

**Xinjiang Uyghur Autonomous Region Kizilsu Kyrgyz Autonomous
Prefecture Intermediate People's Court
Criminal-Case Decision**

Xinjiang 30 Criminal Final No. 38 (2019)

Prosecuting authority in original trial: Ulughchat County People's Procuratorate.

Appellant (defendant in original trial): Song Kaicai, male, DOB: November 24, 1969, originally from Tancheng, Shandong Province, ethnic Han, has a university education. Prior to the case, he was vice-secretary of the Atush City Municipal Party Committee and secretary of the Political and Legal Affairs Commission. He lives in Atush City, Xinjiang. On October 9, 2018, he was "retained" [liuzhi: a form of extralegal detention for cadres and other government workers] in relation to this case. He was put in criminal detention on January 6, 2019, and formally arrested on January 19 of the same year. He is currently in custody at the Akchi County Detention Center.

Defense attorney: Xiao Cuiping, lawyer at the Xinjiang Dingzhao Law Office.

The Ulughchat County People's Court investigated the Ulughchat County People's Procuratorate's original accusation of the defendant Song Kaicai, in which he was accused of corruption, accepting bribes, abuse of power, and negligence of duty, and on March 26, 2019, in accordance with the law, issued the Xinjiang 3024 Criminal Initial No. 38 (2019) criminal verdict. The defendant in the original case Song Kaicai then refused to accept the verdict and appealed. After this court accepted the case, a panel was formed in accordance with the law and heard the case in a public session. The Kizilsu Prefecture People's Procuratorate assigned a prosecutor, Peng Jiashe, to appear in court and fulfill his duties. The appellant Song Kaicai and his attorney Xiao Cuiping also came to court to participate in the trial. The case has now been concluded. The court of first instance found that:

I. Regarding abuse of power

1. In May 2017, when Song Kaicai was a member of the Standing Committee of the Atush City Municipal Party Committee and secretary of the Political and Legal Affairs Commission, he – despite knowing full well that Abidin Ayup of Upper Atush Municipality, an inheritor and transmitter of religious extremist thought, was a focus person for education and reform – illegally used the privileges of his leadership position to assign Abidin's son, Er* (previously a cadre at the Upper Atush water management station, now in custody), to have the sole responsibility of monitoring Abidin Ayup following the latter being taken into custody and then hospitalized, and did not assign any other monitors. This led to Abidin Ayup being able to meet and communicate with, on several occasions, multiple endangering-state-security suspect focus individuals outside. This lapse in surveillance lasted for over 50 days, creating great negative influence on society.

There are recorded testimonies proving the aforementioned facts from witnesses Abidin Ayup and Er*, put forth, cross-examined, and certified by the court of first instance. These prove that, during the period when Abidin Ayup was hospitalized, the defendant Song Kaicai assigned Er* to single-handedly carry out the responsibility of monitoring him, and that this led to Abidin Ayup being out of surveillance for over 50 days, and to his having several times communications with multiple endangering-state-security suspect focus individuals outside. This is also corroborated by recorded testimony from witnesses Tursunjan Memet, Se[ley] Musa, Abdukerim Imamhesen, Abdugheni Jume, and Abdughopur, with the taking of coercive criminal measures against – and the legal documents attesting to the sentencing of – Seley Musa, Abdugheni Jume, Abidin Ayup, and others providing additional supporting evidence. The defendant Song Kaicai has confessed to these facts.

2. On September 21, 2018, while Song Kaicai was serving as the vice secretary of the Atush City Party Committee and secretary of the Political and Legal Affairs Commission, he violated regulations – in pursuit of his personal illegal goals – by meeting with the criminal surnamed Yuan, who was then held at the Atush City Pre-Trial Detention Center (sentenced for bribery, currently imprisoned at the Kizilsu Kyrgyz Autonomous Prefecture Prison). Without completing the relevant paperwork as required by the law, he arranged for an individual surnamed Wang (Party secretary for the Atush City Public Security Bureau and the bureau vice-chief) to prepare for him a meeting room without monitoring equipment for a conversation. This led to Yuan being out of surveillance for over 40 minutes. On the same day, around noon, and again without completing the relevant paperwork as required by the law, Song Kaicai arranged for an individual surnamed Bao (head of the Atush City Pre-Trial Detention Center) and an individual surnamed Chen [Chen No. 1] (vice-

head of the Atush City Pre-Trial Detention Center) to bring an individual surnamed Zhang [Zhang No. 1] (Yuan's wife, currently a cadre at the Atush City Political and Legal Affairs Commission's Comprehensive Management Center) to the Atush City Pre-Trial Detention Center, for a meeting in a room where the monitoring equipment had been covered, which led to Yuan being out of surveillance for over 20 minutes. Song Kaicai's actions were in serious violation of the pre-trial detention center's management system, and have brought detrimental influence to the follow-up work in the investigation of Song Kaicai's legal and disciplinary breaches.

The aforementioned facts have been corroborated by the oral and recorded testimonies of Yuan, Wang, Bao, Chen No. 1, and Zhang No. 1, which have been put forth, cross-examined, and certified. The testimonies are consistent with the deposition of the defendant Song Kaicai, and prove that Song Kaicai twice violated regulations by meeting privately with Yuan, intentionally obstructing surveillance during this time. Recorded testimony also reflects serious violations of the pre-trial detention center's management system and the detrimental influence brought about by Song Kaicai's criminal actions.

II. Regarding acceptance of bribes

From 2001 to May 2016, Song Kaicai, while serving as the Party committee secretary of Atush City's Qarajol Township, the Party committee secretary of Azaq Township, the head of the Atush City Rural Work Office, and the Agricultural Bureau's secretary of the Party leadership group and bureau vice-head, took advantage of his position to seek advantages for 34 people, via the promotion of cadres, engineering-project contract assignments, project inspections, and provisions of project funds. These included his subordinate, Qeyser Sidiq, and a construction businessman surnamed Zhang [Zhang No. 2]. He sought and received money and goods equivalent to 2434548RMB in value, of which 917889RMB was in currency and 1516659RMB was in material goods. The concrete details of each case are as follows:

1) Receiving money in the amount of 917889RMB:

1. In March 2001, an individual surnamed An (then project manager at the Atush City Jian'an Company, now project manager at the Kizilsu Prefecture Yijian), in the course of constructing under contract the Atush City Qarajol Township Animal Fodder Base, fell into conflict with local herders. Song Kaicai mediated between them, and without affecting progress with regard to the project's completion date. Song Kaicai then accepted in his office an amount of 30000RMB in cash from An as a show of gratitude.

2. During the Spring Festival of 2001, the Spring Festival of 2003, and the Spring Festival of 2010, Zhang No. 2 (project manager of the Kizilsu Prefecture Xinyuan Construction & Installation LLC) – in order to develop a closer connection with Song Kaicai, and in hopes of receiving help in future construction projects – gave Song Kaicai bribes in the latter's office, on three occasions and at 10000RMB each. Song Kaicai accepted the 30000RMB in bribes.

3. In March 2004, Turdi Hudedi (then project manager at the Xinjiang Atush Infrastructure Construction LLC, now taken for education) – in order to thank Song Kaicai for giving him a project for the construction of 300 houses for nomad resettlement – gave Song Kaicai a bribe of 10000RMB in the latter's office, which Song Kaicai accepted.

4. In November 2004, Qeyser Sidiq (a cadre at the People's Government of Qarajol Township, Atush City) – in order to receive Song Kaicai's help in career advancement – gave Song Kaicai a bribe of 5000RMB in the latter's office. Song Kaicai accepted it, but afterwards left the position and did not provide help.

5. In July 2007, Nizahun Ulugh (former secretary of the Party branch of Tetir Village, Azaq Township, Atush City, now taken for education) – in order to resolve his own cadre quotas – sought help from Song Kaicai, and gave the latter a bribe of 5000RMB in the latter's office. Song Kaicai accepted it, but afterwards did not provide help.

6. In February 2009, Zo* Seydin (a cadre at Atush City's Upper Atush Municipality's forestry station) accepted a project to buy and sell nursery stock. In order to smooth his securing of the contract, he sought help from Song Kaicai and in Song Kaicai's residence gave him a bribe of 10000RMB, which Song Kaicai accepted.

7. In February 2009, Song Kaicai – in the name of an individual surnamed Wang [Wang No. 1] (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Information Services Company) – contracted 300 mu of forest land in Qarajol Village, Qarajol Township, Atush City, to use for raising nursery stock as his personal business. Wang No. 1, in order to receive Song Kaicai's help in future engineering projects, paid three years' (2015-2017) worth of contract fees for him in

the amount of 13500RMB, and also arranged for an individual surnamed Tian (a legal person of the Atush City Yutian Agricultural Technology LLC) to pay three years' (2016-2018) worth of water and electricity fees in the total amount of 39389RMB.

8. In April 2009, Je* Imam (a businessperson providing nursery stock) – in order to thank Song Kaicai for helping him in an Atush City nursery stock procurement project – gave Song Kaicai a bribe of 20000RMB in cash in the latter's office, which Song Kaicai accepted.

9. In April 2009, A* (an accountant at the Atush City Forestry Bureau) – in order to seek help from Song Kaicai in handling her husband's retirement papers – gave Song Kaicai a bribe of 10000RMB in cash in the latter's office. Song Kaicai accepted it, but afterwards did not provide help.

10. In August 2009, Tu* – in order to thank Song Kaicai for handing over to him a 160-mu grape trellis construction project from the Atush City Forestry Bureau, and for paying the engineering project funds – gave Song Kaicai a bribe of 30000RMB in cash in the latter's office, which Song Kaicai accepted.

11. In September 2009, Ai* (a cadre at the Forest Protection Station in Qarajol Township, Atush City) – in order to resolve issues regarding his wife Tu**hun's work as a forest protection agent – sought help from Song Kaicai, and in Song Kaicai's office gave him a bribe of 5000RMB. Song Kaicai accepted it and later resolved her work issues.

12. Not long before the Spring Festival of 2010, an individual surnamed Pu (project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC) – in order to secure a construction contract with the Atush City Agricultural Bureau – sought help from Song Kaicai, and in the basement of the Atush City Agricultural Bureau gave him a bribe of 10000RMB in cash, which Song Kaicai accepted. With Song Kaicai's help, Pu received the contract to construct the Atush City Agricultural Bureau's offices.

13. In March 2010, an individual surnamed Zhang [Zhang No. 3] (project manager at the Atush City Construction & Installation LLC) – in order to quickly obtain money for a project to construct greenhouses for agriculture in the Arsai residential area of Aghu Township, Atush City – sought help from Song Kaicai, and in Song Kaicai's office gave him a bribe of 10000RMB in cash, which Song Kaicai accepted. With Song Kaicai's help, Zhang No. 3 smoothly obtained the money for the project.

14. In March 2010, an individual surnamed Zhang [Zhang No. 4] (person-in-charge for the Xinjiang Wanda Well-Digging LLC) – in order to secure a contract for a project to dig wells for the Atush City Agricultural Bureau – sought help from Song Kaicai, and in the basement of the Atush City Agricultural Bureau gave him a bribe of 30000RMB in cash, which Song Kaicai accepted. With Song Kaicai's help, Zhang No. 4 received the contract for that project.

15. In June 2010, Turdi Tohti (then a retired cadre from Ujme Township in Akto County, now a project manager for the Akto County Hengtong Construction Company), while constructing under contract a project to set up greenhouses in the Arsai residential area of Aghu Township in Atush City – in order to thank Song Kaicai for his attention to the engineering project – in the Arsai residential area of Aghu Township gave him a bribe of 20000RMB in cash, which Song Kaicai accepted.

16. In June 2010, Zhang No. 2 (project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC), while undertaking a contract to construct greenhouses in Qumsaq, Azaq Township – in order to obtain funds for the project quickly – in Song Kaicai's office gave him a bribe of 20000RMB in cash, which Song Kaicai accepted. With Song Kaicai's help, Zhang No. 2 easily obtained the funds for the project.

17. In November 2010, Abduqadir Qurban was undertaking a contract to construct greenhouses in Qumsaq, Azaq Township, which with Song Kaicai's help easily passed inspection and received funding. In order to express his gratitude, he gave to Song Kaicai a bribe of 10000RMB in the latter's office, which Song Kaicai accepted.

18. In December 2010, an individual surnamed Qiu (project manager at the Kizilsu Prefecture Yijian), while carrying out a contract for a project to construct greenhouses in Qumsaq, Azaq Township – in order to more quickly obtain project funding – sought help from Song Kaicai, and in Song Kaicai's office gave him a bribe of 20000RMB, which Song Kaicai accepted. With Song Kaicai's help, Qiu easily obtained funding for the project.

19. In December 2011, Qasimhaji Ibadet (then project manager at the Atush City Tongcheng Construction LLC), while carrying out a contract for a project to build greenhouses in Qumsaq,

Azaq Township, used Song Kaicai's help to have the project easily pass inspection and receive funding. In order to express his gratitude, he gave Song Kaicai a bribe of 5000RMB in the latter's office, which Song Kaicai accepted.

20. From 2011 to not long before the Spring Festival of 2013, an individual surnamed Han (project manager at the Xinjiang Taizhi Construction & Installation LLC) – in order to develop a closer relationship with Song Kaicai and receive his help in future engineering projects – on three separate occasions gave Song Kaicai bribes of 10000RMB, at the latter's home, for a total of 30000RMB, all of which Song Kaicai accepted.

21. Not long before the Spring Festival of 2012, an individual surnamed Chen [Chen No. 2] (a legal person of the Xinjiang Xincheng Engineering and Construction LLC) – in order to secure a contract with the Atush City Agricultural Bureau – sought help from Song Kaicai, and in the Atush City Agricultural Bureau gave him a bribe of 20000RMB in cash, which Song Kaicai accepted. In March 2013, with Song Kaicai's help, Chen No. 2 received a contract for a project to renovate the Atush City Munah [pinyin: Munage] Grape & Fig Orchards.

22. In May 2012, an individual surnamed Tang (project manager at the Xinjiang Taizhi Construction & Installation LLC) – in order to secure a contract for the Atush City 2011 Methane Construction Project – sought help from Song Kaicai, and with his help secured the contract. In order to show his gratitude, Tang gave Song Kaicai a bribe of 20000RMB in cash in the latter's office, which Song Kaicai accepted.

In January 2013, Tang – in order to secure a contract for the Atush City 2012 Consolidated "Restoring Agricultural Land to Forest" Special Project Fund's Rural Energy (Methane Reservoir) Project – sought help from Song Kaicai, and in Song Kaicai's office gave him a bribe of 10000RMB, which Song Kaicai accepted. With Song Kaicai's help, Tang secured the contract for the project.

23. In June 2012, an individual surnamed Han (project manager at the Xinjiang Taizhi Construction & Installation LLC), while carrying out a contract for the construction of the Atush City Methane Project – in order to quickly obtain project funds – sought help from Song Kaicai, and in Song Kaicai's office gave him a bribe of 20000RMB, which Song Kaicai accepted. With Song Kaicai's help, Han easily obtained funding for the project.

24. In July 2012, Han (project manager at the Xinjiang Taizhi Construction & Installation LLC) was leasing land from the Agricultural Bureau. In order to thank Song Kaicai for resolving a dispute over the land, he gave the latter a bribe of 30000RMB in the square of the Happiness residential area, which Song Kaicai accepted.

25. In December 2012, Wang No. 1 (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Information Services Company) – in order to thank Song Kaicai for providing help with the project to construct greenhouses in Atush City – arranged for an individual surnamed Tian (a legal person of the Atush City Yutian Agricultural Technology LLC) to give Song Kaicai a bribe of 30000RMB in cash in the latter's office, which Song Kaicai accepted.

26. In July 2013, an individual surnamed Hou (project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC), while carrying out a contract for a project to build greenhouses in Upper Atush Municipality, Atush City – in order to secure Song Kaicai's help with regard to the engineering project inspection – gave Song Kaicai a bribe of 10000RMB in cash at the Yaxing Hotel in Atush City, which Song Kaicai accepted. With Song Kaicai's help, the project that Hou was contracted to undertake easily passed inspection.

27. In August 2013, the project being undertaken under contract by Chen No. 2 (a legal person of the Xinjiang Xincheng Construction LLC) to renovate the Atush City Munah [pinyin: Munage] Grape & Fig Orchards easily passed inspection. In order to show his gratitude, Chen No. 2 gave Song Kaicai a bribe of 50000RMB in a high-rise building on People's Road, which Song Kaicai accepted.

28. During the Spring Festival of 2014, an individual surnamed Zhang [Zhang No. 5] (an independent businessperson) – in order to develop a closer relationship with Song Kaicai and to secure his support and help in future engineering projects – gave Song Kaicai a bribe of 10000RMB in Atush City's People's Square, which Song Kaicai accepted.

29. In August 2015, Zhang No. 2 (project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC) – in order to secure a contract for "one project, one discussion" projects in Upper Atush Municipality, Atush City – sought help from Song Kaicai, and in Song Kaicai's residence gave him a bribe of 80000RMB in cash, which Song Kaicai accepted. Afterwards,

with Song Kaicai's help, Zhang No. 2 secured the contract for "one project, one discussion" projects in six villages in Upper Atush Municipality.

30. In October 2014, an individual surnamed Yin (then staff at the Kashgar Construction Bank, now a person-in-charge at the Atush City Sancai Professional Cooperative) – in order to resolve a water shortage at the Sancai Professional Cultivation Cooperative – sought help from Song Kaicai, and in Song Kaicai's office gave him a bribe of 20000RMB, which Song Kaicai accepted. With Song Kaicai's help, he resolved the problem of the water shortage at the Sancai Professional Cultivation Cooperative.

31. During the Spring Festival of 2015, Osmanjan Yusup (then clerk to the head of the Atush Municipal Committee Agricultural Office, now vice-secretary of the Upper Atush Municipality Party Committee and also the municipality head) – in order to secure Song Kaicai's help with regard to career advancement – gave Song Kaicai a bribe of 5000RMB in the latter's office, which Song Kaicai accepted. Afterwards, Song Kaicai did not provide help.

32. In March 2015, Ibrahim Imin (then cadre at the Agricultural Machinery Station in Upper Atush Municipality, Atush City, now a government functionary in Upper Atush Municipality, Atush City) – in order to secure Song Kaicai's help with regard to career advancement – gave Song Kaicai a bribe of 5000RMB in cash in the latter's office, which Song Kaicai accepted. Afterwards, Song Kaicai did not provide help.

33. In June 2015, an individual surnamed Qu (vice-manager of the Atush City Hengrui Investment LLC) secured, with Song Kaicai's help, a contract for safe drinking water in Qayraq Village, Upper Atush Municipality, Atush City. In order to show his gratitude, he gave Song Kaicai a bribe of 20000RMB at the main gate of the Upper Atush Municipality government in the December of the same year, which Song Kaicai accepted.

34. An individual surnamed Du (then self-employed in Atush City, now a Java software engineer at the Shanghai Infrastructure and Construction Bank Credit Card Center) received, with Song Kaicai's help, a project to print propaganda wall posters. As a show of gratitude, Du gave Song Kaicai bribes of 60000RMB on two occasions, in the latter's office in September 2015 and June 2016, for a total of 120000RMB, which Song Kaicai accepted. In August 2018, when the Autonomous Region Inspection Team was inspecting Atush City, Song Kaicai was concerned that the affair would come to light and, together with an individual surnamed Zhao (inspector for the principal section of the Atush City Public Security Bureau), returned the 120000RMB to Du's father-in-law, Guo Tiezhong, in the parking lot across from the Kizilsu Prefecture People's Hospital.

35. In November 2015, Atawulla Aman (former project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC), while carrying out a contract to build anti-seepage channels in Upper Atush Municipality – in order to quickly acquire project funds – sought Song Kaicai's help, and in Song Kaicai's office gave him a bribe of 20000RMB, which Song Kaicai accepted. With Song Kaicai's help, Atawulla Aman easily received funding for that project.

36. In November 2015, an individual surnamed Mei (a legal person of the Atush City Little Bell Craft & Trade LTD), while carrying out a contract to renovate boilers for Upper Atush Municipality, Atush City – in order to demolish a wall so as to install boilers – sought help from Song Kaicai, and in the Upper Atush Municipality government's rotating cadre office building gave him a bribe of 20000RMB, which Song Kaicai accepted. With Song Kaicai's help, Mei's construction project was swiftly completed.

37. In February 2016, an individual surnamed Wang [Wang No. 2] (a legal person of the Atush City Yibai Clothing Shop) – in order to secure an engineering contract with Upper Atush Municipality – sought help from Song Kaicai, and at the entrance of Atush City's New Yinhe Village gave him a bribe of 10000RMB in cash, which Song Kaicai accepted. In July of that same year, with Song Kaicai's help, Wang No. 2 secured a contract to repair the walls of farmers' houses in Aqmehelle Village, Upper Atush Municipality.

38. In May 2016, an individual surnamed Huang (person-in-charge at the Xinjiang Zhongdian Kunyuan Energy Technology LTD), while carrying out a contract for a project to install traffic lights in Dehqanla Village, Upper Atush Municipality, Atush City – in order to facilitate and hasten the completion of the project's construction – gave to Song Kaicai a bribe of 10000RMB in the latter's office, which Song Kaicai accepted.

The abovementioned facts are proven by the following evidence put forth, cross-examined, and certified by the court of first instance:

The recorded testimonies of the witnesses An, Ai*, and Fu, together with written evidence provided by relevant people and the village government, all corroborate each other, proving that Song Kaicai received cash from An as a show of gratitude in the amount of 30000RMB;

The recorded testimony of the witness Zhang No. 2, together with such written evidence as Zhang No. 2's project contract and receipts of dealings, all corroborate each other, proving that Song Kaicai received cash in the amount of 30000RMB from Zhang No. 2 as a show of gratitude for Song Kaicai's help and in order for them to establish relations;

The recorded testimony of the witness Tu*, together with such written evidence as relevant contracts for engineering projects and receipts for funds allocated, all corroborate each other, proving that Song Kaicai received cash in the amount of 10000RMB from Tu* as a show of gratitude;

The recorded testimony of the witness Qey* proves that Song Kaicai received cash in the amount of 5000RMB from Qey* to advance the latter's career, but did not actually provide any help;

The recorded testimony of the witness Ni*, together with such written evidence as related official hiring records from 2014, all corroborate each other, proving that Song Kaicai received cash from Ni* in the amount of 5000RMB in order to resolve the cadre assignment issue, but did not actually provide any help;

The recorded testimony of the witness Zo* Seydin, together with such written evidence as contracts for the sale of nursery stock, procurement documents from the nursery stock project, and certificates and receipts for the allocation of funds, all corroborate each other, proving that Song Kaicai received from Zo* Seydin a bribe as a show of gratitude in the amount of 10000RMB in cash;

The recorded testimonies of the witnesses Wang No. 1, Tian, and Fan, together with such written evidence as land contracts, forest rights certificates, no-discount cash deposits, and amounts received for contracting fees as well as water and electricity fees, all corroborate each other, proving that contracting fees as well as water and electricity fees for which Song Kaicai was personally responsible were in fact paid by the interested parties Wang No. 1 and Tian, totaling 52889RMB;

The recorded testimony of the witness Je* Imam, together with such written evidence as contracts for the sale of nursery stock, receipts of deposits from government work units, and statistical tables from afforestation inspection, all corroborate each other, proving that Song Kaicai received from Je* Imam a bribe in the amount of 20000RMB in cash as a show of gratitude;

The recorded testimony of the witness A* Abdurehim proves that Song Kaicai received from A* Abdurehim – who sought help for her husband's retirement – cash in the amount of 10000RMB, but did not actually provide any help;

The recorded testimony of the witness Tu* Hudedi, together with such written evidence as contracts and materials related to the vineyard base as well as receipts for the transfer of funds, prove that Song Kaicai received from Tu* Hudedi cash in the amount of 30000RMB as a show of gratitude;

The recorded testimony of the witness Ai* [31] Yusuphaji, together with such written evidence as the labor contract of Tu* Turahun, all corroborate each other, proving that Song Kaicai received a bribe of 5000RMB in cash from Ai* [31] Yusuphaji, and that he later provided help to the latter's wife with her work issues;

The recorded testimony of the witness Pu, together with such written evidence as contracts related to constructing the shift office, accounting receipts, payment check stubs, and receipts for service fees, all corroborate each other, proving that Song Kaicai received a bribe from Pu in the amount of 10000RMB in cash and provided help with a project;

The recorded testimony of the witness Zhang No. 3, together with such written evidence as construction engineering labor contracts, receipts for loans for engineering projects, receipts for transfers of funds, approval forms for reimbursement in the framework of the finance bureau's special project funding, and verifications of financial statements, all corroborate each other, proving that Song Kaicai received a bribe of 10000RMB in cash from Zhang No. 3, as well as provided project assistance;

The recorded testimony of the witness Zhang No. 4, together with the relevant drilling contracts, all corroborate each other, proving that Song Kaicai received a bribe of 30000RMB in cash from Zhang No. 4, as well as provided project assistance;

The recorded testimony of the witness Tu* Tohti, together with such relevant written evidence as the bid-winning notice and construction contract, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Tu* Tohti as a show of gratitude;

The recorded testimony of the witness Zhang No. 2, together with such written evidence as the solar greenhouse construction project construction contract, the project's appropriation voucher, receipts, fund receipts, and borrowing slips, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Zhang No. 2 as payment for the project, and that Song Kaicai provided project assistance afterwards;

The recorded testimony of the witness A* Qurban, together with such written evidence as the bid-winning notice, loan slips, and transfer check stubs, all corroborate each other, proving that Song Kaicai received a bribe of 10000RMB in cash from A* Qurban as a show of gratitude;

The recorded testimony of the witness Qiu, together with such written evidence as the relevant project payment approval form, internal contracts for construction projects, and construction project contracts, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Qiu, and that Song Kaicai provided project assistance afterwards;

The recorded testimony of the witness Qa* Ibadet, together with such written evidence as construction contracts, loan notes, and project payment check stubs, all corroborate each other, proving that Song Kaicai received a bribe of 50000RMB in cash from Qasimha* Ibadet as a show of gratitude;

The recorded testimony of the witness Han, together with such written evidence as the construction project construction contract, the appropriation voucher, the special funding report, and the withdrawal approval form, all corroborate each other, proving that Song Kaicai received a bribe of 30000RMB in cash from Han in exchange for assistance;

The recorded testimony of the witness Chen No. 2, together with such written evidence as the relevant appropriation vouchers, special funding reimbursement approval form, audit report, and construction contract, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Chen No. 2, and that Song Kaicai provided project assistance afterwards;

The recorded testimony of the witness Tang, together with such written evidence as the relevant invoices, appropriation vouchers, reimbursement and withdrawal approval forms, bid-winning notices, and two construction contracts, all corroborate each other, proving that Song Kaicai accepted Tang's request for help and received from him bribes in cash on two occasions, totaling 30000RMB, as a show of gratitude;

The recorded testimony of the witness Han, together with such written evidence as the relevant biogas project construction contract and appropriation voucher, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Han for the project payment;

The recorded testimony of the witness Han, together with such written evidence as the relevant site-lease contracts and construction contracts, all corroborate each other, proving that Song Kaicai received a bribe of 30000RMB in cash from Han for resolving a land dispute;

The recorded testimonies of the witnesses Wang No. 1 and Tian, together with such written evidence as the relevant greenhouse thermal insulation project procurement contracts, Bank of China transfer check stubs, confirmation-of-payment receipts, and receipt slips, all corroborate each other, proving that Song Kaicai received a bribe of 30000RMB in cash from Wang No. 1 as a show of gratitude;

The recorded testimony of the witness Hou, together with such written evidence as the relevant greenhouse project bid-winning notice, project acceptance suggestions, and written protocol, all corroborate each other, proving that Song Kaicai received a bribe of 10000RMB in cash from Hou in exchange for assistance;

The recorded testimony of the witness Chen No. 2, together with such written evidence as the relevant special funding appropriation vouchers, reimbursement and withdrawal approval form, bid-winning notice for the grape and fig orchard renovation project (third section), and construction project construction contract, all corroborate each other, proving that Song Kaicai received a bribe of 50000RMB in cash from Chen No. 2 as a show of gratitude;

The recorded testimony of the witness Zhang No. 5 proves that Song Kaicai received a bribe of 10000RMB in cash from Zhang No. 5 in exchange for assistance and project support;

The recorded testimony of the witness Zhang No. 2, together with such written evidence as the relevant "one project, one discussion" trapezoidal-channel construction contract, payment invoices, audit reports, loan slips, settlement business vouchers, and expenditure application

forms, all corroborate each other, proving that Song Kaicai received a bribe of 80000RMB in cash from Zhang No. 2, and provided project assistance;

The recorded testimony of the witness Yin, together with such written evidence as the relevant Atush City Sancai Professional Cooperative's agricultural land-lease contract, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Yin, and provided project assistance;

The recorded testimony of the witness O* Yusup proves that Song Kaicai received a bribe of 5000RMB in cash from O* Yusup in exchange for a promotion, but that Song Kaicai did not provide any assistance afterwards;

The recorded testimony of the witness I* Imin, together with such written evidence as the relevant cadres' resumes and civil servant registration forms, all corroborate each other, proving that Song Kaicai received a bribe of 5000RMB in cash from I* Imin in exchange for a promotion, but that Song Kaicai did not provide any assistance afterwards;

The recorded testimony of the witness Qu, together with such written evidence as the relevant anti-seepage channel and safe drinking-water pipeline construction projects, bid notices, and construction enterprise invoices, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Qu as a show of gratitude;

The recorded testimonies of the witnesses Du and Zhao, together with such written evidence as the relevant purchase and sales contracts, invoices, and refund receipts, all corroborate each other, proving that Song Kaicai received a bribe of 120000RMB in cash from Du as a show of gratitude, and then, prior to being investigated, went with Zhao to return the money;

The recorded testimony of the witness A* Aman, together with such written evidence as the relevant bid-winning notice, funding receipt, reimbursement review form, and appropriation voucher, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from A* Aman, and provided project assistance afterwards;

The recorded testimony of the witness Mei, together with the relevant boiler procurement projects, contracts, withdrawal approval forms, and invoices, all corroborate each other, proving that Song Kaicai received a bribe of 20000RMB in cash from Mei, and provided project assistance afterwards;

The recorded testimony of the witness Wang No. 2, together with the relevant construction project construction contract, all corroborate each other, proving that Song Kaicai received a bribe of 10000RMB in cash from Wang No. 2, and provided project assistance afterwards;

The recorded testimony of the witness Huang, together with the relevant renovation project construction contract, all corroborate each other, proving that Song Kaicai received a bribe of 10000RMB in cash from Huang in exchange for assistance.

The defendant Song Kaicai confessed to the specific times, places, amounts, and other details of the bribery charges, forming a complete chain of evidence.

In what regards Song Kaicai's acceptance of Wang No. 1 and Tian's contracting fees, as well as water and electricity fees: Song Kaicai made no further inquiries after the exchange was initially proposed. Given how a long period of time has passed, and how it was the briber who took the initiative to pay as a means of maintaining relations, this instance was not included in the specific circumstances of the bribery charges, but may be considered as pertaining to bribery in the more general sense.

2) Soliciting from others a total of 1516659RMB in material goods:

1. In February 2010, Song Kaicai arranged for Wang No. 1 (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Consulting Service Company) to help him purchase 8000 high-quality poplar seedlings for him to grow privately. Afterwards, Wang No. 1 instructed Tian (a legal person of the Atush City Yutian Agricultural Technology LLC) to purchase high-quality poplar seedlings worth 10000RMB. Song Kaicai has yet to return the 10000RMB to Wang No. 1.

2. In June 2013, while Zhang No. 2 (project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC) was undertaking the construction of the steel-concrete cement columns and the agricultural hazard warning and control area project for the Atush Agricultural Bureau, Song Kaicai arranged for Zhang No. 2 to build three approximately 180-square-meter sized houses in Chong Qarajol Village, Qarajol Township, Atush City, costing about 150000RMB. In December of the same year, in order to pay Zhang No. 2's construction fees, Song Kaicai arranged for Wang No. 1 (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Consulting Service Company) to pay 90000RMB in construction fees, with Wang No. 1 then instructing Tian (a

legal person of the Atush City Yutian Agricultural Technology LLC) to pay Zhang No. 2 90000RMB. Song Kaicai has yet to return this amount of 90000RMB to Wang No. 1, and the remaining 60000RMB in construction fees has also yet to be returned to Zhang No. 2 by Song Kaicai. As determined by the Kizilsu Prefecture Appraisal Bureau, the actual construction cost of these houses is 153000RMB. Consequently, the actual bribe solicited by Song Kaicai is 153000RMB.

3. In October 2013, Song Kaicai sought help from Sa* (deputy team leader of the Atush City Aksu-Kashgar Highway Demolition Team) in order to obtain compensation for the demolition of houses on the northern hillside. Song Kaicai arranged for Wang No. 1 (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Consulting Service Company) to pay 19000RMB to Sa*.

4. In April 2015, Song Kaicai arranged for Tian (a legal person of the Atush City Yutian Agricultural Technology LLC) to pay 45000RMB on his behalf to purchase agricultural machinery and supplement his own payment. He has yet to pay Tian back.

5. In October 2015, after Song Kaicai borrowed 2 million RMB from Liao Zhanlong (manager of the Kunshan Jinhong Knitting LTD), he arranged for Zhang No. 1 (then a cadre at the Atush Civil Affairs Bureau, now a cadre at the Atush City Political and Legal Affairs Commission Comprehensive Governance Center) to make an individual surnamed Zhang [Zhang No. 6] (the younger sister of Zhang No. 1, self-employed in Chengdu, Sichuan) help Song purchase two sets of shops, totaling 71.84 square meters in area (at 35.92 square meters each) in Sichuan's ** District, valued at 2 million RMB. Afterwards, Song Kaicai transferred 432455RMB for the property purchase to the bank card of Zhang No. 1's mother, Xian Hongying. In June 2016, Song Kaicai arranged for an individual surnamed Zhang [Zhang No. 7] (project manager at the Kizilsu Prefecture Xinyuan Construction & Installation LLC, the father of Zhang No. 1) to return 1 million RMB in property purchase fees to Liao Zhanlong. Because Song Kaicai frequently gave him construction projects, Zhang No. 7 gave 567545RMB of his own money, in addition to 432455RMB of Song Kaicai's money, to Liao Zhanlong, and Song Kaicai has yet to return the 567545RMB to Zhang No. 7. Furthermore, Song Kaicai arranged for Wang No. 1 to pay the 1 million RMB still owed to Liao Zhanlong for the property purchase, after which Wang No. 1 arranged for Tian (a legal person of the Atush City Yutian Agricultural Technology LLC) to transfer the payment of 1 million RMB from the company account to Liao Zhanlong, of which only 342886RMB was Song Kaicai's, acquired from the northern-hillside housing demolition funds by using Wang No. 1's identity, with the remaining 657114RMB paid directly by Wang No. 1 out of the latter's funds at Song Kaicai's request. Consequently, the actual size of the bribe solicited by Song Kaicai is 1224659RMB.

6. In November 2015, while Han (project manager at the Xinjiang Taizhi Construction & Installation LLC) was undertaking the construction of the carpet-weaving factory and garment factory in Ucha Village, Upper Atush Municipality, Song Kaicai arranged for Han to build a chicken coop of over 200 square meters on his 160-mu plot of grape land. Han would receive Song Kaicai's help in the payment of project funds for future construction projects that he undertook, and has not asked Song Kaicai for the 60000RMB needed to build the chicken coop, with Song Kaicai also yet to reimburse Han. The estimated construction cost of the chicken coop has been determined to be 160000RMB. In accordance with the rules regarding criminal evidence, the actual size of the bribe solicited by Song Kaicai is fixed as 60000RMB.

7. In July 2016, Song Kaicai – saying that he needed to visit his driver – sought 5000RMB from Se* Memet (then vice-mayor of Upper Atush Municipality, Atush City, now a cadre at the Atush City No. 1 Education & Training Center). Song Kaicai has yet to return the money.

The abovementioned facts are proven by the following evidence, cross-examined and certified by the court of first instance:

The recorded testimonies of the witnesses Wang No. 1 and Tian, together with the materials related to the project to purchase saplings and payment vouchers, all corroborate each other, proving that Song Kaicai took the initiative to arrange for Wang No. 1 to pay 10000RMB for the saplings

The recorded testimonies of the witnesses Zhang No. 2, Wang No. 1, and Tian, together with such written evidence as contracts related to the construction project, appropriation vouchers, bills, loan receipts, payment invoices, payment receipts, and housing plan reports, all corroborate each other, proving that Song Kaicai took the initiative to arrange for Zhang No. 2 to construct the houses, and afterwards arranged for Wang No. 1 to pay 90000RMB, with the remaining amount unlikely to be returned if Zhang No. 2 does not demand it. The determined appraised value of the

property as being 153000RMB, as per the Kizilsu Appraisal Bureau Appraisal No. 11 (2018), serves as additional proof;

The recorded testimony of the witness Han, together with such written evidence as the relevant Ucha Village, Upper Atush Municipality carpet-weaving factory and garment factory projects, invoices, appropriation vouchers, loan receipts, and Industrial & Commercial Bank online-banking electronic receipts, all corroborate each other, proving that Song Kaicai took the initiative in having Han, while the latter was undertaking the project, build a chicken coop worth 60000RMB; the determined appraised value of the chicken coop is 160000RMB, as per the Kizilsu Appraisal Bureau Appraisal No. 11 (2018), but must be treated at the lower value in accordance with the regulations regarding criminal evidence, by which the defendant is given the benefit of the doubt when the value given in the defendant's deposition and that given in the witness's testimony are consistent;

The recorded testimony of the witness Wang No. 1 is consistent with the recorded testimonies of the witnesses Sa* and Me* Yunus, proving that Song Kaicai – in order to easily obtain the demolition funds – took the initiative in arranging for Wang No. 1 to bribe others with 19000RMB;

The recorded testimony of the witness Tian proves that Song Kaicai took the initiative in arranging for Tian to put down a payment of 45000RMB on his behalf to purchase agricultural machinery and supplement his own payment, and has not returned it;

The recorded testimony of the witness Se* Memet proves that Song Kaicai took the initiative to solicit 5000RMB;

The recorded testimonies of the witnesses Zhang No. 1, Zhang No. 7, and Zhang No. 6 are consistent with the recorded testimonies of the witnesses Wang No. 1 and Tian. Additional proof is provided in the form of such written evidence as cash deposit slips and personal business certificates of the Agricultural Bank of China, proving that Song Kaicai took the initiative to purchase property, repaying 2 million RMB in loans through Zhang No. 7 and Wang No. 1, with deduction of Song Kaicai's own funds and the demolition funds deposited by Wang No. 1. There was no statement of repayment prior to the start of the case. The actual value of the bribes solicited amounts to 1224659RMB.

The defendant Song Kaicai confessed to the times, places, amounts, and other details of the soliciting bribes charges, forming a complete chain of evidence.

III. Regarding corruption

From October 2009 to March 2015, while Song Kaicai served as director of the Atush City Rural Work Office, and the Agricultural Bureau's Party group secretary and bureau vice-head, he took advantage of his position to illegally defraud the state demolition compensation using his relatives' names. He sent fake documents to the agricultural professional cooperative and obtained money from the Agricultural Equipment Fund; he forged false information and false invoices to embezzle agricultural funds from the Municipal Bureau of Agriculture, totaling 926236RMB. The details are as follows:

1. In October 2009, Song Kaicai, without having gone through the homestead formalities, violated the rules in Tahtiyun Village, Happiness Subdistrict (** square-meter house in **, Atush City. In July 2010, Song Kaicai arranged for Ro* Imam (then serving as deputy secretary and deputy head of Suntagh Township, Atush City, currently serving his sentence in Kizilsu Prefecture Prison) to seek help from Sa* (then the director of the Happiness Subdistrict Administration Office in Atush City) to use Song Kaicai's younger brother Song **'s name to, violating regulations, register a 333-square-meter homestead in the northern-hillside housing. In December of the same year, Song Kaicai learned that the 314 National Road rebuilding and expansion would require the demolition of houses along the road, and Song Kaicai, in order to conceal that he had registered the homestead illegally in the name of his younger brother, negotiated with Wang No. 1 (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Information Services Company) so that Wang No. 1 would come forward to handle the relevant demolition procedures when the house was demolished. In October 2013, Song Kaicai learned that his house was not within the demolition area, but in order to include his house in the demolition so as to receive compensation, he arranged for Wang No. 1 to request that Me* Yunus (then vice chairman of the Atush City Political Consultative Conference, currently serving his sentence in Kizilsu Prefecture Prison) seek Sa*'s help, and through Me* Yunus gave 19000RMB to Sa* (then deputy team leader of the Atush City Aksu-Kashgar Highway Demolition Team). In January 2014, with Sa*'s help, Song Kaicai received the house-demolition compensation of 342886RMB.

2. From 2012 to 2013, Ai* [Ai* No. 3] (handled in a separate case) arranged for Song Kaicai to, on four occasions, obtain a total of 400000RMB from facility agriculture funds allocated by the Kizilsu Prefecture Agricultural Bureau to the Atush City Agricultural Bureau (100000RMB from facility agriculture funding, 100000RMB from facility agriculture technical training fees, 100000RMB from agricultural product testing training fees, and 100000RMB from pest control subsidies), and requested that 270000RMB be given to Ai* No. 3 himself, with the remaining 130000RMB going to the Atush office of the Municipal Agricultural Bureau. Afterwards, Song Kaicai arranged for Luo Jianhua (a financial officer at the Atush City Agricultural Bureau) to obtain the aforementioned facility agriculture funds totaling 400000RMB by forging a false list of training individuals, false contracts, and false invoices. Excluding the 100000RMB used in the slush fund of the Atush City Agricultural Bureau, the remaining 270000RMB was gradually handed over to Ai* No. 3 in four instances, embezzled by Ai* No. 3 and Song Kaicai together; Song Kaicai also took advantage of unrecoverable debts, using the opportunity to individually obtain 30000RMB.

3. In December 2013, Song Kaicai arranged for Tian (a legal person of the Atush City Yutian Agricultural Technology LLC) to register a Professional Cooperative of New Green Farmers with the Atush City Agricultural Bureau in the name of Wang No. 1 (a legal person of the Kizilsu Prefecture Xinlu Agricultural Technology Information Services Company). Afterwards, in July 2014, Song Kaicai applied for a multi-functional coal-fired drying machine room for himself in the name of the Cooperative of New Green Farmers in Atush City, while serving as the Party secretary of the Upper Atush Municipality in Atush City, violating regulations to benefit from subsidies of 75000RMB. In March 2015, Song Kaicai once again used the name of the Atush City Professional Cooperative of New Green Farmers, applying for a simple storage bunker for himself and benefiting from subsidies of 88750RMB, in violation of regulations. He also used fraudulent relevant materials in the name of his younger brother Song ** and sister Song Kailan to apply for two multi-functional coal-fired drying rooms, fraudulently obtaining 119600RMB in subsidy funds, for a total of 283500RMB fraudulently obtained subsidy funds.

The abovementioned facts are proven by the following evidence, cross-examined and certified by the court of first instance:

The recorded testimony of the witness Wang No. 1 is consistent with the recorded testimonies of the witnesses Sa* and Me* Yunus, proving that Song Kaicai violated the regulations to approve the construction of houses on the homestead, and then obtained more than 340000RMB in demolition funds by bribing others on the demolition project. The process is consistent with the recorded testimonies of the witnesses Ro* Imam and Ai* Sultan, and there is a large amount of written evidence on file as additional support, such as investigation reports on homestead demolition, applications for allocation of homestead reports, land-use right approval forms, cadastral survey forms, accounting vouchers, and payment check stubs;

The recorded testimony of the witness Ai* No. 3 proves that he colluded with Song Kaicai to use false means to obtain public funds of 270000RMB. The recorded testimony of the witness surnamed Luo corroborated this and proved that the total amount was 300000RMB, and that Song Kaicai took another 30000RMB into his personal possession. The recorded testimonies of the witnesses Tian, Wang No. 3, and Hai reflect this specific financial situation, and there is a large amount of written evidence on file as additional support, such as bookkeeping vouchers and unit fund settlement bills;

The recorded testimony of the witness Tian, together with the recorded testimonies of the witnesses A* Ghopur, Os* Yusup, Liu **, and Song **, all corroborate each other, proving that Song Kaicai used the forged cooperative name to embezzle public funds worth 283350RMB via such methods as applying for boiler rooms and storage units. Additionally, there is a large amount of written evidence on file as additional support, such as the cooperative organization code, institution credit code certificate, account opening permit, drying room processing project implementation plan, multi-function coal-fired dryer equipment supply contract, agricultural machinery purchase subsidy application approval form, value-added tax, construction project contracts for the cold storage units, contract for the construction of the drying room, accounting vouchers, and bill settlements.

The defendant Song Kaicai confessed to all of the times, amounts, events, and other details of the corruption charges, forming a complete chain of evidence with the other evidence.

The court of first instance determined that the defendant Song Kaicai, as a government worker, used his leadership status to abuse his power and deliberately arranged for a person under

residential surveillance to be monitored by a relative, failing to arrange for any other full-time monitors, thereby causing the person under surveillance to escape surveillance. Additionally, he used his power to illegally arrange private meetings with prisoners in custody, severely damaging the pre-trial detention center's management system and the legitimacy of state organ activities, and causing grave social impact, with the actions constituting the crime of abuse of power. Song Kaicai took advantage of his position to, among other things, promote cadres, give out engineering contracts, accept engineering projects, and appropriate project funds, seeking to benefit others, repeatedly receiving and extracting money from others, with the total summing to 2434548RMB, which is an enormous quantity. His behavior constitutes the crime of accepting bribes, including multiple requests for bribes as well as granting promotions, soliciting bribes, and accepting bribes for others, which should be severely punished with ten years or more of imprisonment. He also used the advantages of his position to embezzle and defraud public funds, with the total summing to 926236RMB, which is an enormous quantity. This behavior constitutes the crime of corruption, with some of his crimes being joint crimes. The defendant Song Kaicai should be punished for several crimes. The defendant Song Kaicai did not actively return the stolen goods after the case was initiated, and he should be punished severely in sentencing; after Song Kaicai truthfully confessed to his crime, he could be punished lightly in accordance with the law, and the actual circumstances of the case should be considered when the penalty is imposed. The facts expressed in the prosecution are clear. All the allegations of corruption are established, but the allegations of dereliction of duty should be characterized as abuse of power. The number of bribes and their worth as claimed in the charges of accepting bribes should be recalculated based on the facts ascertained by the court (for details, please refer to the contents of the trial), with any improprieties corrected. The defense and defense opinions put forward by the defendant Song Kaicai and the defense attorney, involving specific facts and qualitative matters, have been explained in detail following analysis of the facts and evidence. The defense attorney's point of there being voluntary surrender and disclosure so as to cooperate and work together with the investigative authorities is not supported in any of the case files, and there is no definitive evidence to verify this. Consequently, no evaluation is made at the trial stage, and it cannot be determined that there was voluntary surrender or cooperation. If it is verified to be true in the future, it can be used as a basis for commutation during the execution of the sentence. Song Kaicai's detention prior to the criminal detention should also be treated as his having completely lost his personal freedom, with that period factored in to offset his sentence. During his many years of public service activities, Song Kaicai ignored the national laws and, driven by profit, engaged in various schemes, with his crimes involving a wide range of subjects. He was deeply involved in project engineering, poverty alleviation, personnel adjustment, and the like, which strongly affected the prestige and integrity of public power. Song Kaicai's investigation and punishment elicited a strong response from local society, with the reasons behind his years of criminal behavior, as well as the lessons drawn from them, being worthy of deep reflection. Accordingly, in order to protect the management systems and the integrity of state personnel from violation, in accordance with the provisions of Article 397, Paragraph 1 of Article 385, Paragraph 1 of Article 382, Clause (1) of Paragraph 1 of Article 383, Paragraph 2 of Article 383, Paragraph 1 of Article 25, Article 69, Article 52, Article 53, Article 64, and Paragraph 3 of Article 67 of the "Criminal Law of the People's Republic of China", with the provisions of Clause (3) of Article 1 of the "Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in the Handling of Criminal Cases of Malfeasance", and with the provisions of Paragraph 3 of Article 1, Paragraph 1 of Article 2, Paragraph 3 of Article 3, Article 13, Article 18, and Article 19 of the "Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in the Handling of Criminal Cases of Embezzlement and Bribery", the verdict was as follows: 1) The defendant Song Kaicai was found guilty of corruption and sentenced to a fixed-term imprisonment of four years and six months, with a fine of 200000RMB; for bribery, he was sentenced to a fixed-term imprisonment of eleven years, with a fine of 50000RMB; for abuse of power, he was sentenced to a fixed-term imprisonment of 3 years; the overall decision was a fixed-term imprisonment of 17 years, with a fine of 700000RMB. 2) The illicit money already returned by others, totaling 120000RMB, was to be confiscated, with continued pursuit of the illegal income of 3240784RMB that the defendant Song Kaicai had not returned.

Both the appeal of appellant Song Kaicai and the defense attorney stated: it was arranged for Er*, the son of A* Ayup, to be the sole monitor of A* Ayup during his time in the hospital following being taken into custody and hospitalized. [Sentence feels incomplete and is followed by an unrelated sentence.] Once he saw him himself, and once, without completing the relevant legal procedures, he arranged for Zhang No. 1 to meet with the prisoner Yuan at the Atush City Pre-Trial Detention Center. The facts established in the first instance were clear, but the appellant's behavior did not cause serious illegal consequences, and did not constitute the crime of the abuse of power; Song Kaicai, Zhang No. 7, and Zhang No. 1 were in a loan relationship, which can be verified with "Explanation of the Truth of the Sichuan House Purchasing Affair", "Supplementary Explanation for the Sichuan House Purchasing Affair", as well as with the corresponding "House Lease Contract", bank receipts for rent collection, and WeChat and Alipay transfer records. Song Kaicai borrowed 1 million RMB from Wang No. 1, and the unreturned part had already used Song Kaicai's 300 mu of forest land as compensation. Therefore, the original judgment primarily determined that Song Kaicai asked for bribes of 1224659RMB; the first-instance judgment found that Han had helped Song Kaicai build a chicken coop, and Song Kaicai's failure to pay his labor fees was wrongly deemed to be part of the 60000RMB solicited in bribes. The appellant confessed to the supervisory authority that he had received 280000RMB from Zhang in August 2014. This was due to the appellant's false memory and confession. In fact, that quantity of money did not exist at all. Regarding the acceptance of Chen No. 2's 70000RMB, the appellant accepted Chen No. 2's 50000RMB on the belief that it was for a truckload of scrap boards at the price of 50000RMB. Later, he did some calculations himself and found that it was impossible for a truckload of scrap boards to be worth 50000RMB. It would at most be 10000RMB, which cannot be considered to be equal to 50000RMB; the appellant's assistance to the Kizilsu Prefecture Agricultural Bureau to settle accounts is an official act, and the 270000RMB the appellant handed over to Ai* Telet, the director of the Kizilsu Prefecture Agricultural Bureau at that time, should not be deemed an act of joint embezzlement. The first-instance judgment also failed to verify the circumstances of voluntary surrender and cooperation with the investigation. Even if voluntary surrender cannot be determined, it still constitutes a confession. The first-instance judgment did not fully consider other minor and mitigated circumstances, and the sentence was too heavy. The appellant's family members handed over the appellant's salary of 24000RMB to the Supervisory Committee, and the fact that the disciplinary payment was refunded was confirmed by the receipt issued by the State Commission for Discipline Inspection, which should be included in the amount of the returned stolen goods.

The opinion of the prosecutor in court: the appellant Song Kaicai's criminal behavior was bad and the circumstances serious, and the reason for the appeal cannot be established. As the deputy secretary of the Atush City Party Committee and secretary of the Political and Legal Affairs Commission, the appellant violated the pre-trial detention center management system and instructed the detention center staff to arrange for him to meet with prisoner Yuan for more than 40 minutes without going through the relevant procedures, and then asked the detention center staff to bring Zhang No. 1 (Yuan's wife) to the Atush City Pre-Trial Detention Center, meeting with Yuan in a visiting room where the surveillance equipment was obstructed for more than 20 minutes. This had a serious impact on the relevant departments' follow-up work to investigate and deal with Song Kaicai's violation of laws and regulations, and seriously damaged the order and management of the detention center, causing harmful social impact, and constituting, in accordance with the law, the crime of abuse of power. Song Kaicai, as the secretary of the Political and Legal Affairs Commission, did not strictly perform his duties and obligations, violating regulations to arrange for (endangering-security criminal) A* Ayup's son, Er*, to look after him, thus allowing the criminal to communicate with the outside world and meet with many (endangering-security) focus individuals during this period, escaping surveillance for over 50 days and severely damaging the stability work of Party committees and governments at all levels, which constitutes, in accordance with the law, the crime of abuse of power. The original verdict determined that the total value of assets received from others was 2434548RMB (including 1516659RMB in bribes solicited), with the embezzlement of public funds totaling to 926236RMB. The facts were clear and the evidence solid and sufficient. There is no factual and legal basis for the defense's opinions that part of the amount was incorrectly determined. The first-instance judgment procedure was legal and qualitatively accurate, and the sentence was appropriate. The appeal should be rejected in accordance with the law and the original judgment should be upheld.

The facts ascertained during this trial are consistent with the facts found in the first instance, verifying the evidence put forth, cross-examined, and certified in the first instance.

During the trial of the second instance, the appellant's defense attorney presented the following evidence and defense claims:

1. The two copies of the "House Lease Contract" signed by the lessors, Song ** and others, "The Facts of Restoring the Purchasing of Shops in Sichuan" as issued by Zhang No. 7 and Zhang No. 1, "Supplementary Explanations Regarding the Restoring the Purchasing of Shops in Sichuan" as issued by Zhang No. 1, "Detailed List of Debit Card Account History", and WeChat transfer records. The defense attorney argued that Song Kaicai, Zhang No. 7, and Zhang No. 1 had a loan relationship, agreeing to use the rental income of the two storefront houses to offset the loan – as a clear repayment method – with no intention of never returning the money after the request. In fact, Zhang No. 1 and her family had collected more than 200000RMB in rent on behalf of Song Kaicai.

The prosecutor who appeared in court cross-examined the evidence and stated that the house lease contract had no date, that Zhang No. 1 and Song Kaicai were lovers, that the former's father, Zhang No. 7, was involved in bribery in the case, and that the two have a conflict of interest vis-à-vis the appellant in this case. Moreover, the evidence regarding this group cannot confirm that they have a loan relationship, and the loan of 1 million RMB is undocumented. Zhang No. 1's previous statement and other relevant witness testimony were all corroborated by the case, and the facts were clear in the first instance.

With regard to this set of evidence and the defense opinions of the attorney, the court's views following analysis are that this set of evidence is not able to prove that Song Kaicai was in a loan relationship with Zhang No. 7 and Zhang No. 1: 1) Both in the recorded interrogation and in the statement that he himself provided during inspection by the Kizilsu Prefecture Supervisory Committee, Song Kaicai made it clear that there was no loan relationship between him, Zhang No. 1, and Zhang No. 7, and that he and Zhang No. 1 were lovers. In what concerns the purchase of the two storefront houses in Sichuan in around October 2015, it was Zhang No. 1's younger sister, Zhang No. 6, who did business in Sichuan, who chose the two houses, with the former then borrowing 2 million RMB from Liao Zhanlong and having him transfer it to Zhang No. 6's card, with her taking care of the purchase procedures. In February 2016, it was arranged for Wang No. 1 to transfer 1 million RMB to Liao Zhanlong. In June 2016, it was arranged for Zhang No. 7 to transfer 1 million RMB to Liao Zhanlong. At that time, Song Kaicai clearly told Zhang No. 1 that the high-rise Kashgar apartment that he had previously sold for 430000RMB (this money being on Zhang No. 1's mother's card) would be considered as returned to her father, Zhang No. 7. With regard to the remaining 570000RMB that he hadn't yet returned to Zhang No. 7, he told Zhang No. 1 that he could let her father take a construction project, and really did prepare a number of projects. He believed this 570000RMB to be a show of gratitude. 2) Both in the recorded interrogation and in the statement that he himself provided to the Kizilsu Prefecture Supervisory Committee, Zhang No. 7 said that Song Kaicai asking him to return 1 million RMB to Liao Zhanlong put him in a somewhat difficult situation, and that he discussed it with his daughter, Zhang No. 1, saying that he didn't know what to do with Song Kaicai asking for so much money, as he was sure Song Kaicai wouldn't return it. At that time, Zhang No. 1 told him that Song Kaicai had helped them secure a number of projects, and that her father had also made money from this, and that, furthermore, Song Kaicai would continue to help them in the future, as he had aspirations to move up even higher in the leadership chain. She also pointed out that 430000RMB of the 1 million were from the house he sold, and that Zhang No. 7 only had to cover the remaining 570000RMB. In around June 2016, after project funds came in, he had the 1 million and sent it to Liao Zhanlong. Later, his daughter Zhang No. 1 told him [Song Kaicai] about the 1 million sent to Liao Zhanlong, with the latter expressing his acknowledgment and not bringing up the issue of the 570000RMB again. It basically became a gift, with Zhang No. 7 not asking for it and Song Kaicai not mentioning that he would return it. 3) Both in the recorded interrogation and in the statement that she herself provided to the Kizilsu Prefecture Supervisory Committee, Zhang No. 1 said that Song Kaicai was not in a loan relationship with herself and her father, Zhang No. 7. Her other statements, concerning the process of Song Kaicai purchasing the two storefront houses in Sichuan, Song Kaicai asking Zhang No. 7 to return the 1 million RMB to Liao Zhanlong, and Zhang No. 7 returning the 1 million RMB to Liao Zhanlong in Song Kaicai's place, are consistent with the statements of Zhang No. 7 and Song Kaicai. In summary, the court of first instance found that

"with regard to the unreturned purchase price of more than 1.22 million RMB, Song Kaicai took the initiative to purchase the house and actively arranged for Zhang No. 7, Wang No. 1, and others to advance the arrears (owing Liao Zhanlong 2 million RMB). Although he used his own funds and demolition compensation money to pay for part of it, he turned a blind eye to advance payments reaching the millions, and in the past three years before this case provided no indication of any intention to repay the money, and furthermore even less evidence to support the borrowing. Without the case being opened, there would not have been enough to result in this money being exposed, with these circumstances meeting the requirements to be determined as bribery". The original judgment's analysis with regard to Wang No. 1 and Zhang No. 7 having over 1.22 million RMB solicited in bribes was reasonable and well-grounded, and this court supports it. Therefore, the defense's opinion cannot be established and shall not be adopted.

2. The "Explanation of the Situation" as issued by Han and the "Account Remittance Business Voucher" as issued by the China Postal Savings Bank (remittance amount of 40000RMB, payer Huang Ligang, payee Chen Ping). The defense attorney argued that, because of the appellant's misrepresentation, the latter confessed to the supervisory authority that he had not paid 60000RMB for Han's construction work after he was asked to build the chicken coop in October 2015. In fact, his cousin Huang Ligang had been entrusted to settle the payment with the appellant's money, with such evidence as Huang Ligang's transfer certificate and Han's witness testimony confirming this. Therefore, the 60000RMB could not be regarded as soliciting bribes.

The prosecutors who appeared in court submitted a cross-examination opinion on this collection of evidence, saying that Han's "Explanation of the Situation" was unclear and had nothing to do with the case.

With regard to this set of evidence and the defense opinions of the attorney, the court's views following analysis are that: 1) This set of evidence cannot prove that the 40000RMB transferred to Chen Ping's account by Huang Ligang on October 9, 2017 was Song Kaicai's money for building a chicken coop, sent to Chen Ping; 2) Both in the recorded interrogations and in the statements that they each themselves provided to the Kizilsu Prefecture Supervisory Committee, Song Kaicai and Han stated that, in November 2015, while Han (project manager at the Xinjiang Taizhi Construction & Installation LLC) was undertaking the construction of the carpet-weaving factory and garment factory in Ucha Village, Upper Atush Municipality, Song Kaicai arranged for Han to build a chicken coop of over 200 square meters on his 160-mu plot of grape land. Han would receive Song Kaicai's help in the payment of project funds for future construction projects that he undertook, and has not asked Song Kaicai for the 60000RMB needed to build the chicken coop, with Song Kaicai also yet to reimburse Han. 3) According to the appraisal price, the cost of the chicken coop is 160000RMB. In summary, the court of the original trial determined that "the recorded testimony of the witness Han, together with such written evidence as the relevant Ucha Village, Upper Atush Municipality carpet-weaving factory and garment factory projects, invoices, appropriation vouchers, loan receipts, and Industrial & Commercial Bank online-banking electronic receipts, all corroborate each other, proving that Song Kaicai took the initiative in having Han, while the latter was undertaking the project, build a chicken coop worth 60000RMB; the determined appraised value of the chicken coop is 160000RMB, as per the Kizilsu Appraisal Bureau Appraisal No. 11 (2018), but must be treated at the lower value in accordance with the regulations regarding criminal evidence, by which the defendant is given the benefit of the doubt when the value given in the defendant's deposition and that given in the witness's testimony are consistent". As to the fact that Song Kaicai asked Han for a bribe of 60000RMB to build a chicken coop, the original judgment was reasonable and well-grounded, and is supported by this court. Therefore, the defense's opinion cannot be established and shall not be adopted.

3. On January 9, 2019, the Kizilsu Prefecture Discipline Inspection Commission issued Song Kaicai a 24000RMB ticket for violation of discipline. The defense attorney argued that the appellant's family members handed the appellant's salary of 24000RMB to the Supervisory Committee, and the fact that the refund of the disciplinary money was confirmed by the receipt issued by the Kizilsu Prefecture Discipline Inspection Commission should be included in the amount of the returned stolen goods.

The prosecutors who appeared in court issued a cross-examination opinion, saying that they recognized the 24000 returned by the family members.

The receipt was certified in court by this court, confirming that 24000RMB should be included in the amount of returned stolen goods. That is, 120000RMB + 24000RMB = 144000RMB have been returned.

This court believes that: The defendant in the original instance, Song Kaicai, is a government worker who took advantage of his identity as a leader to abuse the power of his office and intentionally arrange for the relative of a person under surveillance to monitor them, without arranging for other special personnel to do so, with the result that the surveilled person slipped out of surveillance. He further used the power of his office to unlawfully arrange for a criminal in custody to have a private meeting, seriously violating the procedures of the pre-trial detention center, seriously harming the legitimacy of the activities of a government body and creating a harmful social influence. His actions have already constituted the crime of abuse of power and will be punished in accordance with the law. The facts as determined in the original judgment are clear and the determination accurate, and this court supports them. This court rejected the appellant's and his defense attorney's arguments that this did not, in accordance with the law, constitute the crime of abuse of power. Song Kaicai took advantage of his position to seek benefits for others and received and demanded money from others totaling 2434548RMB, which is an enormous quantity. His behavior constitutes the crime of accepting bribes and should be punished in accordance with the law. Taking advantage of his position, he embezzled and defrauded a total of 926236RMB of public funds, which is an enormous quantity. His actions constitute the crime of corruption and should be punished in accordance with the law. In what concerns the appellant's defense attorney's proposal that Song Kaicai and Zhang No. 7 conducted a loan, not bribery, as already stated, this court will not accept it. The appellant's defense attorney argued that Song Kaicai and Wang No. 1 conducted a loan, such that Song Kaicai offset the price of woodland for Wang No. 1 in the amount of over 650000RMB. The court rejects this. The appellant's defense attorney proposed that Song Kaicai did not ask Han for a 60000RMB bribe in order to build a chicken coop. As already stated, this court will not accept it. In what concerns the appellant's defense attorney's proposal that, because of the appellant's incorrect memory and confession, the appellant confessed to the supervisory authority that he had received 280000RMB from Zhang in August 2014, when in truth this money did not exist at all, has no factual or legal basis, and is not accepted by the court. In what concerns the defense attorney's proposal and appeal request that, in the acceptance of Chen No. 2's 70000RMB, the appellant accepted Chen No. 2's 50000RMB in the belief that it was for a truckload of scrap boards at the price of 50000RMB, but that later he did some calculations himself and found that it was impossible for a truckload of scrap boards to be worth 50000RMB, and that it would at most be 10000RMB, which cannot be considered to be equal to 50000RMB, this has no factual or legal basis, and this court will not accept it. In what concerns the defense attorney's proposal that the 270000RMB handed over to Ai* Telet, the director of the Kizilsu Prefecture Agricultural Bureau at that time, from the appellant's debts should not be recognized as joint corruption, it has been found after investigation that Song Kaicai clearly knew that the superior's intent was in violation of legal regulations and financial systems. Not reporting to other superior leaders and organizations for verification, actively arranging for personnel to implement the arbitrage of 270000RMB in funds, and handing them over to Ai* No. 3 as well as subsequently ignoring it, while simultaneously going so far as to personally using similar means to obtain 30000RMB, objectively shows and reflects that Song Kaicai and Ai* No. 3 conspired together in advance, made profits afterwards, and used false means to embezzle public funds despite knowing that it was a crime. This is by no means the normal performance of duties, and as such the defense's opinion cannot be established and shall not be adopted. In what concerns the appellant's and his defense attorney's proposal that Song Kaicai voluntarily surrendered and cooperated with the investigation, this was found to be inconsistent with the facts and has no legal basis, and this court does not accept it. It was determined in the original verdict that Song Kaicai truthfully confessed to his crime after the case was filed, and that he can be punished lightly in accordance with the law, which is supported by this court. In what concerns the defense attorney's proposal that the appellant's family members handed the appellant's salary of 24000RMB to the Supervisory Committee, which should be included, according to the defense's opinion, in the amount of the returned stolen goods: as mentioned above, the 24000RMB receipt was submitted during the trial of the second instance, and the original judgment regarding the continued pursuit of the stolen money not yet recovered shall not be amended. However, when the stolen money is later recovered, the executing agency shall deduct the 144000RMB of stolen

money that has been paid. In what concerns the original judgment that Song Kaicai did not actively try to return the stolen goods after the case was initiated: he should be sentenced heavily in accordance with the circumstances. Song Kaicai's period of detention prior to the criminal detention should be offset in the calculation of the sentence, which this court confirms. In summary, the facts determined by the court of first instance were clear, the evidence solid and sufficient, the sentence appropriate, the application of the law correct, and the trial procedures legal. This court should uphold them. In accordance with the provisions of Clause (1) of Paragraph 1 of Article 236 of the "Criminal Procedural Law of the People's Republic of China", the verdict is as follows:

The appeal is to be rejected and the original verdict to be upheld.
This ruling is final.

Presiding judge: Zhang Zhuanyong
Judge: Zhang Ting
Judge: Liu Lei
June 26, 2019
Clerk: Zhou Yang

