

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Criminal Case No. 16-cr-00073-CMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

1. JASON TIMOTHY THRONE,

Defendant.

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**DEFENDANT THRONE'S MOTION FOR  
DOWNWARD VARIANCE FROM THE ADVISORY GUIDELINE RANGE**

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Defendant Jason Timothy Throne, by and through counsel, John Henry Schlie, hereby moves, pursuant to D.C.COLO.LCrR 32.1(c), for a downward variance from the advisory guideline range pursuant to 18 U.S.C. § 3553(a) as follows:

**INTRODUCTION**

Mr. Throne has pled guilty on one count of mail fraud in violation of 18 U.S.C. § 1341 and one count of Willfully Making and Subscribing False Tax Returns in violation of 26 U.S.C. § 7206(1). The Plea Agreement submitted by the parties has an advisory sentencing guideline calculation of a final offense level of 23 and Criminal History Category I for an advisory guideline range of 46 to 57 months. The Presentence Investigation Report advisory guideline range calculation has a final offense level of 25 and a Criminal History Category I for an advisory guideline range of 57 to 71 months. Both the Government and Mr. Throne have filed objections to the 2-level adjustment for role in the offense in the Presentence Investigation Report that causes the difference between the two guideline range calculations. Regardless of the ultimate determination by the Court of the advisory guideline range, Mr. Throne moves for a downward

variance pursuant to 18 U.S.C. § 3553(a) to a sentence of imprisonment of 40 months.

### **JUSTIFICATION FOR THE DOWNWARD VARIANCE**

Mr. Throne submits that, based on the totality of the circumstances of this case, a sentence of imprisonment of 40 months is sufficient but not greater than necessary to accomplish the objectives of 18 U.S.C. § 3553(a). However, as a practical matter, Mr. Throne seeks a 40 month sentence of imprisonment because it is likely to enable him to attend his son's graduation from college. Specifically, the bases for the downward variance are as follows:

#### **EXTREME REMORSE**

Mr. Throne has expressed and demonstrated extreme remorse regarding his conduct, and has done so well before criminal charges were brought. On November 13, 2014, Mr. Throne executed a Stipulation and Settlement Agreement with Hunter Douglas, Inc. which admitted his conduct in its totality, agreed to the entry of Judgment against him in the amount of \$5,068,589.70, and agreed that all net proceeds from the sale of all the real estate in which he had an interest would be distributed as directed by Hunter Douglas.

On March 13, 2015, Mr. Throne executed and subsequently filed an Affidavit In Support of Request to Resign while Under Investigation with the New Hampshire Supreme Court Professional Conduct Committee, in which he again admitted his conduct in total. A similar Affidavit was filed by Mr. Throne with the United States Patent and Trademark Office.

Furthermore, Mr. Throne has informed his family and friends regarding his misappropriation of funds from Hunter Douglas and asked for their forgiveness. He has continually and openly accepted responsibility for his acts and remains extremely and

sincerely remorseful.

PERSONAL LOSSES ALREADY INCURRED AND  
EFFORTS TO DEMONSTRATE TRUE CHARACTER

As a result of his conduct and the consequences therefrom, Mr. Throne has lost his career and nearly all of his financial and other possessions. While he has personally suffered public embarrassment and derision and the abandonment by most of his former friends, he has personally suffered most from witnessing the effects that his conduct has had on his wife, his children, his father and extended family. Fortunately, Mr. Throne's family and close friends, those who know him best, have overcome their shock and disappointment and have provided support during his darkest hours. Nonetheless, Mr. Throne is acutely aware of the pain and suffering he has caused his family and will have that on his conscience every day of his life.

In spite of his material losses, Mr. Throne refuses to quit or give up and decided that the only means to truly atone, if only in part, for his acts was to serve society as best he could. Although he was unable to find any employment for more than 9 months following his termination from Hunter Douglas, Mr. Throne finally got a job at Home Depot as a sales associate in the flooring department and has made the most of this opportunity, as can be seen from the customer appreciation letter and awards that he has received attached hereto as Exhibit 1. And, as the Court will see in the letters of friends and family provided to the Probation Officer, he has not let his circumstances deter him from continuing his various and extensive volunteer activities. While Mr. Throne readily acknowledges there is no way to make up for what he did, he has and will continue to use his negative experience to learn from it and help others that may be in similar circumstances or having personal hardship.

CONCURRENCE IN THE SUBSTANCE OF THIS MOTION BY HUNTER DOUGLAS

Personally more painful than everything except what he has caused his family, Mr. Throne truly regrets his breach of faith and the loss of his relationship with Hunter Douglas. Mr. Throne worked for Hunter Douglas for over 20 years and developed many close relationships with company management over the years and was named as an inventor or co-inventor on 42 of Hunter Douglas' patents. The true depth of those relationships is apparent in the letter written by the Co-President of Hunter Douglas and attached to the Presentence Investigation Report, urging leniency in the sentencing of Mr. Throne. While Mr. Throne cannot turn back the clock and undo what has been done, he has sincerely apologized to Hunter Douglas for his deception and prays for their forgiveness.

WHEREFORE, Mr. Throne prays that this Court grant his motion for a downward variance and asks that the Court sentence him to a 40-month term of imprisonment.

Respectfully submitted this 29th day of June, 2016.

s/ John Henry Schlie

**John Henry Schlie**

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ATTORNEY FOR DEFENDANT

JASON TIMOTHY THRONE

**CERTIFICATE OF SERVICE**

I hereby certify that on March 29, 2016, I electronically filed the foregoing

**DEFENDANT THRONE'S THRONE'S MOTION FOR DOWNWARD VARIANCE FROM**

**THE ADVISORY GUIDELINE RANGE** with the Clerk of Court using the CM/ECF

system which will send notification of such filing to the following e-mail addresses:

Assistant United States Attorney Thomas M. O'Rourke  
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U.S. Probation Officer Matthew J. Gill  
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and by depositing in the United States mail, first-class, postage prepaid to:

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s/ John Henry Schlie  
John Henry Schlie