

Make / Use False Instrument

s.300 (NSW) Crimes Act

s 300 (1) make false instrument, with intention to induce another person to accept instrument as genuine and do or not do some act to that person's, or to another person's, prejudice

(2) use false instrument with intention of inducing another person to accept instrument as genuine, and do or not do some act to that other person's, or to another person's, prejudice,

Maximum Penalty: 10 years

Repealed: 22.2.2010

	CASE (AGE IF KNOWN)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	O'Keefe NSWCCA 11.6.1992	9 x s.300(1) 9 x s.300(2) Sched: 175 offences	\$80,663	PG	MT 15m AT 5m	AA FT 6m	fine for stealing	Female bookkeeper wrote cheques out to cash, signed and cashed them, writing client's name on butt – offences committed over 20 months - paid for living expenses. Full restitution made - genuine contrition and remorse
2.	Kermali (29) NSWCCA 6.7.1994	2 x s.300(2) 5 x s.178BA [5y] s.178BB [5y] Sched: 76 offences	\$51,000	PG	MT 20m AT 10m MT 20m AT 10m MT 20m AT 20m (concurrent)	AD	Nil	Systems development officer with SRA - through false statements induced SRA to purchase from offender's company instead of cheaper sources over two years All money reimbursed.

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3.	Wales NSWCCA 15.7.1994	s.300(1) s.300(2) Sched: GIC		PG	MT 18m AT 6m	AA MT 12m AT 12m	Serving PD and recog for dishonesty matters.	Attempted to use American Express card belonging to someone else.
4.	El-Rashid NSWCCA 7.4.1995	2 x s.300(2) 2 x s.158 [5y] Sched: 2 x s.300	\$122,500	VG PG	MT 9m AT 15m FT 9m (concurrent)	Crown AA MT 2y AT 1y	Nil	Employee of Arab Australian Ltd Bank transferred money from customers' accounts.
5.	Santos (48) NSWCCA 28.6.1995	13 x s.300(1) Sched: 68 x s.300	\$474,055	PG	MT 2y 9m AT 1y 9m (25% discount for assistance)	AD	Nil	Accountant defrauded employer by making out false cheques over 4 years Gambling - admitted offences to employer when became aware of audit - some assistance
6.	Terrell NSWCCA 19.7.1995	2 x s.300(1) 2 x s.300(2) 4 x s.178BB [5y]	\$200,000	PG	MT 1y AT 4m MT 1y AT 4m FT 6m (concurrent)	AD	Nil	Long-time customer of bank, falsely represented he had large funds invested in order to obtain "facility" - \$1million obtained - deficiency ultimately \$200,000
7.	Marvin (38) NSWCCA 5.11.1995	s.300(1) s.300(2) 41 x s.178A [7y]		PG	MT 18m AT 6m MT 18m AT 6m MT 18m AT 6m (concurrent)	AA MT 12m AT 12m	Nil	Solicitor misappropriated funds over four years.
8.	Cofini (37) NSWCCA 4.3.1997	3 x s.300(2) Sched: 6 x s.300(2)	loss to bank: \$1.452m	PG	MT 1y AT 1y	AD		Solicitor used documents to deceive bank to obtain large loan from bank for client. Severe hardship since offence - genuine remorse.

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9.	Brillo (20-21) NSWCCA 14.5.1997	5 x s.300(1) 5 x s.300(2) Sched: 73 x s.300(1) 75 x s.300(2)	\$188,075	PG	MT 18m AT 2y	AD	Nil	Female - defrauded employer over 13 months - altered cheques signed by company signatories and deposited money into own account - no money repaid Money spent on lifestyle and gambling.
10.	Spiridonov NSWCCA 1.5.1998	11 x s.300(2) Sched: 12 x s.300(2)	\$45,000	PG	MT 3y AT 1y	AA MT 2y 3M AT 15m	minor dishonesty	Obtained Visa card using false documents and used card to obtain cash advances - careful planning. Repaid 70% of losses - co-offender absconded with much more money - good background - depressed.
11.	Giarratano [2000] NSWCCA 418	6 x s.300(1) 8 x s.300(2) 13 x Steal valuable security Sched: 57 offences	\$367,000	PG	MT 2y AT 2y FT 12m (concurrent)	AD		Stole from employer by altering cheques over 19 months. Gambling addiction.
12.	Vasil [2000] NSWCCA 421	21 x s.300(2) Sched: 37 dishonesty offences		PG	MT 3y AT 3y	AD		Used false documents to create false identities to systematically defraud banks - defrauded banks of \$4million dollars over two and a half year period
13.	De Souza [2001] NSWCCA 94	4 x s.300(2) 15 x s.178A [7y] s.178BA [5y] Sched: 66 similar offences	\$1.5m	PG	FT 4y MT 4y AT 3y FT 4y (all concurrent)	AD	prior record for fraud offences	Insurance agent defrauded 23 clients over 5 year - vulnerable victims.

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14.	Fisher [2001] NSWCCA 143	6 x s.300(1) 6 x s.300(2) Sched: 48 x s.300(1) 48 x s.300(2)	\$248,000	PG	MT 3y AT 2y	AA MT 2y 6m AT 2y 6m		Used position as technical manager to defraud company over 5 years - altered cheques already signed using sticky tape - serious breach of trust. Gambling addiction - confessed offences to police - remorse - some compensation made - rehabilitation
15.	Tooth [2001] NSWCCA 407	2 x s.300(2)	\$415,127	PG (20%)	4y NPP 2y	AD	Dishonesty offences – breached bail	Used stolen bank cheques to pay off mortgage Some assistance to authorities
16.	Sewell [2002] NSWCCA 7	7 x s.300(2)		PG	4y NPP 1y 5m	AD	similar offences	Induced bank to accept false instruments as genuine and thereby credit company money to offender's account Good character evidence - evidence of rehabilitation - medical condition
17.	Finn (mid - 50s) [2002] NSWCCA 86	6 x s.300(1) Sched: 17 x s.300(1)	> \$130,000	PG (> 15% on appeal)	3y NPP 2y	AA 2y NPP 16m	nil	Manager of smash repairs involved with others in fraud on NRMA - created false insurance claims for fictitious accidents – used own car for one claim Favourable prospects of rehabilitation - poor health – parity
18.	Power (40s) [2002] NSWCCA 244	39 x s.300(1)	\$7.681m	PG (25%)	8y NPP 5y	AA 8y NPP 4y	nil	Female - middle manager at bank created fictitious loans for fictitious customers over 4 years - money spent on luxury living, particularly jewellery - some money used to repay older loans Motivation obscure - depressed and vulnerable at time - prospects of rehabilitation
19.	Burke (41) [2002] NSWCCA 353	11 x s.300(2) 39 x s.178BA [5y]	\$4,490,563 \$923,150	PG (20%)	4y NPP 3y Total: 10y NPP 7y 6m	AD	dishonesty offences	Investment advisor and insurance broker - did not invest money provided by clients for that purpose - 26 investors involved - unauthorised withdrawals of money invested - 6y period - gross breach of trust

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20.	Montesinos (35) (2002) 135 A Crim R 417 [2002] NSWCCA 470	15 x s.300(2)	\$119,643	VG	24m suspended	Crown AD	nil	Female employee deposited cheques drawn on account of employer into own account over five months - little insight into offending History of major depressive episodes
21.	Meyer (28) (2002) 135 A Crim R 438 [2002] NSWCCA 451	3 x s.300(1) 3 x s.300(2)		PG	3y (Periodic Detention)	AA 1y 6m NPP 13m (Periodic Detention)	nil	Finance broker involved in fraudulently obtaining loans from bank - not party to scheme but facilitated it - forged endorsements on three cheques - to receive \$36,237 commission Remorse - co-operation
22.	Weir (55+) [2003] NSWCCA 204	s.300(2) 4 x s.178A [7y] s.178B [1y] Sched: 15 x s.178A 4 x s.178B 5 x s.300(1) 3 x s.300(2)	Over \$1m	PG (25%)	5y NPP 2y <u>Total:</u> 7y NPP 4y	AD	Prior convictions for fraud – breached CSO	Female - accountant took money from clients for purpose of investment – breach of trust over prolonged period Gambling - remorse
23.	Thompson (43-45) [2003] NSWCCA 219	7 x s.300(1) 7 x s.300(2) Sched: 30 x s.300(1) 30 x s.300(2)	\$144,000	PG (25%)	3y NPP 18m	AD	Nil relevant	Female - credit collector for company took money to pay for family expenses and finance gambling addiction Financial difficulties

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24.	Maharaj (30) [2004] NSWCCA 387	7 x s.300(1) 7 x s.300(2) Embezzlement Larceny as a clerk Sched: 122 similar offences	\$440,000	PG (25%)	<u>Total:</u> 5y NPP 3y	AD	Nil	Employee of financial planning institution – managed clients funds – stole money from 13 clients over 3.5 years – motivated by greed Assistance to authorities – some restitution – delay – some medial problems – remorse
25.	Hovan (44) [2005] NSWCCA 179	s.300(1) s.300(2) s.178BB [5y]		PG (40%)	3y 6m NPP 2y 6m 3y 6m NPP 2y 6m FT 12m <u>Total</u> 4y 6m NPP 3y 6m	AA 3y NPP 18m	Nil	Solicitor made false application for computer equipment loan – obtained \$102,000 - \$58,000 outstanding – forged signature and seal of clients on deed of release – received \$20,000 costs payment on behalf of client – money owed to applicant Second offence breached bail – struck off – full reparation underway – poor financial manager – psychological problems
26.	Farrant [2005] NSWCCA 229	s.300(1) 5 x s.300(1) 2 x s.178BA [5y] Sched: 44 offences	\$139,000	PG	2y 6m NPP 15m 2y NPP 12m FT 9m <u>Total</u> 2y 9m NPP 18m	AD	Similar offences	Female employee responsible for paying creditors of company – made out cheques to creditors where no money owing and changed name on cheque – used company credit card to make purchases – offending over significant period of time – significant breach of trust Committed to repayment
27.	Valentine (37) [2007] NSWCCA 23	3 x s.300(2) Sched: 2 x s.300(2)	\$924,454.99	PG (25%)	4y 9m NPP 2y 9m	AD		Financial advisor stole from clients over two years – forged signatures, alerted document and diverted mail Ellis discount – financial difficulties

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28.	Hyman [2007] NSWCCA 47	9 x s.300(1) 9 x s.300(2) 2 x s.178BA [5y] Sched: 50 offences	Over \$200,000	PG (25%)	5y 3m NPP 3y 9m 3y 6m NPP 2y (concurrent)	AD	Similar offences	Female executive assistant to Vice President of company – misused corporate credit card over 5 years – forged signature of VP – breach of trust involving forgery and planning Repaid agreed amount of \$220,000 – remorse - gambling
29.	Nikolaidis (52 at sentence) (2008) 191 A Crim R 556 [2008] NSWCCA 323	s.300(1)		VG	2y NPP 12m	AD	Nil	Solicitor had secretary type backdated letter purporting to be terms of engagement between offender and former client – involved in dispute with client – costs assessment being made by Supreme Court assessor – mid range offence – part of continuous course of conduct – breach of trust Loss of employment
30.	Yow (48) [2010] NSWCCA 251	2 x s.300(1) s.300(2) 4 x s.300(2) s.302 [10y] Deal with proceeds of crime [10y] Sched: 28 similar offences	Goods valued at \$41,000	PG (25%)	3y 1m NPP 2y 4m 3y 2m NPP 2y 2m FT 18m FT 12m 3y 6m NPP 2y <u>Total:</u> 3y 10m NPP 2y 11m 14d	AD	Record in both Australia and Singapore	Search of home located 25 counterfeit cards and a drivers licence – used cards to purchase goods easily resold – deposited money into Bank account – part of organised criminal syndicate – important role but not principal – to receive percent of profits – arrived in Australia for sole purpose of committing fraud – offending slightly below mid-range Came from Singapore to commit offences – gambling debt – unspecified discount for assistance

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31.	Rajopal [2012] NSWCCA 148	s.300(2) 3 x s.300(2) Deal with proceeds of crime [10y] Sched: 8 x s.300(2)	\$9,670	PG	3y 4m NPP 2y 4m FT 20m FT 2y <u>Total:</u> 3y 10m NPP 2y 3m`	AA 2y 9m NPP 2y FT 10m FT 18m <u>Total:</u> 3y NPP 2y 3m	Nil	Found using or attempting to use blank bank card to withdraw money from ATM – involved in planned, organised and ongoing criminal enterprise – low range of offending Difficult background in Sri Lanka
32.	Kerr (46) [2014] NSWCCA 235	2 x s.300(2) 11 x s.178BA [5y] 26 x Deal with proceeds of crime [20y]	\$246,461.25	VG	<u>Indicative</u> 5y <u>Aggregate</u> 6y NPP 4y	AD	Nil	Sent two faxes with falsified signature of business partner authorising payment of money into personal accounts – some money paid into first account transferred into second account - some money transferred back to company over four months – planned and protracted criminal activity Suffering depression
33.	Hudson [2016] NSWCCA 278	7 x s.300(1) 7 x s.300(2) 2 x s.178BA [5y]	\$2,266,865	PG	<u>Aggregate</u> 2y 9m NPP 2y 6m	AD	Nil	Female suffering financial pressure – over 3 weeks made and used 7 cheques from cancelled account – cheques given to lawyers in attempt to prevent foreclosure of house - actual loss of \$200,000 to lawyer and \$500,000 to financial institution Genuine remorse – delay – turned life around – out of character

Last updated: Dec 2017

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