

Case Number:

**IN THE REGIONAL DIVISION OF GAUTENG
IN THE REGIONAL COURT HELD AT JOHANNESBURG**

THE STATE

versus

MARIAN TUPY

(hereinafter called the accused)

PREAMBLE

WHEREAS at all times relevant to the charge sheet the Accused was a South African citizen of Slovak decent and a medical doctor specialising in urology. The Accused practiced from the Flora clinic, Johannesburg.

AND WHEREAS at all times relevant to the charge sheet Radovan Krejcir was a Czech citizen who also held a Seychelles passport and alleged businessman residing in Johannesburg.

AND WHEREAS at all times relevant to the charge sheet Liberty Group Holdings and more specifically Liberty Live Insurance was an entity who inter alia provided a variety of insurance products to the public and specific clients.

AND WHEREAS at all times relevant to the charge sheet Peter Faulkal was an insurance broker operating from offices situated in Sandton. Radovan Krejcir was a client of his and he sold him a Liberty Life insurance policy. The Accused was also his urologist and the Accused and Radovan Krejcir was introduced to each other by him.

AND WHEREAS at all times relevant to the charge sheet Radovan Krejcir took up an insurance policy with Liberty Live Insurance during November 2007 under insurance policy number 59200615135. This inter alia included cover under Living Lifestyle Plus benefits up to the value of R4 900 172-00 on diagnoses of a defined dread disease condition. The proportion of the sum assured paid depended upon the particular condition and its severity level.

AND WHEREAS at all times relevant to the charge sheet Krejcir approached the Accused during April 2008 with a request to create a false patient history with regard to him which would lead to creating a patient profile of that of a person suffering from cancer.

AND WHEREAS at all times relevant to the charge the Accused agreed to comply with the request of Krejcir. The Accused started creating such a patient file with regard to Krejcir and subsequently swapped samples of a patient who indeed suffered from cancer with the samples which belonged to Krejcir. He thereby created the false profile that Krejcir was indeed sick and suffered from cancer.

AND WHEREAS at all times relevant to the charge sheet Krejcir informed Faulkal during May 2010 that he suffered from cancer. During June 2010 Faulkal provided Krejcir with claim forms to claim from

Liberty Life in terms of the abovementioned policy. Faulkal submitted the claimant statement completed and signed by Krejcir and the medical statement completed and signed by the Accused to Liberty Life.

AND WHEREAS at all times relevant to the charge sheet and as a result of the claim submitted by Krejcir and the supporting medical reports given and provided by the Accused Liberty life was induced to believe that Krejcir did indeed have cancer and subsequently paid Krejcir the amount of R4 579 600-00.

NOW THEREFORE the accused is guilty of the crime as set out below

COUNT 1

THAT the accused is guilty of the crime of Fraud.

IN THAT during the period April 2008 to July 2010 and at or near inter alia Sandton and/or Braamfontein in the Regional Division of Gauteng, the Accused and Radovan Krejcir, directly and/or indirectly, in person and/or through an agent, separately and/or together and in furtherance of a common goal wrongfully, unlawfully and falsely and with the intent to defraud gave out and pretended to Peter Faulkal and/or Lauren Rennie and/or Jamila Hassim and/or Liberty Group Holdings and/or Liberty Life Insurance and/or their employees that:

Radovan Krejcir was suffering from cancer of the urinary bladder

The medical reports and test results with regard to the medical condition of Krejcir submitted by the Accused was true and a correct reflection of his condition

That the samples submitted by the Accused for histological tests were samples taken from Krejcir

Based on the claim by Krejcir and by the medical reports and test results submitted by the Accused in support of that claim, Krejcir was entitled to a benefit under policy number 59261513500

AND did there and then by means of the said false pretence, induce the said Peter Faulkal and/or Lauren Rennie and/or Jamila Hassim and/or Liberty Group Holdings and/or Liberty Life Insurance company and/or their employees to the prejudice and/or potential prejudice of Liberty Group Holdings and/or Liberty Life Insurance company to:

Evaluate and approve the said claim of Radovan Krejcir under policy number 59261513500, to settle the claim and to authorise payment of the amount of R4 579 600-00 to Radovan Krejcir; and/or

Effect payment to the amount of R4 579 600-00 into account number 62151483452 on 27 July 2010, which account belonged to Radovan Krejcir

WHEREAS in truth and in fact the Accused, when he and Radovan Krejcir so gave out and pretended as aforesaid well knew that:

Radovan Krejcir was not suffering from cancer of the urinary bladder

The medical reports and test results with regard to the medical condition of Krejcir submitted by the Accused was not a true and correct reflection of his medical condition

That the samples submitted by the Accused for histological tests were not samples taken from Krejcir, but were samples the Accused obtained from another patient of his

Based on the claim by Krejcir and by the medical reports and test results submitted by the Accused in support of that claim, Krejcir was not entitled to a benefit under policy number 59261513500