

Fraud by Accountant or Financial Advisor

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.	Sellen (1991) 57 A Crim R 313 NSWCCA	16 x s.178A (NSW) [7y] Sched: 6 x s.178A	\$1.25m	PG	MT 7y AT 1y	AA MT 5y 6m AT 2y 6m	Nil	Chartered accountant - offences occurred over five years - money used to finance business, family and personal expenses.
2.	Smith (31) NSWCCA 19.3.1992	s.178A (NSW) [7y]	\$13,500	VG	MT 15m AT 15m	AD	Nil	Accountant / tax agent – victim was elderly widow – abuse of trust Financial difficulties
3.	Law NSWCCA 7.10.1993	24 x s.176A (NSW) [10y]	\$180,000	PG	MT 2y 6m AT 18m	AD		Insurance broker overcharged premiums or kept premium and arranged no cover over 3y 8m.
4.	Page NSWCCA 22.11.1993	12 x s.178A (NSW) [7y]	\$750,000	VG	MT 3y AT 1y	AD	Nil	Doctor promised to invest client's money but spent it on racehorses.
5.	Pisani-Rossi (45) NSWCCA 11.7.1994	s.178A (NSW) [7y] s.178BB (NSW) [5y] Sched: 2 similar offences	\$200,000	PG	MT 2y 3m AT 9m	AD	Nil	Accountant and financial adviser deposited money for investments in own account - falsely provided receipts as to investment No repayments
6.	Sneddon (50) NSWCCA 2.8.1994	14 x s.178A (NSW) [7y] Sched: Offences unstated	\$870,000	PG	2y PD	Crown AD Manifestly inadequate, but in discretion sentence not increased	Nil	Accountant - offences occurred Sept 82 - Feb 86 - facts not clear All money repaid - rehabilitation strong - extraordinary delay between arrest and sentence.

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7.	Begley NSWCCA 2.9.1994	4 x s.178A (NSW) [7y] Sched: 2 x s.178BB	\$38,750	PG	MT 18m AT 6m	AA to take into account pre sentence custody	false pretences	Self-employed marine broker exchanged boats and kept excess money from transaction.
8.	Megas NSWCCA 12.10.1994	19 x s.178A (NSW) [7y] Sched: 30 x s.178A	\$2,762,796	PG	MT 6y AT 3y	AA to adjust form of sentence	Nil	Franchisee tax agent and financial adviser used client's money to pay extraordinary dividends promised to investors over two and a half years - \$1.6m outstanding.
9.	Baker NSWCCA 4.8.1995	7 x s.178A (NSW) [7y] s.178A (NSW) [7y]	\$254,585 \$34,925	PG	MT 4y 9m AT 5m	AA MT 3y 9m AT 1y 5m		Accountant - 8th offence committed on bail for earlier offences.
10.	Allen (77) NSWCCA 20.11.1996	7x s.178A (NSW) [7y]	\$117,276	PG	MT 1y 1m 16d AT 4m 15d	AD		Accountant – victims included longstanding female friend Severe health problems – community and war service
11.	Wratten NSWCCA 16.12.1996	8 x s.178A (NSW) [7y] s.178BA (NSW) [5y]	\$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
12.	Crowl NSWCCA 10.7.1997	7 x s.178BA (NSW) [5y] 5 x s.178A (NSW) [7y]	\$937,584	VG	MT 3y AT 1y	AD	Nil	Accountant misappropriated money received from clients for investment.

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13.	Cincotta (39) NSWCCA 8.8.1997	11 x s 178A (NSW) [7y] s.178A (NSW) [7y]	\$68,510 \$159,510	PG VG	2y NPP 16m s.11 (compensation \$68,510) 4y NPP 3y <u>Total:</u> 4y 11m NPP 3y 11m	AA (to delete compensation condition – same effective sentence imposed)	Nil – subsequent offence breached bail	Agent for insurance company – stole money over 3.5 years – as financial advisor stole money from elderly clients Imposition of compensation condition on bond inappropriate in view of financial circumstances and length of prison term
14.	De Souza [2001] NSWCCA 94	4 x s.300(2) (NSW) [10y] 15 x s.178A (NSW) [7y] s.178BA (NSW) [5y] Sched: 66 similar offences	\$1.5m	PG	MT 4y AT 3y	AD	prior record for fraud offences	Insurance agent defrauded 23 clients over 5 year - vulnerable victims.
15.	Burke (41) [2002] NSWCCA 353	39 x s.178BA (NSW) [5y] 11 x s.300(2) (NSW) [10y]	\$4,490,563 \$923,150	PG (20%)	10y NPP 7y 6m	AD	dishonesty offences	Investment advisor and insurance broker – failed to invest client money - 26 investors involved - unauthorised withdrawals of money invested - 6 year period - gross breach of trust
16.	Strano (61) [2002] NSWCCA 531	17 x s.178BB (NSW) [5y]	\$937,024	VG	8y NPP 5y	AA (parity) 6y NPP 3y 9m	Nil	Investment adviser acting as agent for third person - arranged short term investment loans over 2 years- no actual knowledge of falsehood of statements but disregard as to truth - gross breach of trust Some restitution made - serious medical problems for wife - favourable prospects of rehabilitation - parity with co-offender in Qld

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17.	Weir (55+) [2003] NSWCCA 204	4 x s.178A (NSW) [7y] s.300(2) (NSW) [10y] s.178B (NSW) [1y] Sched: 15 x s.178A 4 x s.178B 5 x s.300(1) 3 x s.300(2)	Over \$1m	PG (25%)	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
18.	Higgins [2006] NSWCCA 38	3 x s.1041G (Cth) [5y] 15 x s.178A (NSW) [7y]	\$1,702,527	PG	8y NPP 5y	AD	Old fraud offence	Investment adviser – well planned offences committed over 5 years – serious breach of trust
19.	Mitchell (45 at sentence) [2006] NSWCCA 72	13 x s.178BA (NSW) [5y]	\$302,099	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
20.	Valentine (37) [2007] NSWCCA 23	3 x s.300(2) (NSW) [10y] 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
21.	Hare (37-39) [2007] NSWCCA 303	14 x s.178BA (NSW) [5y] 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 6 victims Cocaine, alcohol and gambling addiction – hardship of imprisonment on autistic son – good prospects of rehabilitation

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22.	P Blundell (38) [2008] NSWCCA 63 Co-offender: R.BLUNDELL	3 x s.178A (NSW) [7y]	\$146,000	PG (25%)	18m NPP 9m	AD	Limited	Insurance brokerage business – stole money from clients provided to pay for insurance Married with children – delay – evidence of rehabilitation
23.	R Blundell (42) [2008] NSWCCA 92 Co-offender: R.BLUNDELL	4 x s.178BA (NSW) [5y] 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
24.	Braun (28) [2008] NSWCCA 269	6 x s.1041G (Cth) [5y] 2 x s.300(1) (NSW) [10y]		PG	3y 3m NPP 2y 5m	AA 2y 8m NPP 1y 8m	Nil	Share trader for company managing investment accounts – steadily lost money – made up false reports for investors to hide losses – made two groups of false instruments purporting to evidence transactions – no training and no supervision – no financial gain – repeated and persistent offending over 14 months - \$1.2m invested – losses ‘very large sums of money’ Remorse – prior good character
25.	Giourtales [2013] NSWCCA 216	49 x 29D (Cth) [10y] 7 x Attempt 29D		VG	9y NPP 6y 3m	AD		Accountant – during 1998 - 2001 arranged for preparation of false tax returns, having them lodged electronically by another accountant who was a registered tax agent and retaining refunds received from the Taxation Office – clients generally unsophisticated members of Greek community who came to offender for assistance for financial affairs - some clients did not authorise offender to prepare tax returns – others authorised returns but details false
26.	McKittrick (65-66) [2014] NSWCCA 128	4 x s.178BA (NSW) [5y] 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 Poor health – delay Significance of general deterrence to white collar offences

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27.	Clinton [2018] NSWCCA 66 (74)	7 x s.192E(1)(b) (NSW) [10y] s.178BA (NSW) [5y] s.254 (NSW) [10y] Sched: 19 offences	\$299k	PG (30% plea and assist)	<u>Total:</u> 5y 8m MPP 3y 9m	AD	Dishonesty	2008 - 2014 – joint criminal enterprise with co-offender - acting as business adviser, obtained personal and financial details from clients seeking finance – passed information to co-offender - used to submit fraudulent applications to financial institutions – obtained credit card accounts and loans, created number of businesses and obtained business banking accounts – obtained over \$1 million - \$299,000 to offender - repetitive and regular offending involving sophisticated and planned acquisition of credit cards, personal loans and mortgage funds - below mid-range Age – ill-health
28.	Nakhl (30-33) [2020] NSWCCA 201	8 x s.1041G (Cth) [10y] Sched: 4 x s.1041G (Cth) [5y]	\$5,121,168	PG (12%)	<u>Total:</u> 10y NPP 6y	AD	Nil	2009-2013 – financial advisor misapplied funds given to him by 12 clients – made false representations as to investments – high degree of sophistication and planning – motivated by greed not malice – no intention to steal – high range Small diminution in moral culpability due to mental condition – some remorse – insight into offending improving – good prospects of rehabilitation
29.	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%)	<u>Aggregate:</u> 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

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Table of Offences

Offence	Section	Status	Maximum Penalty
Crimes Act 1900 (NSW)			
Cheat or defraud as director or member of body corporate or public company	s.176A	2.11.1979-22.2.2010	10 years
Fraudulent misappropriation of money collected or received	s.178A	12.3.1929-22.2.2010	7 years
Pass valueless cheque with intent to defraud	s.178B	6.11.1951-22.2.2010	1 year
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
Use false document	s.254	22.2.2010 - current	10 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
Corporations Act 2001 (Cth)			
Engaging in dishonest conduct in course of carrying on a financial services business	s.1041G	11.3.2002-12.12.2010	5 years
		13.12.2010-12.3.2019	10 years
		13.3.2019-current	15 years

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