

## Fraud by Solicitor or Legal Person

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.	<b>George</b> (54) NSWCCA 23.9.1994	9 x s.178A (NSW) [7y]  Sched: 27 x s.178A	\$612,305	PG	MT 4y 6m AT 1y 6m	AA MT 3y AT 2y	Nil	Solicitor defrauded clients over five years - one count involved forgery, others involved false epitome of mortgage Not motivated by greed - \$65,000 recovered
2.	<b>Holmwood</b> NSWCCA 25.10.1995	5 x s.178A (NSW) [7y]  s.178BA (NSW) [5y]  s.178BB (NSW) [5y]  Sched: 13 offences	\$571,000 +	PG	MT 4y AT 2y	AD	Nil	Solicitor defrauded clients over four years.
3.	<b>Marvin</b> (38) NSWCCA 5.11.1995	41 x s.178A (NSW) [7y]  s.300(1) (NSW) [10y]  s.300(2) (NSW) [10y]		PG	MT 18m AT 6m	AA MT 12m AT 12m	Nil	Solicitor misappropriated funds over four years.
4.	<b>Hughes</b> (39) NSWCCA 24.7.1996	5 x s.271 (NSW) [14y]  s.24(1) (Cth) [2y]  s.24(2) (Cth) [2y]  s.31(1) (Cth) [5y]  Sched: 2 offences	\$379,000	PG	MT 2y 6m AT 2y 6m	AD	Nil	Solicitor committed offences on 4 occasions over 15 months – calculated and complicated fraudulent activity – operated bank account in false name – opened second bank account in false name – conducted 5 non-reportable financial transactions – forged 5 wills Financial difficulties – depression - some reparations made – genuine remorse – admission to undetected guilt – excellent character

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5.	<b>Cofini</b> (37) NSWCCA 4.3.1997	3 x s.300(2) (NSW) [10y]  Sched: 6 x s.300(2)	loss to bank: \$1.452m	PG	MT 1y AT 1y	AD		Solicitor used documents to deceive bank to obtain large loan for client. Severe hardship since offence - genuine remorse.
6.	<b>Hunt</b> (42) NSWCCA 30.9.1997	5 x s.178A [7y]	\$38,341.38	VG	MT 1y AT 21m	AD		Solicitor misappropriated funds from two elderly clients - money used for expenses \$18,000 recovered.
7.	<b>Petroff</b> NSWCCA 20.7.1998	5x s.178BA (NSW) [5y]  2 x s.178BB (NSW) [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.
8.	<b>Boland</b> NSWCCA 13.10.1998	s.178A (NSW) [7y]	\$48,759.08	PG	MT 18m AT 6m	AD	nil	Solicitor committed single, but carefully planned, offence using system of bank accounts designed to make detection very difficult. Great professional and personal stress at time of offence - full restitution - remorse - delay in sentencing.
9.	<b>Francipane</b> NSWCCA 23.12.1998	s.178BA (NSW) [5y]	\$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
10.	<b>Smith</b> (2000) 114 A Crim R 8 <a href="#">[2000] NSWCCA 140</a>	5 x s.178A (NSW) [7y]  Sched: 14 x s.178A	\$2,832,740	PG	MT 3y AT 2y	Crown AA MT 4y 6m AT 2y	nil	Solicitor under investigation in Queensland carried on practice in NSW after practicing certificate taken away - received money for mortgages and failed to invest money - severe breach of trust Financially struggling - loving and devoted family man - co-operated with receiver - \$250,000 recovered.

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11.	<b>Houlton</b> (56) <a href="#">[2000] NSWCCA 183</a>	5 x s.178A (NSW) [7y]  Sched: 80 x s.178A	\$347,000	PG	3y PD 5y GBB \$120,000 reparation	Crown AD	nil	Solicitor misappropriated money held on trust for clients over 3 year period - money used for business and personal use. Substantial delay - some reparation made - under significant stress from personal and professional situation at time of offence.
12.	<b>Aliperti</b> (50) <a href="#">[2000] NSWCCA 315</a>	s.178BA (NSW) [5y]  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. Judge failed to take into account substantial delay between arrest and trial.
13.	<b>Carr</b> (49) (2002) 135 A Crim R 171 <a href="#">[2002] NSWCCA 434</a>	s.176A (NSW) [10y]  s.178A (NSW) [7y]	\$321,666  \$358,952	PG	4y NPP 2y  FT 2y (concurrent)	Crown AD Sentence inadequate but discretion applied		As company director and solicitor fraudulently obtained money from company in 1996 - no charges pursued until second offence - as solicitor for second company banked cheque for sale of property in personal account
14.	<b>Hovan</b> (44) <a href="#">[2005] NSWCCA 179</a>	s.178BB (NSW) [5y] s.300(1) (NSW) [10y] s.300(2) (NSW) [10y]		PG (40%)	4y 6m NPP 3y 6m	AA 3y NPP 18m	Nil	Solicitor made false application for computer equipment loan – obtained \$102,000 - \$58,000 outstanding – forged signature and seal of clients on deed of release – received \$20,000 costs payment on behalf of client – money owed to applicant Second offence breached bail – struck off – full reparation underway – poor financial manager – psychological problems
15.	<b>Pike</b> <a href="#">[2006] NSWCCA 32</a>	s.178BA (NSW) [5y]	\$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
16.	<b>Assi</b> (44) <a href="#">[2006] NSWCCA 257</a>	2 x s.178A (NSW) [7y]  2 x s.178BA (NSW) [5y]  Sched: 3 x s.178A 3 x s.178BA	\$222,000	PG (10%)	7y 6m NPP 4y 9m	AA 7y 6m NPP 4y 6m	Breached bail and parole – similar offences	Disqualified solicitor defrauded several clients Appeal allowed to correct small error.

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17.	<b>Oudomvilay</b> (37) <a href="#">[2006] NSWCCA 275</a>	6 x s.178A (NSW) [7y]  Sched: s.178A	\$809,350	PG	6y 9m NPP 4y	AD	Nil	Female Laotian solicitor took money from trust account.
18.	<b>Nikolaidis</b> (52 at sentence) (2008) 191 A Crim R 556 <a href="#">[2008] NSWCCA 323</a>	s.300(1) (NSW) [10y]		VG	2y NPP 12m	AD	Nil	Solicitor had secretary type backdated letter purporting to be terms of engagement between offender and former client – involved in dispute with client – costs assessment being made by Supreme Court assessor – mid range offence – part of continuous course of conduct – breach of trust Loss of employment
19.	<b>Jafari</b> <a href="#">[2017] NSWCCA 152</a>	s 131.1(1) (Cth) [10y]	\$220,000	PG	2y ICO	Crown AA 3y imprisonment - released on recognisance after 18m	Nil	(2008) - senior lawyer in Australian Government Solicitor's office – jointly responsible with colleague for managing trust established by Commonwealth, for man previously in Defence Force who had been seriously injured - prepared authority for payment from trust of \$220,000 to friend to whom offender owed money - signed document and forged signature of colleague.
20.	<b>Chalabian (No.14)</b> (51) <a href="#">[2022] NSWSC 829</a> Johnson J  Co-offenders: HAUSMAN ROSTANKOVSKI <a href="#">[2022] NSWCCA 24</a>	s.400.3(1) (Cth) [25y]	See facts	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

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21.	<b>Menon</b> <b>(39)</b> <a href="#">[2023] NSWSC 768</a> 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  <u>Total:</u> 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

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**Table of Offences**

<b>Offence</b>	<b>Section</b>	<b>Status</b>	<b>Maximum Penalty</b>
<b>Crimes Act 1900 (NSW)</b>			
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
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
Forging will	s.271	1900 – 22.2.2010	14 years
Make false instrument / use false instrument	s.300(1) & (2)	16.7.1989-22.2.2010	10 years
<b>Criminal Code (Cth)</b>			
Theft from Commonwealth entity	s.131.1	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
<b>Financial Transactions Reports Act 1988 (Cth)</b>			
Open account / operate account in false name	s.24(1) / 24(2)	1.7.1988-current	2 years
Conduct transactions to avoid reporting requirements	s.31	1.7.1988-current	5 years

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