

RUSS JOHNSON

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Admissions

- 2015 – Admitted to the Bar (New South Wales)
- 2014 – Admitted as a Solicitor to the Supreme Court of New South Wales
- 2005 – Admitted as a member of the North Carolina State Bar, United States of America

Qualifications

- 2012 – Master of Laws, University of Sydney – Sydney NSW
- 2005 – Juris Doctor, Campbell University School of Law – Raleigh NC USA
- 2001 – Bachelor of Arts (Anthropology), Wake Forest University – Winston-Salem NC USA

Professional Experience

- 2015 – present Barrister, Ground Floor Wentworth Chambers (Sydney)
- 2014 – 2015 Solicitor, Hardinlaw (Sydney)
- 2011 – 2014 Tax adviser and accountant, Genesis Accounting (Sydney)
- 2008 – 2010 Trial lawyer, Respass and Jud Law Firm (USA)
- 2006 – 2008 Trial lawyer, Law Offices of William L Fay (USA)
- 2005 – 2006 Assistant District Attorney, Wake County District Attorney's Office (USA)

Areas of Expertise

- Taxation and revenue
- Tax crime
- Commercial and equity

Professional Memberships

- Member, New South Wales Bar Association
- Associate Member, The Tax Institute
- Member, North Carolina State Bar

Publications

- *The Harman undertaking and tax litigation* – Taxation in Australia, Vol 52(4) October 2017 (Contributing author with Rashelle Seiden SC)

Software Proficiencies

- Microsoft Office (Word, Excel, PowerPoint etc), Adobe Acrobat Pro/DC, LexisNexis, Westlaw

Select Cases

Tax related

- *Van Eps v R* (HCA) – special leave application in respect of determination by the Queensland Court of Appeal of two referred points of law from the District Court which held that the accusatorial process of criminal justice had been abrogated by the compulsory examination and secrecy provision regime in the TAA53 such that the prosecution was permitted to disclose the transcript of a compulsory interview of the accused to prosecutors (led by Peter Bruckner)
- *Federal Commissioner of Taxation v [NAME RESTRICTED]* (FCA) – promoter penalty proceedings in respect of a former partner of a ‘big four’ accounting firm where the Commissioner alleges the former partner promoted a scheme whereby taxpayers were given access to an entity with hundreds of millions of dollars in losses contrary to Part IVA (led by David McGovern SC)
- *Aymsheen Pty Ltd v Chief Cmr of State Revenue (NSW)* (NSWSC) – appeal against adverse objection decision in respect of amended assessments over 7 tax years concerning application of deemed dividends regime to a company which arranged for haulage of quarried goods from quarries to customers, including argument that the regime as applied constituted an excise contra to s 90 of the Constitution (led by Rashed Seiden SC)
- *Re Byrne and the Commissioner of Taxation* – negotiation on behalf of the taxpayer with the COT resulting in the withdrawal of a director penalty notice for nearly \$1million on grounds that the taxpayer as director took all reasonable steps pursuant to s 269-35(2)
- *Shi v Commissioner of Taxation* (FCA, FCAFC, HCA) – application and responding to 2 appeals by the Commissioner in respect of orders under s 128A of the *Evidence Act* in respect of the subject of freezing orders requiring an asset disclosure affidavit where the client sought and obtained orders that his privileged affidavit be returned (led by Tim Game SC)
- *Cameron and the Commissioner of Taxation* - acting for the accused taxpayer in respect of a foreign transferor trust \$90,000,000 tax dispute (led by Rashed Seiden SC)
- *Onley v R* (NSWCCA) – conviction appeal in respect of a highly publicised criminal conspiracy to commit tax fraud and to deal in proceeds of crime in excess of \$1million, following a nearly year-long jury trial, concerning a loss to the Commonwealth of over \$100million (led by Stephen Odgers SC)
- *Deputy Commissioner of Taxation v Westmeat Development & Ors* (NSWSC) – defence and settlement negotiations for over a dozen persons and companies against DCT summons seeking judgment in excess of \$20,000,000 in respect of taxation liabilities of 6 companies and freezing and asset disclosure orders; also acted for the same parties in respect of related taxation liabilities

- *In the matter of Bluemine Pty Ltd (in liq); In the matter of Earth Civil Pty Ltd (in liq)* (NSWSC) – defence of corporate and individual defendants in a 40 day hearing before Ward CJ in Eq in 5 consolidated proceedings concerning over 70 defendants commenced by a liquidator seeking orders for equitable compensation, damages and declarations of conspiracy to defraud the Commonwealth and Commissioner of Taxation to ground relief, inter alia, under the second limb of *Barnes v Addy* (partly unled, partly led by Rashelle Seiden SC)
- *AKA Civil Australia Pty Ltd and the Commissioner of Taxation* – negotiated settlement with the Commissioner in respect of a group of corporate and individual taxpayers collectively assessed for in excess of \$20m, during pendency of proceedings in the Supreme Court of NSW against the taxpayers, brought by liquidators who were indemnified by the COT (led by Rashelle Seiden SC)
- *Commissioner of the AFP v Adam Cranston & Ors* (NSWCA, HCA) – appeal in respect of an application to stay a Commonwealth proceeds of crime compulsory examination in context of a suspected conspiracy to commit serious tax fraud. I appeared for Jason Onley, the Second Defendant Appellant, before Bathurst CJ, Basten JA, Meagher, J. Special leave refused
- *Commissioner of the AFP v Adam Cranston & Ors* (NSWSC) – Commonwealth proceeds of crime matter in context of a suspected conspiracy to commit serious tax fraud where I appear for the Jason Onley, the Second Defendant, and for others, from time to time including on an application for orders for exclusion and compensation in respect of restrained assets
- *R v Jason Onley* (NSWLC, NSWSC) – Commonwealth serious tax crime matter related to the proceeds of crime matter above where I appeared for the accused in respect of numerous pretrial and trial applications, and sentencing, where the jury trial ran from April 2022 to March 2023, with sentencing in August 2023
- *R v Findex (Aust) Pty Ltd* (NSWLC) – successful defence of a large international accounting firm in respect of a summary prosecution for an offence under s 8C(1)(a) of the TAA53 for allegedly failing to comply with notices for production of information and documents pursuant to notices issued to the firm under s 353-10; outcome was a non-conviction under s 19B of the *Crimes Act 1914* (Cth)
- *Caratti v Commissioner of Taxation* (HCA) – proceeding in the original jurisdiction of the High Court seeking to challenge the validity of various search warrants (led by Rashelle Seiden SC)
- *Yu Zhang and the Commissioner of Taxation* (AAT) – Part IVC administrative review of Commissioner’s decision to issue original income tax assessments and penalties to taxpayer the Commissioner suspects is affiliated with a \$180m tax fraud allegedly orchestrated by the client’s husband
- *JWTT and the Commissioner of Taxation* (AAT) – Part IVC administrative review of Commissioner’s decision to issue amended GST assessments and shortfall penalty notices to corporate taxpayer in context of parallel criminal investigation and proceedings under proceeds of crime legislation (led by Rashelle Seiden SC)

- *Commissioner of AFP v Kelu & Ors* (NSWSC) – proceeds of crime matter in context of suspected conspiracy to commit serious tax fraud where I appear for the taxpayer and its sole director and shareholder
- *R v Kelu; R v Millner* (NSWLC, NSWSC) – Commonwealth serious tax crime matter related to the proceeds of crime matter described above where I appeared for the accused, pre-trial
- *Conklin v R* (NSWCCA) – Operation Wickenby tax crime appeal from conviction and sentence (led by Peter Bruckner)
- *R v Hexla Pty Ltd* (NSWLC) – successful defence of taxpayer trustee company charged with offences under s.8C of the *Taxation Administration Act 1953* (Cth)
- *R v El Rich* (NSWLC) – successful defence of taxpayer charged with multiple Commonwealth taxation offences under various sections of the *Taxation Administration Act 1953* (Cth)
- *Chang v R* (NSWCCA) – appeal from conviction and sentence for Commonwealth conspiracy to commit serious tax fraud (led by Peter Bruckner)
- *R v Chang* (NSWDC) – defence of individual charged with conspiracy to commit serious tax fraud, plea and sentencing (led by Peter Bruckner)
- *Caratti v Commissioner of the AFP* (FCAFC) – appeal of decision of the Federal Court granting partial relief in respect of a challenge to eight search warrants executed in context of joint agency investigation into suspected tax fraud (led by Peter Bruckner)
- *Ex parte Caratti* (WASC) – judicial review proceedings in respect of criminal conviction for taxation offences (led by Peter Bruckner)
- *GH1 Pty Limited & Ors v Commissioner of Taxation* (FCA) - preliminary injunction matter in respect of an alleged default under Security Deed between taxpayer and the Commissioner (led by Mark Robertson QC)
- *Caratti v Commissioner of Taxation; Bazzo v Commissioner of Taxation* (FCA) – preliminary injunction matter involving an alleged default under Security Deed between taxpayers and the Commissioner
- *Caratti v Commissioner of the AFP* (FCA) – challenge to 8 search warrants executed at various premises of various taxpayers in context of suspected GST tax fraud (led by Peter Bruckner)
- *R v Seller* (HCA, NSWCCA, NSWSC) – criminal defence of individuals charged with conspiracy to dishonestly influence the Commissioner, resulting in acquittal, where I appeared in various interlocutory applications and appeals; a special leave application; and a 5 week jury trial (led by Peter Bruckner)

Other

- *Commissioner of the AFP v HWCJ GLB & Ors* (NSWSC) – successful application for exclusion from restraint and forfeiture, and costs (yet undetermined), on behalf of a United States based victim of a global scheme to defraud potential investors in forex trading
- *Runcity v Commissioner of Taxation, RC Group (In Liq) & Ors* (FCA) – successful application for discharge of orders made ex parte, as concerned the applicant, which had the effect of disregarding the period of de-registration of a company for purposes of calculating the 3-year limitation period in s 588FF(3)(a)(i) of the *Corporations Act* (unled in part, led in part by Steven Golledge SC)
- *Zhang ats Trustee of the bankrupt estate of Yun Feng Shi* (FCA) – defence and negotiated settlement of claims by a trustee in bankruptcy under ss 120 and 121 of the *Bankruptcy Act*
- *Zhang ats Trustee of the bankrupt estate of Zu Neng Shi* (NSWSC) – defence and ongoing settlement negotiations in respect of claims by a trustee under s 121 of the *Bankruptcy Act* and in equity
- *Cameron ats R* (Magistrates Court, Tasmania) – defence of a prolific and well-known philanthropist and entrepreneur accused, charged by ASIC for offences under the *Corporations Act* concerning a Curacao private foundation and the accused’s alleged control of same in respect of its shareholding in an Australian publicly listed company (led by Rashelle Seiden SC)
- *Caratti v Commissioner of the AFP & Ors; Caratti v Harris & Ors* (FCAFC) – two appeals heard together concerning liquidators’ rights and the AFP’s obligations with respect to documents and materials seized pursuant to search warrants executed by the AFP on suspicion of serious tax fraud (led by Peter Bruckner)
- *Onley v Catlin Syndicate* (FCAFC) (HCA) – application for declaratory relief for entitlement to indemnity under a management liability policy of insurance, special leave to appeal to the High Court was refused (led by Rashelle Seiden SC)
- *Skypac Aviation (In Liq) v Mabena* – defence of creditor against liquidator’s claim for of receipt of unfair preference payments; matter settled for approx 10% of amount claimed
- *Kang v Bishop & Ors* (NSWSC, NSWCA) - judicial review proceedings in respect of criminal conviction in the Local Court of State fraud offences
- *George 218 & Ors v Bank of Queensland* (WASCA)– Appeal of decision of the WASC to enforce a guarantee in circumstances where the creditor bank had been acquired by the respondent bank (led by Peter Bruckner)
- *Savo v Roberts; Savo v Quantum Transport* (NSWLC, NSWSC) – contract dispute concerning ownership of transport business
- *Macquarie International Health Clinic v Sydney Local Health District* (NSWSC) – complex damages inquiry which was heard over 100 days (led by Gregory Burton SC and Peter Bruckner)