Obtain Money by Deception

s.178BA (NSW) *Crimes Act*

s 178BA by any deception dishonestly obtain for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever

Maximum penalty: **5 years**

Repealed: **22.2.2010**

	CASE (AGE IF KNOWN)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	**Newey** NSWCCA 23.8.1990	23 x s.178BA	$818,299	PG	MT 4y 6m AT 1y 6m	AD	Nil	Office manager for accountants forged letters of authority to withdraw money from trust accounts over ten month period. Full co-operation with authorities upon arrest - gambling.
2.	**Doherty** (32) NSWCCA 5.11.1991	65 x s.178BA s.178BB *[5y]* Sched: 8 x s.178BA	$231,827	PG	2y PD 4y GBB	Crown AA MT 2y AT 2y	forgery and false pretences: non-custodial sentence	Claims examiner for insurance company created dummy files to obtain cheques payable to non-existing claimants over two years. Full disclosure once exposed - efforts made to repay, including sale of house - gambling addiction.
3.	**Barbarian** (24) NSWCCA 5.10.1993	Att s.178BA s.156 *[10]* s.179 *[5y]* Sched: 17 dishonesty offences	$63,500	PG	MT 9m AT 1y FT 1y 6m FT 9m <u>Total</u> MT 3y AT 1y	AD	19 dishonesty offences - on bond for dishonesty – breached bail	Stole cheque book from employer while on bail and forged signature.
4.	**De Silva** (22) NSWCCA 14.12.1993	8 x s.178BA 2 x s.158 *[5y]* Sched: 48 x s.178BA	$112,000	PG	MT 1y 6m AT 6m	AD	Prior driving only	Ringleader of scheme to dishonestly obtain money over 2.5y from employer, a financial institution - large part of money went to co-offender. Gambling - assistance against co-offender.

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	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
5.	**Munday** NSWCCA 14.4.1994	4 x s.178BA Sched: 38 x s.178BA	$21,000	PG	MT 2y AT 8m	AA MT 1y 7m AT 13m	Priors of similar nature - in breach of bond and PD.	Sales assistant sold goods to individuals at TAFE who paid in cash over six weeks - billed college and kept cash On appeal took into account accumulation on previous sentence
6.	**Cardwell** (58) **Butcher** (41) NSWCCA 23.5.1994	12 x s.178BA	$200,000	VG	MT 2y 3m AT 9m	AD	Nil	Sales manager (B) and weighbridge officer (C) for quarry company - over four year period organised contracts worth $2m and took 10% for themselves without authority.
7.	**Kermali** (29) NSWCCA 6.7.1994	5 x s.178BA 2 x s.300(2) *[10y]* s.178BB *[5y]* Sched: 76 offences	$51,000	PG	MT 20m AT 10m MT 20m AT 10m MT 20m AT 20m (all 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.
8.	**Holmwood** NSWCCA 25.10.1995	s.178BA 5 x s.178A *[7y]* s.178BB *[5y]* Sched: 13 offences	$571,000 +	PG	FT 3y MT 4y AT 2y FT 3y (all concurrent)	AD	Nil	Solicitor defrauded clients over four years.
9.	**Hodges** NSWCCA 4.3.1996	4 x s.178BA Sched: 4 x s.178BA		VG	MT 2y 6m AT 18m	AD	Long history of dishonesty	Obtained equipment for fictitious office – premeditated scheme

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10.	**Psaroudis** (40) NSWCCA 1.4.1996	38 x s.178BA s.117 *[5y]*	$40,000	PG	MT 1y AT 1y FT 9m (concurrent)	AD	on recognisance for similar offence	Female - embezzled from employer $20,150 - stole identification items from sister-in-law allowing further larceny Gambling.
11.	**Nelson** NSWCCA 23.5.1996	Att s.178BA		VG	MT 18m AT 6m	AD		Attempted to obtain money by blackmail – fabricated threat against complainant - agreed to accept $15,000
12.	**O'Neill** NSWCCA 24.7.1996	12 x s.178BA Sched: 59 offences	$1,063,000	PG	MT 6y 6m AT 3y 6m	AD	similar type offences	Payroll supervisor for large company committed offences over three years using computer accounting procedures - no money recovered Gambling.
13.	**Cooper** NSWCCA 22.8.1996	5 x s.178BA Sched: 11 x 178BA Poss proh drug		PG	MT 8m AT 10m	Crown AD		Fraudulently obtained then sold pagers and mobile phones. Failure to give promised assistance - delay
14.	**Vickers** **Fearon**. NSWCCA 17.10.1996	15 x 178BA Sched 34 offences 8 x s.178BA Sched 9 offences	$16m: bank loss of $3.345m $6m: bank loss of $1.97m		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 equal
15.	**Wratten** NSWCCA 16.12.1996	s.178BA 8 x s.178A *[7y]*	$500,000+	PG	MT 4y 6m AT 18m	AA MT 3y AT 2y	nil	Insurance and investment adviser misappropriated client money over four years. Some money repaid
16.	**Jarjoura** (31) NSWCCA 9.4.1997	s.178BA 4 x s.158 *[5y]* Sched 3 x s.178BA 4 x s.178BB	$300,000+	PG	MT 12m AT 12m MT 2y AT 2y (all concurrent)	AD	nil	Employee of Commonwealth Bank milked accounts over 2 years Genuine remorse - admissions to additional offences - gambling and unresolved grief over brother's death.

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17.	**Durrant** NSWCCA 11.6.1997	10 x s.178BA s.156 *[10y]* Sched: 83 x s.156	$349,401	PG	FT 12m MT 3y AT 2y (concurrent)	AA FT 12m MT 2y 3m AT 1y 3m (concurrent)	Nil	Female - managed trust accounts at real estate - systematic and repeated fraudulent transactions over 3y 6m - tried to cover up by rewriting books. Gambling problem - reimbursed $67,010.
18.	**Crowl** NSWCCA 10.7.1997	7 x s.178BA 5 x s.178A *[7y]*	$937,584	VG	MT 2y AT 12m FT 12m <u>Total</u> MT 3y AT 1y	AD	Nil	Accountant misappropriated money received from clients for investment.
19.	**Dodge** (36) NSWCCA 12.9.1997	4 x s.178BA Sched: s.178BA	$54,424	PG	MT 21m AT 7m	AD	Extensive record for dishonesty	Falsely obtained and used advance of credit from retail shops
20.	**Hitchcock** NSWCCA 13.7.1998	10 x s.178BA 2 x Att s.178BA Sched: 227 offences	$400,000	PG	30m 3y GBB	Crown AD	Some offences committed on bail – extensive record	Used aliases and false cheques to obtain goods and loans over several years
21.	**Petroff** NSWCCA 20.7.1998	5x s.178BA 2 x s.178BB *[5y]*		VG	MT 12m AT 12m	AA MT 11m AT 11m	dishonesty on recog	Telephoned people claiming to be a solicitor representing men seeking bail - sought money for surety - six times money changed hands. Sentence reduced because one count quashed.
22.	**Francipane** NSWCCA 23.12.1998	s.178BA	$220,000	VG	MT 4y AT 2y	AA MT 3y AT 1y	nil record	Wrongfully obtained money from V by lying about the purpose it was to be used for. Solicitor / client relationship an aggravating factor. No money recovered. Sentence reduced because second count of s.178BA quashed on appeal

	CASE (AGE IF KNOWN)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
23.	**Battiato** [1999] NSWCCA 44	s.178BA	$490 000	PG	MT 2y 6m AT 2y	AA MT 2y 3m AT 1y 9m		Female - employee of bank altered accounts over 3 year period Judge failed to give sufficient weight to co-operation and assistance by applicant.
24.	**Heslehurst** [1999] NSWCCA 183	3 x s.178BA Sched: 40 x s.178BA FTA		PG	MT 18m AT 18m	AD	Persistent fraudster	Obtained money from several persons for sale of fictitious cars
25.	**Williams** (67) [1999] NSWCCA 244	11 x s.178BA Sched: 6 x s.178BA	$46,835	PG	MT 3y AT 1y	AD		Over 18m obtained money from elderly ladies – permanent loss
26.	**Spelling** [1999] NSWCCA 273	4 x s.178BA Sched: 9 x dishonesty offences	$56,000	PG	3y 4m NPP 2y 6m	AD	Dishonesty offences	Fraudulently obtained credit loans from banks – fourth offence involved BMW
27.	**Szeto** [1999] NSWCCA 296	s.178BA	$318,910	PG	MT 3y AT 1y	AA MT 2y 3m AT 9m	Nil	33 fraudulent orders for computer equipment – Accounts Manager over six month period No restitution
28.	**P Child** (49) **J Child** (28) [1999] NSWCCA 407	s.178BA 3 x s.178A *[7y]* 3 x aiding and abetting s.178A *[7y]*	$906,291	VG VG	FT 2y MT 4y AT 1y 4m (concurrent) MT 2y 6m AT 10m	AD	Nil	Father and son set up company - received money from clients and used it other than in accordance with terms received. Father dominant offender Both suffering hereditary brain damage - son suffering frontal lobe damage.
29.	**Aliperti** (50) [2000] NSWCCA 315	s.178BA Sched: 6 x s.178BA s.178A	$400,000	VG	MT 3y 9m AT 1y 3m	AA 4y NPP 3y	Nil	Solicitor misappropriated money given to him by clients for purpose of investment - serious breach of trust. Failure to take into account substantial delay between arrest and trial.

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30.	**Chan** (34) [2000] NSWCCA 345	27 x s.178BA	$578,000	PG	5y NPP 3y	AD	nil	Approved personal loans for fictitious clients while working at bank as investment manager over 6 months period. Gambling addiction.
31.	**Sinanovic** [2000] NSWCCA 386	2 x s.178BA	$63,2000	VG	MT 1y 2m AT 16m	AD	Not stated	Obtained money from male acquaintance for lucrative foreign exchange rate
32.	**Douihi** (49) [2000] NSWCCA 521	s.178BA 2 x Larceny *[5y]* 2 x s.300(1) *[10y]* Sched: 7 offences	$19,274 / $13,000 $19,000	PG	3y 6m NPP 18m FT 6m FT 6m (all concurrent)	AA 3y 4m NPP 18m FT 6m FT 6m (all concurrent)	Dishonesty – breached bond	While residing in motel for several months made false representations to proprietor – suggested offender was a diplomat and in financial position to invest – ran up unpaid bills – in unrelated offences stole and used cheques from office of acquaintance
33.	**Prasad** (23) [2000] NSWCCA 539	12 x s.178BA Sched: 87 similar offences	$1,069,290	PG	5y 3m NPP 4y 6m	AA 5y 3m NPP 3y 9m	Nil	Female claims officer in insurance company verified 99 fraudulent cheques.
34.	**Robinson** [2000] NSWCCA 556	89 x s.178BA	$85,131	PG	MT 18m AT 2y 6m	AD	prior bond for larceny as clerk from bank - $23,000	Stole money from employer over 18 months - obtained loan from bank by providing false information Mother of three young children with gambling problem - family moved to Western Australia.
35.	**Willard** (31) (2001) 120 A Crim R 450 [2001] NSWCCA 6	2 x Att s.178BA Sched: Fraud offence		PG	12m NPP 4m (concurrent)	AD	Record for dishonesty	Female – applied for payout on life insurance policy falsely claiming husband had died – forged medical certification of death and claimed could not obtain death certificate – tried a second time with different policy and company – no money paid out on either policies - used fraudulent representation to obtain jeep Mother to young children

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36.	**Lakalaka** [2001] NSWCCA 31	s.178BA 6 x s.178BA Impersonate police officer Impersonate public officer Sched: 13 offences	Total: $91,120	PG	4y NPP 2y 6m FT 12m FT 6m FT 6m (all concurrent)	AD	Dishonesty offences – breached bond	Falsely represented himself as Federal Police officer working for Immigration department – took money to assist with residency application from two victims on several separate occasions – impersonated public officer and police officer on separate occasions
37.	**Phillis** (23-24) [2001] NSWCCA 91	15 x s.178BA Poss counterfeit money Sched: 56 x s.178BA	$240,329	PG	MT 18m AT 12m 6m Total: MT 2y AT 12m	AA MT 18m AT 12m 1m Total MT 19m AT 12m	some offences committed while on bail - driving offences	Committed offences in attempt to keep business going and pay creditors - offences committed over ten month period - found counterfeit notes and attempted to spend them. Father of one child
38.	**De Souza** [2001] NSWCCA 94	15 x s.178A *[7y]* 4 x s.300(2) *[10y]* s.178BA Sched: 66 similar offences	$1.5m	PG	MT 4y AT 3y FT 4y FT 4y (all concurrent)	AD	prior record for fraud offences	Insurance agent defrauded 23 clients over 5 year - vulnerable victims.
39.	**Tripodina** (33-36) [2001] NSWCCA 136	10 x s.178BA Sched: 42 x s.178BA	$400,000	PG	6y 6m NPP 4y 6m	AD	nil	Used position as financial controller to defraud company over three and a half years - senior position. Remorse - pathological gambling problem - depression - some compensation made - steps taken to overcome gambling problem.

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40.	**Hawker** [2001] NSWCCA 148	9 x s.178BA Sched: 35 offences	$560,000	PG (25%)	6y NPP 3y 6m	AD		Employee of bank involved in removing money through home lending scheme with co-offender - offences committed over three year period. Used money for gambling.
41.	**Farlow** (41) [2001] NSWCCA 348	12 x s.178BA Sched: 13 similar offences	$480,970	PG	4y NPP 2y 6m	AD	nil relevant	Clerical assistant at university raised cheques on false purchase orders - money stolen over eight years - breach of trust. Used money to assist family - traumatic childhood - 3y old child with serious health problems
42.	**Keong** (34) [2001] NSWCCA 416	6 x s.178BA 2 x s.300(2) *[10y]* Sched: 2 x GIC	$138,000	PG	4y NPP 3y 4y NPP 3y (concurrent)	AD	Nil	Flew out from Malaysia on tourist visa – became involved in relatively sophisticated fraud banking stolen cheques using false identities – number of accounts at different banks
43.	**Trim** (65) [2002] NSWCCA 82	2 x s.178BA	$445,653.10	PG (25%)	6y 9m NPP 4y	AA 6y NPP 3y	nil	Clerk to accountant - over six years forged cheques and created false instruments - breach of trust Gambling addiction - remorse - age and health
44.	**Burke** (41) [2002] NSWCCA 353	39 x s.178BA 11 x s.300(2) *[10y]*	$4,490,563 $923,150	PG (20%)	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 – six year period - gross breach of trust
45.	**Jones** (47) [2002] NSWCCA 494	5 x s.178BA Sched: 46 dishonesty offences	$114,406	PG (20%)	2y 8m NPP 1y 8m	AD	Nil	Obtained motorcycle using false bank cheques Out of character – bi polar disorder
46.	**Bojan** (50) [2003] NSWCCA 45	4 x s.178BA	$5,200	VG	3y NPP 2y	AD	on parole for similar offences	Promised victim glazing and gyprock contract if paid money - made promise on four occasions and received four payments - criminal scheme conducted by well-educated offender
47.	**Royal** (24) [2003] NSWCCA 260	7 x s.178BA Sched: 6 offences	$348,000	PG (20%)	3y 3m NPP 2y 1m	AD	Nil	Female - sophisticated scheme to defraud banks with co-offenders – stolen cheques and fictitious names - under influence of co-offender

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48.	**Kearns** [2003] NSWCCA 367	4 x s.232(6) (Cth) *Corp Law [5y]* 3 x s.178BA 2 x s.178BB *[5y]*	$730,000+	VG	FT 2y FT 2y 3y NPP 18m Total: 6y NPP 4y 6m	AD		Made improper use of position as officer of company to cause four payments to be made to own company – deceitfully obtained bank cheques from company – dishonestly obtained funds from investors
49.	**O'Brien** [2003] NSWCCA 440	4 x s.29D (Cth) *[10y]* 3 x s.178A *[7y]* 24 x s.178BA	$479,093	PG	3y 6m NPP 2y 8m 3y NPP 2y 2y NPP 16m Total: 3y 6m NPP 2y 8m	AD		Acted as customs agent to four companies failing to tell them he was not registered – falsified documents to both Customs and companies – misappropriated cheques
50.	**Wasson** (37) [2004] NSWCCA 200	Consp s.178BA		PG	2y NPP 18m	AD	Record includes minor dishonesty off	Female – conspired with two others to make false report of motor vehicle theft – intended to make insurance claim – mastermind Sole carer of son
51.	**Fell** [2004] NSWCCA 235	14 x s.178BA Sched: 70 x s.178BA	$326,324 $216,349.50 on Sched	PG (25%)	22m suspended	Crown AD	Nil	Defrauded employer by swiping his key card in his employer's records so transactions appeared genuine credit or refund to customer but was automatically credited to offender's bank account. Voluntarily refunded $279,844.45 – remorse - psychiatric disorder – steps taken to rehabilitation
52.	**Hill** (53) [2004] NSWCCA 257	2 x s.178BA Sched: 3 x s.178BA Possess proh weapon	$750,000	PG (20%)	5y 4m NPP 4y 6m	AA 5y 4m NPP 4y	Dishonesty offences	Iraqi male – falsely represented had access to money through Saudi royal family – arranged loans – used false documentation – high degree of planning

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53.	**Tabar** (50) [2005] NSWCCA 165	s.178BA s.178BA 2 x s.178B *[1y]*	$28,000 $5,000	PG (10%)	3y 8m NPP 2y 6m FT 12m FT 2m Total: 4y 8m NPP 3y 6m	AD	Breached parole – dishonesty offences	Developed relationship with female childhood acquaintance and convinced her to lend him $28,000 – told her he was a doctor expecting millions from overseas – showed her American bank cheque for $50m – obtained lesser amount from service station proprietor – used two valueless cheques to purchase goods worth $535 and $292.60
54.	**Araya** (30 at sentence) (2005) 155 A Crim R 555 [2005] NSWCCA 283	5 x s 178BA Att s.178BA	$18,104	PG (15%)	3y 6m NPP 2y	AD	5 priors, none serious	Booked plane tickets with credit cards over 15 months – fake ID No repayment – stable relationship – son from previous marriage – self-employed – remorse
55.	**Kilpatrick** (45 at sentence) (2005) 156 A Crim R 478 [2005] NSWCCA 351	65 x s.178BA	$2.6m	PG	7y NPP 4y 6m	AD	PCA	Part of syndicate – large amounts of money obtained from financial institutions using non-existent or wrongly valued property as security – fraudulent use of credit cards to purchase goods

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56.	**Denigris** [2005] NSWCCA 228	7 x s.178BA s.178BA s.178BA s.178BA s.300(1) *[10y]* s.300(2) *[10y]* Money laundering *[20y]*	See facts	PG	3y NPP 12m 3y NPP 12m 2y NPP 12m 18m NPP 12m 18m NPP 12m 18m NPP 12m FT 12m Total: 6y NPP 4y	3y NPP 12m FT 9m 2y NPP 12m 18m NPP 12m 18m NPP 12m 18m NPP 12m FT 6m Total: 6y NPP 4y	Dishonesty	Obtained loans totalling $354,211 for computer equipment never purchased – on seven occasions used fictitious names and on one occasion used name of co-offender – withdraw $84,000 of money received to purchase bank cheque (money laundering) – purchased machinery worth $7,950 using stolen cheque – made then submitted application for credit card using false name and obtained $13,696 [s.178BA / s.300(1) / s.300(2)]
57.	**Pike** [2006] NSWCCA 32	s.178BA	$10,000	VG	14m NPP 7m PD	AD		Falsely represented to male acquaintance he was a solicitor – given $10,000 for investment Conviction appeal against 6 similar offences allowed
58.	**Mitchell** (45 at sentence) [2006] NSWCCA 72	13 x s.178BA	$302,099.34	PG (25%)	8y NPP 5y	AA 5y NPP 3y 2m		Accountant for charity organisation stole money over three years – not sophisticated scheme – breach of trust No restitution - remorse
59.	**Scanlan** [2006] NSWCCA 238	4 x s.178BA	Over $400,000	VG	4y NPP 3y	AD	Nil	Female employee stole from company over two years – position of trust – high degree of planning No restitution – gambling addiction

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60.	**Galaxidis** [2006] NSWCCA 154	s.178BA 2 x s.178BA 16 x s.178BA Supply proh drug	See facts	PG	FT 2y 3y NPP 18m FT 6m FT 12m Total: 6y NPP 4y 6m		Nil	Used false documents in relation to sale of Porsche to obtain $195,000 finance – used false documents to obtains loans of $1,150,000 and $190,000v – obtained details of credit cards from corrupt bank officer and purchased goods and services by telephone – supplied 20.33g methamphetamines to undercover police officer Remorse – history of hardworking – some assistance
61.	**Assi** (44) [2006] NSWCCA 257	s.178A *[7y]* s.178A *[7y]* s.178BA s.178BA Sched: 3 x s.178A 3 x s.178BA	$222,000	PG (10%)	5y NPP 3y 4y NPP 2y FT 3y 3y 6m NPP 9m Total 7y 6m NPP 4y 9m	AA 5y NPP 3y 4y NPP 2y FT 3y 3y 6m NPP 6m Total 7y 6m NPP 4y 6m	Breached bail and parole – similar offences	Disqualified solicitor defrauded several clients Appeal allowed to correct small error.
62.	**Itaoui** [2006] NSWCCA 273	9 x s 178BA Sched: 10 x s.178BA Att s.178BA	$424,198.52	PG (approx 25%)	3y 6m NPP 2y	AD		Legal clerk stole from trust account
63.	**Pollard** (36) [2006] NSWCCA 405	29 x s.178BA	$92,164.48	PG	2y NPP 15m Suspended	Crown AD	Nil	Accounts supervisor at University transferred money to own account over three months Financial pressures – major depressive illness – remorse Sentence inadequate but appeal dismissed in exercise of discretion

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64.	**Hyman** [2007] NSWCCA 47	2 x s.178BA Sched: 5 x s.178BA 18 x s.300(1) / (2) *[10y]* Sched: 50 similar offences	Over $200,000	PG (25%)	3y 6m NPP 2y 5y 3m NPP 3y 9m (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
65.	**Kutchera** [2007] NSWCCA 121	s.178BA		PG	18m NPP 9m	AA 18m NPP 9m Suspended	Nil	With other presented stolen bank cheque in order to obtain $415,000 Lamborghini – intended to sell car – ill-conceived criminal enterprise – lacked planning an sophistication American – genuine remorse – 20m on bail
66.	**Hare** (37-39) [2007] NSWCCA 303	14 x s.178BA Sched: 12 x s.178BA	Approx $2m	PG (25%)	5y NPP 3y 3m	Crown AD	Nil	Took money from friends and associates to invest in share trading – no money invested – offences committed over 2.5y with six victims Cocaine, alcohol and gambling addiction – hardship of imprisonment on autistic son – good prospects of rehabilitation
67.	**Todorovic** (28) [2008] NSWCCA 49	8 x s.178BA Sched: 56 x s.178BA	Approx $160k	PG (20%)	3y NPP 2y PD	Crown AD	Nil	Accounts manager for small company – transferred payments into own account. Sentence inadequate but Court declined to intervene - little mitigation in gambling addiction – material since sentence including illness
68.	**R Blundell** (42) [2008] NSWCCA 92	4 x s.178BA Sched: 3 x s.178BA s.178A s.178BB	$16,920.39	PG (25%)	18m NPP 6m	AA 400h CSO	Nil	Insurance brokerage business – took money from clients and failed to pay insurance premiums Delay
69.	**Marks** [2009] NSWCCA 24	4 x s.178BA Att s.178BA	$185,425 $118,800	PG	5y NPP 3y 9m	AA 3y 5m NPP 2y 9m	Record – no prior imprisonment	Employee of Health department made false claims for payments for staff training over 2.5 months – breach of trust History of mental illness – delay - contrition

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70.	**Gaffney** [2009] NSWCCA 160	8 x s.178BA Sched: 4 x s.300(1) 4 x s.300(2)	$3.943m	PG (25%)	8y NPP 5y	AA 6y NPP 5y		Senior bank officer stole money over 22 months – planned offences – abuse of trust Good prospects of rehabilitation – gambling addiction
71.	**Golubovic** [2010] NSWCCA 39	6 x s.178BA Sched: 34 offences	$270,000	PG (40% plea and assist)	3y NPP 18m	AD		Offences committed over 12 months – dishonestly used credit card details to obtain electrical goods, hair products, plane tickets and accommodation- used false documentation to obtain bank loans – extensive and sophisticated series of criminal acts
72.	**Dela Cruz** (34) [2010] NSWCCA 333	s.178BA s.178BA s.193B(2) *[15y]* Sched: 2 x s.178BA	$21,930.22 $53,740 $406,725.16 $35,459.22	PG (25%)	3y NPP 2y 3y NPP 2y 3y 5m NPP 1y 2m <u>Total</u>: 6y 9m NPP 4y 6m	AA 3y NPP 2y 3y NPP 2y 3y 2m NPP 1y 2m <u>Total</u>: 6y NPP 4y		Female senior accounts clerk transferred $21,930.22 and $53,740 to own account and withdrew money – stole further $406,725.16 – changed companies and stole further $35,459.22 Element of double punishment in making sentenced for proceeds offence partially cumulative
73.	**Vaughan** [2011] NSWCCA 4	5 x s.178BA(1) Sched: 5 x s.178BA(1)	$2,768,598	PG (25%)	5y NPP 3y	AD	nil	Female account keeper and personal assistant to manager in company – unauthorised use of signature stamp on cheques and unauthorised internet transactions – 417 transactions over seven years – supported lavish lifestyle Voluntary returned to Australia from London – suffering bipolar disorder at time of offence – prospects of rehabilitation – some restitution

	CASE (AGE IF KNOWN)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
74.	**Job** (42) [2011] NSWCCA 267	7 x s.178BA 4 x s.178BA 4 x s.249B *[7y]*	$106,500	PG (40% plea and assist)	FT 18m FT 18m 3y NPP 1y <u>Total</u>: 5y NPP 3y	AA FT12m FT 12m 3y NPP 1y <u>Total</u>: 4y NPP 2y	Nil	Operations manager at RTA – used position to defraud RTA on behalf of friend of family – approved payment of false invoices – contracted work without tender process – total amount defrauded $300,000 – received $106,500 for involvement Genuine remorse – intention to make restitution – mental illness
75.	**Bangaru** [2012] NSWCCA 204	4 x s.178BB *[5y]* 4 x s.178BA 5 x s.178BA	$3.7m $19.8m	VG	FT 2y 6m FT 2y 6m 3y 6m NPP 1y 4m <u>Total</u> 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
76.	**Subramaniam** (36-40) [2013] NSWCCA 159	23 x s.178BA 3 x s.193B(2) *[15y]*	$45,388,249	PG (25%)	<u>Aggregate</u> 15y NPP 7y	AA <u>Aggregate</u> 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
77.	**McKittrick** (65-66) [2014] NSWCCA 128	4 x s.178BA Sched: 10 offences	Net loss of $1,095,314	PG (25%)	6y 6m NPP 5y	AA 6y 6m NPP 4y		Female – took money from persons promising to invest – failed to do so - significance of general deterrence to white collar offences Poor health – delay
78.	**Luong** (37) [2014] NSWCCA 129	s.178BA	$730,000	PG (25%)	3y 6m NPP 1y 6m	AD	Import drugs	Previously worked as a real estate agent – fraudulently told victim he could sell him a property which was not really for sale – took money from victim over three years. Offence committed due to large debts owed from gambling problem.

	CASE (AGE IF KNOWN)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
79.	**Kerr** (46) [2014] NSWCCA 235	11 x s.178BA(1) 2 x s.300(2) *[10y]* 26 x s.193B(1) *[15y]*	$246,461.25	VG	Aggregate: 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 and some money transferred back to company over four months – planned and protracted criminal activity Suffering depression
80.	**El-Hilli** (64) **Melville** [2015] NSWCCA 289	2 x s.178BA 2 x s.178BA	$600,000	VG VG	5y NPP 4y 2m 2y 3m NPP 1y 3m	AD AD	Possess firearm, armed rob, s.178BA Nil	2008 - EH held himself out as having access to significant capital available to business people in financial stress without access to funds from conventional lenders - M was agent who negotiated proposed loan transactions - M paid fee to secure and guarantee loans - once fees were paid offenders left country - loan funds not provided – fees not repaid. EH - planned offences and recruited M M - female - lesser role - good character
81.	**Wiriyanjara** (Aged 32 – 37 at time of offences) [2016] NSWCCA 167	27 x s.178BA	$963,900	VG	8y NPP 5y	AD	Demand money; fraud; impersonating a police officer; break and enter with intent; stealing	2004 to 2009 - three victims - motivated by greed - told lies in order to extract money from victims No remorse.
82.	**Siwek** (70) [2017] NSWCCA 178	5 x s.192E(1)(b) *[10y]* 4 x s.178BA(1) Sched: 3 x s.178BA	$1.7 million	PG	Aggregate 6y NPP 3y 8m	AD	Nil	2005 – 2012 – offences committed over period of nine years - worked as accounting manager with multi-national corporation based in America which banked with Australian bank – entrusted with task of sending electronic funds transfers - transferred funds to bank account to which he had access - breach of trust. Good character – gambling addiction – repaid $450k

	CASE (AGE IF KNOWN)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
83.	**Whyte** (33-40) [2019] NSWCCA 218	19 x s.192E(1)(b) *[10y]* 8 x s.178BA(1)	$2.9 million	VG	Aggregate 11y NPP 6y 6m	AA Aggregate 10y NPP 6y 6m	Nil	2007 to 2014 – female - bookkeeper and financial manager of company - used position to issue false invoices and instructions to clients – close relationship with owners of company - sustained and deliberate misconduct over lengthy period - lack of contrition or insight. CCA: error by judge taking into account financial gain as aggravating factor - manifest excess ground rejected

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