SPP Guiding Case No. 250: Case of He Moumou for Bribery

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Decided at the 67th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on December 31, 2025; issued on February 4, 2026.

Keywords

Crime of bribery / no qualification to buy shares / fixed returns / amount of all gains

Holding

Where a state functionary takes advantage of the convenience of his or her position to seek benefits for the petitioner, and, without the qualification to buy shares, accepts a share-subscription qualification given by the petitioner for the purpose of transferring benefits, and receives high fixed returns at a rate proportional to the shares through capital contribution, and the gains obtained correspond to his or her seeking of benefits for the petitioner, the act constitutes the crime of bribery, and the amount of bribery shall be determined based on all the gains obtained.

Basic Facts

The defendant He Moumou, male, born in 1962, was a former member of the standing committee of a certain municipal Party committee of Hunan Province and former executive deputy mayor of the municipal government.

From 2001 to 2022, He Moumou took advantage of the convenience of his positions as director of the administrative committee of a certain district, member of the standing committee of the municipal Party committee, executive deputy mayor, and other positions to provide assistance to relevant units and individuals in matters such as undertaking engineering projects and acquiring state-owned land, and illegally accepted property given by others, totaling the equivalent of RMB 16.61 million, of which RMB 6 million had not yet been actually obtained before the case arose.

Among them, from 2007 to 2011, He Moumou took advantage of the convenience of his position as director of the administrative committee of a certain district to accept the requests of Xu Moumou, chairman, and Yue Moumou, general manager, of a certain Industrial Co., Ltd. ("the Industrial Company"), and provided assistance to the company in matters such as purchasing two plots of land in the district at low prices. During this period, the Industrial Company and a certain Real Estate Development Co., Ltd. ("the Real Estate Company") jointly established a certain Hunan Real Estate Co., Ltd. ("the Real Estate Co.") to jointly develop a real estate project, with the parties agreeing that the Real Estate Company would be responsible for development and sales and hold 40% of the shares, while the Industrial Company would be responsible for coordinating land transfer and other matters and hold 60% of the shares; the Real Estate Company and the Industrial Company would each contribute capital in proportion to their shareholding, but the Industrial Company would not participate in business management or bear business risks, and would only enjoy fixed returns at an annual rate of 22%. Considering that the land price of the real estate project was clearly low, the location was good, and the surrounding facilities were complete, with multiple guarantees for project profitability, the Industrial Company, with ample funds in its corporate accounts, decided to distribute 15% of its shares in the Real Estate Co. as benefits to 13 employees, of whom Xu Moumou and Yue Moumou, as company leaders, each held 2% and the other 11 employees each held 1%, with fixed returns at an annual rate of 22% after subscribing for shares. Upon calculation, the total project investment was about RMB 180 million, and the Industrial Company's employees subscribed at RMB 1.8 million per 1% share. In 2011, to thank He Moumou and continue to obtain his assistance, Xu Moumou and Yue Moumou decided to take out

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another 1% of the Industrial Company's shares in the Real Estate Co. for He Moumou to subscribe, and indicated to He Moumou that the capital contribution was risk-free and that fixed returns at an annual rate of 22% would be paid to him after subscribing. He Moumou agreed and, in the name of his relative, contributed RMB 1.8 million to subscribe for 1% of the shares. In May 2014, the Industrial Company withdrew all the shares subscribed by the 13 employees and He Moumou from the Real Estate Co., and on the same day lent the share withdrawal funds back to the Real Estate Co. in the form of loans, converting the equity into claims against the Real Estate Co., and continued to obtain returns at an annual interest rate of 22% until the cooperative project ended in July 2018. From May 2011 to July 2018, He Moumou obtained returns totaling RMB 2.871 million at an annual rate of 22%.

Procuratorate Performance of Duties

Review for prosecution. On April 26, 2023, the Hunan Provincial Supervisory Commission transferred He Moumou to the Hunan Provincial People's Procuratorate for prosecution on suspicion of the crime of bribery. The Hunan Provincial People's Procuratorate lawfully designated the Yongzhou Municipal People's Procuratorate to handle the case. The procuratorial organ held upon review that He Moumou's above acts satisfied the constituent elements of the crime of bribery, and the amount of bribery was the RMB 2.871 million in gains he obtained. First, the gains obtained by He Moumou constituted property illegally accepted from others. The Industrial Company employees' capital contribution to subscribe for shares and obtain returns was a benefit given by the company to its employees; He Moumou was not a company employee and originally had no qualification to subscribe. The reason He Moumou could obtain 1% of the shares was that the Industrial Company sought to thank him for the assistance he provided using his authority. At the same time, although He Moumou made an actual capital contribution, before the contribution he had already determined the fixed return rate with Xu Moumou and Yue Moumou, which was fundamentally different from obtaining returns based on company operations in normal market investment. Under He Moumou's care, the real estate project had inherent advantages such as low land prices and good profitability prospects, and the Industrial Company, through such means as agreeing in writing on a fixed return rate with the project partner and converting equity into claims, made He Moumou's capital contribution risk-free. Second, both parties had the subjective intent of offering and accepting bribes. The Industrial Company transferred to He Moumou fixed returns that the company itself could have obtained, with the purpose of thanking He Moumou and seeking continued care, so the intent to offer bribes was clear; He Moumou also knew that the gains he obtained were benefits transferred by the other party and did not constitute normal market investment returns, so the intent to accept bribes was clear. On June 30, 2023, the Yongzhou Municipal People's Procuratorate initiated public prosecution before the Yongzhou Intermediate People's Court against He Moumou for the crime of bribery.

Judgment result. The Yongzhou Intermediate People's Court rendered a first-instance judgment on April 2, 2024. The judgment held that the facts of the procuratorial organ's charge that defendant He Moumou had committed the crime of bribery were clear and the evidence was reliable and sufficient, and sentenced He Moumou to eleven years of fixed-term imprisonment and a fine of RMB 1 million for the crime of bribery. After the first-instance judgment was pronounced, He Moumou did not appeal, and the judgment became effective.

Guiding Significance

(1) Where a state functionary takes advantage of the convenience of his or her position to seek benefits for the petitioner, and accepts the petitioner's invitation to obtain high returns through investment and share subscription, and, without the qualification to buy shares, contributes capital to subscribe for shares in the petitioner's company, does not participate in business management or bear market risks, and obtains fixed returns according to the share proportion, and the gains obtained correspond to his or her seeking of benefits for the petitioner, the act is in essence a power-for-money transaction and constitutes the crime of bribery in accordance with the law.

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(2) In handling bribery crimes of the investment return type, attention shall be paid to reviewing and determining the relevance between the gains obtained by the state functionary and his or her official acts. Where all the gains obtained are benefits transferred by the petitioner in gratitude for the state functionary's official acts and are unrelated to market operations, the amount of bribery shall be determined based on all the gains obtained by the state functionary.

Relevant Legal Provisions

Articles 383, 385, and 386 of the Criminal Law of the People's Republic of China.

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