

Introduction.....1

**Adjudication Report of the Kabul Bank Financial Crisis
Presidential decree on resolving the Kabul Bank crisis
and recovering the stolen assets2**

Initial Investigations4

1. Case description 4

2. Total losses to Kabul Bank and Public Wealth .. 7

3. Accomplishments of the Prosecution Office 9

Primary Court Accomplishments9

1. Accusations and Justification 9

2. Decision of the judicial delegation 10

The Appellate Court Proceedings18

1. Reasons for the charges, and Court’s argument
..... 19

2) Court Decision 25

The Supreme Court Proceedings31

1. Analysis and Evaluation of Cases and Decisions
of following Courts 31

2. Decision of the Public Security Division of the
Supreme Court 32

Annexes.....35

Introduction

Administrative corruption is a negative phenomenon that has created serious risks for the Afghan Government. The phenomenon does not only challenge the administrative structure but also adds harsh impacts on the economy of the country. Therefore, to combat the phenomenon is vital for the Government and Afghan society.

The first step toward combating administrative corruption is to take precautionary actions. These actions are generally monitoring and control measurements that prevent corruption in an administrative and economic environment.

Despite these monitoring and control measurements, still there are people who manage to cross filter of these measurements and commit corruptions. The Kabul Bank crises which uncovered the biggest embezzlement and money laundering network within the administrative and economic system at the country level, shows that the corrupt persons can easily cross these monitoring filters and commit massive financial and economic corruptions. The suspects, accused and convicts of Kabul Bank case have neglected the law, in particular, the banking law and deceived monitoring system of the government and thus, committed embezzlement and money laundering at a large scale. Therefore, this case and hundreds of other such cases that have so far been addressed by the counter administrative corruptions special courts indicate that combating administrative corruption effectively and efficiently depends on an effective criminal policy.

Hence, considering the situation, the Afghan judiciary has taken firm actions in the last years to institutionalize an efficient criminal policy to fight administrative corruptions amongst which the establishment of Counter Administrative Corruptions Special Court is given higher importance.

By establishing counter administrative corruption special courts, the

Afghan judiciary has seriously fought with administrative corruptions and its agents. The activities of these special courts have regularly been covered by a magazine named special publication of the judiciary since 1388 on a monthly basis.

The Kabul Bank crisis is one of the large cases of administrative and financial corruption which has been addressed by Afghan courts. Therefore, current volume of the magazine “special publication of the judiciary” covers an inclusive and special report on this case and proceedings of the courts in this regard.

This volume focuses the history of Kabul Bank activities, outbreak of administrative corruption and crisis and its causes as well as the people who are involved in the crisis and have been subjected to court verdicts. In general, the volume covers the outcome and judicial proceedings of the courts in addressing the case.

**Adjudication Report of the Kabul Bank Financial Crisis
Presidential decree on resolving the Kabul Bank crisis
and recovering the stolen assets**

Dated October 1st 2014

In order to swiftly solve the Kabul Bank crisis and to recover the stolen assets, I approve the followings in compliance with articles 60 and 64.16 of the Afghan constitution:

1. The Supreme Court of GIRoA shall pursue the Kabul Bank crises case which is pending at the Kabul appellate court for one year and resolve the case within 45 days of the issuance of the decree in light of the available documents, evidences and causes once properly assessed the applied charges by the assigned attorney including money laundering.
2. The attorney general’s office and other respective institutions are responsible to assist the courts in finding all case documents and evidences.
3. The attorney general’s office is required to prosecute all the people and their partners who were involved in the Kabul Bank crises and were accused by the AGO and to litigate against them before the courts within 15 days of the issuance of the decree.

4. The AGO is required to oversee the enforcement of the primary court's decision about the case and arrest all the suspects within three days of the decree and detain them until the case is finalized by the courts at all three levels - primary, appellate and supreme court.
5. The Kabul Bank clearance unit is assigned to set a specific timetable for completing the clearance process of the bank's assets within 10 days of the issuance of the decree.
6. The Kabul Bank clearance unit in keeping with the applied laws should summon all bank debtors who have failed to clear their debts within five days of the issuance of the decree. The AGO, MoI and other respective institutions are needed to fully cooperate with the bank in this regard.
7. In order to freeze and recover Kabul Bank assets that were stolen and transferred to abroad, the AGO, MoF. MoFA and the central bank are assigned to utilize the diplomatic channels and submit mutual cooperative legal requests to respective countries within 10 days of the issuance of the decree.
8. The MoF is assigned to prepare privatization documents of the New Kabul Bank within 10 days and submit it to the president of GIRoA for approval.
9. The respective organizations are needed to report their work progress to the president at the end of every week till end of the specified deadline.
10. General directorate of the administrative affairs and secretariat of the high council of ministers should monitor implementation of the decree.

Initial Investigations

1. Case description



Consideration of the reviewed investigation documents infer that once financial crisis of the Kabul Bank was revealed by national and international media, Da Afghanistan Bank (DAB) identified that Kabul Bank debtors had not paid their loans timely and that the amount of debts are greater than the assets of the bank. Therefore, they appoint a conservator for Kabul bank in compliance with article 53 of the banking law and on the basis of the letter (#837) submitted to Kabul Bank board of directors dated October 5th 2010.

Later, in order to specify causes of the Kabul Bank Financial Crisis, a group was assigned under the chairmanship of Dr. Azizullah Ludin head of High Office of Oversight and Anti-corruption in compliance with presidential decree #244 dated April 2nd 2011 to review the case and prepare the report accordingly.

Following the decree, the assigned group reviewed the issue and submitted their report. The report stated that the bank was established in 2004 and had 16 shareholders altogether.

As a result of the investigation it was revealed that an amount of 814,561,294 USD was embezzled. In addition, results of the investigations carried out by the auditing companies, the Water House, the lawyers' organization and accountants indicate that not only executions of the auditing firms were inaccurate; they also presented a demagogic and an unreal report and provided opportunities for the financial crisis of the Kabul Bank.

The report identifies the followings as causes of Kabul bank financial crisis:

- In contrast to article 34 of the Banking Law, Kabul Bank has directly or indirectly invested in illegal commercial activities.
- In accordance with Article 24 of the banking law, board of controllers of the Kabul Bank should have controlled activities of the bank and reported violations to the executive board, general assembly of the stakeholders and the central bank, but the board of controllers did not acted accordingly.
- Contrary to article 41 of the banking law and articles 8 and 9 of the anti- money laundry, the Kabul Bank provided people of unknown identity with loans and now the bank is facing serious problems in collecting the loans and loan interests.
- Contrary to article 40 of the banking law, the Kabul Bank provided repeated loans to the related individuals.
- In contrast to articles 5, 6, 12 and 14 of the anti-money laundering, the Kabul Bank transferred millions of dollars abroad but the central bank has not taken legal actions in this regard.
- The Kabul Bank has facilitated and provided opportunities for stakeholders of unknown identity to by buy shares of the bank which is controversial to the law and regulations.
- Senior officials of the Kabul Bank have given verbal orders to their subordinates to prepare loan documents.
- Officials of the Kabul Bank have prepared files with no guarantee/warrant to debtors and have requested loans for debtors without performing any assessment and have opened bank accounts for unreal companies.

- Officials of the Kabul Bank have been disloyal in preserving public deposits.

The abovementioned committee identifying the above mentioned points as factors of the Kabul Bank financial crisis and identification of the losses to the bank completed its report on presence of financial crises and corruption in Kabul Bank. Based on these investigations, the committee found that 20 employees of the Kabul Bank and Da Afghanistan Bank are involved in the case whose identities are as following:

Table #1: Number of accused and their duties at the time of committing crime

Identifications of the Accused	
Name	Position
Sher Khan Farnood	Ex CEO of Kabul Bank
Khalilulla Ferozi	Ex acting CEO of Kabul Bank
Raja Gopal	Chief auditing officer Kabul Bank
Ram Chandran	Head of loans committee of Kabul Bank
Mohammad Afzal	Member of monitoring board of Kabul Bank
Mohammad Tareq	IT manager Kabul Bank
Kamal Naser	Head of country wide network of Kabul Bank
Mahboob Shah	Ex compliance officer Kabul Bank
Aminullah	Head of government relations section of Kabul Bank
Abdul Basir	Ex head of operation Kabul Bank
Amanullah Hameed	Director of Pamir Airlines and member of executive committee of Kabul Bank
Abdul Qadeer Fetrat	Ex CEO of De Afghanistan Bank
Mohebullah Safay	First deputy to the director of De Afghanistan Bank
Mustafa Masoudi	Head of the center for analysis of transactions and financial reports of De Afghanistan Bank
Masoud Khan	CEO of New Kabul Bank
Zafarulla Faqiri	Team leader of the board of controllers of De Afghanistan Bank
Mohammad Qaseem Rahimi	General director of financial control
Mohammad Aref	Member of the board of controllers of De Afghanistan Bank
Esmatullah Beik	Former employee of the Kabul Bank

The aforementioned jury submitted the case to the prosecution office for further investigations and identification of other possible involved individuals.

Subsequently, the Special Kabul Bank Tribunal was established following the presidential decree #281 dated April 4th 2012 to adjudicate Kabul Bank financial crisis cases.

2. Total losses to Kabul Bank and Public Wealth

As far as the Kabul Bank crisis is a large case and to figure out the accurate loss to the bank is complex, various figures of loss have been stated at different levels of investigations.

As a result of the initial assessment carried out by a group from Da Afghanistan Bank, the total loss was indicated as USD 814,561,294.

The judicial delegation of the primary court on Kabul Bank crisis found and reported the share of Khalilullah Ferozi as sum of USD 530,988, 240 and share of Sher Khan Farnood, head of Kabul Bank board of directors as sum of USD 278,573,054.

The judicial delegation of the primary court specified that Masoud Khan Musa Ghazi, director of New Kabul Bank also committed larceny in Kabul Bank wealth and added USD 5 million losses to the bank.

Based on the court decisions {#195 dated November 11, 2011, #98 dated August 8, 2014, #158 dated October 25, 2014} of Kabul Appellate Court on Kabul Bank crisis, the judicial delegation requested further investigations from clearance unit of the Kabul Bank about the amount of financial loss to the bank. Considering report of the clearance unit of the Kabul Bank, the total amount stolen from Kabul Bank by Khalilullah Ferozi, Sher Khan Farnood and other shareholders together with 13 groups of debtors equals to USD 987,726,427.27.

As noted, Sher Khan Farnood and Khalilullah Ferozi have embezzled the largest portion of the embezzled amount. These two paved the ground for other shareholders to embezzle Kabul Bank wealth which include 13 specific groups.

As per report of the Kabul Bank clearance unit, till 08/10/2014 only a sum of USD 226,149,065.43 has been collected from debtors out of the total embezzled amount which equals USD 987,726,427.27.

Following the crisis in Kabul Bank, the government transferred 825 million dollars to Kabul Bank through the Central Bank to

compensate and return the deposits of the people, which is indeed another loss to Public Wealth.

2-1 Share of Sher Khan Farnood in the losses

As per the latest figures provided by the Kabul Bank clearance unit, the share of Sher Khan Farnood in the losses is USD 237, 384, 867. 99.

In addition, the interest of the abovementioned amount which has illegally been authorized as loans equals USD 96, 712, 210.61, therefore, the total amount payable by Mr. Farnood makes a total of USD 334, 256, 078.6.

The report states that from the total of his debts, a sum of USD 60, 187, 141.68 has been reimbursed which is to be deducted from the total as per decision of the judicial delegation of Kabul Appellate Court.

2-2 Share of Khalilullah Ferozi in the losses

Based on the figures provided by the Kabul Bank clearance unit, Khalilullah Ferozi has illegally authorized 184 Loans to some shareholders. He has also authorized 101 loans for individuals of unknown identity out of which 12 loans have been executed without approval. The total amount of these loans equals sum of USD 411, 008, 379.24. 24.

He has also authorized loans to 14 companies of unknown identity. These companies were not confirmed by the Ministry of Commerce. The amount given as loan to these companies equals a total of USD 375,982,560.

Therefore, the amount of losses to the Kabul Bank encountered through Khalilullah Ferozi whether directly or indirectly makes a total of USD 786, 990, 939.24 out of which a sum of USD 137, 174, 981.43 has been directly transferred to his own account. The interest of the aforementioned amount makes a sum of /50USD 59,457,910. So, the amount of losses caused by Khalilullah Ferozi makes a total of USD 196, 632, 891 which has to be holding responsible for.

Based on the information provided by the Kabul Bank clearance unit, out of the above mentioned amount only a sum of USD 7,

622,255.68 has been reimbursed which is to be deducted from the total of his dues as per decision of the judicial delegation of the Kabul Appellate Court.

3. Accomplishments of the Prosecution Office

The investigation team of the Kabul counter-administrative corruption prosecution office has expressed their idea about the obligations and responsibilities of the suspects for embezzlement, larceny, and misuse of official authority. The prosecution office has stated various accusations including barratry, larceny in Kabul Bank assets, barratry facilitation, and misuse of official authority.

Considering the documents and evidences, the prosecution office held the accused accountable for crimes in compliance with articles 268, 273.2, 285, 381, 310, 39, and 158 of the criminal procedures code and articles 8, 32, 3 and 9 of the Anti-Money Laundering Law and asked punishment for them and detention of others from the authorized courts.

Based on the abovementioned reasons, the prosecution office prepared the litigation and submitted it to the primary court responsible for resolving the Kabul Bank crisis to legally resolve the case.

Primary Court Accomplishments

Special Kabul Bank Tribunal was established following the presidential decree #281 dated April 4th 2012 on adjudication of Kabul Bank financial crisis.

Following legal investigations in order to resolve the case legally, the case was referred to Primary Court on Kabul Bank crisis and was reviewed at several judicial meetings.

1. Accusations and Justification

In its session conducted on March 5, 2013, judicial delegation of the Primary Court found a number of people being involved in the Kabul Bank crisis including:

- 3 people in relation to larceny.
- 9 people in relation to facilitating the barratry and larceny.

- And, 8 others in relation to misuse of official authority and not reporting the crimes.



2. Decision of the judicial delegation

Judicial delegation of the Primary Court confirmed responsibility of some of the convicts as a result of the investigations on the accusations. The delegation found 26 people as abettors and asked for their prosecution. The delegation also asked for prosecution of 12 debtors of the bank who played a role in the financial crises. A detail of the decision is as following:

1-2. Conviction of 15 people to imprisonment and cash fines

On March 5, 2014, the judicial delegation of the special tribunal for the Kabul Bank issued a verdict in an open trial in the presence of litigants and their defense lawyers in compliance with article 128 of the constitution, article 8 of the law on organization and jurisdiction of courts, articles 52 and 47 of interim criminal procedure code, articles 6, 466, 285 and 381 of the penal code that states:

1. Khalilulla Ferozi CEO of Kabul Bank convicted for Larceny of Kabul Bank's public wealth was sentenced to five years enforced imprisonment in compliance with Articles 466 and

- 6 of the penal code effective as of detention and was ordered to reimburse the amount of USD 530,988,240.
2. Sher Khan Farnood, head of the Kabul Bank's board of directors convicted for Larceny of Kabul Bank's public wealth was sentenced to five years enforced imprisonment in compliance with Articles 466 and 6 of penal code effective as of detention and was ordered to reimburse the amount of USD278 ,573,054.
 3. Mohammad Afzal son of Fazel Habib, Member of the board of controllers of the Kabul Bank convicted for facilitation of the larceny of Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to four years enforced imprisonment in compliance with Article 130 of the constitution effective as of detention.
 4. Abdul Basir Frogh, head of operations of the Kabul Bank convicted for facilitation of the larceny of the Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to four years enforced imprisonment in compliance with Article 130 of the constitution effective as of detention.
 5. Mohammad Tareq Miran, IT manager of the Kabul Bank convicted for facilitation of the larceny of Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to two years enforced imprisonment in compliance with Article 130 of the constitution.
 6. Kamal Naser Kror, Head of country wide network of Kabul Bank convicted for facilitation of the larceny of Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to two years enforced imprisonment in compliance with Article 130 of the constitution.
 7. Mahboob Shah Frotan, admin employee of the Kabul Bank, convicted for facilitation of the larceny of Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to two years enforced imprisonment in compliance with Article 130 of the constitution.
 8. Aminullah Khair Andish, head of government relations section of the Kabul Bank, convicted for facilitation of the

larceny of Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to two years enforced imprisonment in compliance with Article 130 of the constitution.

9. Raja Gopal, chief audit officer of the Kabul Bank, convicted of facilitation of the larceny of Kabul Bank's public wealth for Khalilullah Ferozi and Sher Khan Farnood, was sentenced to four years imprisonment in compliance with Article 130 of the constitution and article 47 of interim criminal procedure code in the absence of the defendant but in the presence of the assigned prosecutor and the defense lawyer.
10. Ram Chandran son of Gornaden head of the Kabul Bank Loan Committee convicted for paving the ground for the embezzlement of Sher Khan Farnood and Khalilullah Ferozi was sentenced to 4 years discretionary imprisonment according to Article 130 of Constitution and Article 47 of Interim Criminal Procedure Code in absentia, but in the presence of an authorized prosecutor and his defense lawyer.
11. Amanulla Hameed son of Abdulla, president of the Pamir Airline and Kabul Bank member of executive board, convicted for facilitation of the embezzlement for Sher Khan Farnood and Khalilullah Ferozi was sentenced to 4 years discretionary imprisonment according to article 130 of the constitution and article 47 of the interim criminal procedure code in absentia, but in the presence of an authorized prosecutor and his defense lawyer.
12. Esmatullah Beig, an employee of the bank convicted for facilitation of embezzlement for Sher Khan Farnood and Khaliullah Ferozi, was sentenced to 4 years discretionary imprisonment according to Article 130 of the constitution and article 47 of the interim criminal procedure code in the presence of an authorized prosecutor and his defense lawyer.
13. Masood Khan Mosa Ghazi, director of the New Kabul Bank was sentenced to 3 years enforced imprisonment for the charges of embezzlement of 5 million USD from Kabul Bank

and was ordered to reimburse the sum of 5 million USD according to article 466 and 6 of the Penal Code.

14. Abdulqadir Fitrat, former director of Da Afghanistan Bank convicted for misuse of authority was sentenced to 6 months enforced imprisonment according to article 47 of the interim criminal procedure code and article 285 of the Penal Code. He was also sentenced to 2 years enforced imprisonment for the charges of not disclosing the Kabul Bank crisis in keeping with article 381 of the Penal Code. A severe punishment of 2 years imprisonment was set applicable in accordance with article 156 of the Penal Code.
15. Bank Mohibullah Safi, the first Deputy of Da Afghanistan Bank was sentenced to 6 months imprisonment for the charges of misuse of authority according to Article 285 of the Penal Code. He was also sentenced to 1 year imprisonment for not disclosing the Kabul Bank financial crisis according to Article 381 of the Penal Code. 1 year imprisonment was set applicable in compliance with article 156 of the Penal Code.
16. Zafarullah Faqiri, head of board of controllers of Da Afghanistan Bank was sentenced to 6 months enforced imprisonment for the charges of misuse of official authority according to article 285 of the Penal Code. He was also sentenced to 1 year imprisonment for not disclosing the crisis in accordance with article 381 of the Penal Code. 1 year imprisonment was set applicable in compliance with article 156 of the Penal Code.
17. Bismillah, member of the board of controllers of Da Afghanistan Bank was sentenced to 6 months enforced imprisonment for the charges of misuse of official authority according to article 285 of the penal code. He was also sentenced to 1 year imprisonment for not disclosing the crisis in accordance with article 381 of the Penal Code. 1 year imprisonment was set applicable in compliance with article 156 of the Penal Code.
18. Mohammad Arif Salik s/o Mohammad Asif, member of the board of controllers of Da Afghanistan Bank was sentenced to 6 months enforced imprisonment for the charges of

misuse of authority according to article 285 of penal code. He was also sentenced to 1 year imprisonment for not disclosing the crisis in accordance with article 381 of the Penal Code. 1 year imprisonment was set applicable in compliance with article 156 of the Penal Code.

19. Mohammad Qasim Rahimi, general manager financial monitoring was sentenced to 3 months enforced imprisonment for the charges of misuse of authority according to article 285 of penal code. He was also sentenced to 6 months enforced imprisonment for not disclosing the crisis in keeping with article 381 of the penal code. According to article 156 of the penal code, the most severe punishment of 6 months imprisonment was set applicable.
20. Mostafa Masoodi, Financial Transactions and Reports Analysis Center director of DAB was fined AFS twelve thousand for the charges of misuse of official authority in accordance with article 285 of the penal code. He was further fined AFS twenty four thousand for not disclosing the crises according to article 381 of penal code. In keeping with article 156 of the penal code, severe punishment of AFS twenty four thousand fine was set applicable.

The primary court jury did not affirm the above decisions as final and preserved the right to appeal for the accused.

Table No 2: Details of the decision of the primary court on Kabul Bank; charges, convicts, codes and punishments

No	No of Accused	Types of Charges	Total loss in USD	Codes	Court Decision
1	2	Embezzlement of Kabul Bank assets	809,561,294 \$	Art. 466 and 6 of the Penal Code	5 years imprisonment for each person and the loss compensation
2	7	Facilitation of the Embezzlement of Kabul Bank assets		Article 130 of the Constitution and article 47 of the Interim Criminal Procedure Code	4 years imprisonment for each person
3	2	Facilitation of the Embezzlement of Kabul Bank assets		Article 130 of the Constitution	2 years imprisonment for each person
4	1	Misuse of Authority and not disclosing (the crisis)		Article 285 and 381 of the Penal Code	2 years of imprisonment
5	1	Misuse of Authority and not disclosing (the crisis)		Article 285 and 381 of the Penal Code	1 year imprisonment
6	1	Misuse of Authority and not disclosing (the crisis)		Article 285 and 381 of the Penal Code	AFS 24,000 Cash Fine
7	1	Embezzlement of Kabul Bank assets	5,000000 \$	Article 466 and 6 of the Penal Code	3 years Imprisonment
8	4	Misuse of Authority and not disclosing (the crisis)		Article 285 and 381 of the Penal Code	1 year Imprisonment for each person
9	1	Misuse of Authority and not disclosing (the crisis)		Article 285 and 381 of the Penal Code	6 months Imprisonment

2-2. prosecuting other suspects

Jury of the primary court on Kabul Bank Case issued a verdict ordering judicial prosecution of 16 other people who are said to be abettors of the high officials of the Kabul Bank in the embezzlement of the bank and a number of the accused who were released on bail by the attorney general office. Following is a list of those people:

1. Shokrollah Shokran, deputy of the executive board of the bank
2. Haji Shir Khan, member of the board of supervisors of the bank
3. Amita Basu, head of credit department and member of executive board of the bank

4. Ahmad Tamim, manager of credit department of the bank
5. Matopi Chi, chief financial officer and member of executive board of the bank
6. Abdullah Kuroor, employee of loan department of the bank
7. Dr. Fraidoon Noorzad, former Deputy and member of executive board of the bank
8. Johnson, senior advisor and member of executive board of the bank
9. Hasan Akbar, member of board of supervisors of the bank
10. Jorge, member of executive board of the bank
11. Ziya-Alhasan, Head of Financial Risks of the Bank
12. Ahmad Javid, member of board of supervisors of the bank
13. Noor Khan Haidari, head of financial risks of Da Afghanistan Bank
14. Najibullah Amir Zada, , head supervisor of Da Afghanistan Bank
15. Noorullah Saifi, head of assessment team of the Kabul Bank
16. Fahim s/o Turab, employee of Shaheen Exchange in Dubai

Jury of the court obliged the respective prosecution office to take necessary legal measures to prosecute and arrest aforementioned people.

In addition, the jury ordered prosecution of the following 14 natural and legal persons and others who paved the ground for the Kabul Bank embezzlement by taking illegal loans from Kabul Bank and have failed to pay back by March 5, 2013 and asked the prosecution office to take necessary measures to prosecute and put them on trial.

These 14 people are as of followings:

1. Hajji Mohammad Taher Zaher, shareholder
2. Golam Daud Nasib shareholder on behalf of Golam Farooq
3. Soofi Nisar Ahamd, shareholder

4. Shokrollah Shokran, shareholder
5. Hayatullah Nematullah, shareholder
6. Hairatan Oil
7. Kabul Neft (oil)
8. Pamir Airlines
9. Abdul Gafar Davi
10. Golbahar Habibi
11. Akhtargol Halek jan and Mohammad Taher
12. Gulbahar Tower
13. Aryana Steel
14. Shaheen Money Exchange

The judicial committee in its verdict affirmed that the two foreign companies namely “The Water House” and “The Lawyers and Accountants” that were responsible for auditing the Kabul Bank; operated negligently and submitted an unrealistic report and thus facilitated the Kabul Bank crisis, therefore, are needed to be prosecuted.

At the end of its verdict, the primary courts jury added that while a precious amount of the Kabul Bank was being embezzled in 2010, it was the head and member of Da Afghanistan Bank Supervisory team who had to observe activities of the Kabul Bank, but they reported the facts unrealistically as being legal to respective officials, therefore, the jury required the prosecution office to take necessary measures to prosecute the suspects. The jury ordered that the amount which is received from Shir Khan Farnood and Khalilullah Ferozi as well as the amount obtained by selling their property (inside the country or abroad) should be deducted from the total amount they have to pay while the rest should be paid by the accused.

The Appellate Court Proceedings



Litigants of the Kabul Bank case did not accept the primary court's decision and appealed the case. Therefore the Supreme Court high council approved that the public security division of Kabul appellate court should adjudicate the case on the basis of presidential decree 281 of GIRoA dated 4/4/2012, its approval number 368 dated 4 June 2012, and the presidential decree dated October 9, 2014 on Kabul Bank crisis and restitution of the embezzled wealth.

Based on the above approval, the jury of public security division of the Kabul appellate court informed the respective prosecution office of its readiness for addressing the case through its Judicial Ruling number 150 dated 20 September 2013.

Based on the abovementioned ruling, the prosecution office of Kabul appellate court submitted the file of Kabul Bank crisis adjudicated by the primary court dated May 5, 2013 as an attachment to its letter number 548/1055 dated September 4 2013 to the public security division of the Kabul appellate court for appellate assessment.

The jury of the public security division held various primary sessions on the case. The session dated November 2, 2013 reached the conclusion that in addition to the embezzlement of the Kabul Bank wealth by the shareholders and officials of the bank, several forgeries have happened, tens of suspicious transactions have

done and that tens of groups and individuals have been dealt with and accused in the same manner without their responsibilities being specified.

Accordingly, the jury reached the opinion that stages of the calculation, clearance and the conflict should be technically and precisely addressed in the presence of the shareholders, debtors and other respective people who are involved in the case so that the scope of responsibility of each person should be determined. Hence, the jury assigned the prosecutor to take necessary measures to address the aforementioned problems in cooperation with the Kabul Bank Clearance Unit through its judicial ruling 195 dated November 26, 2013.

Later, due to delay in addressing the case by the prosecution office, the jury of the public security division required the prosecution office to address the aforementioned problem through its judicial rulings 9 dated 4/19/2014 and 98 dated 8/24/1993.

1. Reasons for the charges, and Court's argument

The appellate public security division addressed the case once the case was calculated and the primary stages were completed.

After investigating all aspects of the case, the jury reached the following conclusions:

1-1. Reasons for the charges against Shirkhan Farnood

Mr. Shirkhan Farnood, during his duty being the ex-president of the Kabul Bank shareholders had the authority to deal big loans and carry out other administrative and financial affairs. He was also appointed as the head of Kabul Bank supervisory committee in accordance with item 9 sub-article 2 of the article 24 of the Banking Law and was responsible to sign and approve Kabul Bank official letters, announcements and large contracts. Shir khan Farnood, being the public services servant misused his official authority and was found guilty of embezzlement and money laundering. The following reasons prove his conviction:

- Consistent with article 24 of the banking law, Shirkhan Farnood being the president of the Kabul Bank Shareholders' Association and head of the Supervisory Committee, had the obligation and responsibility of

supervision of all of the activities of different departments of the Bank. Not only he intentionally did not supervise the activities of different sections on time, but personally he has been involved in the crime of illegal transactions for him, his abettors and other shareholders of the bank. This action has paved the ground for financial crisis of the Kabul Bank which has severely damaged the reputation and economy of the country which is not compensable in a short period of time. Thus, he is found liable in line with article 268 of the Penal Code.

- According to article 38 of the banking law, Shirkhan Farnood was authorized to execute loans of Kabul Bank. Meanwhile, he was head of the supervisory committee. According to the attachments added by Kabul Bank clearance department to the file, Shirkhan Farnood and Khalilullah Ferozi have executed and signed 17 large illegal loans by the name of some of Kabul Bank shareholders and other indebted groups during their employment in the Kabul Bank. By doing so, he has withdrawn large amounts of money from Kabul Bank and spent it on the shareholders, indebted groups and their own personal affairs.

The above mentioned accused confessed issuance of the discussed loans during investigations of the prosecution office and at various judicial sessions but insisted on legality of the loans. This is while the jury of the appellate court identified execution of the loans as abnormal and in contrast with the banking law which was one of the factors for the collapse and financial crisis at the Kabul Bank. Therefore, the court confirmed accusation of the embezzlement against Shirkhan Farnood in keeping with article 268 (1) of the Penal Code.

- Based on the documents attached to the Kabul Bank financial crisis case in particular the written confession of Shirkhan Farnood at the Kabul Bank clearance unit and during different stages of AGO prosecution as well as his confession at various appellate judicial sessions, the jury found that all of Shirkhan Farnood and Farida Farnood's (his wife who was one of the shareholders) property within or outside of the country except a house located in Shahr-e-Now of Kabul has been bought through Kabul Bank wealth.

While in compliance with article 34 of the banking law, Shirkhan Farnood did not have the authority to invest Kabul Bank wealth on the above mentioned properties. Therefore, the jury identified the investment as embezzlement of the bank's wealth for the purpose of gaining personal profit and announced it in contrast with the banking law and counted it as a reason for Sher Khan Farnood's crime.

- Based on the statistics and figures provided by the Kabul Bank Clearance Unit, the jury found that Shirkhan Farnood has approved 180 bank loans to some of the shareholders of the Kabul Bank which are categorized in 13 specific groups and to some other massive debtors.
- Based on the documents attached to the Kabul Bank financial crisis case, confession of the accused at different stages of AGO prosecution and at various appellate judicial sessions, the jury found that by opening an account by the name of Shaheen Money Exchange Services of the Dubai, the accused has transferred public deposit to the bank and a big portion of the Kabul Bank wealth as illegal loans to Dubai and has bought apartments and properties inside the country and villas abroad in Dubai. In addition, the accused has facilitated embezzlement of the bank's wealth by 13 other specific shareholders through Shaheen Money Exchange that is mentioned in the assigned prosecutor's accusation letter.

2-1. Reasons for the charges against Khalilullah Ferozi

In keeping with article 25 of the banking law, Khalilullah Ferozi being head of the executive board of the Kabul Bank had the responsibility to lead and regulate all activities of the bank in the right and legal manner. The jury of the court reached the conclusion that the accused has intentionally committed embezzlement and money laundering in order to take possession of a portion of Kabul Bank money. Followings are the reasons for the charges against him:

- Considering the documents attached to the Kabul Bank case and information provided by the Kabul Bank clearance unit manager, the jury found that the accused in cooperation with his abettor ShirKhan Farnood has approved 17 large

loans and as a result have embezzled large amount of money from the Kabul Bank. In addition, the jury found that the accused has executed and taken possession of another USD 12 million loan by the name of Pamir Airlines for his personal use as apart from being a shareholder of the bank he was deputy director of Pamir Airlines as well. He has confessed his crime during prosecution process and at the judicial session. Hence, the court found him guilty according to article 268 (1) of the Penal Code.

- Based on the statistics and figures provided by the Kabul Bank clearance unit, the jury reached the conclusion that Khalilullah Ferozi has approved and signed 184 other illegal loans to some of the Kabul Bank shareholders. He also has executed and signed 101 loans for people with unknown identity out of which 12 have been executed without approval. In total the above paid loans equals USD four hundred eleven million eight thousand three hundred seventy nine point two four USD 411, 008,379.24.
- In addition the jury found that the accused has approved 14 other loans for unknown companies which are not registered with the Ministry of Commerce and the ministry has listed them as forged companies.
- Thus, the jury considered the abovementioned activities as the reason for Khalilullah Ferozi's crime and found him liable for embezzlement of the Kabul Bank cash assets in line with article 268 (1) of the Penal Code.
- Based on the documents attached to the Kabul Bank financial crisis case and confession of the accused, Khalilullah Ferozi during prosecution process and at various judicial sessions of the appellate adjudication, the jury found that in contrast with article 34 of the Banking Law, the accused has embezzled Kabul Bank money through illegal loans for the purpose of personal use and has done illegal investments. The jury counted his actions as the cause of accusation against him in line with article 268 (1) of the Penal Code.

3-1. Reasons for the Liability of Kabul Bank Employees

Each of the Kabul Bank employees; Mohammad Tariq Miran, Kamal Naser Kror, Mahboob Shah Frotan and Aminullah Khair Andish confirmed their signature on the documents of illegal loans. During the judicial and answer sessions, they said that they have signed those documents as per directions of Shir Khan Farnood and have done so in order to save their jobs. Shir Khan Farnood has confirmed their statements.

Thus, the jury reached the conclusion that in accordance with article 94 of the penal code, the accusation of signing documents of illegal bank loans does not apply to the above mentioned accused. However, the jury found the accused liable for not reporting the case of peculation of the bank's wealth to respective authorized organs once the pressure was eliminated. Therefore, they were proven responsible according to article 381 of the Penal Code. Consequently, the jury nullified decision of the primary court against the above mentioned accused which was based on article 130 of the penal code and considered it as a mistake in implementation of the the law.

4-1. Reasons for the Liability of De Afghanistan Bank Employees

According to article 42 (8) of Banking Law and instructions of article 117 of Da Afghanistan Bank, Da Afghanistan Bank is responsible for supervisions of all banks. On the basis of above mentioned law, Zafarullah Faqiri was supervising the Supervision team of Da Afghanistan Bank during 2007; Shir Aqa Haleem was responsible for Supervision of Kabul Bank during 2008; Bismillah was member of the supervision board during 2007 and Mohammad Arif Salik assigned as member of Supervisory board to Kabul Bank during 2008.

After the assessment of courts' decisions and the case file, it was presumed that all of the above-mentioned accused were liable for report accurate reporting of operations of the Kabul Bank to Da Afghanistan Bank, but they did not report the crisis of the Kabul Bank to Da Afghanistan Bank; rather they upgraded Kabul Bank from grade 4 to grade 3.

Therefore, the jury approved accusations against the above

mentioned individuals in keeping with article 381(1) of the Penal Code. However, considering their professional educational background and lack of previous criminal records against them, the jury decided to punish them as per contents of the articles 144 and 146 of the penal code.

The jury in line with article 381 (1) of the penal code approved the accusation against Mustafa Massodi, chief of financial reports of Da Afghanistan Bank for not sending the received suspicious financial reports of the Kabul Bank to authorized bodies.

The jury of the appellate court asserted ruling of the primary court regarding the abovementioned accused that orders imprisonment and cash fine according to article 285 of the Penal Code. According to the jury, contents of the above mentioned article is applied to those public servants who misuse their official authority to abandon rules, regulations, order, ruling, and decision of the court or illegal financial profit whereas the accused have not done such a mistake. There are no reasons which could prove that they have done a crime that could call for application of the article 285. Hence, the jury nullified decision of the primary court in this regard.

The jury of the appellate court rejected the prosecutor's claim regarding Mohammad Qasim Rahimi's designation as oversight manager of Da Afghanistan Bank and that he would have unified the unrealistic procedures of the Kabul Bank in 2007 and 2008.

As, considering the attachment of the Kabul Bank Financial Crises and the written information by Da Afghanistan Bank, Mohammad Qasim Rahimi was not responsible for supervision of the financial affairs of Da Afghanistan Bank during 2007 and 2008. Rather, during these years he was in Malaysia pursuing his masters. Thus, he was called unaccountable in accordance with the article 28 of the Penal Code.

The jury concluded that the mentioned individual was assigned as the General Manager of Da Afghanistan Bank Financial Affairs in late 1388. He has evaluated the Kabul Bank during the period Jan 11, 2010 up to March 3, 2010 and has prepared a 70 pages report where he has specified and pointed out legal violations and deficiencies in different departments of the Kabul Bank which resulted in disclosure of the Kabul Bank Financial Crises which has

been approved and certified by Da Afghanistan Bank administration.

2) Court Decision

The jury of the Public security division of the Appellate Court, nullified the decision#1 of the Kabul Bank Crisis Special Primary Court dated March 15, 2013 after considering the case and hearing the defense and claims of the litigants regarding Shir Khan Farnood, Khalilullah Ferozi, Mohammad Qasim Rahimi, Mohammad Arif Salik, Shir Aqa Halim, Mohammad Tariq Miran, Bismillah, Mahboob Shah Frotan, Kamal Nasir Kror, Mustafa Masoodi, Zafarullah Faqiri and Aminullah Khairandish and issued the following verdict in accordance with the authorities mentioned in article 267 (2) of Criminal procedure Code and article 54 of the Law on organization and Jurisdiction of the Judiciary and Act number (1202) dated October 25, 2014 of the High Council of Supreme Court in an open trial on November11, 2014 in the presence of all sides.

1-2. Shir Khan Farnood Son of Mohammad Murad

- Shir Khan Farnood was sentenced to 5 years imprisonment in regards to money laundering in accordance with article 46(1) and in consideration with article 3 of the anti-money laundering law and in keeping with statements of the official gazette dated 1383/8/10 (840) on incomes through crimes.
- In regards to the embezzlement, he was sentenced to 10 years imprisonment to the article 268 (1) Penal Code effective from detention date.
- According the to article 156 of Penal Code, the most severe punishment of 10 years imprisonment effective from detention date should be applied on him.
- The accused was convicted for reimbursement of the embezzled amount USD 237,384,867.99 and its interest USD 96,871,210.61 that in total equals to USD 334,356,078.6 in line with article 273 of the penal code.
- In accordance with the above mentioned article, a verdict was issued ordering conviction of the accused for paying equivalent of the embezzled amount as cash fine that USD

237,284,867.99.

2-2. Khalilullah Ferozi

- Khalilullah Ferozi was sentenced to 5 years imprisonment in regards to money laundering in accordance with article 46(1) and in consideration with article 3 of the anti-money laundering law and in keeping with statements of the official gazette dated 1383 on incomes through crimes.
- In regards to the embezzlement, he was sentenced to 10 years imprisonment to the article 268 (1) Penal Code effective from detention date.
- According to article 156 of Penal Code, the most severe punishment of 10 years imprisonment effective from detention date should be applied on him.
- The accused was convicted for reimbursement of the embezzled amount USD 137,174,981.43 and its interest USD 59, 457, 91.50 that in total equals to USD 196,632,891.93 in line with article 273 of the penal code.
- In accordance with the above mentioned article, a verdict was issued ordering conviction of the accused for paying the equivalent of the embezzled amount as cash fine that USD 137,174,981.43.
- The jury issued a verdict stating that; the money which has been acquired from the above mentioned individual either as cash or by selling their properties inside or outside the country should be deducted from the original amount they are charged with, and then the remaining amount should be acquired from them.
- The Judicial board added; that any amount of money which is acquired from each of these individuals after the issuance of this verdict, Should also be deducted from the original amount which they are charged with.

3-2. The jury sentenced each of the following; Mohammad Tariq Miran Son of Ghulam Farooq, Kamal Naser Kror, Mahboob Shah Farotan Son of Mubarak Shah one year imprisonment effective as of detention in line with article 381 of the Penal Code.

- 4-2.** Each of the Da Afghanistan Bank employees; Zafarullah Faqiri son of Essa Khan, Shir Aqa Halim son of Zainul abideen, Bismillah son of Abdul Mohammad and Mohammad Arif Salik son of Mohammad Asif were convicted as of following:
- for not informing respective authorities regarding the Kabul Bank crisis and were sentenced to 6 months imprisonment effective as of detention according to article 381 of the Penal Code and in consideration with article 144 & 46 of the mentioned law.
 - And in regards to misuse of official authority, due to lack of evidence they were acquitted according to article 4 of the Penal Code and article 25 of the Constitution.
- 5-2.** Mohammad Qasim Rahimi son of Abdul Hameed was acquitted from the accusations due to lack of evidence according to article 4 of the Penal Code and article 25 of the Constitution.
- 6-2.** Musftafa Masoodi son of Abdul Rahim was punished as of following;
- Sentenced to cash fine of AFS 24,000 for not informing respective authorities about the Kabul Bank crisis according to article 381 of the Penal Code.
 - Acquitted the charge of misuse of official authority due to lack of evidence in keeping with the article 4 of Penal code and article 25 of the Constitution.
- 7-2.** Aminullah Khair Andish son of Khalilullah was sentenced to the previous duration of his imprisonment dated June 2, 2012 up to Oct 12, 2013 for the charge of not informing respective authorities according to article 381 of Penal Code.
- 8-2.** The jury postponed appellate adjudication regarding the accused namely Abdul Qadir Fitrat, Raja Gopal Krishin, Ram Chandran, Esmatullah Baik and Amanullah Hamid in keeping with article 305 of the Criminal Procedure Code as the primary court has issued court verdict in absentia which is not yet communicated to the accused or implemented.
- 9-2.** The jury postponed appellate adjudication regarding Masood Khan Mosa Ghazi, Mohebullah Safai, Abdul Baseer

Forogh and Engineer Mohammad Afzal as they were absent in the session and conditioned it to the implementation of the verdict issued by the primary court and their summoning before the appellate court.

10-2. The Judicial board has recognized the following individuals and companies as abettors of Shir Khan Farnood and Khalilullah Ferozi and has ordered that they should be prosecuted seriously:

- Shokrollah Shokran, deputy of the executive board of the bank
- Haji Shir Khan, member of the board of supervisors of the bank
- Amita Basu, head of credit department and member of executive board of the bank
- Ahmad Tamim, manager of credit department of the bank
- Matopi Chi, chief financial officer and member of executive board of the bank
- Abdullah Kuroor, employee of loan department of the bank
- Dr. Fraidoon Noorzad, former Deputy and member of executive board of the bank
- Johnson, senior advisor and member of executive board of the bank
- Hasan Akbar, member of board of supervisors of the bank
- Jorge, member of executive board of the bank
- Ziya-Alhasan, Head of Financial Risks of the Bank
- Ahmad Javid, member of board of supervisors of the bank
- Noor Khan Haidari, head of financial risks of Da Afghanistan Bank
- Najibullah Amir Zada, , head supervisor of Da Afghanistan Bank
- Noorullah Saifi, head of assessment team of the Kabul Bank
- Fahim s/o Turab, employee of Shaheen Exchange in Dubai

Besides the above mentioned individuals, the appellate jury has also identified the following companies and people as being involved in the embezzlement of the Kabul Bank wealth by receiving receiving bank loans.

- Haji Mohammad Tahir Zahir
- Ghulam Dawood Nasib Ghulam Farooq
- Sofi Nesar Ahmad
- Shokrullah Shokran
- Hayatullah Kokcha
- Hairatan Oil
- Kabul Naft
- Pamir Airways
- Abdul Ghafar Dawi
- Gulbahar Habibi
- Akhtar Gul Halak Jan & Mohammad Tahir
- Gulbahar Tower
- Shaheen Money Exchange
- Aryana Steel
- Mahmood Karzai
- Abdul Hussain Fahim
- Zahir Group
- Gaz Group

The appellate jury ordered to freeze properties and wealth of the above mentioned individual until clearing their dues in accordance with the article 13 (12) of the Law on organization and Jurisdiction of the Prosecution and the presidential decree #3 dated October 1, 2014 and the Judicial ruling #1 of the special primary court on Kabul Bank Crisis dated March 1, 2014 and ordered that in case they delay in clearing their dues, they should be prosecuted.

11-2. The jury also ordered judicial prosecution of the two foreign companies the Waterhouse and the Lawyers which were inaccurate their assessment and has facilitated the crisis of the bank by submitting unreal report.

Table 3; the appellate court verdict for accused individuals of Kabul Bank Case

(Abbreviations used in this chart are as of following; Art-Article, ALL-Anti Laundering Law, PC-Penal Code, Cons-Constitution, LOJPO-Law on Organization & Jurisdiction of Prosecution Office)

Number	No. of accused	Type of Accusation	Incurring Loss in USD	Laws used in this case	Court Verdict	Cash Fine in USD	Compensation of Loss in USD
1	1	Money Laundering and Embezzlement	334256078.6	Art 46(1) & 3 ALL & Art 268(1), 156, 273 of PC	10 Years imprisonment	237384867.99	334256078.6
2	1	Money Laundering and Embezzlement	196632891.93	Art 46(1) & 3 ALL & Art 268(1), 156, 273 of PC	10 Years imprisonment	137174981.43	196632891.93
3	3	Conspiracy		Art 381 PC	1 Year imprisonment		
4	4	Not reporting the case		Art 144, 146 & 381 of PC	6 Months imprisonment		
5	1	Not reporting the case		Art 4 of PC & Art 25 Cons	Acquitted		

6	1	Not reporting the case		Art 381 PC	24000Afs		
7	1	Not reporting the case		Art 381 PC	Previous imprisonment		
8	16	Taking part in embezzlement	Participation in Loss		Judicial Prosecution		
9	18	Embezzlement and Robbery	unspecified	Art 12/13 LOJPO	Freezing the assets		
10	2	False Reporting		//	Judicial Prosecution		

The above mentioned jury obliged the Prosecution Office to seriously consider the people listed by Shir Khan Farnood who are said to be involved in Kabul Bank Crisis. The jury concluded that the above mentioned verdict is not final and gave the right to appeal for all convicts in accordance with the law.

The Supreme Court Proceedings

On November 26, 2014, the public security prosecution office referred the Kabul Bank case to Supreme Court public security division for final consideration and appeal.

1. Analysis and Evaluation of Cases and Decisions of following Courts

The jury of the Supreme Court evaluated and assessed the legality of objections by prosecution office and appeal of the accused as

well as court decisions.

As a result of the inclusive assessment and evaluation, the jury of the Supreme rejected appeals of the accused and

- Confirmed decision of the Appellate Court regarding Shir Khan Farnood, Khalilullah Ferozi, Mohammad Qasim Rahimi, Mustafa Masoodi and Aminullah Khairandish considering the decision in keeping with the law.
- Moreover, the jury confirmed the legality of judicial prosecution of the 16 Suspects and accused and the two foreign companies (Waterhouse and the Lawyers), order of freezing properties of the individuals which are stated in the court verdict and assessment of the list of 227 Individuals provided by Shir Khan Farnood and approved it during the open trial.

The jury of modified decision of the appellate court regarding punishment of namely Mohammad Tariq Miran, Kamal Nasir Rror, Mahboob Shah Frotan, Zafarudin Faqiri, Shir Aqa Halim, Bismillah and Mohammad Arif who are employees of Kabul Bank, and Da Afghanistan Bank calling it severe than their crimes.

Although the jury found the above mentioned individual guilty which called for punishment, but considering their civil and economic situation and obedience of their superiors while performing their duties, the jury considered application of the articles 144 & 146 of the Penal Code for them where the state of mercy is foreseen.

2. Decision of the Public Security Division of the Supreme Court

Considering the abovementioned reasons, the jury of the public security division of the Supreme Court in its judicial meeting dated December 1, 2014 in keeping with article 9(2) of the law on organization and jurisdiction of judiciary voted the decision 480 of the Kabul appellate court dated November 11, 2014 as of following;

1-2.The jury confirmed verdict of the appellate court in regards to accusation of Shir Khan Farnood, head of the Kabul Bank board of directors and Khalilullah Ferozi head of the Kabul Bank executive board for the charges of money laundering and embezzlement and

sentenced them to 10 years imprisonment and cash fine that equals the embezzled amount.

2-2. The jury also confirmed verdict of the Appellate Court regarding acquittal of Mohammad Qasim Rahimi and court proceedings pertaining Mustafa Masoodi, Aminullah Khairandish and Judicial Prosecution of 16 Suspects and accused individuals and 2 foreign companies (Waterhouse & the Lawyers), order of freezing properties of the individuals stated in the court verdict and assessment of the list of 227 in an open trial.

3-2. The jury modified verdict of the Appellate Court in regards to Mohammad Tariq Miran, Kamal Nasir Kror and Mahboob Shah Frotan which were sentenced to 1 year imprisonment and sentenced to 6 months imprisonment in line with article 381 and 144 of the Penal Code. In addition, the jury modified verdict of the Appellate Court regarding Zafarullah Faqiri, ShirAqa Haleem, Bismillah and Mohammad Aref who were sentenced to 6 months imprisonment and sentenced them to 3 months imprisonment in line with article 381 and 144 of the Penal Code.

Table 4; Details of Supreme Court Public Security Division regarding the Decision of Appellate Court

Number	Number of Accused	Type of Accusation	Verdict of Appellate Court	Verdict of Supreme Court
1	1	Money Laundering and Embezzlement	10 Years of imprisonment and Cash fine of 237384867.99 USD and returning the embezzled amount of 334256078.6 USD	Confirmed
2	1	Money Laundering and Embezzlement	10 Years of imprisonment, and Cash fine of 137174867.99 USD and returning the amount embezzled 334256978.6 USD	Confirmed
3	3	Arranging the embezzlement	6 Months Imprisonment	3 Months
4	4	Not reporting the case	3 Months Imprisonment	3 Months
5	1	Not reporting the case	Acquitted	Confirmed
6	1	Not reporting the case	Cash Fine of 24000 Afs	Confirmed
7	1	Not reporting the case	Previous Imprisonment	Confirmed
8	16	Taking part in Embezzlement	Judicial Prosecution	Confirmed
9	18	Embezzlement and Robbery	Freezing the assets	Confirmed
10	2	False Reporting	Judicial Prosecution	Confirmed

Annexes

Annex I: Banking Law

Articles	Provisions
36	<p>Sub-article1: The relations between banks and their customers shall be governed by the agreements made between the two and that those terms and conditions of the agreement may not be terminated unilaterally unless provided otherwise in the agreements.</p> <p>Sub-article2: Banks can determine their business terms and conditions in an agreement that include interest rates, fees and other charges that are payable by the bank as benefit of the customers' account balances or by the customers for the credit or other services provided by the bank. The terms for reimbursement of the credits that are provided by the bank including the interest and other charges payable connected with the debt is applicable only for the days on which such amount has been due.</p> <p>Sub-article3: Banks shall provide adequate information to their customers concerning the terms and conditions associated with deposits, savings and bank credit in line with the applied regulations of Da Afghanistan Bank.</p> <p>Sub-article4: All conflicts between domestic banks and their domestic customers, and all claims of domestic customers on non-resident banks regarding activities of domestic branch offices of the banks shall be adjudicated by the respect Afghan courts. Resolution of the conflicts that are within the jurisdiction of the Commission is an exception.</p> <p>Sub-article5: If deposited amounts to an account at a bank including Da Afghanistan Bank are subject to special rules, such accounts are considered dormant accounts. If an account holder has not evidenced any interest in deposited amounts by any recorded transaction or written correspondence to the bank for ten years, the bank is liable to dispatch a notice to the last known address of the account holder via post and at least publish a notice in a local newspaper that includes name of the account holder and details of the dormant account by the first working day of the following calendar year. In case, the account holder cannot be located within thirty days of the notice and the publication, the bank is liable to send an inclusive report to Da Afghanistan Bank and transfer amount of the dormant account to Da Afghanistan Bank where it should be held in a special account.</p> <p>Da Afghanistan Bank can use funds of such special accounts for whatever purpose it determines. If the owner of the account or his legatees claim such an account within 10 years by providing documents of satisfactory ownership, Da Afghanistan Bank is liable to repay the amount. Once the period of 10 years is expired, the entire amount of the dormant account should be transferred to the Ministry of Finance for inclusion in the revenue of the GIROA.</p>

<p>40</p>	<p>1) In the following cases, no bank may extend credit to a related person: Sub-article1: if the credit and its financial terms and conditions are not approved by the executive board or board of supervisors of the bank. Sub-article2: In case, the granted credit to any of the bank managers or employees exceed 35% of the annual remuneration of that staff or if the granted credit to other related persons exceed 100% of the unimpaired capital and reserves of the bank. Sub-article3: conditions of the 2nd sub-article of this article shall not apply to any guaranteed loan or credit that is in compliance with standards prescribed in the regulations of Da Afghanistan Bank or to mortgages against properties whose appraised value exceed the principal amount of the loan by one third. Sub-article4: If the credit is granted to related persons on terms and conditions that are less beneficial for the bank than the benefits received by granting credit to the public in general.</p> <p>2) Every credit provided by a bank to a related person shall promptly be reported to the audit committee of the bank. If the credit has been provided by the bank to the related person in violation of the provisions of sub-article1 of this article, such credit must be immediately repaid. Members of the executive board and the board of supervisors are liable either individually or as a group for repayment of the credits and other associated charges granted in violation of the provisions of sub-article 1 of this article, if they are aware of the grants and do not have any objection.</p> <p>40.3 For the purposes of this Article, a related person means:</p> <ol style="list-style-type: none"> 1) The bank manager 2) Any person who is related to any bank manager by marriage, descent, blood or kinship up to a maximum of the second degree or adoption. <p>Any person having an authorized entitlement share in a bank or any other enterprise alone or in partnership with one or more person(s) or through one or more person(s). And the manager of such a bank or enterprise.</p>
<p>53</p>	<p>) Da Afghanistan Bank appoints a trustee in the following cases:</p> <ol style="list-style-type: none"> 1. When the bank is not paying its debts as they fall due. 2. When the required capital of the bank is less than 75% of the capital required by regulations of Da Afghanistan Bank. 3. When the value of the bank's assets are less than its Liabilities. 4. When the request for actions against the bankruptcy is submitted. 5. When the request for voluntary liquidation of the bank is completed by a trustee in keeping with article 62 (3) of this law. 6. When there are evidences that the bank is involved in criminal activities or when there are enough reasons that could prove existence of criminal activities at the bank. 7. When there is the possibility of Banking License cancelation. 8. When Da Afghanistan Bank identifies that the Bank avoids enforcement of the issued orders.

	<p>2) The capital and value of the Bank's assets and liabilities are determined according to the standards and principals of Da Afghanistan Bank or somehow that is acceptable to the Bank.</p>
<p>24</p>	<p>1) Board of supervisors of the bank possess the following authorities:</p> <ol style="list-style-type: none"> 1. To supervise the administration and activities of the Bank 2. To consult the executive board and general assembly of the shareholders 3. To conduct meetings of the general assembly of the shareholders and prepare the agenda. Agenda of the meetings requested by the shareholders, the executive board or the audit committee is specified by themselves. 4. If needed, to authorize transactions of the bank that relies on decision of the general assembly of the shareholders. 5. To issue warning to the executive board in case the bank violates application of the applied rules and regulations and to submit a report to Da Afghanistan Bank and the general assembly of the shareholders in this regard. If it is the first violation of the bank and the bank has eliminated the negative impacts of the violation and has taken necessary measures to prevent its recurrence, the board could avoid reporting, but is required to note results of the violation in the book for minutes of its meetings. 6. If needed, the board can issue an order to the executive board in order to ensure the sound and prudent bank management 7. To suspend membership of those members of the executive board and the audit committee who are disqualified in accordance with the provisions of this law or when their presence as the board or committee member is inappropriate for the prudent management of the bank. And to replace them with other people until they are reappointed or permanently replaced by general assembly of the shareholders 8. To replace the executive board and represent the bank in cases when the board recognizes that there is a conflict of interest between the bank and two or more than two members of the executive board 9. Decisions which are made in keeping with item 4-8 of this article by board of supervisors will be added in agenda of the next meeting of the general assembly of shareholders. <p>2) Structure of the board of supervisors is odd and the members can be less than 3 and more than 9. Board members are natural persons who are appointed by the general assembly of shareholders for a period of 4 years. Reappointment of the any board member for the next round is allowed for the same period of time. Members of the board of supervisors cannot have any relations with the bank regarding the management, ownership, and/or employment except if the relation is relevant to their duties. The General Meeting of the Shareholders appoints one of the board members as the head of the board.</p> <p>3) Decisions of the board of supervisors are made by a simple majority of vote of members. Members cannot refrain from voting.</p>

Annex II: Penal Law

<p>268</p>	<p>1- Any official of the public services who embezzles or hides goods of the state or persons which have been given to him as part of his duty should be sentenced to prolonged imprisonment of not more than ten years.</p> <p>2- (2) If any of the followings; treasurer, storekeeper, collection clerk, teller, petrol clerk, sugar clerk, in charge of the warehouse, cashier, asset manager and foodstuff officials and the people assigned to take care of the embezzled or hidden goods who commits the crime mentioned in the above sub-article are sentenced to prolonged imprisonment.</p> <p>(3) An official of public services who has been convicted to debarment from his/her profession or termination from the employment is immediately reassigned as the government employee or servant once his/her honor is restored in line with provisions of the criminal procedure code.</p>
<p>273</p>	<p>1- The criminal is convicted for reimbursement of the embezzled goods or whatever he has taken into his possession from the state property and its equivalent cash fine in addition to the punishments fixed in this chapter. If the convict is imprisoned for more than three years, he is convicted to debarment from his profession or termination from employment as well.</p>
<p>281</p>	<p>Whenever a person responsible for the posts or telegraphs hides, disclose or opens a document or a telegraph or facilitates this action for others, in addition to debarment from the profession or termination from the employment, he or she is convicted to imprisonment of not less than 3 months or cash fine of not less than AFS 3,000 or more than AFS12, 000.</p>

Annex III: Anti-Money Laundering Law

3	<p>A person is charged with crime of money laundering in the following cases:</p> <ol style="list-style-type: none"> 1. In case of hiding, changing shape, exchange, transfer or importing or exporting funds and assets provided that the person knows that the aforementioned assets are obtained through direct or indirect actions or negligence which are considered crime according to the applied laws committed either inside the country or abroad. 2. In case of acquiring, possessing or using funds or assets knowing that the funds or assets are obtained from direct or indirect crime or there are reasons that could prove awareness of the person of the illegality of the funds or assets. 3. In case of being partner or participating in a contract either directly or as representative of another individual in order to facilitate the process of acquiring, keeping, using or controlling funds and assets knowing that the funds or assets are obtained from direct or indirect crime or there are strong reasons that could prove his/her awareness of the illegality of the funds or assets. 4. Hiding or changing the shape of funds and assets which are stated in part (1) of this article including concealing or changing the nature, source, location or sale, loss, transfer of ownership or any type of rights related to these funds and assets are deemed as crime and thus will be referred to the received criminal signs and environmental facts.
46	46.1 The money launderer is convicted to imprisonment of not less than two or more than five years or cash fine of not less than AFS50, 000 or more than AFS 250, 000 and or both of the punishments.
8	The reporting source cannot keep unknown accounts or accounts which are opened by fake names.
12	<ol style="list-style-type: none"> 1. The reporting sources are liable to pay special attention to all complex transactions which are unusually large and all those unusual transactions lacking a clear legal or economic purpose. The purpose and background of such transactions are needed to be studied as much as possible and the written outcome of the study should be submitted to the inspection authorities. 2. The report should be reserved in keeping with the instructions of article 14 of this law. 3. The reporting sources are liable to pay special attention to those cases of business relations and transactions with the people whose respective countries do not implement what is required to combat anti-money laundering or funding terrorist activities in comparison to this law and or implementation of the requirements are in adequate.

9	<p>9.1 The reporting sources are liable to identify and confirm identity of their clients in the following cases:</p> <ul style="list-style-type: none"> - While building relations with other persons - While dealing transactions worth of AFS one million or more than that and/or its equivalent in foreign currencies - While the electronically transferred document lacks complete information about the sender - While being suspicious about money laundering or terrorist funding - While the reporting source is suspicious about the accuracy and adequacy of the information previously obtained on the identity of the customer. <p>2. The identity of a natural person is determined either by original national ID card or a valid passport and or other document recommended by provisions of Da Afghanistan Bank. The reporting source should keep a copy of the required document.</p> <p>3. The identity of a legal person is determined by the certificate of registration, license or articles of association and or such other documents that prove the legal registration and real presence of such a person while being identified in line with the provisions of Da Afghanistan Bank.</p> <p>4. Managers, employees or representatives representing or intended to represent customers are liable to develop all necessary documents including power of attorney.</p> <p>The lawyer of a natural person is accountable to prepare documents which could confirm the identity of his/her client and save its copy at the reporting source in accordance with sub-article 2 of this article. The confirmation documents are foreseen in the provisions of Da Afghanistan Bank.</p> <p>44. As stated in the article 16 of this law, the reporting sources are liable to report suspicious transactions to financial intelligence unit in line with sub-articles 1 and 3 of this article.</p> <p>A person is charged with crime of money laundering in the following cases:</p> <ol style="list-style-type: none"> 1. In case of hiding, changing shape, exchange, transfer or importing or exporting funds and assets provided that the person knows that the aforementioned assets are obtained through direct or indirect actions or negligence which are considered crime according to the applied laws committed either inside the country or abroad. 2. In case of acquiring, possessing or using funds or assets knowing that the funds or assets are obtained from direct or indirect crime or there are reasons that could prove awareness of the person of the illegality of the funds or assets. 3. In case of being partner or participating in a contract either directly or as representative of another individual in order to facilitate the process of acquiring, keeping, using or controlling funds and assets knowing that the funds or assets are obtained from direct or indirect crime or there are strong reasons that could prove his/her awareness of the illegality of the funds or assets. <p>Hiding or changing the shape of funds and assets which are stated in part (1) of this article including concealing or changing the nature, source, location or sale, loss, transfer of ownership or any type of rights related to these funds and assets are deemed as crime and thus will be referred to the received criminal signs and environmental facts.</p>
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