organizing a neighborhood clean-up, a visit to check on someone who is sick or has lost a family member, dropping off a book they would like or a meal they might need, volunteering with organizations like Special Olympics or countless other worthwhile charities or boards, or simply, quietly reaching out with a call or a text to see how they are or how he can help. These actions may not seem extraordinary, but in today’s world they are; but to Patrick they are second nature.

(Ex. 18, MK Bertane Ltr.; see also Ex. 46, A Hurley Ltr., and Ex. 47, J. Kroulaidis Ltr.)

Patrick's devotion to helping people in need one-on-one, is a lifelong theme. Liz Howard writes about his involvement in the Boys and Girls Clubs and a literacy center but points out: "the more important aspect of his service is the quiet connection and support he provides to neighbors, friends and colleagues." As many writers have attested, "He is the first person who asks in a time of need 'How can I help?'" (Ex. 19, M. O'Brien Ltr.) When a young Asian man was murdered in a carjacking, Patrick quietly organized the community to pay for the funeral. (Ex. 8, J. Byrnes Ltr.) When a cousin's father died without a will, Patrick was the first to offer to help, reviewing the estate and providing valuable advice to the widow. (Ex. 20, M. Thompson Ltr.) When a city employee had to take time off to donate a kidney to an ailing sister, Patrick "stepped up immediately to lend his assistance and generosity" making one of the most substantial donations. (Ex. 21, N. Sposato Ltr and Ex. 22, I. Ferrer Ltr.) When a cousin's daughter was diagnosed with leukemia at age 6, Patrick and his family "carried us through." (Ex. 23, A. Ryan Ltr.) Patrick often asks this cousin, a physician at Lurie's Children's Hospital to stop by and see a friend's child who is in the hospital. (Id.) Steven Burrows tells the court:

In February 2008, a young man by the name of Michael Houlihan was stricken with cancer. A benefit was organized by Michael's family and friends, and the entire Bridgeport community came out to support Michael. I met Pat while he was volunteering at the event, and it seemed that wherever I turned, there he was selling raffle tickets, working the silent auction table, or helping restock the bar. (Ex. 48, S. Burrows Ltr.)

Leanne Scanlon, who had worked with Patrick on the South Loop Chamber of Commerce, tells a moving personal story of his extraordinary kindness and determination to help those in need:

In 2017, my daughter [REDACTED] was born spontaneously premature at 34 weeks and with a poor prognosis after several surgeries that left her with only 10% of her small intestine. After living with her 6 months in NICU, the hospital felt they did all they could and said I could either institutionalize her or bring her home on 24/7 life supportive care. I chose to bring her home, closing my shop to care for her. I then found Boston Childrens was helping short gut kids live more normal lives and decided to focus on getting her there.

Patrick - via the Chamber, and his wife Katie via her school - kept checking on me throughout and when they learned I was trying to get to Boston, they helped my family and friends rally the entire community, sponsoring a large benefit to get [REDACTED] to Boston. Because of the benefit, I was able to bring her there every 8 weeks to clinic for over a year. Today, [REDACTED] is 4 years old and thriving. She only hooks up to the pumps overnight and unless someone told you, you'd never know it. Tomorrow, June 1st, 2022 [REDACTED] will graduate Pre-K with high marks right alongside the rest of the kids her age. (Ex. 25, L. Scanlon Ltr.)

Carlos Yanez, Sr. writes to tell the Court about Mr. Thompson's reaction to the shooting of his son, a Chicago police officer. "Alderman Patrick Thompson and his family came to show support to our family in a time of need with prayers, visits to our home and providing police protection. . . . In the true fashion of selflessness [he] had come to my and my son's residence with a show of support." (Ex. 26, C. Yanez, Sr. Ltr.) A longtime family friend of the Thompsons, Georjean Hlepas Nickell, explains about that shooting and another police officer who was killed in the line of duty:

I was not shocked when Patrick arrived late to a pre-planned dinner one evening to hear he had instead rushed to a hospital to comfort the father of a wounded Chicago Police Officer. Nor was I surprised when he and his wife were quietly rallying support for the widow of another officer

many months after the shock and notoriety had faded for most. (Ex. 27, G. Nickell Ltr.)

See also Ex. 28, J. Keating Ltr. and Ex. 49, A. Bauer Ltr.

Patrick “never wanted credit for any of [the things he did]. He always just did them from the kindness of his heart.” (Ex. 24, K. Fitzpatrick Ltr.) “He is the guy who has a moral compass that makes others want to be a better person....These acts of kindness just come natural to Pat.” (Ex. 8, J. Byrnes Ltr.).

3. Mr. Thompson’s dedication to his family.

He is also dedicated to his family, not just in words, but in deeds. The family suffered unimaginable hardship wholly unrelated to this case over the past year and a half, including the death of Patrick’s stepfather, his mother’s dementia, and his brother’s stage 4 prostate cancer. (Ex. 9, C. Thompson Ltr.) Patrick’s sister volunteered to take the primary care-giving role for these family members, but Patrick refused that offer. As Courtney Thompson explained:

He wanted to share the challenges fully and equally, and he did. From the endless doctor visits, follow up conversations and discussions of options and next steps for two seniors and one brother, to many middle of the night visits to our parents, to as many emergency room trips and hospital stays, Patrick has remained 100% engaged, never wavering.

Patrick’s 21 year-old daughter Grace echoes Patrick’s incredible courage under pressure. “These last two years have been worse than any nightmare I could have had. Our family has endured scrutiny, unimaginable stress, crippling anxiety and many lost relationships. No matter how bad or scary our lives got, my Dad was our beacon of hope, our shoulder to cry on and our optimist. I do not know many men that would have handled these two years with such grace. It is truly admirable and

heroic.” (Ex. 10, G. Thompson Ltr.)

Patrick’s brother, Peter Thompson writes that “I am fortunate to have a busy career, but one of the downsides is that I travel extensively and, again, as always, Patrick pinch-hits for me at my children’s games, performances, and activities. He is 100% reliable. . . .” (Ex. 50, P. Thompson Ltr.).

The letter to the Court from Patrick’s wife Katie is included with this submission. (Ex. 11, K. Thompson Ltr.) There is no way to adequately summarize it here, but she documents, better than anyone else could, just how fundamentally good a person he is and the strength with which he has held up his family as it has gone through two years of hell with deaths, divorces, mental and physical health struggles, and this prosecution.

And Patrick’s daughter Nora writes:

The past few years, I’ve seen my dad regularly work fifteen+ hour days between his two full time jobs, trying his best to be the best for his clients and constituents..... and yet he is still never too tired to quiz us before bed on whatever material we were learning. During the week of the trial, I had an emergency after we returned home on the third day, and had to go to the emergency room. Despite unutterable pain, unimaginable stress, and unmatched exhaustion, my dad sat at the hospital with me through the middle of the night. He is always there. That’s the kind of dad he is. (Ex. 12, N. Thompson Ltr.)

Countless letters submitted to the Court by friends, neighbors, colleagues, and family members describe Patrick’s devotion to his family, his dedication to his children, and how close and loving a relationship he has built with them. Whatever else he was doing, he has always been there to drive them to their events, to support them, and to create a loving, laughing household. As one member of the extended

family says “the relationship that Patrick has built with his children is really something to aspire to.” (Ex. 14, E. McCormick Ltr.) Indeed, as many letters attest, he is viewed by nephews, nieces, and friends of his children as an extra parent. “His interaction with his wife and children is something to behold. . . . Their [] family is truly one of a kind. [They are] blessed to have him in their lives.” (Ex. 15, K. Nelson Ltr.)

4. Mr. Thompson’s charitable and civic endeavors and passion for his community.

Another aspect of his character that is beyond dispute is his passion for his community. As Marc Davis testified:

I know him to be passionate about his community, passionate about his friends, just the type of person that you want your children to be engaged with and to have as an example or friend. (Tr. 1234.)

This conclusion is backed with evidence of a lifetime of good works in the community. Mr. Thompson has been “incredibly generous with his time and talents” in volunteering for civic and charitable efforts. (Ex. 15, M. Joyce Ltr.) These efforts include volunteering at the St. Valentine Boys and Girls Clubs. (Id.)

Patrick served 13 years as a member of the board of the Illinois Coalition Against Handgun Violence and eventually became its chairman. He was a “highly active board member,” but he did not just attend meetings. (Ex. 16, L. Suffredin Ltr.) He worked on programs to assist victims. (Id.). He led fundraising efforts for the Coalition that were necessary to insure the organization’s continuation and delivery of help to victims. (Id.) And he dove in to help shooting victims one-on-one. He met with, comforted, and provided “personal support to many victims of gun violence and

their families.” (Id.)

Years ago, he began organizing a coat drive in his ward to benefit homeless veterans, as the letter to the Court from Anthony La Piana, executive director of Guardian Corps of America, explains. (Ex. 17, A. La Piana Ltr.) Mr. La Piana details Mr. Thompson’s compassionate efforts, which were unmatched by any of his colleagues in public office. In the fall of 2021, as he was juggling his public office, his law practice, and preparation for the trial in this case, Mr. Thompson not only organized a coat drive that collected 1,900 items in his ward, but insisted that they be distributed city-wide. And just as telling, he “never once boasted about being the driving force behind the project. He was humble and gave credit to others. . . .”

The same level of personal commitment to those in need is illustrated by the years he spent teaching English literacy to native Spanish speakers at the Aquinas Literacy Center. Eventually, he joined the board of that organization as well. (Ex. 29, L. Howard Ltr.) Mr. Thompson has also been involved as a volunteer on the board of the Special Olympics Chicago, has provided financial and other support, has attended many Special Olympics competitions, and has participated in its fundraising events, like the Polar Bear Plunge. (Ex. 15, M. Joyce Ltr.; Ex. 30, Sheahan Ltr; Ex. 31, E. Mestrovic Ltr; Ex. 32, M. Murrihy Ltr.) Arne Duncan writes to describe Patrick’s participation in the CRED program, designed to help Chicago youths at high-risk of being shot. (Ex. 33, A. Duncan Ltr.) He also served on his parish council and the finance council. (Ex. 34, Fr. Brandt Ltr.)

5. Mr. Thompson is highly respected as a lawyer.

The Court heard at trial from two of Mr. Thompson's law partners, who described his professional abilities and record in the field of land using and zoning. He has been an invaluable counselor to his clients and a respected member of his law firms. Many more of his partners, former partners, and opposing counsel have written to the Court detailing both his devotion to the law and fairness to everyone involved in the legal process.

Rob Gamrath, who has known Patrick for more than 25 years and been his law partner, says that from the start of law school, "Patrick had fortitude and a true commitment to the law and serving others. His dedication has never waned, nor has my respect for him, as I watched him work 18-hour days, 7 days a week, for the past 25 years serving others." (Ex. 35, R. Gamrath III Ltr.)

Susan Morakalis is a lawyer who first met Patrick as opposing counsel in a real estate transaction and continued to interact with him on disputes over more than a decade. She said that he uniformly "professionally and diligently represent[ed] his client, while also respecting the policies and rules of [her] client." (Ex. 36, S. Morakalis Ltr.) Another opposing counsel (and later partner) said that even while dealing with complicated environmental issues on which they vehemently disagreed, "what struck me about Patrick. . . was his ability to work toward a goal in a calm and respectful manner." (Ex. 37, K. Mack Ltr.; see also Ex. 51, P. Shadle Ltr.) His law partner John Stephens explains that based on daily interactions over ten years, "including countless decisions he has made involving his law practice, government

service, and family, I can assure you that he is honest, selfless, generous and holds himself to the highest possible ethical standards.” (Ex. 38, J. Stephens Ltr.) He also “went out of his way to foster . . . growth and development [of younger lawyers].” (Ex. 39, S. Schuster Ltr.)

When Patrick was elected to the City Council, he sacrificed his position as a partner at Burke Warren in order to avoid any hint of impropriety or benefiting financially from City work. His senior partner, Jeff Warren, testified that Patrick is “scrupulously honest.” (Warren Tr. 809.) Patrick is “well-known” in the legal community as an “earnest, hard-working advocate.” (Ex. 40, M. Streett Ltr.)

6. Mr. Thompson is highly respected as a public servant.

Mr. Thompson has served the public as an elected official for the past decade, first with the Metropolitan Water Reclamation District, and then as Alderman of the 11th Ward on the City Council. Mr. Thompson served on no less than eight different City Council committees (G-170), believed to be more than any other alderman.

His colleagues respect him as a leader and as a man of integrity. Alderman Susan Garza writes:

I have served with Patrick for seven years on the Chicago City Council. In that time, I collaborated with him on different pieces of legislation from labor regulations to environmental protections. We have also served on several legislative committees, including the Workforce Committee, which I chair. I found Patrick to be a hard-working legislator devoted to his 11th Ward community, and interested in debating different viewpoints carefully to make informed decisions. In my experience, he regularly would recuse himself from matters before the Council which involved possible ethical conflicts. He was always willing to meet with community groups and constituents of all types, and generally showed a willingness to listen as well as serve. I also found him to be a man of his word both inside and outside of City Hall. When

he shook his hand on an agreement I could always count on him honoring his word, something that is surprisingly rare these days. (Ex. 41, S. Garza Ltr.)

Alderman Nicholas Sposato says that Patrick “was always there for us. [He] loves this City and always worked hard for the betterment of his constituents. (Ex. 21, N. Sposato Ltr.) And, as one lobbyist explains: “As an elected official his only concern was what was in the best interest of his district, ward and City. He would listen intently to arguments but would never be influenced by longstanding relationships.” (Ex. 5, T. Dart Ltr.)

He was devoted to constituent service. “In all the years of public service, he took great pride in helping those in need especially those that were less fortunate and need his help the most.” (Ex. 42, J. D’Arco Ltr.) As former staff assistant Bridget Botica says: “When a resident would meet with Patrick about an issue, no matter the size or the reason, Patrick would work on a resolution. He wouldn’t give up until the issue was resolved.” (Ex. 43, B. Botica Ltr.) Another former staffer described his commitment to help senior citizens in need. She relates an incident during a snowstorm in which the office was buried in complaints about snow removal: an elderly couple came in with problems dealing with Medicare. “I’m telling you, Patrick and the couple sat in the conference room what seemed to be forever. . . . It was one phone call after another. He just refused to give up until the couple could speak to someone about their issue. . . .” (Ex. 44, M. Kozicki Ltr.)

Former chief of staff Kelly Fitzpatrick underlined the point, emphasizing Patrick’s commitment to treating all his constituents with the same devotion and

enthusiasm:

Whether it was a friend, family, or stranger who walked in the office, Patrick treated everyone the same.

Patrick visited the Barbara Jean Wright Homes, majority section 8 housing development and chatted with many families, specifically children. They expressed how badly they wished they had a new playground. Patrick worked so hard to find a non-profit to help make their dream a reality. Sure enough these children had a new playground because Patrick's big heart made this happen.

At a few of the seniors events, he literally jogged to get each one of their cars and pulled it up so they didn't have to walk. (Ex. 24, K. Fitzpatrick Ltr.)

Patrick attracted new investments in the Bridgeport neighborhood and helped calm and comfort the residents during the social unrest of the summer of 2020. (Ex. 45, C. O'Connor Ltr.) Kathleen Nelson, former First Deputy Commissioner for the City Department of Planning Development, worked regularly with city council members for more than a decade and states: "Patrick was one of the absolute best Aldermen I have ever worked with. He was, and always will be, committed to the 11th Ward community and to all Chicagoans." (Ex. 14, K. Nelson Ltr.) John Dunn, who has worked with hundreds of public officials over a 30-year career, says "without reservation that Pat Thompson is one of the finest public servants I have ever met." (Ex. 52, Dunn Ltr.).

Mr. Thompson's personal history and characteristics unquestionably support a sentence of probation.

C. Subsection (a)(6): The need to avoid unwarranted sentence disparities

One of the critical factors the Court must consider is the need to avoid unwarranted sentence disparities between Mr. Thompson and others convicted of similar conduct and with a similar criminal record. In that regard, the Court should consider two related points, how sentences for similar cases generally vary from the established Guidelines ranges, and how offenders whose conduct is similar and actually far more egregious have actually been sentenced in this District. See *United States v. Durham*, 645 F.3d 883, 897 (7th Cir. 2011).

1. Offenders in fraud cases are typically sentenced far below the Guidelines range in this District, and very frequently receive sentences of probation.

Judges in this district varied downward in 74.2% of fraud cases, including tax fraud. See [2020 Federal Sentencing Statistics, Illinois Northern](#). Judges in this district also commonly impose non-custodial sentences in fraud and tax cases. **In 2020, judges in this District imposed non-custodial sentences in 30.3% of fraud cases and 50% of tax cases.**

These factors weigh heavily in favor of a non-custodial sentence here. Based on our comprehensive review of the sentence in every tax case prosecuted in this District in the last 10 years, the “intended” tax loss resulting from Mr. Thompson’s conduct of conviction is *the single smallest tax loss of any case prosecuted in that period*. The actual tax loss, of course, is zero. The actual loss due to the statements to PHL and FDIC is also zero, and the “intended” loss is only \$109,000, putting the case at the very low end of fraud prosecutions in this District.

2. Comparison of this case to other tax cases, Section 1014 prosecutions, and other false statement and fraud prosecutions demonstrates that a non-custodial sentence should be imposed here.

The following analysis of actual sentences in this District compellingly demonstrates that the need to avoid sentencing disparities among similarly situated offenders calls for a non-custodial sentence here.

- a. Almost every tax case with a tax loss of \$100,000 or less has resulted in a sentence of probation, including cases involving far more aggravated conduct and far greater losses.

There have been only 19 cases in the past decade in which an offender was sentenced for a tax loss of less than \$100,000. Mr. Thompson's case is the single lowest amount of tax loss at \$15,589. *In 15 of those 19 cases, the defendant got straight probation* (including one case of one-day time served.) Two involved probation plus a short period of home confinement and two involved periods of incarceration.³ The cases involving non-custodial sentences were as follows:

1. *United States v. James*, 13 CR 574 (N.D. Ill. Feb. 11, 2015). This is the next lowest tax loss, \$19,026, after that attributable to Mr. Thompson. The conduct there was more egregious because the defendant was a CPA and a tax preparer. He was sentenced to two years' probation.

³ The two imprisonment cases involved far more egregious conduct than anything at issue here. In *United States v. McDonald*, 15 CR 174 (N.D. Ill. June 12, 2019), the tax loss was \$28,778, but the defendant was also charged with theft of property pledged to the USDA and false statements under 18 U.S.C. § 1001(a)(2) and stipulated to an additional \$33,597 in loss attributable to relevant conduct. In addition, his conduct caused a municipal water district to default on \$2.7 million in USDA loans and enter foreclosure at a loss of at least \$1 million to USDA. He was sentenced to a year and a day. The other imprisonment case was *United States v. Aubel*, 12 CR 639 (N.D. Ill. October 10, 2014). The tax loss was \$69,000, and the defendant, an attorney, was also convicted of obstruction of justice and *relevant conduct included fraudulently using clients' credit cards*. Even with that aggravated conduct, he was sentenced to only seven months' imprisonment.

2. *United States v. Lee*, 13 CR 499 (N.D. Ill. Sept. 22, 2014). This defendant was convicted of both a tax fraud with a loss of \$21,000 and of stealing at least \$92,800 from the charity he worked for. The misconduct was thus far more egregious than that at issue here. He was sentenced to five years' probation.
3. *United States v. Davis*, 13 CR 902-2 (N.D. Ill. May 5, 2016). The defendant's tax fraud caused a loss of \$31,909 to the IRS. His relevant conduct also included false statements on mortgage loan applications and submitting falsified documents in support of those applications. The conduct was thus more aggravated than that here. He was sentenced three years' probation.
4. *United States v. Lee*, 12 CR 1013 (N.D. Ill. Aug. 15, 2013). The defendant embezzled over \$100,000 from her employer's employee-relief fund and failed to pay taxes on it, causing a tax loss of \$36,748. Because the tax loss was twice that at issue here, and because the unreported income came from stealing, the conduct was far more aggravated than Mr. Thompson's. She was sentenced to three years' probation.
5. *United States v. Smith*, 13 CR 164 (N.D. Ill. Nov. 14, 2018). The defendant embezzled more than \$50,000 from an official victim, her employer the Chicago Building Commission, and committed a tax fraud with a loss of \$40,000, more than twice the loss here. She was sentenced to three years' probation.
6. *United States v. Winer*, 15 CR 186 (N.D. Ill. Sept. 3, 2015). The tax loss was \$43,594, and the defendant was sentenced to two years' probation.
7. *United States v. Blake*, 12 CR 712 (N.D. Ill. June 24, 2013). The defendant failed to report income from a business for four years, and the tax loss was \$48,306. The defendant was sentenced to one year probation.
8. *United States v. Tice*, 13 CR 50044 (N.D. Ill. July 2, 2015). The tax loss was \$50,170, more than three times that at issue here. The defendant was sentenced to three years' probation.
9. *United States v. Vlahakis*, 13 CR 516 (N.D. Ill. Sept. 9, 2014). The president of a manufacturing company paid over \$200,000 in personal expenses out of his business and concealed that by falsely classifying them as business expenses. The tax loss was \$62,797. Defendant was sentenced to three years' probation.
10. *United States v. Jefferson*, 15 CR 179 (N.D. Ill. Dec. 16, 2020). The conduct was far more aggravated than here because the defendant was a professional tax preparer, he knowingly filed false returns for several clients over a three-year period, the tax loss was \$65,391, four times that at issue here, and the

defendant had a criminal history including violence. He was sentenced to two years' probation.

11. *United States v. Hernandez*, 12 CR 233 (N.D. Ill. July 30, 2012). The defendant underreported her income over two years by over \$400,000, and the tax loss was \$71,264. The defendant was sentenced to three years' probation.
12. *United States v. Martinez*, 13 CR 50021 (N.D. Ill. May 20, 2014). The tax loss was \$72,156. The defendant was a professional tax preparer. She was sentenced to 1 day imprisonment and 12 months' supervised release.
13. *United States v. Garcia*, 13 CR 302 (N.D. Ill. Sept. 24, 2014). The defendant was a messenger for an armored truck company for 18 years and stole at least \$1.2M from ATMs and manipulated the ATMs to conceal his theft. His tax fraud resulted in a loss to the IRS of \$75,540. He was sentenced to four years' probation.
14. *United States v. Rogers*, 12 CR 590 (N.D. Ill. March 12, 2014). Defendant provided his tax preparer with false revenues and expenses for his auto sales and towing business, concealing about \$386,000 in revenue and falsely claiming \$84,000 in expenses over two years. The tax loss was \$97,079. Defendant was sentenced to 12 months' probation.
15. *United States v. Wagener*, 19 CR 50028 (N.D. Ill. Dec. 29, 2020). Defendant created a fictional business for the purpose of claiming a business loss and created a corresponding fake Schedule C to support the claim, listing fabricated business expenses. Defendant also claimed home mortgage interest deductions even though the home had been foreclosed on and no interest payments had been made. Similar false returns were filed over the course of four years. In addition, Defendant intercepted her husband's tax return from the mailbox and filed a false return in her husband's name, then sent a fake letter to her husband purporting to be from the IRS. The tax loss was \$99,986. The defendant was sentenced to two years' probation.

- b. Many tax cases involving exponentially greater tax losses have resulted in sentences of probation.

We also analyzed larger tax fraud cases, many of which involved sentences of probation with losses that were exponentially larger and more harmful than that at

issue here. This is just a sample of the far more aggravated cases in which a defendant received a sentence of probation. There are many more.⁴

16. *United States v. Warner*, 792 F.3d 847, 850 (7th Cir. 2015). The defendant evaded \$5.6 million in U.S. taxes by hiding assets in a Swiss bank account. He was sentenced to two years' probation.
17. *United States v. Khan*, 14 CR 417 (N.D. Ill. Dec. 23, 2014). The tax loss was \$1,319,419. The defendant was sentenced to five years' probation.
18. *United States v. Goosby*, 15 CR 516 (N.D. Ill. Oct. 6, 2016). The defendant was a professional tax preparer who prepared more than 400 fraudulent returns. The tax loss was more than \$565,000. The defendant was sentenced to two years' probation.
19. *United States v. Burns*, 15 CR 181 (N.D. Ill. May 3, 2017). The intended tax loss was \$606,831. (The actual loss was over \$300,000.) The defendant was sentenced to three years' probation.
20. *United States v. Katibeh*, 15 CR 251 (N.D. Ill. March 24, 2016). The tax loss was \$351,643 – 20 times the loss here. The defendant was sentenced to one year probation.
21. *United States v. Sanchez*, 18 CR 474 (N.D. Ill. Feb. 15, 2019). The tax loss was \$328,621. The defendant was sentenced to three years' probation.
22. *United States v. Mujtaba*, 13 CR 655 (N.D. Ill. May 27, 2014). Professional preparer caused tax loss of \$260,254. The defendant was sentenced to three years' probation.
23. *United States v. Gatto*, 15 CR 121-1 (N.D. Ill. Dec. 16, 2016). The tax fraud was part of a scheme to defraud ex-wife of child support and other payments totaling \$826,695. The tax loss was more than \$250,000. The sentence was five years' probation.
24. *United States v. Lupo*, 15 CR121-2 (N.D. Ill. Dec. 27, 2016). The defendant, a licensed attorney, conspired with co-defendant Gatto (above) to defraud co-defendant's ex-wife of child support and other payments totaling \$826,695. He was sentenced to three years' probation.

⁴ We have excluded from our analysis of non-custodial sentences in tax, Section 1014, false statement and fraud cases those in which we determined a defendant had a cooperation agreement in order to avoid confounding the analysis with a factor not relevant here.

25. *United States v. Wilson*, 14 CR 199 (N.D. Ill. April 22, 2016). The defendant did not file returns for eleven years and had criminal history not reflected in guideline calculation. The tax loss was \$239,468. The defendant was sentenced to one day time served and one year supervised release.
26. *United States v. Sheu*, 14 CR 666 (N.D. Ill. Nov. 24, 2015). The tax loss was \$200,376. The defendant was sentenced to three years' probation.
27. *United States v. Stafford*, 15 CR 213 (N.D. Ill. Aug. 30, 2016). The tax loss was more than \$250,000. The defendant was sentenced to three years' probation.
28. *United States v. Lombardo*, 13 CR 298 (N.D. Ill. Oct. 18, 2013). The defendant's relevant conduct included acquiring loans by fraud. The tax loss was \$189,292. The defendant was sentenced to five years' probation.
29. *United States v. Lowe*, 19 CR 113 (N.D. Ill. July 9, 2019). Professional tax preparer with tax loss of \$177,420. The defendant was sentenced to five years' probation.

- c. There are few, if any, comparable Section 1014 cases, but the cases with far greater intended losses strongly suggest a non-custodial sentence here.

There is only one Section 1014 case with a lower intended loss amount than the \$109,000 intended loss at issue here that has even been prosecuted in this District.⁵ However, there are a significant number of cases in which a defendant was sentenced to a non-custodial sentence (one day time served) for far more aggravated conduct and far greater losses. Some of these examples are listed below:

⁵ That case, *United States v. Landwer*, 17 CR 305 (N.D. Ill. March 8, 2018), resulted in a 12 month prison sentence, but the aggravating circumstances make it clear that it is in no way comparable. There the defendant's loan application included fabricated employment history for the years defendant was in federal custody on a mail fraud conviction. The defendant, who had extensive criminal history including attempted murder-for-hire, was also on supervised release at the time of the offense.

30. *United States v. Ballentine*, 13 CR 88 (N.D. Ill. July 21, 2015). The defendant, an attorney, was convicted under Section 1014 and also convicted of multiple counts of bank and wire fraud arising from 27 fraudulent real estate transactions. The fraud loss was \$3.2 million. The defendant was sentenced to one day (time served).
 31. *United States v. Kost*, 18 CR 257 (N.D. Ill. Nov. 23, 2020). The loss was \$960,018. The defendant was sentenced to one day imprisonment (time served).
 32. *United States v. Kotalik*, 14 CR 625 (N.D. Ill. Nov. 24, 2015). The loss was \$617,509. The defendant was sentenced to one day (time served).
 33. *United States v. Filipek*, 18 CR 421 (N.D. Ill. March 31, 2019). The defendant ran a scheme to recruit buyers for defendant's real estate and supply lenders with false financial information about buyers to obtain proceeds from mortgages. The loss was more than \$550,000. The defendant was sentenced to one day (time served).
- d. Sentences imposed under the false-statements statute (18 U.S.C. § 1001) and other fraud statutes likewise show that comparable—and even more culpable—offense conduct warrants a non-custodial sentence.

Because of the small number of Section 1014 sentences available, we also looked at the closest analog, prosecutions for false statements under 18 U.S.C. § 1001, as well as sentences for mail and wire fraud. That review revealed many non-custodial sentences for more aggravated conduct, and strongly indicates that such a sentence is appropriate here.

False statements cases

34. *United States v. Hart-Glover*, Case No. 12 CR 501-1 (N.D. Ill. Mar. 19, 2013). Defendant—an employee of a local government agency—forged and backdated documents, including identification documents, for 56 employees, submitted those documents to another agency, and lied about it all to federal agents. She was sentenced to two years' probation.

35. *United States v. Hedlund*, Case No. 14 CR 404 (N.D. Ill. Mar. 2, 2015). Defendant, an FAA special agent, falsely reported to the FAA on at least 125 occasions that she had conducted inspections that were never conducted, falsifying inspection dates, names and addresses of entities purportedly inspected, locations, employees, the reasons for inspections, and the results of the fictitious inspections. Defendant also submitted fraudulent travel reimbursement claims for expenses purportedly incurred in connection with the fictitious inspections. She was sentenced to 12 months' probation.
36. *United States v. Carmona*, Case No. 12 CR 573 (N.D. Ill. Apr. 16, 2015). Defendant—a law enforcement officer—falsely stated, during a formal FBI interview and on an FBI questionnaire, that he did not know and had never investigated a certain DEA informant. He was sentenced to six months' probation.
37. *United States v. Edwards*, Case No. 14 CR 421 (N.D. Ill. Aug. 6, 2018). Defendant—a Customs and Border Protection officer—engaged in marriage fraud, helped her cousin avoid deportation in violation of federal law, and concealed her involvement as vice president of an organization while asked to assist in a federal investigation of that organization. She was sentenced to one year's probation.
38. *United States v. Davis*, Case No. 16 CR 524 (N.D. Ill. Jan. 25, 2017). Defendant falsely told FBI agents that she had never discussed money with a certain public official, when in fact the public official had asked to receive, agreed to receive, and discussed receiving money from Defendant in connection with the public official's duties while in elected office. She was sentenced to one year's probation.
39. *United States v. Chogsom*, Case No. 16 CR 174-2 (N.D. Ill. Jan. 26, 2018). Defendant and another individual were charged with various offenses arising from obtaining and exporting stolen vehicles. Defendant was convicted of making a false statement to the IRS regarding his sister's identity in connection with the IRS's investigation of his co-defendant's money laundering and currency structuring. He was sentenced to three years' probation.
40. *United States v. Dismuke*, Case No. 15 CR 50049 (N.D. Ill. Aug. 31, 2016). Defendant submitted documents to IDHS falsely certifying that she had no secondary employment and billed IDHS for services she did not perform. She was sentenced to five years' probation.
41. *United States v. Garcia*, Case No. 19 CR 270 (N.D. Ill. June 25, 2021). Defendant—an employee of the City of Chicago—submitted certifications falsely indicating that he had inspected construction work and recommending

payment, causing the city to pay \$99,401 for work that was never performed. Defendant then lied to FBI agents about the certifications and falsely denied having any relationship with the owners of the company that received the payments. He was sentenced to one year's probation.

42. *United States v. Blanchard*, Case No. 12 CR 50051-4 (N.D. Ill. Jan. 7, 2014). Defendant prepared and submitted false invoices to the government, submitted false documents to the DOL to receive grants, and lied to investigators to conceal failure to pay over \$100,000 in wages to 31 veteran-employees for work performed on government contracts. He was sentenced to three years' probation.

43. *United States v. Janes*, Case No. 15 CR 156 (N.D. Ill. Feb. 18, 2016). Defendant, over the course of four years, submitted falsely inflated sales, accounts receivable, and inventory information to a bank to conceal his company's deteriorating financial information and prevent the bank from demanding loan repayment or seizing assets, causing a loss of \$740,829 to the bank. Defendant also submitted false financial information to the SBA to obtain a loan for \$240,100, resulting in a loss of \$222,867 to the SBA. He was sentenced to one day imprisonment, followed by four years' supervised release.

44. *United States v. Lustig*, Case No. 12 CR 314 (N.D. Ill. Nov. 28, 2012). Defendant was in a car accident, and falsely reported to the insurer that the car had been stolen prior to the accident. A CPD officer informed Defendant that law enforcement knew about Defendant's involvement in the accident, but he could help Defendant avoid criminal charges for a price. Defendant then lied about all of it to a grand jury. He was sentenced to three years' probation.

45. *United States v. Matthews*, Case No. 17 CR 600 (N.D. Ill. Sept. 21, 2020). Defendant operated three stores held in the names of nominee owners, which nominees submitted fraudulent SNAP applications for the stores. Defendant trafficked SNAP benefits resulting in a \$1.7 million loss to the government. She was sentenced to five years' probation.

46. *United States v. McGowan*, Case No. 17 CR 23 (N.D. Ill. May 3, 2019). Defendant fraudulently overbilled a company for at least three years. In response to a grand jury subpoena, Defendant falsely told an FBI agent that he had no records relating to the company; in fact, he had over 100 boxes of responsive records in a storage facility and asked an employee of the storage facility for help disposing of the records. He was sentenced to 12 months' probation.

47. *United States v. Sheets*, Case No. 17 CR 661 (N.D. Ill. Mar. 1, 2018). Defendant, an Amtrak employee, caused no-bid Amtrak contracts to be awarded to his

wife, then presented fraudulent documents and lied to OIG agents to conceal his misconduct. He was sentenced to two years' probation.

48. *United States v. Sutton*, Case No. 19 CR 598 (N.D. Ill. Oct. 2, 2020). Defendant, owner of two companies, paid himself and employees wages and compensation in cash, sold automobiles and parts to a scrap metal recycler for cash, cashed checks at currency exchanges and deposited the proceeds in his fiancée's account, failed to issue W-2s or 1099s, and evaded personal income taxes. The total tax loss was \$324,224. Additionally, Defendant submitted a fraudulent application for pension benefits to the VA, understating his income and assets, and made additional false representations to the VA about his health to obtain disability benefits. The total loss to the VA was \$93,884. Defendant was sentenced to five years' probation.
49. *United States v. Traversa*, Case No. 16 CR 324-2 (N.D. Ill. Feb. 21, 2017). Defendant was a superintendent for a construction company that was party to a collective bargaining agreement with the Laborers' union. The company entered a settlement agreement with the union to make payments for unpaid wages and benefits to 24 laborers. The company issued the payments, but Defendant thereafter used his position of power and authority to convince the laborers to kick back portions of their settlement checks totaling \$140,000. Defendant then lied about it all to FBI and OIG agents. Defendant was sentenced to one day imprisonment, followed by one year supervised release.
50. *United States v. Grieco*, Case No. 15 CR 399-5 (N.D. Ill. Oct. 22, 2018). Defendant provided false information to mortgage loan officers, brokers, and appraisers to fraudulently induce banks to approve mortgage loans for ineligible buyers, causing a loss of \$589,905 when the loans were not repaid. Defendant then lied about it all to OIG agents. He was sentenced to three years' probation.
51. *United States v. Lin*, Case No. 16 CR 26 (N.D. Ill. Feb. 6, 2017). In an application and in an interview for naturalization with USCIS, Defendant falsely stated that he had never used any other name and that he had never been a member of the Communist Party. Defendant was sentenced to one day imprisonment followed by three months' supervised release.
52. *United States v. Boehm*, Case No. 12 CR 567-4 (N.D. Ill. Sept. 2, 2015). Defendant, an employee of an auction house, falsely told FBI agents that he disabled a bidder's account because the bidder was having financial difficulties when, in fact, Defendant knew it was a straw account used by his employer to place fraudulent bids and that he had disabled the account to deprive the FBI of evidence of his employer's fraudulent auction practices. He was sentenced to two years' probation.

Fraud cases

53. *United States v. Erickson*, No. 12 CR 292 (N.D. Ill. April 17, 2014). In a twelve-year scheme to defraud his employer, Defendant submitted fictitious invoices to his employer for payment, awarded contracts with his employer in exchange for kickbacks, and submitted expense reports for travel reimbursements inflated by as much as \$25,000 per trip. The loss was \$887,414. He was sentenced to five years' probation.
54. *United States v. Brown-Wheeler*, Case No. 14 CR 575 (N.D. Ill. April 6, 2016). Defendant, a USPS employee, submitted thousands of fraudulent travel reimbursements to the Department of Labor's Office of Workers' Compensation Programs over the course of four years. The loss was \$465,000. Defendant was sentenced to four years' probation.
55. *United States v. Murray*, Case No. 12 CR 89 (N.D. Ill. May 13, 2014). Defendant stole the identities of 31 individuals and submitted unemployment insurance applications in their names, causing a loss of \$338,683 to the Illinois Department of Employment Security. She was sentenced to five years' probation.
56. *United States v. Fisher*, Case No. 18 CR 50016 (N.D. Ill. Sept. 14, 2021). Defendant stole individual taxpayer identification numbers and provided them to a co-conspirator to file 57 fraudulent tax returns, receiving \$207,467 in fraudulent refunds. He was sentenced to one day (time served), with three years' supervised release.
57. *United States v. Idowu*, Case No. 11 CR 513 (N.D. Ill. March 25, 2013). Defendant procured a straw buyer, fraudulent loan application, and fraudulent appraisal to obtain mortgage for real estate for 20 times its fair market value, then split the loan proceeds among the conspirators. The loss was \$288,975. He was sentenced to one day (time served), with three years' supervised release.
58. *United States v. Johnson*, Case No. 16 CR 464 (N.D. Ill. Oct. 3, 2019). The defendant maintained two different SSNs, working under one SSN and using the second to fraudulently collect federal disability benefits, Section 8 housing benefits, SNAP, and Medicaid over several years. The applications and re-applications for benefits involved numerous, varied, and repeated misrepresentations. The loss was \$300,000. The defendant was sentenced to two years' probation.
59. *United States v. Lorash*, Case No. 12 CR 1008 (N.D. Ill. May 8, 2014). Defendant, an insurance agent, stole employer's confidential data and

attempted to sell it to employer's competitors. The loss was \$262,846. Defendant was sentenced to three years' probation.

60. *United States v. Cox*, Case No. 14 CR 58 (N.D. Ill. Jan. 11, 2016). Defendant, a loan officer, fraudulently qualified buyers for six mortgages—including by preparing fictitious leases—in exchange for kickbacks. The loss was \$255,000. She was sentenced to one day (time served), with three years' supervised release.

61. *United States v. Straughter*, Case No. 12 CR 247 (N.D. Ill. April 9, 2013). Defendant concealed her grandmother's death from SSA by providing false SSN and DOB for death certificate; then, for the next 25 years, forged her grandmother's signature on the wrongfully-issued social security checks. The loss was \$184,609. The sentence was three years' probation.

62. *United States v. Weber*, Case No. 14 CR 241 (N.D. Ill. June 3, 2016). Defendant, a United States Postal Inspector, stole from the Postal Service by insuring parcels for high dollar amounts, removing them from the mail stream, then claiming them as "lost" for the insurance money. The loss was \$93,713. The defendant was sentenced to two years' probation.

In summary, by every relevant marker, the Section 3553(a)(6) command to avoid unjustified disparities in sentencing warrants a non-custodial sentence in this case.

D. Subsection (a)(2)(A): the need to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense

As the analysis in the preceding section of this memorandum suggests, a sentence of probation is widely regarded by the courts as sufficient to reflect the seriousness of the offense here, promote respect for the law, and to provide just punishment. While any felony is worthy of sanction, the offenses at issue did not work harm to any individual victim, and the loss to the federal agencies was truly minimal and temporary in nature. The offenses at issue here are below the range of cases that are even prosecuted under the relevant statutes in this district over the past decade.

A non-custodial sentence in this case satisfies the requirements of subsection 3553(a)(2)(A) because it results in substantial restrictions on the defendant's liberty interests. As the Supreme Court explained in upholding a sentence of probation in a case with far higher Guidelines range than that faced by Mr. Thompson:

We recognize that custodial sentences are qualitatively more severe than probationary sentences of equivalent terms. Offenders on probation are nonetheless subject to several standard conditions that substantially restrict their liberty. See *United States v. Knights*, 534 U.S. 112, 119, 122 S.Ct. 587, 151 L.Ed.2d 497 (2001) ("Inherent in the very nature of probation is that probationers 'do not enjoy the absolute liberty to which every citizen is entitled' " (quoting *Griffin v. Wisconsin*, 483 U.S. 868, 874, 107 S.Ct. 3164, 97 K.Ed.2d 708 (1987); internal quotation marks omitted))."

Gall v. United States, 552 U.S. 38, 48 (2007).

E. Subsections (a)(2)(B) and (C): general and specific deterrence

A non-custodial sentence here, like in the many other more aggravated cases cited above, is sufficient to meet the goals of general and specific deterrence. Mr. Thompson's indictment and felony conviction received wide publicity which pointedly shows the public that not even small deviations from the tax laws or false statement statutes will be tolerated and bring career-ending consequences.

That is exactly what has happened to Mr. Thompson here. He has suffered tremendous public humiliation as a result of his conviction. He has had to give up his law license and his position in public service. He has lost his job and his career. He has lost most of his life-savings defending himself. He has lost his cherished right to vote. He has lost his right to possess a firearm. And he will suffer significant restrictions on his liberty as a result of being on probation. There is no risk, having suffered these consequences, of recidivism.

Defense Sentencing Request

For all these reasons, the defense respectfully requests that the Court sentence him to a period of one-year's probation on Counts 3-7, and to a sentence of one-day's imprisonment, time considered served, on Counts 1-2.

Dated: June 6, 2022

Respectfully Submitted,

/s/ Chris Gair

Chris Gair (cgair@gairlawgroup.com)
Jeff Eberhard (jeberhard@gairlawgroup.com)
Carly Chocron (cchocron@gairlawgroup.com)
Gair Eberhard Nelson Dedinas, Ltd.
1 East Wacker Drive, Suite 2600
Chicago, Illinois 60601
(312) 600-4900

CERTIFICATE OF SERVICE

The undersigned certifies that on June 6, 2022, he caused a copy of the foregoing document to be filed via this Court's CM/ECF system which will provide service on all Parties of record.

/s/ Chris Gair
Chris Gair