

## Dealing With Property Reasonably Suspected of Being Proceeds of Crime

### s.400.9 (Cth) Criminal Code

s 400.9(1) deal with money or other property that it is reasonable to suspect is proceeds of crime and is valued at \$100,000 or more

**Maximum Penalty:** 3 years

**Commenced:** 19.3.2010

s 400.9(1A) deal with money or other property that it is reasonable to suspect is proceeds of crime and is valued at less than \$100,000

**Maximum Penalty:** 2 years

**Commenced:** 19.3.2010

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	Wong <a href="#">[2013] VSCA 52</a>	5 x 400.9(1)  s.400.9(1A)  Possess false passport  Possess false documents  Possess things to falsify documents	PG	20m (each)  <u>Total for s.400.9(1)</u> 3y 10m  8m  10m  18m  12m  <u>Total:</u> 5y 9m NPP 4y  (pre discount for guilty plea: 7y 6m NPP 5y 6m)	AD	nil	Malaysian national overstayed visa – over several months deposited total of \$6,297,187.90 in 34 deposits for international transfer to China – arrested in possession of \$63,810 – found at residence office set up to manufacture false bank cards, 973 counterfeit cards, more incomplete cards and false passport – employee in scheme – unaware where money came from  Isolated in prison

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

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
2.	<b>Shi</b> (2014) 246 A Crim R 273 <a href="#">[2014] NSWCCA 276</a>	10 x s.400.9(1)  s.400.9(1A)	PG (30% plea and assist on appeal)	<u>Total</u> 5y 6m NPP 3y  9m (concurrent)	AA <u>Total</u> 4y 9m NPP 2y 7m  9m (concurrent)		Female laundered money out of Sydney overseas through bank accounts – possibly seeking to avoid tax – deposited money she was given into bank account – over \$35 million over two months Unsophisticated person from China
3.	<b>Almada</b> (27) <a href="#">[2015] NSWCCA 19</a>	s.400.9(1)  Sched: 1 offence	PG (25%)	18m released to recog after 9m for 3y	AD	minor – breached bond	Plan to take significant amount of money out of country - with 7 others met 2 men at airport who placed large amounts of money in suitcases - attempted to board flight out of Australia – customs search revealed \$210,200 in offender's suitcase - total of \$1,023,900 in various suitcases Drug abuse
4.	<b>Jiao</b> <a href="#">[2015] NSWCCA 95</a>	s.400.9(1)	VG	FT 6m	Crown AA 16m released to recog after 12m	nil	Female made contact with unknown male in casino through pre-arranged signal – took bag containing money and deposited \$624,340 into casino account – withdrew \$300,000 cash to deposit into personal account then transfer to second account on instructions from brother Foreign national with no family in Australia – good prospects of rehabilitation Consideration of cases for sentencing on money laundering offences at [28]-[31]
5.	<b>Arsiotis</b> <a href="#">[2015] NSWCCA 275</a>	s.400.9(1)	PG (25%)	20m released to recog after 12m	AA 18m released after 10m 21d		Involved \$990,050 – would have received \$74,253.75 benefit – no additional facts – appeal based on incorrect calculation of discount for plea
6.	<b>Arora v Cobern</b> (42) (2015) 257 A Crim R 163 <a href="#">[2015] WASC 440</a>	s.400.9(1)	PG	8m	AA 8m released to recog after 5m	nil	Received approximately \$170,000 from two people at his house - made small deposits of less than \$10,000 in various bank accounts – sustained and organised offending Prior good character

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7.	<b>Singh</b> (35) (2016) 260 A Crim R 216 <a href="#">[2016] VSCA 163</a>	s.400.9(1A)  (originally sentenced for s.400.9(1) – resented after conviction appeal)	VG	14m released after 9m for 2y	Conviction AA s.400.9(1A) substituted  10m released after 6m for 2y	nil	Collected suitcase containing money from unknown male on behalf of friend in India – used \$5 note to verify identity – case contained \$500,001 – admitted previously collected smaller amounts of cash on behalf of friend – believed collected \$20-60,000 – element of planning Had offered to plead guilty to s.400.9(1A)
8.	<b>Linggo</b> <a href="#">[2017] NSWCCA 67</a>	s.400.9(1)  s.142(1) <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> <i>[5y]</i>	PG (20% on appeal)	18m  2y 6m  <u>Total:</u> 3y 3m	AA 18m  2y 2m  <u>Total:</u> 2y 9m		Offender found by police in hotel room counting quantity of Australian \$50 note bundles using counting machine - total amount of Australian currency located in hotel room was \$1,055,920 – also located three mobile phones, two bags containing further bundles and laptop computer.
9.	<b>Choi</b> (34)  <b>Pereira</b> (34)  <a href="#">[2017] SASCFC 54</a>	s.400.9(1)  s.400.9(1)	PG (1/3 <sup>rd</sup> )  PG (30%)	12m released after 6m for 12m  14m released after 9m for 12m	AA 8m released after 5m for 12m  11m released after 7m for 12m	nil  nil	Singaporean citizens –flew together to Australia for two nights – both found at airport attempting to leave with cash and meat in bags - P with \$270,450 – C with \$249,250 – P had travelled to Australia in similar circumstances on four previous occasions
10.	<b>Samarakoon</b> (38) <a href="#">[2018] VSCA 119</a>	s.400.9(1)  s.400.9(1A)  Att dishonestly obt financial adv: s.134.2(1) <i>Code</i> <i>[10y]</i>	PG	12m  5m  29m  <u>Total:</u> 3y released after 18m for 3y	AD	nil	Fraudulently obtained income tax refunds for company transferred into offender's accounts – \$21,100 in 2013 and \$400,000 in 2014 – 2014 attempted fraudulently to claim refund of \$222,844.95 in respect of second company Experiencing significant personal and family stress at time of offending – mental health issues – early guilty plea – some remorse – good character – good prospects of rehabilitation – some extra-curial punishment On appeal: paramount consideration for seriousness is amount

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11.	<b>Nguyen</b> <a href="#">[2019] NSWCCA 44</a>	s.400.9(1)	PG (15%)	14m released after 9m for 9m	AD	minor fraud	Female - involved in dealing with \$745,050 physical currency – courier transporting cash at time of arrest – also involved prior with making arrangements including monitoring exchanged rate – carefully planned offence for financial reward – well into mid-range Good prospects of rehabilitation
12.	<b>Jung</b> <a href="#">[2022] VSCA 68</a>	s.400.9(1)  Sched: Fail to comply with s.3LA order	PG (early)	21m released after 9m for 21m	AA 10m released after 4m	Nil	\$190,000 cash found in bag in car in home garage – further \$4,000 and digital money counter in premises – no explanation – no link to particular crime – single transaction – ‘cog in the wheel’ Good character and work history – very good prospects of rehabilitation

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