

## Recklessly Dealing with Property or Money Worth \$1million or More

s.400.3(2) (Cth) Criminal Code

s 400.3(2) Dealing with property or money worth \$1,000,000 or more reckless to the fact that it is a proceed of crime or to the risk that it will become an instrument of crime

**Maximum Penalty:** 12 years

**Commenced:** 1.1.2003

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	Z (2006) 167 A Crim R 436 <a href="#">[2006] NSWCCA 342</a>	s.400.3(2)  Possess comm qty ecstasy	PG (60% combined)	FT 2y  5y 2m NPP 2y 7m  (concurrent)	Crown AA FT 2y  8y NPP 4y  <u>Total:</u> 9y NPP 5y		Travelled to Australia and attended currency exchange business – acting for international crime syndicate to move large amount of money out of Australia – role “relatively menial”
2.	<b>Ansari</b>	2 x Consp s.400.3(2)	VG	4y (each)  <u>Total:</u> 4y 6m NPP 2y 9m	Crown AA 7y (each)  <u>Total:</u> 9y NPP 5y 5m		Brothers - directors of money exchange business – took delivery of over \$2 million in cash - arranged for associate to deposit \$1,952,107 into various bank accounts in sums of less than \$10,000 from October 2003 to May 2004 – associate who delivered money returned to Sydney in June 2004 - gave evidence at trial he believed he would be delivering between \$2-3 million to appellants Appeal to High Court against conviction dismissed: [2010] HCA 18
	<b>Ansari</b>  (2007) 173 A Crim R 112 <a href="#">[2007] NSWCCA 204</a>	2 x Consp s.400.3(2)	VG	4y (each)  <u>Total:</u> 4y 6m NPP 2y 9m	7y (each)  <u>Total:</u> 9y NPP 5y 5m		

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
3.	<b>Viana</b> <a href="#">[2008] NSWCCA 188</a>  Co-offender: LI	s.400.3(2)	PG (25%)	4y 6m NPP 2y 11m	Crown AD	Nil	American / Colombian travelled to Australia to take delivery of money due to Colombian for drug importation – reckless as to source or purpose of funds – hid \$5,050,000 in unit for several months – after leaving Australia continued to arrange for movement of cash to Colombia – not principal but significant role – mid-range objective gravity – working for benefit of father – no evidence would receive financial reward
4.	<b>Chen</b> (45) <a href="#">[2009] NSWCCA 66</a>	Consp s.400.3(2)	PG	6y NPP 3y 7m	AD		Fraud involving transfer of funds overseas – involved in setting up overseas account and attempting to access funds Involved in same scheme as WANG and ROIZMAN
5.	<b>TAN</b>   <b>HAH</b>   <b>PAB</b>   <b>HAT</b>  (2011) 216 A Crim R 535 <a href="#">[2011] VSCA 427</a>	s.400.3(2)  Consp s.400.3(1)  s.400.3(1)  Consp s.400.3(1)	PG  PG  PG  PG	5y NPP 3y  12y 6m NPP 9y  8y NPP 5y 6m  12y 6m NPP 9y	AA 4y 9m NPP 2y 6m  (pre discount for guilty plea: 6y 6m NPP 4y)  9y NPP 5y 9m  (pre discount for guilty plea: 11y NPP 7y 6m)  7y NPP 4y  (pre discount for guilty plea: 9y NPP 6y)  11y NPP 7y 6m  (pre discount for guilty plea: 13y NPP 9y)	nil  nil  nil  nil	All offender related by marriage or family - conducted money transfer businesses owned by parents in Vietnam through which proceeds of crime transferred within Australia or internationally Conspiracy between HAH and HAT involved \$69M and \$57M respectively Significant delay HAH – female – controlled three businesses – hardship on children due to imprisonment – involvement in offences influenced by parents – impact of mental condition on imprisonment – fresh evidence of assistance HAT – controlled one business - parity PAB – assisted with one business \$8–9 million - likely deportation – poor physical health – cultural background – recruited and under supervision of sister HAH TAN – female - similar role and involvement to co-offender <u>IT</u> [2012] VSCA 27 - operated one business \$8 million

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6.	Lai (57) <a href="#">[2011] NSWCCA 16</a>	s.400.3(2)	VG	9y 6m NPP 7y	AD	nil	Pilot for Vietnamese airlines took cash out of Australia on 19 occasions - \$5.125 million – received commission of \$39,460 – operation involved other crew members prior to involvement of offender
7.	T T <a href="#">[2012] VSCA 27</a>  Co-offender: TAN	s.400.3(2)	PG	5y NPP 3y	AA 4y 6m NPP 2y 6m		(no factual details – see co-offender) Parity with co-offender Since sentence lost \$41,000 interest in property forfeited to Commonwealth
8.	Nguyen (53) <a href="#">[2012] NSWCCA 152</a>	s.400.3(2)	PG	7y NPP 4y 6m	AD		Female - dealt with substantial amounts of cash on six separate occasions – totally \$9.9m – acted as representative for remittance agency – active and trusted participant involved in aspects of planning, counting and organising of money transfers – funds moved outside Australia – on-going course of conduct – received financial reward – clearly suspected proceeds of crime and deliberately did not inquire – essential role Good character – genuine remorse – good prospects of rehabilitation
9.	Majeed (35) <a href="#">[2013] VSCA 40</a>	s.400.3(2)	PG	7y NPP 5y  (pre discount for guilty plea: 9y NPP 7y)	AD	nil	As Australian representative of international money remitter liaised with leaders of drug syndicate and arranged laundering of cash from drug dealing – 12 transactions totalling \$5,265,320 – received \$28,000 commission – middle management No family in Australia - isolated
10.	Wang  Roizman  <a href="#">[2013] NSWCCA 2</a>	s.400.3(2)  Aid and abet s.400.3(2)	VG  VG	10y NPP 6y 6m  9y 6m NPP 5y 6m	AD	Make false instrument  Post-dated passport offence	Sophisticated and carefully executed fraud involving transfer of funds overseas – offenders involved not in fraud but subsequent money laundering stage – attempted to launder money through gambling over 8 hours – R laundered \$16.7m Same scheme as CHEN

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11.	Lami (36) <a href="#">[2021] NSWCCA 295</a>	s.400.3(2)	PG (20%)	4y NPP 2y	AD		Female - directed by XY to undertake transactions for fraudulent scheme relating to child care centre – did not know details of scheme - role of a “front person” - offending related to \$4.01m - applicant not aware of full amount involved, believed it was \$1.2m - offending over a period of only two days - subordinate - conduct not planned and lacked sophistication. Remorse –repaid \$10k obtained from XY – low risk reoffending.
12.	Garcia (56) <a href="#">[2022] NSWCCA 172</a>	s.400.3(2)  s.302.3 trafficking  Breach conditional release order  Sched: s.390.3(1)  Supply comm qty cocaine  Supply lge comm qty methamphet	PG (15%)  (25%)    (25%)  (15%)	9y  7y 6m  7m  <u>Total:</u> 9y 11m NPP 6y 8m  <u>Indicative:</u> 5y NPP 3y 3m  10y NPP 6y 6m  <u>Aggregate:</u> 12y NPP 7y 6m  <u>Total:</u> 15y 6m NPP 11y	AA 8y  7y 6m  7m  <u>Total:</u> 8y 9m NPP 5y 10m  <u>Indicative:</u> 5y NPP 3y 3m  10y NPP 6y 6m  <u>Aggregate:</u> 12y NPP 7y 6m  <u>Total:</u> 14y 9m NPP 10y 3m	Limited – supply and proceeds offences	Involved in handover of \$5,889,800 cash on 16 occasions – further \$1.4m cash found in garage – repeated offending – reckless as to risk cash will become instrument of crime – planning and degree of sophistication – well above mid-range Trafficking offence – principal organiser of on-going mid-scale trafficking enterprise transporting methamphetamine from Sydney to Perth – wholesaler – high degree of planning and pre-meditation – 451.1g pure – seriousness very high Schedule offence: over three months associated with two persons involved in conspiracy to import 25kg heroin from Fiji State offences: arrested in possession of methamphetamine – additional methamphetamine and cocaine found on premises – total of 2,947.40g meth dealt with on two occasions and 558g cocaine – not principal but essential and significant role – larger offence within mid-range Remorse – isolation in custody – reasonable prospects of rehabilitation – delay On appeal: error in elements of money laundering offence – error in discount for plea – error in setting overall NPP

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