IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE

CRI-2025-404-398
[2025] NZHC 3586

BETWEEN	AARON COUPE Appellant
AND	THE KING Respondent

Hearing: 13 October 2025

Appearances: M Kan and K M McEntee for the Appellant
D M A Wiseman for the Respondent

Judgment: 24 November 2025

JUDGMENT OF GARDINER J
[Appeal against sentence]

This judgment was delivered by me on 24 November 2025 at 3.00 pm

Registrar/Deputy Registrar

Solicitors:
Michael Kan Law, Auckland
MC, Auckland

Introduction

[1] Aaron Coupe appeals the decision of Judge K Maxwell sentencing him to three years and nine months' imprisonment.[1] Mr Coupe was sentenced for:

(a) managing or controlling a business while a bankrupt without the consent of the Official Assignee or the court (representative);[2] and

(b) being a bankrupt and concealing property of over $500 (x 2).[3]

[2] Mr Coupe appeals the sentence on the basis it was manifestly excessive because:

(a) the starting point was too high;

(b) the uplift of 12 months for personal aggravating factors was excessive;

(c) there should have been a discount allowed for psychological factors;

(d) the sentence should have been imposed concurrently, rather than cumulatively, with an earlier sentence for Companies Act offences; and

(e) the five-month reduction for totality between the two sentences was inadequate.

[3] The Crown opposes the appeal.

[4] I have reached the conclusion that considered discretely, the sentence for the present offending is not manifestly excessive. However, a notional cumulative sentence of eight years and two months' imprisonment for this offending and the Companies Act offending is disproportionate to the gravity of the overall offending. Consequently, I reduce the sentence under appeal to two years and three months. This means that the notional cumulative sentence is six years and eight months.

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1 *R v Coupe* [2025] NZDC 12588.
2 Insolvency Act 2006, ss 149 and 436. Maximum penalty: two years' imprisonment.
3 Sections 420 and 428. Maximum penalty: three years' imprisonment and/or $10,000 fine.

Background to the offending

[5] Mr Coupe was first adjudicated bankrupt on 5 October 2010. During this bankruptcy, he managed three businesses without the consent of the Official Assignee, concealed assets and misled the Official Assignee, in breach of the Insolvency Act 2006. On 5 August 2016, he was convicted and sentenced to 12 months' home detention, 200 hours of community work and reparation of $75,100. The Crown says $50,854 of this reparation remains unpaid.

[6] As a result of this conviction, Mr Coupe was prohibited by s 382 of the Companies Act 1993 from directly or indirectly being a promoter or director of, or being concerned with or taking part in, the management of a company for five years.

[7] Despite this prohibition, Mr Coupe took part in managing five companies and acted as a promoter of three of those companies. Between early 2016 and July 2019, Mr Coupe used three companies — Greys Avenue Investments Ltd, Ascent Industries No. 33 Ltd and Liberte Investments Ltd — to develop a luxury hotel in Auckland to be named The Liberte. The project failed and the companies were placed into liquidation with unsecured creditors nearing $3 million. From late 2017 into 2021, through a further three companies — Rata Group, Tomorrow Group and Willow Group — Mr Coupe attempted to develop several hotels under the brand name Tomorrow Hotels. These projects also failed.

[8] On 21 December 2020, Mr Coupe was charged with breaching the s 382 prohibition. He was granted bail on 2 February 2021 (with a bail condition that he was not to manage a business). Further charges were laid on 6 August 2021.

[9] On 5 December 2023, Mr Coupe was found guilty by a jury of these offences. He was arrested and remanded in custody on 15 July 2024 when he failed to appear for sentencing. On 24 January 2025, Judge Dawson sentenced him to four years and five months' imprisonment.[4] Mr Coupe has appealed that sentence to the Court of Appeal.

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4 *R v Coupe* [2025] NZDC 1244.

The current offending

[10] On 11 March 2022, while on bail for the Companies Act charges, Mr Coupe was adjudicated bankrupt for a second time by this Court. Notified claims in his bankruptcy estate currently stand at $6,358,597.

[11] During this bankruptcy, Mr Coupe again took part in managing businesses in breach of the Insolvency Act. He acted as a self-employed contractor operating three residential and commercial construction projects. One was a housing redevelopment in Tuakau for homeowners, the McMillans, known as the Dromgools Road project. Another was a commercial construction project in Wiri for two business that operated from the premises (the Bolderwood Place project). The third was a commercial construction project in the Auckland CBD (the Galatos Street project). For two of the projects, he used the alias Aaron McGregor which is his birth name. Mr Coupe concealed from the Official Assignee the income of $1,719,232.71 he received from these ventures.[5]

[12] Mr Coupe pleaded guilty to the charges of managing a business while bankrupt and concealing assets from the Official Assignee. Judge Maxwell sentenced Mr Coupe on 6 June 2025. That is the judgment under appeal here.

Decision on appeal

[13] The Judge first noted the relevant purposes and principles of sentencing. One significant factor was deterrence, both general and specific, due to Mr Coupe's persistent offending over years.

[14] In setting the starting point, the Judge acknowledged particular factors:

(a) Premeditation: The Judge found this was present to a very high degree. Mr Coupe knew he could not manage a business. And he knowingly concealed his income from the Official Assignee. He did so under an alias. He directed the funds to his mother's account and, when he became aware that this had been discovered, redirected them to an

[5] $179,013.60 on the Dromgools Road project and $1,540,219.11 on the Bolderwood Place project.

alternative account. He has been prosecuted previously for doing "exactly the same thing".

(b) The extent of harm and loss: There were multiple victims who were severely impacted by the offending. Two of the victims had lost their life savings. They were left living in a caravan on the property Mr Coupe was supposed to have been managing. One victim, a contractor, refers to $90,000 outstanding from unpaid invoices; the contractor also lost his licence because Mr Coupe falsely informed him that the appropriate consents had been obtained for the work.

(c) The duration of the offending: This continued over two years, involving a significant sum. The Judge also found the chance of recovering the losses sustained was unrealistic.

(d) Personal gain: The Judge noted the high degree of personal gain.

[15] The Judge found there were no mitigating factors in Mr Coupe's offending.

[16] The Judge referred to a range of authorities referred to by counsel. She was particularly assisted by the cases from the prosecutor.[6] The Judge considered that Mr Coupe's offending was more serious than any of the prior cases. A starting point of two years and six months was imposed for the first concealing charge and a starting point of 18 months for the second, which was adjusted down by 12 months (to three years) for totality. This was then further uplifted by 12 months for the managing a business charge, resulting in an adjusted starting point of four years' imprisonment.

[17] The Judge allowed 20 per cent for a guilty plea. The Judge rejected a discount for remorse was warranted, having regard to Mr Coupe's pre-sentence report. The Judge noted that Mr Coupe had failed to pay the reparation ordered in 2016, when

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6 *Clarke v Ministry of Business, Innovation and Employment* [2020] NZHC 63, [2020] NZCCLR 15; *Henderson v R* [2021] NZHC 2259; *Ministry of Business, Innovation and Employment v Coupe* [2016] NZDC 15790; *R v Bayne* [2020] NZDC 10017; *Andrews v R* [2013] NZCA 281; and *R v Rippin* DC Auckland CRI-2012-004-5351, 6 November 2013.

the availability of reparation appeared to be a mitigating factor that motivated the court to grant him home detention.

[18] The Judge noted three personal aggravating factors: Mr Coupe's previous convictions, that the offending was in breach of a bail condition prohibiting the exact actions involved in the offending, and that he exploited interim name suppression. An uplift of 12 months was imposed, having regard to the failure of previous sentences to deter Mr Coupe and the need to protect the community. This resulted in an end sentence of four years and two months' imprisonment.

[19] The Judge then went on to consider whether the sentence should be concurrent or cumulative on the January 2025 sentence for the Companies Act offending. Mr Coupe's counsel argued *Ngamoki v R* applied and, considering both sets of offending are of a similar kind and can be regarded as a connected series of events, a concurrent sentence should be applied.[7] The Judge rejected this submission. Mr Ngamoki's circumstances were entirely different. Further, adopting the Crown's reasoning, the offending is unrelated to the Companies Act, and it occurred sometime after and while on bail for the Companies Act offending.

[20] The Judge then considered whether the notional cumulative sentence of eight years and seven months was proportionate to the gravity of all the offending. The Judge questioned what the appropriate end sentence would have been had the sentencing Judge in January been required to sentence Mr Coupe on all the charges. The Judge noted that there were no authorities available to cross check the nominal sentence as Mr Coupe's offending was the most serious of its kind in New Zealand. She acknowledged the potential for double-counting in terms of personal aggravating factors. Therefore, the Judge adjusted the end sentence downward by five months to three years and nine months' imprisonment. This gave a notional end sentence of eight years and two months' imprisonment for the Insolvency Act and Companies Act offences.

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7 *Ngamoki v R* [2022] NZCA 171.

Approach on appeal

[21] The Court must allow the appeal if satisfied that for any reason there was an error in the sentence and a different sentence should be imposed.[8] The focus is on the end sentence rather than the process by which it is reached.[9] For the Court to interfere, the sentence must be shown to be wrong in principle or manifestly excessive.[10] Ordinarily, the Court will not intervene where an end sentence is within the range that can properly be justified by accepted sentencing principles.[11]

Was the starting point too high?

Submissions for Mr Coupe

[22] Mr Kan submits that a starting point of 28 months is more appropriate for the two concealing charges. While the principles of consideration for the victims and deterrence play a key role in this case, more weight should have been given to consistency in sentencing for like offending. Mr Kan refers to *Clarke v Ministry of Business, Innovation and Employment* where a 28-month starting point was rejected on appeal as reserved for offending of the most serious kind; an 18-month starting point was substituted on appeal.[12]

[23] Mr Kan also argues that a reduction of 16 or 17 months was more appropriate for totality, rather than the 12-month reduction applied for the concealing charges. In setting the starting points of the two lead charges of concealing individually, the Judge essentially double-counted the aggravating features of the offending. Mr Kan argues that a 36-month starting point for two concealing charges is too high when considering the maximum penalty is three years' imprisonment.

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8 Criminal Procedure Act 2011, s 250.
9 *Tutakangahau v R* [2014] NZCA 279, [2014] 3 NZLR 482 at [36].
10 At [30]–[35].
11 At [36].
12 *Clarke v Ministry of Business, Innovation and Employment*, above n 6.

Submissions for the Crown

[24] Mr Wiseman submits that the Judge, in dealing with the concealing charges, appropriately took into account the profound and enduring effect on the victims and recognised Mr Coupe's offending as among the most serious of its kind.

[25] Mr Wiseman submits that *Clarke* does not assist Mr Coupe. The case did not impose a ceiling preventing the adoption of a higher starting point. The Judge also properly distinguished Mr Coupe's offending from that in *Clarke*, stating "none of the offending in these cases come near to the level of your offending".

Analysis

[26] I agree with Mr Kan that it is preferable to take both concealing charges, which concern discrete sums of money received on two of the construction projects, as the lead offending and impose a starting point that reflects the gravity of the concealing in relation to the maximum penalty for the charge (three years). Then, to add a proportionate uplift for managing a business without the consent of the Official Assignee, having regard to the maximum penalty for that charge (two years), to arrive at a global starting point.

[27] I agree with the Crown that the gravity of the offending calls for a global starting point near to the maximum penalties prescribed. As the Judge observed, the amount Mr Coupe concealed exceeds anything seen in this country before. Mr Coupe received and concealed around $1.7 million between March 2022 and July 2024, when he was arrested and remanded in custody. This, when there are creditors' claims against his estate in the amount of $6,358,597.87. These creditors are the people harmed by Mr Coupe's concealment.

[28] Then, there are the aggravating factors which the Judge correctly identified. First, Mr Coupe showed a high degree of premeditation. He had been adjudicated bankrupt before, so he knew that he could not manage a business and that he was required to disclose any income to the Assignee. He deliberately concealed his activities: using an alias and directing payments to his mother's account. When detected, he redirected funds to an alternative account.

[29] Second, Mr Coupe inflicted serious harm on others. I have mentioned the loss to the creditors in his bankruptcy. Separately, he caused serious harm to the people who engaged him for their construction projects between 2022 and 2024. The Judge discusses the impact on these victims, many of whom submitted victim impact statements. All three projects were left incomplete and with defective work, after the victims paid Mr Coupe considerable sums of money. Two victims lost their life savings and were left living in a caravan because their house was uninhabitable. Other victims describe the considerable financial and emotional impact on them from Mr Coupe's deception and mismanagement. Another victim lost his licence. There appears to be no prospect of the victims recovering their losses.

[30] Third, Mr Coupe's offending took place over two years. Fourth, he gained personally from the offending — the Crown's review of his bank statements revealed that he used the concealed funds for his living expenses and developments and improvements on his own home. Mr Coupe also attempted to use $100,000 of the concealed funds as surety for an application for electronically monitored bail for the Companies Act charges.

[31] To Mr Kan's reliance on *Clarke*, the Crown correctly identifies that Woolford J was not purporting to set any sort of threshold in *Clarke.* In adopting an 18-month starting point for the concealing and removing property charges, Woolford J recognised that "[t]here could have been greater values involved or more steps taken to conceal or fraudulently remove property". Furthermore, the facts of *Clarke* are very different. The Official Assignee was aware that Mr Clarke was continuing to operate his accountancy practice while bankrupt, which he seemingly did in the misguided belief that he was obliged to assist his clients to transfer to another accountant. There was no loss to his clients. Mr Clarke concealed a comparatively modest sum of $78,048. The property fraudulently removed was his share of the family home, the value of which was not lost, and his shares in his accountancy company, which the Judge considered "academic".

[32] Some guidance may be taken from *R v Bayne*.[13] Over three years, Mr Bayne managed a business and concealed $650,000 from the Official Assignee. He used different names and different bank accounts to disguise his activities. Mr Bayne was charged with misleading the Official Assignee, managing a business while bankrupt and two counts of concealing property. In that case, a global starting point of three and a half years was adopted on the basis that it was "part and parcel of a single scheme to trade without being caught".[14]

[33] Taking into the account the factors identified, the global starting point adopted by the Judge was within the reasonable range. I would have taken a starting point of two and a half years (30 months) for both the concealing charges rather than the three-year (36-month) starting point imposed by the Judge. However, an uplift of more than 50 per cent of the maximum penalty for managing a business without the consent of the Assignee (12 months) was available, given the harm to the victims and the deliberate deception involved. Overall, a starting point of four years for serious offending with maximum penalties of three years (one count) and two years (two counts) is reasonable.

Were the adjustments for personal aggravating factors excessive?

Submissions for Mr Coupe

[34] Mr Kan also argues that an uplift in the range of three to five months for personal aggravating factors was more appropriate. First, the uplift risked double-counting as it results in further punishment for offending on which Mr Couple has already been sentenced.[15] Second, the uplift was disproportionate as it equated to 25 per cent of the starting point. Third, the uplift for offending on bail and breaching conditions on bail has been double counted because Judge Dawson made a similar uplift in the earlier sentence.

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13 *R v Bayne*, above n 6.
14 At [8].
15 *R v Casey* [1931] NZLR 594 (CA) at 597.

Submissions for the Crown

[35] Mr Wiseman submits there was also no error in the 12-month uplift. The Judge considered Mr Coupe's predilection for offending in a particular way and the need to protect the community from further offending. Also, there is no element of double counting as the starting point did not reference previous convictions, his offending on bail or his exploitation of interim name suppression.

Analysis

[36] I see no error in the Judge's uplift of 12 months for personal aggravating factors. The Judge identified Mr Coupe's prior convictions — his earlier Insolvency Act offending between 2010 and 2013 and his Companies Act offending between 2016 and 2021. Previous convictions are relevant as "an indicator of character and culpability, or because they show a need for a greater deterrent response, or as an indicator of risk of reoffending".[16] Mr Coupe's prior convictions were for similar offending, indicating a wilful disregard for the law and a need for a greater deterrent response. Further, the offending occurred while on bail for the Companies Act offending and in breach of bail conditions. The Judge also took into account that Mr Coupe exploited interim name suppression, which allowed him to defraud his victims. This is an egregious set of aggravating circumstances. An uplift of 12 months is within range.

[37] Any possible double counting of these aggravating factors with the sentence for the Companies Act charges is more appropriately taken into account when considering totality.

Should there have been a discount for psychological issues?

Submissions

[38] Mr Kan says that further discounts should be allowed for Mr Coupe's personal circumstances, referring to psychological reports and a s 27 report. Mr Kan refers to the 5 per cent discount Judge Dawson allowed for psychological factors.

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16 *Orchard v R* [2019] NZCA 529, [2020] 2 NZLR 37 at [39].

[39] Mr Wiseman says no discount should be allowed for psychological issues. The evidence provided in support is not fresh. No meaningful explanation has been given why these reports were not put before the sentencing Judge as they are significantly dated. In any event, they are not relevant as they fail to demonstrate the necessary causal nexus and otherwise present an opinion inconsistent with Mr Coupe's proven criminal history.

Analysis

[40] Mr Kan has filed various psychological reports from psychiatrists and clinical psychologists from 2021 to 2022 and 2024. None of these reports were before the sentencing Judge. Mr Kan explains that he was unaware of them. Mr Coupe was self-represented at the sentencing hearing, although assisted by amicus curiae. In these circumstances, I consider that justice requires me to consider them.

[41] A defendant's mental health may mitigate sentencing in the following ways:[17]

(a) moral culpability of the offending may be diminished because of a contributory mental health issue; and/or

(b) mental health may reduce the deterrent aspect of sentencing; and/or

(c) mental health may mitigate sentencing for proportionality reasoning (that is, a sentence of imprisonment may be more punitive).

[42] The 2021 and 2022 reports were prepared to assist with a determination as to whether Mr Coupe was fit to stand trial for the Companies Act charges. They assessed Mr Coupe as suffering from depression and anxiety and unlikely to be fit to stand trial. However, on 13 December 2022, he was ultimately assessed by Judge Sellars KC as being fit to stand trial, after all three practitioners reversed their opinions.[18]

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17 *Orchard v R*, above n 16, at [46] and [48]; and *Van Hemert v R* [2023] NZSC 116, [2023] 1 NZLR 412 at [79].

18 *R v Coupe* [2022] NZDC 12975.

[43] These reports precede the period of Mr Coupe's offending (early 2022 to July 2024). In any case, that he might have been suffering from depression and anxiety during this time does not reduce his moral culpability for his actions. As noted earlier, he went to elaborate lengths to deceive his customers, creditors and the Assignee. Nor does his mental health suggest a reduced need for deterrence — his mental health did not prevent him from this course of conduct.

[44] More recently, on 16 June 2024, clinical psychologist Greg Woodcock prepared a report for Mr Coupe's intended sentencing for the Companies Act charges. Mr Woodcock assessed Mr Coupe as experiencing severe depression and suicidal ideation. However, this report is not current and so does not provide a sound basis to consider reducing Mr Coupe's sentence because it might be unduly punitive given his mental health.

[45] I also note that Judge Dawson allowed a five per cent discount for psychological issues, despite noting Mr Coupe had been dishonest about receiving treatment, the report was based on his account without independent verification, and that it provided very little causative reasons for his offending.

Is a cumulative sentence appropriate?

Submissions for Mr Coupe

[46] Mr Kan submits that the sentence should have been imposed concurrently, rather than cumulatively, on the Companies Act sentence imposed on 24 January 2025.

[47] Mr Kan submits that a cumulative sentence was not appropriate because the two sets of offences are not different in kind.[19] A concurrent sentence was appropriate because the offences are of a similar kind and are a connected series of offences.[20] Both sets of offending involve and derive from contravening prohibitions placed upon Mr Coupe due to him being bankrupt. The offending also occurred over the same time.

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19 Sentencing Act 2002, s 84(1).
20 Section 84(2).

Submissions for the Crown

[48] Mr Wiseman submits the Judge was correct to impose a cumulative sentence. As the Judge observed:

(a) the present offending was unrelated to the offending for which he was already serving a sentence;

(b) there is a disconnect in time, the earlier offending having occurred between 2016 and 2022; and

(c) the present offending was committed while on bail for the earlier offending, making it a "further offence" that engaged s 84(5) of the Sentencing Act 2002.

Analysis

[49] I am satisfied that the Judge did not err by imposing the sentence cumulatively on the Companies Act sentence. While the two sets of offending are similar in that they involve Mr Coupe engaging in business activities in breach of statutory prohibitions, the connection ends there. The present offending concerned Mr Coupe acting as a self-employed contractor on three specific construction projects and concealing the income from those projects from the Official Assignee. The Companies Act offending concerned Mr Coupe's earlier involvement as a company director and promoter in several hotel development projects. The prohibition on him acting as a director ended in August 2021, before the current offending commenced. They are two distinct sets of offending that occurred at different times and inflicted loss on different groups of people.

[50] Further, the current charges are a "further offence" under s 84(3)(a) of the Sentencing Act because Mr Coupe committed the offences while on bail (for the Companies Act charges). It is generally appropriate for a sentence for a further offence to be cumulative.[21]

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[21] Section 84(4)(b) and (5).

Was the reduction for totality inadequate?

Submissions for Mr Coupe

[51] Mr Kan submits that the five-month adjustment made to account for totality across the two sentences being imposed cumulatively was inadequate. Mr Kan notes that an adjournment was sought for the January sentencing as the Insolvency Act charges were in the early stages and it was anticipated Mr Coupe would accept them following full disclosure. The intention was that the two sets of charges could be sentenced at once. However, the adjournment was refused.

[52] Mr Kan submits that, had Mr Coupe been sentenced for the Insolvency Act and Companies Act offences together, his notional end sentence would have been considerably lower. Mr Kan submits an adjustment for totality of between 20 and 24 months was appropriate, to give a final notional end sentence of six years and one month to six years and six months.

Submissions for the Crown

[53] Mr Wiseman submits that it was open to the Judge to refuse to adjust the sentence for totality, having regard to the disconnect between the two sets of offences, that the present offending occurred after the Companies Act charges and while he was on bail for those charges.

[54] Therefore, Mr Wiseman submits that the reduction the Judge made was entirely sufficient to ensure the sentence was not wholly out of proportion to the gravity of the overall offending.

Analysis

[55] The essence of the totality principle is that, when arriving at the appropriate sentence for several offences, a sentencing Judge must not only consider each offence individually but must also assess the offender's overall culpability and determine what effective sentence is appropriate for the totality of the offending.[22]

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[22] *Skipper v R* [2011] NZCA 250 at [33], citing Bruce Robertson (ed) *Adams on Criminal Law — Sentencing* (online looseleaf ed, Brookers) at [SA85.01].

[56] As the Court of Appeal noted in *Skipper v R*, the totality principle is not limited to sentencing on a single occasion for multiple offences.[23] It has also been held to apply in situations where there are successive sentencings for connected events, or successive but proximate sentencings for unrelated events.[24] Further, it has been held to apply despite a lack of proximity where the second sentencing involved the imposition of a long sentence cumulative on the first sentence of which only a small proportion had been served.[25]

[57] There are limited authorities concerned with sentencing for offending under both the Companies Act and the Insolvency Act.[26] In *Andrews v R*, the Court of Appeal rejected that an end sentence of six and a half years' imprisonment was manifestly excessive. Mr Andrews was sentenced for taking part in managing a company in breach of the Companies Act, taking part in managing a business while bankrupt, misleading the Assignee and concealing assets in breach of the Insolvency Act; but also fraud offences under the Crimes Act, which attract more serious penalties.

[58] The most severe sentences for Insolvency Act offending of which I am aware are two and half years' imprisonment in *R v Bayne* and two years and three months' imprisonment in *Clarke v Ministry of Business, Innovation and Employment*.[27]

[59] In terms of the Companies Act offending, in *Anderson v R* this Court upheld a sentence of two years and six months' imprisonment for taking part in managing a company while prohibited from doing so.[28] Harland J considered the end sentence to be stern but within range. In *Blake v R*, the Court of Appeal did not disturb a starting point of 18 months' imprisonment for a charge under s 382 of the Companies Act where the victims lost $300,000.[29] In *Bergen v Ministry of Business, Innovation and Employment* , a sentence of two years and three months' imprisonment was upheld on appeal, where Mr Bergen had repeatedly offended using numerous aliases.[30]

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23 At [34].
24 At [34].
25 At [34].
26 I have identified only one authority which deals with a similar set of Companies Act and Insolvency Act offending: *Andrews v R* [2021] NZCA 412.
27 *R v Bayne*, above n 6; and *Clarke v Ministry of Business, Innovation and Employment*, above n 6.
28 *Anderson v R* [2023] NZHC 1165.
29 *Blake v R* [2018] NZCA 204.
30 *Bergen v Ministry of Business, Innovation and Employment* [2019] NZHC 1129.

The Court of Appeal upheld a sentence of nine months' imprisonment in *R v Butler* for knowingly making false statements and breaching s 382.[31]

[60] In Mr Coupe's case, Judge Dawson (who presided over the jury trial) imposed a strong sentence considering the substantial losses incurred by Mr Coupe's mismanagement of the companies and projects. In relation to the Liberte joint venture, the companies were placed into liquidation leaving unsecured creditors with claims of around $3 million. Mr Coupe began this offending while on home detention for his earlier offending under the Insolvency Act. The Tomorrow Hotels project also failed with Mr Coupe causing an estimated $700,000 worth of property damage. It seems that some of this offending occurred after charges had been laid against Mr Coupe in relation to the Liberte project.

[61] In his sentencing notes, Judge Dawson said:

> [79] There are a number of aggravating factors. First, you had a very high level of involvement in all the business entities involved. You offended whilst subject to a sentence for similar offending and breached your bail. The extent of losses in the offending amounts to many millions of dollars to a number of people who have no prospect of getting their losses back again. In addition, there was a huge business inconvenience to them and the worry and concern they had personally. There is a very high level of premeditation. You were a very active and glib salesman of your ridiculous business schemes. Your previous convictions are both relevant to your sentencing today.
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> …
>
> [82] Many cases have been cited to this court to set an appropriate level for a starting point for your offending. However, none of the offending in these cases come near to the level of your offending. You initiated many business projects and exercised a high level of involvement and control in all of them. You made proposals to financiers and business partners that were deceptive and not based upon actual facts or any reality. Your offending is at a very high level for these offences as you offended in full knowledge of your prohibitions and caused immense losses to many people. Your offending was a continuous course of similar offending.
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> [83] I therefore adopt a global starting point of a sentence of imprisonment of four years. An uplift is required for offending while on sentence of four months and a further uplift for your bail breaches of another four months taking it to four years and eight months.

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31 *R v Butler* [2008] NZCA 173.

[62] Against that background, I must stand back and determine whether a cumulative sentence of eight years and two months for the Insolvency Act and Companies Act offences is appropriate.

[63] The following factors point towards a stern notional cumulative sentence:

(a) Mr Coupe had been consistently offending against statutory prohibitions preventing him from managing business for nearly 15 years.

(b) The total sentence of imprisonment for both sets of offending would be in respect of eight years of offending (between 2016 and 2024).

(c) The offending was deliberate, calculated and premeditated, with steps taken to disguise it.

(d) It has caused extraordinary and direct financial harm and immeasurable emotional harm to a wide range of victims.

[64] There is a powerful need to hold Mr Coupe accountable for the harm he has caused, denounce his conduct and deter him from committing the same or similar offending in the future. The statutory offences at issue are designed to protect the public from bankrupts and people convicted of serious offences connected with promoting or managing companies from being involved in managing or controlling businesses or acting as directors. Mr Coupe has deliberately flouted these prohibitions for many years and inflicted considerable harm on innocent people. The offending is amongst the most serious seen in this country.

[65] Having said that, I consider a notional cumulative sentence of eight years and two months to be disproportionate to the gravity of the offending and beyond what is necessary to serve the purposes I have just described. In my view, a notional cumulative sentence of six years and eight months' imprisonment is more proportionate.

[66] Therefore, I further reduce Mr Coupe's sentence for the current offences for totality by 18 months to two years and three months.

Result

[67] The appeal is allowed in part.

[68] Mr Coupe's sentence is reduced to two years and three months to be served cumulatively with his sentence for the Companies Act offending.

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Gardiner J