Fraud - Over $5 million

See list of offences and penalties at end of table.

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	**Vidler** NSWCCA 23.11.1993	20 x s.71(1) (Cth) *[7y]* 2 x s.156 (NSW) *[10y]*	$8.2m - loss to bank of $921,000	PG	MT 4y AT 3y	AD	Nil	Female - bank supervisor stole money from accounts over ten years.
2.	**Vickers Fearon** NSWCCA 17.10.1996	15 x 178BA (NSW) *[5y]* Sched 34 x s.178BA 8 x s.178BA (NSW) *[5y]* Sched 9 x s.178BA	$16m: bank loss of $3.345m $6m: bank loss of $1.97m	PG PG	MT 5y AT 1y MT 5y AT 1y	AD		V, as manager of Westpac, approved loans for F that should not have been approved - culpability considered equal
3.	**Giam (No.2)** (43) (1999) 109 A Crim R 348 [1999] NSWCCA 378	s.176A (NSW) *[10y]*	millions	VG	5y GBB	Crown AA MT 14m AT 16m	nil	Accountant arranged for set off facility with bank for property management company - used it for own purposes to finance gambling addiction. Married with two young children; prior good character On appeal: MT reduced by 10m for PSC - AT reduced 8m for period on bond
4.	**Walters** (55) [2001] NSWSC 640 Sully J [2002] NSWCCA 291	10 x s.29D (Cth) *[10y]* Sched: 5 x breach restraining order	$7,302.221	VG	7y 8m NPP 6y	AD	minor record from 31 years ago	Owner of successful bricklaying company failed to account for tax deducted from wages of employees - money deducted to finance affluent lifestyle then company wound down when clear could not pay tax debt - offences committed over 9 years. Good work record - unlikely to re-offend - single father to young son

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
5.	**Jackson** (32) [2001] NSWCCA 355	7x s.176A (NSW) *[10y]* Sched: 22 offences	$5.2m	PG (28.5%)	5y NPP 2y	Crown AA 5y NPP 3y	nil	Company secretary used company cheques to support lavish lifestyle - offences committed over 2 years. Married with young family - substantial reparation made
6.	**Pearce** (45) [2001] NSWCCA 447	3 x s.29D (Cth) *[10y]*	$6.5m	VG	5y 4m NPP 3y 4m	AA 5y 4m NPP 3y	nil	Middle manager of large company - company failing - over three years failed to remit PAYE tax to ATO – submitted false information and failed to send employment declarations - money used to finance company - did not receive any personal benefit Active in surf lifesaving - good references - adverse effect upon family
7.	**Power** 40s [2002] NSWCCA 244	39 x s.300(1) (NSW) *[10y]*	$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

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
8.	**I Ronen (Mrs)** (72 at sentence)	Consp s.29D / s.86(2) (Cth) *[20y]* Consp to defraud s.86A(Cth) *[20y]* s.31 (Cth) *[5y]*	Over $8million tax withheld	VG PG	Nil	6y 6m 5y 8m <u>Total</u>: 6y 6m NPP 4y 6m	Crown AD AD	1991-2001 Two offences represented one conspiracy – change of legislation - Mother and two sons owned retail stores – cash takings from retail business skimmed and concealed – tax withheld – money sent overseas - worst category of offence Substantial financial penalty paid – agreement to repay tax –late demonstration of contrition significant good character Mrs R in poor health IR and NR married with children
	I Ronen (46 at sentence)	Consp s.29D / s.86(2) (Cth) *[20y]* Consp to defraud s.86A(Cth) *[20y]*		VG	Nil	6y 6m 5y <u>Total</u>: 8y 6m NPP 5y 6m	AD Crown AD	
	N Ronen (47 at sentence) [2005] NSWSC 991 Whealey J (2006) 161 A Crim R 300 [2006] NSWCCA 123	Consp s.29D / 86(2) (Cth) *[20y]* Consp to defraud s.86A(Cth) *[20y]*		VG	Nil	6y 6m 5y <u>Total</u>: 8y 6m NPP 5y 6m	AD Crown AD	
9.	**Boulden** (42 at sentence – 33 at offence) [2006] NSWSC 1274 Whealy J	s.590(1)(c)(iii) (Cth) *[2y]*	$5.5m improper reduction made to financial statement	PG (discount reflected in PD)	12m PD		Nil	Financial Controller in company related to HIH – arranged for improper reduction to company liabilities – released to Australian Stock Exchange as half yearly consolidated results – lied about reductions – middle management acting on direction – mid-level seriousness Married with young children – good character – contrition – evidence of rehabilitation during delay

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
10.	**Richard** (36) [2011] NSWSC 866 Garling J	2 x s.1041G (Cth) *[5y]* Sched: s.1041E(1)	$26.6m	PG (37.5% plea and assist)	3y 9m NPP 2y 6m		Nil	Director of financial investment company – over nearly four years directed superannuation funds into inappropriate overseas investments – aware conduct dishonest – received personal benefit of $1.3m – all money lost – nearing upper range of seriousness – pivotal role – central figure in Australia – motivated by greed – rolled up charges – carefully planned and concealed offences Assistance – significant contrition – prior good character
11.	**Bangaru** [2012] NSWCCA 204	4 x s.178BB (NSW) *[5y]* 9 x s.178BA (NSW) *[5y]*	$3.7m $19.8m	VG	8y 6m NPP 6y 4m	AD	Nil	Director of two companies – Nov 2001-Dec 2003 misappropriated $3.7m from 17 investors – Jan 2004-July 2005 obtained $19.8m from financial institutions after making statements with reckless disregard to whether false and misleading in material particular – statements related to financial position of companies – substantial loss – planned / organised criminal activity Married with children – family suffered security issues after arrest – good prospects of rehabilitation
12.	**Agius** (63 at sentence) [2012] NSWSC 978 Simpson J [2015] NSWCCA 200 **Zerafa** (36 at sentence) [2012] NSWSC 978 Simpson J [2013] NSWCCA 222	Consp s.29D (Cth) *[20y]* s.135.4(5) (Cth) *[10y]* Consp s.29D (Cth) *[20y]* s.135.4(5) (Cth) *[10y]*	$5m loss to Cth	VG VG	8y 11m NPP 6y 8m 500h CSO	AD Crown AA 3y 6m NPP 2y 3m	Nil Nil	Tax fraud scheme A involved in deliberate, calculated, systematic and repeated frauds over ten years – close to worst case – financial advantage Z – became involved as young and naïve accountant due to employment over 7 years – influenced by corrupt employer – no direct financial benefit – made some attempt to stop involvement – good character – married with young children – delay caused significant stress to family – loss of profession

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
13.	**Subramaniam** (36-40) [2013] NSWCCA 159	23 x s.178BA (NSW) *[5y]* 3 x s.193B(2) (NSW) *[15y]*	$45,388,249	PG (25%)	Agg 15y NPP 7y	AA Agg 11y NPP 6y		Female senior financial accountant for financial institution – used position to transfer funds from corporate accounts over five years – purchased property and luxury goods and gave gifts Some reparation made although shortfall – personality disorder – sexually abused as a child – prospects of rehabilitation
14.	**De Angelis** (50) [2015] NSWCCA 197	14 x s.176A (NSW) [*10y*] 2 x s.178BA (NSW) *[5y]*	$8.5m	PG (12.5%)	12y NPP 7y 6m	AD	Nil	2004-2010 – director of registered music company – persuaded 16 victims to invest large sums of money – made extravagant false claims about financial and social standing and association with significant world figures – gave victims false information about finances – company had no real business dealings and was under threat of deregistration by ASIC Difficult childhood as orphan
15.	**Dickson (No.18)** (50) [2015] NSWSC 268 Beech–Jones J	Consp s.400.3(1) (Cth) *[25y]* s.135.4(5) (Cth) *[10y]*	$135 million	VG		11y NPP 7y	nil	Tax fraud in worst category of offence – conspiracy to deal with proceeds of crime very serious example of offence - offender and co-conspirator were directors of company - agreed to make false depreciation claims in company tax returns – sham agreements to acquire medical technology as basis for depreciation claims – submission of false material to Australian Tax Office to support claims – extent of loss or risk of loss $135 million – personal benefit - dishonest and fraudulent tax scheme on a large scale - high degree of planning and sophistication. Prior good character – well-educated, employed
16.	**Sigalla** (51 at sentence) [2016] NSWSC 52 Adamson J	24 x s.184(2)(a) (Cth) *[5y]*	Over $8.6m	VG	10y NPP 6y		Nil relevant	Dec 2006 - Mch 2009 – company director helped himself to funds and shares – gross dereliction of duties – damage to investor confidence in public company No remorse

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
17.	**Afiouny** (33) [2017] NSWCCA 23	s.135.1(5)	$17.7m	PG (25% - plea and assist)	20m NPP 8m (cumulative to existing sentence)	AD	Breached bail for bribery offence	Significant role as advisor in sophisticated and concerted scheme to illegally import cigarettes and tobacco – not principal and not involved in selling or distribution – actual loss of duty $3.5m – potential loss of further $14.2m – mid range offence Limited assistance to authorities
18.	**Upadhyaya** [2017] NSWCCA 162	10 x s.176A (NSW) *[10y]* 4 x s.192E (NSW) *[10y]*	$10.75m	VG	12y NPP 7y 9m	AD		August 2005-Dec 2010 – director of business – deliberate, systematic and sustained defrauding – falsely inflated invoices in ordering goods from companies owned by offender – on one occasion ordered goods and had them delivered to own company
19.	**Falconer** (70 at sentence) [2018] NSWSC 1765 Adamson J Co-offender: SIGALLA	4 x s.184(2)(a) (Cth) *[5y]* s.184(2)(b) (Cth) *[5y]* s.1309(1) (Cth) *[5y]*	$6,276,783	PG (25%)	Total 4y 6m NPP 3y		Nil	Dec 2006-Feb 2009 – director involved in stealing money from company – gross dereliction of duty – breach of statutory and fiduciary duties - personal gain $1,419,000 – as director and company secretary reviewed and signed report to ASX failing to disclose payments – lesser offender – serious offences Good character – poor physical and mental health – lost reputation – did not oppose extradition
20.	**Issakadis** [2019] NSWCCA 302	Consp s.400.3(1) (Cth) *[25y]* s.135.4(5) (Cth) *[10y]*	$100 million	VG	8y 3m 7y Total 10y 3m NPP 7y 6m	Conviction AD		2007-2010 - Director of company with co-offender – tax fraud - false depreciation claims in tax returns to avoid tax liabilities – both agreed to deal with 'proceeds of crime' (cash distributions from trusts) for own purposes

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
21.	**Kitson** (37) [2019] NSWSC 1109 Payne J [2022] NSWCCA 166 Co-offenders: A.CRANSTON ONLEY L.CRANSTON HAMMOND ANQUETIL MENON WILLMOTT	s.135.4(3) *[10y]*	Over $105m	PG (50% - combined)	4y 6m NPP 3y		Nil	Involved in Plutus tax fraud conspiracy over three years – payroll service company set up and used to misappropriate money taken from clients for tax payments – high level of sophistication, premeditation and dishonesty – total loss to ATO $105,625,304.36 – not designer of scheme but actively involved from early stage – responsible for sourcing clients and building up business – later employed as manager – attempted to destroy records to conceal offence – personally received $1.3m – slightly below principals: essential facilitator – aware at least $80m involved – towards top of range Prior good character – remorse
22.	**Hammond** (22 at beginning of offence) [2020] NSWSC 888 Payne J Co-offender: A.CRANSTON ONLEY L.CRANSTON ANQUETIL KITSON MENON WILLMOTT	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	Over $101m	PG (50% - combined)	Indicative: 2y 3y Aggregate: 4y NPP 2y		Nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments – scheme high level of sophistication, premeditation and dishonesty – offender employed by company for several months before becoming aware of scheme – continued involvement aware of illegality and extent of fraud – involved in accounting and financial transactions - total loss to ATO during involvement of offender $101,584, 952.81 – took active steps to conceal conspiracy – bottom of hierarchy – money laundered $49,084,316.55 – received small financial benefit compared to co-conspirators - role place offence at just below mid-range Female - youth and inexperience – acted from misguided sense of trust and loyalty – remorse and contrition – prior good character

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
23.	**Anquetil** [2020] NSWSC 995 Payne JA [2021] NSWCCA 59 [2025] NSWCCA 147 Co-offenders: A.CRANSTON ONLEY L.CRANSTON HAMMOND KITSON MENON WILLMOTT	s.135.4(3) *[10y]* s.400.3(1) *[25y]* Sched: s.400.3(1)	Over $105m	PG (50% - combined)	4y 8m 6y <u>Total</u>: 7y 6m NPP 5y	Crown AD AD	Nil	Involved in Plutus tax fraud conspiracy over three years – payroll service company set up and used to misappropriate money taken from clients for tax payments – high level of sophistication, premeditation and dishonesty – one of the most serious tax fraud offences seen by the courts – total loss to ATO $105,625,304.36 – a principal and one of four to establish scheme – performed critical role throughout scheme – at apex of hierarchy – money laundering offence well above mid-range – sophisticated, organised and diverse – use of false entities and business records – involved in laundering over $28m with ultimate personal benefit of $12,218,148.55 – schedule offence involved payment $24,244,760.64 in response to blackmail threats (see *Hausman / Rostankovski* [2022] NSWCCA 24) Genuine remorse and contrition – prior good character – good prospects of rehabilitation CCA: 2025 appeal by applicant on family hardship ground allowed – no lesser sentence warranted.
24.	**Chalabian (No.14)** (51) [2022] NSWSC 829 Johnson J Co-offenders: HAUSMAN ROSTANKOVSKI	s.400.3(1) *[25y]*	Over $24.2m	VG	12y NPP 7y 6m		nil	Solicitor – used office trust fund to launder over $24.2m on behalf of others over 12 weeks – money obtained through blackmail of conspirators involved in Plutus tax fraud scheme - aware money proceeds of crime throughout offending – received 53 deposits and made 22 distributions – false paper trail and use of straw directors – critical and indispensable role in sophisticated scheme – used professional skills and facilities – motivated by greed – received $51,597 in legal fees and $880,000 disbursement – amount substantially above threshold – high-range – substantial moral culpability Facilitation of trial – voluntary community work – hardship on family – prior good character of limited weight – good prospects of rehabilitation and unlikely to re-offend

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
25.	**Rostanovski** (27 at offence) **Hausman** (51) at sentence) [2022] NSWCCA 24 Co-offender: CHALABIAN	Aid and abet s.135.1(3) *[5y]* Jointly commit s.400.3(1) *[25y]* Blackmail: s.249K(2) Crimes Act *[14y]* Blackmail: s.249K(2) Crimes Act *[14y]* Jointly commit s.400.3(1) *[25y]*	See facts	PG (20%) PG (50% combined)	Indicative: 1y 7m 9y 6m Aggregate: 8y 4y NPP 2y 5m Total: 10y 5m NPP 7y 2m 5y 7y 6m Total: 8y NPP 6y	Crown AD AD Crown AD (except to vary sentence order) AD	Nil Nil	R aided A.Cranston in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – recruited and managed straw directors – received at least $192,000 – not member of inner circle – mid-range H and R blackmailed directors of scheme – extensive planning – greater role played by H – well above mid-range Used co-offender solicitor to launder money received from blackmail demands – over $24m and $19m – sophisticated planning – H architect and lead role – well above mid-range – R above mid-range Both – remorse – good prospects of rehabilitation – little likelihood of re-offending – special circumstances On Crown appeal: no error in application of totality – not manifestly inadequate – variation required in sentence order for H On appeal: errors - parity for H – failure to take into account good character for R – no lesser sentence

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
26.	**L.Cranston** (21-24) [2023] NSWSC 454 Payne JA Co-offenders: A.CRANSTON ONLEY HAMMOND ANQUETIL KITSON MENON WILLMOTT	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	See facts	VG	4y 6y Total: 8y NPP 5y		Nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – scheme high level of sophistication, premeditation and dishonesty – towards highest range of objective seriousness - offender trusted and responsible although subordinate role – became aware of illegality after working for 11m and continued involvement – persistent course of conduct - total loss to ATO during involvement of offender $101,584,952.81 – at or near bottom of hierarchy – money laundered $49,084,316.55 – received financial benefit of $181,639.96 – similar culpability to Hammond Female - primarily motivated by misguided loyalty to brother – no contrition – prior good character – prospects of rehabilitation fair – 5y daughter – assistance in conduct of trial - delay
27.	**Wilmott** [2023] NSWSC 474 Payne JA Co-offenders: A.CRANSTON ONLEY HAMMOND L.CRANSTON ANQUETIL KITSON MENON	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	See facts	VG	5y 7y Total: 9y NPP 6y		Nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments – scheme high level of sophistication, premeditation and dishonesty - offender involved in transfer of $31 million to second-tier companies, representing about 30 per cent of total $105 million misappropriated by group – received direct financial gain of $498,272- reward significantly less than principals – role well below some but greater than L.Cranston and Hammond - not an instigator or architect of conspiracies and acted under instructions - central role as knowing active participant for 2 years - effective 'chief managing officer' of second-tier companies - not involved in destroying records and computers University educated – no contrition - prospects of rehabilitation good - prior good character

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
28.	**Kelly** (29-34) [2023] NSWCCA 104	31 x s.193E(1)(b) *[10y]* Sched: 59 x s.193E(1)(b) *[10y]*	$6.7m	PG (25%)	Aggregate: 13y NPP 8y	AD	nil	Sustained course of fraudulent misconduct over 5y involving 90 victims and $6.7m – employee of investment company used false documents and forged signatures to have unclaimed money paid into bank accounts controlled by offender Prior good character On appeal: inconsistencies in indicative sentences do not undermine appropriateness of aggregate sentence
29.	**Menon** **(39)** [2023] NSWSC 768 Payne JA Co-offenders: A.CRANSTON ONLEY L.CRANSTON HAMMOND ANQUETIL KITSON WILLMOTT	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	See facts	VG	8y 6m 12y Total: 14y NPP 9y		Nil	Solicitor - involved in Plutus tax fraud conspiracy using payroll service company to misappropriate money taken from clients for tax payments – scheme high level of sophistication, premeditation and dishonesty - total loss to ATO $101,584,952.81 – money laundered $49,084,316.55 – not principally motivated by greed - received $248k in shares - very significant role - provided advice to principal conspirators, instrumental in appointing vulnerable drug addicted persons as directors for second-tier companies and manipulating them to carry out fraud - had directors sign documentation knowing exposed to risk of substantial personal tax liabilities, used expertise and standing as solicitor in correspondence and drafting legal documentation, overseeing forgery of documents, lying in interview with NSW Office of State Revenue, facilitating transfer of large sums, pivotal in dealing with blackmail and payment of $25 million to blackmailers, being monies which should have been paid to ATO - culpability only slightly below principals – not principally motivated by greed. Used prior good character and professional standing – no remorse - extra curial punishment including will never again practise law - prospects of rehabilitation fair

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
30.	**A.Cranston** (36) [2023] NSWSC 1004 Payne JA Co-offenders: ONLEY L.CRANSTON HAMMOND ANQUETIL KITSON WILLMOTT MENON	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	See facts	VG	9y 12y Total: 15y NPP 10y		nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – over $105m misappropriated with loss to ATO of over $101m - scheme high level of sophistication, premeditation and dishonesty and towards highest range of objective seriousness — money laundered through bank accounts owned by companies associated with conspirators – offender an instigator of scheme and a main financial beneficiary receiving not less than $6,861,782.17 –blackmail taken into account as limited non-exculpatory duress – role towards upper range of objective seriousness – course of conduct over three years – use of good character and knowledge of tax system No contrition – co-operation – some delay – effect of medical conditions on custody – prospects of rehabilitation only fair
31.	**Onley** (53) [2023] NSWSC 1008 Payne JA Co-offenders: A CRANSTON L.CRANSTON HAMMOND ANQUETIL KITSON WILLMOTT MENON	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	See facts	VG	9y 12y Total: 15y NPP 10y		nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – over $105m misappropriated with loss to ATO of over $101m - scheme high level of sophistication, premeditation and dishonesty and towards highest range of objective seriousness — money laundered through bank accounts owned by companies associated with conspirators – offender an instigator of scheme and a main financial beneficiary receiving not less than $4,692,585.56 –blackmail taken into account as limited non-exculpatory duress – role towards upper range of objective seriousness – course of conduct over three years No contrition - co-operation – some delay – good character facilitated offence – childhood trauma – prospects of rehabilitation fair – poor physical health

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
32.	**Kelu** (48) **Millner** (47; 56 at sentence) [2023] NSWSC 1537 Cavanagh J	s.135.4(3) *[10y]* s.135.4(3) *[10y]* s.135.4(3) *[10y]* s.135.4(3) *[10y]*	$40,911,685	VG	5y 6y <u>Total</u>: 8y NPP 4y 6m 5y 6y <u>Total</u>: 8y NPP 4y 6m		Nil No significance	2012-2013 – large-scale tax fraud - defrauding Commonwealth of goods and services tax (GST) revenue, through purchase and sale of gold bars – gold bars purchased then melted in furnaces at M's premises - new bars sold as 'scrap gold' to gold dealers, avoiding GST as not a precious metal – co-opted persons who allowed bank accounts to be established in their names and operated by the offenders, unknowing as to criminal activities - motivated by financial greed, made substantial gain - $16,795,280 recovered – did not lead lavish lifestyle. M: excellent prospects of rehabilitation - unlikely to re-offend - good character. K: more important role but stronger subjective case - autism spectrum disorder, health issues – highly educated - good character - good prospects rehabilitation - unlikely to re-offend
33.	**Nosti** (58) [2024] NSWCCA 158	5 x s.192E(1)(b) Sched: 3 x .192E(1)(b)	$6.76m	PG (25%)	<u>Aggregate:</u> 9y NPP 5y 6m	AA <u>Aggregate:</u> 7y 6m NPP 4y 6m		Financial controller and manager of high school – offences over 9-year period (2010-2019) - GST refunds from Taxation Office transferred into applicant's personal accounts – severe gambling addiction. Serious offences – position of trust – not sophisticated offences - good prospects rehabilitation - unlikely to reoffend. CCA: Error in manner offences on Form 1 documents taken into account – SJ erred in viewing offending as involving total $7.4 million over 14y period.

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
34.	**Alex** (47) **Kirschberg** (60) **McAndrew** (56) **Loccisano** (47) **Bryers** (61) [2024] NSWSC 1565 Fagan J	s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]* s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]* s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]* s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]* s.135.4(3) *[10y]* Consp s.400.3(1) *[25y]*	$10,706,588	VG	8y 8y <u>Total</u>: 9y 3m NPP 6y 2m 7y 7y <u>Total</u>: 8y NPP 5y 6m 7y 7y <u>Total</u>: 8y NPP 5y 6m 7y 6m 7y 6m <u>Total</u>: 8y 6m NPP 6y 7y 6m 7y 6m <u>Total</u>: 8y 6m NPP 6y		Use carriage service threat to kill Nil Nil Dishonesty Fail fulfil statutory obligations as company director	2018-2020 - conspiracy to defraud Commonwealth of PAYG tax and conspiracy to deal with proceeds of crime - object of conspiracy was non-remittance of PAYG amounts withheld from wages paid in connection with a labour hire business in Queensland; two companies jointly operating the business – estimated total of PAYG not remitted, $10,706,588 (total after monies recovered by ATO $10,120,000) - proceeds of crime offence relates to channelling of money obtained by tax fraud through various companies Alex owner of business – Loccisano acted as channel of communication between Alex and Kirschberg and McAndrew - McAndrew a director of the two operating companies for all but five months of charge period – Kirschberg a director for first year, up to July 2019 – Bryers joined conspiracy in April 2019 as a consultant to the other offenders. Alex: physical health issue impacted by custody – mental health issues – no insight – importance of special deterrence Kirschberg: prior good character – no insight - good prospects of rehabilitation – unlikely to reoffend McAndrew: prior good character – no insight - good prospects of rehabilitation – unlikely to reoffend – isolation from family in Qld Loccisano: reservations about prospects of rehabilitation Byers: no subjective information – strong reservations about prospects of rehabilitation

	CASE (AGE IF KNOWN)	OFFENCE AND MAX PENALTIES	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
35.	**Iervasi** (45-51) [2024] NSWSC 1116 Sweeney J	4 x s.1041G *[10y]* s.911A *[2y]* Sched: 2 related offences	Net loss: $55m	PG (40% comb)	Aggregate 11y NPP 7y		Nil	Conducted unlicenced investment business for six and a half years – 585 investors deposited over $180million – less than three percent invested – returns paid from capital – net loss $55million - $12million personal use including gambling, leasing properties and cars and holidays – sustained deceit – 'dishonest scheme on egregious scale' Degree of remorse – assistance and co-operation with authorities – some reparations – delay between commencement of investigation and charging – extra curial punishment where kidnapped, assaulted and threatened

Last Updated: Dec 2024

Table of Offences

Offence	Section	Status	Maximum Penalty
Crimes Act 1900 (NSW)			
Larceny by clerk or servant	s.156	1900 - current	10 years
Cheat or defraud as director or member of body corporate or public company	s.176A	2.11.1979-22.2.2010	10 years
Obtain valuable thing by deception	s.178BA	2.11.1979-22.2.2010	5 years
Obtain valuable thing by false or misleading statement	s.178BB	2.11.1979-22.2.2010	5 years
Dishonestly by deception obtain property or financial advantage or cause financial disadvantage	s.192E(1)	22.2.2010 - current	10 years
Knowingly deal with proceeds of crime	s.193B(2)	28.10.2005 - current	15 years
Make false instrument / use false instrument	s.300(1) & (2)	16.7.1989-22.2.2010	10 years
Crimes Act 1914 (Cth)			
Defraud Commonwealth	s.29D	25.10.1984-24.5.2001	10 years
Conspiracy to Defraud Commonwealth	s.29D / s.86(2)	15.9.1995-24.5.2001	20 years
Steal, fraudulently misappropriate or fraudulently covert to own use Commonwealth property	s.71(1)	29.3.1926-24.5.2001	7 years
Conspiracy to defraud	s.86A	25.10.1984-15.9.1995	20 years
Corporations Act 2001 (Cth)			
Director, other officer or employee uses position dishonestly with intention of directly or indirectly gaining advantage for themselves or someone else, or causing detriment to corporation	s.184(2)(a)	15.7.2001-13.3.2019 13.3.2019-current	5 years 15 years
Director, other officer or employee uses position dishonestly reckless as to whether the use may result in themselves or someone else directly or indirectly gaining an advantage or causing a detriment to corporation	s.184(2)(b)	15.7.2001-13.3.2019 13.3.2019-current	5 years 15 years
Past or present officer of a company fraudulently parted with, altered or made any omission in book affecting or relating to affairs of the company	s.590(1)(c)(iii)	15.7.2001-current	2 years
False or misleading statement likely to induce person to acquire financial products	s.1041E(1)	11.3.2002-12.12.2010 13.12.2010-12.3.2019 13.3.2019-current	5 years 10 years 15 years

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

Offence	Section	Status	Maximum Penalty
Engaging in dishonest conduct in course of carrying on a financial services business	s.1041G	11.3.2002-12.12.2010 13.12.2010-12.3.2019 13.3.2019-current	5 years 10 years 15 years
An officer or employee of a corporation knowingly making available false information	s.1309(1)	15.7.2001-1.7.2004 1.7.2004-current	2 years 5 years
Criminal Code (Cth)			
Dishonestly intend to gain or cause loss to Commonwealth entity	s.135.1	24.5.2001-25.8.2018 25.8.2018-current	5 years 10 years
Conspiracy to defraud Commonwealth entity	s.135.4	24.5.2001-current	10 years
Intentionally dealing in proceeds of crime - $1,000,000 or more	s.400.3(1)	1.1.2003-current	25 years
Financial Transactions Reports Act 1988 (Cth)			
Conduct transactions to avoid reporting requirements	s.31	1.7.1988-current	5 years