

MONTHLY NEWSLETTER: FEBRUARY 2018

Dear HSAG Investor / Mr / Mrs / Ms [Customer Name]

This newsletter is addressed to you as a member of the Highveld Syndication Action Group (“HSAG”) on account of you having made an investment in the Highveld Syndication Companies 15-22 and/or support of the HSAG.

The www.hsaction.co.za website is the primary place where you will find HSAG information although emails are also sent out from time to time.

Please keep us up to date with any changes to your personal and/or contact details.

1. INTRODUCTION

The HSAG has issued two main applications in the Gauteng High Courts which relate to the following:

- 1.1 The certification of a class action (issued in Pretoria during October 2014) against 23 Respondents. It is the Applicants’ case that 18 300, predominantly elderly investors, in the period 2005–2009 invested between R4.6 billion in eight property syndication companies, the Highveld Syndication 15–22 Companies (“HS Companies”), which companies were controlled by a property owner, Mr Nic Georgiou (“Georgiou”). All these companies are public companies with issued prospectuses and unbonded immovable properties. Four of the HS companies (HS19-22) bought certain immovable properties from Georgiou/his entities to the amount of R3.2 billion. The purchase price of those properties was paid in full by the HS19-22 companies, but the sellers refused to transfer the properties into the HS 19-22 Companies. These companies, together with the HS15-18 companies (which also had unbonded immovable properties) were then placed into business rescue by the directors of the HS Companies, who appointed Hans Klopper (“Klopper”) as business rescue practitioner.
- 1.2 The setting aside of a court order obtained *ex parte* during November 2014 in Johannesburg, which order sanctioned a s155 Scheme of Arrangement in respect of Orthotouch (one of Georgiou’s entities) which entity purchased immovable property of HS15-22 from the Business Rescue Practitioner; but failed to honour its commitments. One of the contentious aspects is that the s155 Scheme of Arrangement also absolves Georgiou and others from all liabilities.
- 1.3 Our Attorneys acted on behalf of almost 7 000 investors in the above HS15-22 companies.

2. SEASON OF HOPE

It has recently come to light that persons who take innocent parties' money to enrich themselves and then institute legal proceedings to defend themselves with these funds, will be brought to justice. This recently came about when Mr Jacob Zuma was dethroned and other high ranking officials were arrested.

The new President, Mr Cyril Ramaphosa, solemnly promised to protect and uphold the Constitution and other laws. This has sparked new hope for the HSAG case that the legal process will be dealt justly in favour of the HSAG members.

Mr Georgiou and his puppets have on numerous occasions tried to derail the HSAG's case but have yet to succeed.

The HSAG-legal team and management face several challenges. One such challenge is to keep the HSAG-members motivated and positive.

We can assure you that we are aware of the challenges the investors are dealing with on a daily basis and we are doing everything in our power to ensure that justice will be done. We, therefore, kindly request that you remain positive and on board in order to support your own case.

As an investor, you invested your hard-earned money in the HS-companies, and we therefore encourage you to keep your head and fighting spirit high in order to fight this battle together.

3. INTEREST PAYMENTS BY ORTHOTOUCH

During the past two weeks our offices have received several phone calls made from unhappy investors expressing their displeasure with regards to the late interest payments made by Orthotouch!

This proves, once again, that Orthotouch cannot be trusted to meet its obligations in terms of their own Court order.

The offices of Theron & Partners have been requested by numerous investors to take legal action against Orthotouch in order to ensure timeous payments.

Although the HSAG legal team has a full understanding of the difficult financial position Orthotouch has placed investors in, we want to establish that the lawyers acting on the behalf of the HSAG are in no way involved with any interest payments being made.

In previous Newsletters we have confirmed that the main aim of the HSAG is to approach the High Court of South Africa by way of an application for an order granting leave to the investors in HS15-22 to institute a Class Action/s against Mr Nic Georgiou, his sons, their entities and other Respondents for the recovery of damages and losses suffered by the investors as a consequence of the failed Highveld Syndication Companies 15 – 22 and related empire.

This still remains the main priority of the HSAG, especially since it has undoubtedly come to light that Mr Nic Georgiou and Orthotouch do not honour their agreements.

The two main matters in which the HSAG is currently involved, are the certification of the Class Action/s as well as the setting aside of the section 155 Scheme of Arrangement. This Scheme of Arrangement amongst others indemnifies Mr Nic Georgiou, his sons, their entities and other Respondents from personal liability by way of a court order.

The section 155 Scheme of Arrangement currently limits investors to recover their claims from Orthotouch, a property company which only own two adjacent properties. The Georgiou empire is completely excluded and absolved from liability. The purchase price of the two Orthotouch-properties was R 143 million, whereupon a mortgage of R 72 million was registered in favour of Accelerate Security S P V (Pty) Ltd. Consequentially, the remaining value is R 71 million which must be shared amongst every claimant. This sum represents only 0.01% of the value of the total claim for R 4.6 billion, claimed from Mr Nic Georgiou, his sons, their entities and other Respondents.

In the event that the section 155 Scheme of Arrangement is set aside, the Highveld Syndication Companies 15 – 22 will once again continue to be under business rescue; Mr Hans Klopper will be asked to resign, in the alternative an application will be instituted calling for the removal of the business rescue practitioner because the HSAG members believe that he is not acting in their best interests. If a new business rescue practitioner is appointed, he/she will be instructed to take the necessary steps in order to serve the best interest of the companies and the HSAG will continue with the application to have the Class Action certified.

Until such time as the section 155 Scheme of Arrangement is set aside, Mr Nic Georgiou/Orthotouch is obliged to make monthly interest payments and they are therefore not at liberty to summarily stop these payments.

We kindly request that you contact Orthotouch directly on 087 997 0545 or email them at admin@orthotouch.co.za for information on interest payments or to place a complaint.

4. DEBIT ORDER FACILITY

At the end of 2017, the HSAG-management has, after receiving numerous requests by investors who are in arrears with their costs and unable to make a once off annual payment, considered and decided to make available a debit order facility option to investors. This facility has been finalised and will shortly be activated for amounts owed by investors who are in arrears. The relevant investors will receive the necessary documentation and information regarding this facility in March 2018.

If you are (1) in arrears with your payments and (2) you are interested in concluding a monthly debit order, kindly email your full name, surname and ID number to hsagdebitorder@gmail.com.

After receipt of your email, the HSAG will send you the necessary documentation in order to activate the debit order facility. Kindly complete the documentation diligently and send same back to the HSAG via email, in order for the HSAG to activate your debit order facility.

5. USE OF CORRECT EMAIL ADDRESSES

It is of utmost importance that investors use the correct email addresses (as indicated on the website and emails) for all communication. Should an investor send an email to the wrong email address such correspondence might not be attended to ending up to be time consuming and costly.

Email addresses are as follows:

- hsactiongroup@gmail.com and hsagenquiries@gmail.com for all enquiries concerning the class action procedures.
- hsagregister@gmail.com for the registration of new members of the class action.
- hsagwhistle@gmail.com for all confidential information that you would like to send to us anonymously.
- hsagdebitorder@gmail.com for investors who want to make their contributions by way of debit orders.

You can also visit the FAQ/VGV section on our website for answers to frequently asked questions.

6. HSAG OFFICIAL WHATSAPP GROUPS

If you wish to receive news snippets via WhatsApp you are welcome to join one of the HSAG's official WhatsApp groups.

Investors who would like to join one of the HSAG's official WhatsApp groups, should kindly send their cell phone number, identification number, full names and surname via email to hsactiongroup@gmail.com.

You can also contact the WhatsApp groups on 079 635 4165 (Afrikaans) and 082 450 8854 (English).

The HSAG also has a Facebook page and can be viewed at www.facebook.com/hsaction.

7. HSBF SETTLEMENTS AND RECENT CORRESPONDENCE

Mr Nic Georgiou's HSIF, driven by Mr Helgard Hancke, is still attempting to persuade investors (notwithstanding numerous previous disappointments) to do business with Mr Nic Georgiou/Orthotouch.

It is reckless and unscrupulous of the HSIF, to continuously encourage investors to enter into a settlement with Orthotouch while Mr Hancke is fully aware of the fact that Orthotouch is struggling to make the monthly interest payments.

The HSAG would like to warn investors against doing any business with Orthotouch. The reason being, that Orthotouch already faces serious financial problems and have been placed under a financial Section 155 Scheme of Arrangement. This scheme is implemented in cases where a company *cannot* meet its obligations towards its creditors.

Technically the HS-investors are not creditors of Orthotouch and if Orthotouch were to be liquidated, the investors would not enjoy priority above other creditors. If investors settle with Orthotouch they will receive their pay-outs, if anything, last in the queue. We presume that the left-over money will be snapped up by liquidators and other persons and that there will be nothing left for the investors.

Mr Nic Georgiou is the wealthy man who sits with the investors' money, and if investors settle with Orthotouch, the settlement contract stipulates that Mr Georgiou, his family and his business empire is completely indemnified from all his/its obligations towards the investors. The HSAG is acting against Mr Georgiou personally, his family and Business Empire, and we have information at our disposal that Mr Georgiou is still in charge of the investors' millions. If investors sign away their rights against Mr Georgiou it will therefore have devastating consequences for them.

The promises made by Mr Helgard Hancke that the investors' rights are "protected" and that they would have received pay-outs as of April 2017, are empty promises. Nothing has come from these promises and the due dates and pay-outs are constantly postponed with poor excuses. This behaviour from Mr Hancke is similar to the occurrence where (at a time when Hancke was a member of the HSAG Steering Committee) he jumped ship and joined Mr Georgiou's team, whilst having a fiduciary duty towards HSAG and HSAG management.

The HSIF settlement with Mr Nic Georgiou/ Orthotouch could place investors in jeopardy with enormous consequences. There is no guarantee that pay-outs will eventually materialize and the chances of investors ever getting the agreed upon amounts are slim to none. In fact, it was communicated to us that investors who settled on 50% with Mr Nic Georgiou via Mr Helgard Hancke at the beginning of 2017, only received one payment and no further payments thereafter!

The HSAG is not against settlements with Mr Nic Georgiou/ Orthotouch, but will **only** settle if the best interests of the HSAG members are protected. Only if provision is made for the possibility that, in the event Mr Nic Georgiou/ Orthotouch does not honour the agreement, investors may proceed with the HSAG class action. This is not the case with the settlement offered by Hancke (HSIF) on behalf of Mr Nic Georgiou/ Orthotouch, because investors have **definitely** put their rights in danger by signing the current agreement.

The Georgiou propaganda machine, the HSIF, attempts to convince the investors that the court proceedings are "expensive and fruitless". Clearly the propagandists do not understand the concept of "the economy of scales". For example, in a recent case that

Mr Hancke lost, he had to pay 33 times more costs to the HSAG in comparison to the costs that a HSAG member has to contribute on a yearly basis!

The only aim of the abovementioned proganda is to persuade investors to refrain from claiming back their money from Mr Nic Georgiou and the other Respondents. The question is “why would HSAG members allow someone to walk away with their hard earned money?” It has recently come to light, in court documents, that Hancke is not afraid to lie under oath and is therefore not to be trusted. Hancke has, after all, negotiated and settled with Mr Georgiou in secret whilst still being a member of the HSAG management committee and thereby in effect betraying the HSAG.

The only persons trying to delay the Court process is Mr Nic Georgiou and his followers. Why are they spending the investors’ millions on litigation? The solution for Georgiou is simple: **Put your case before a court of law, and explain what has happened to the investors’ money!** Thus far, they have fought with everything in their power, in order to delay the class action. This has been pointed out by Judges Spilg, Murphy and Ismail in their strongly worded judgments. These judgments indicate that the HSIF’s allegations are without merit and there is no evidence to support it. These judgments and the lies fabricated by Hancke under oath are available on the HSAG website at www.hsaction.co.za.

There are definitive risks with regards to the HSIF’ settlement terms that investors need to be weary of:

- Investors that accept the settlement acknowledge the existence and legal consequences of the S155 Scheme of Arrangement, which scheme is in the process of being set aside. The investors’ offer to settle is irrevocable and can therefore not be withdrawn once signed.
- Another risk is that investors lose their claims immediately when signing the settlement agreement, because Orthotouch takes session of the investors’ shares. This means that if Orthotouch fails to pay the 55% capital in terms of the settlement agreement, the investors will not be able to rely on their rights as it has already been ceded to Orthotouch.
- This also means that these investors will not be able to rely on the support of the HSAG, should the signed settlement agreement not be complied with.
- Investors will, in addition, also not receive any interest from Orthotouch, even if Orthotouch fails to perform in terms of the settlement contract.
- Investors should also bear in mind that the HSIF has been threatening, for some time now, that Orthotouch might be liquidated in future, but at the same time a settlement with Orthotouch is being promoted. This begs for some serious questions as well as the fact that various investors are still not receiving their interest payments in terms of Option 1.
- The HSIF alleges in their letter that investors do not want to wait until 2024 to receive their pro rata capital in terms of option 1- This statement is misleading because it is general knowledge that Orthotouch struggles to make timely interest payments and that full payment will be made in 2024, is highly unlikely.
- Orthotouch has to date hereof not made full payment of the promised payments in March 2017 in terms of Option 2, and this *despite* a court order that must be complied with.
- It is ironic that the HSIF have stated that the interest payments to the investors that have *not* settled are one of the factors which influence the payment term,

when in fact some investors have not been receiving their interest payments even before this settlement offer has been made available - An inconsistency that Orthotouch still cannot address satisfactorily.

What impact will the promised payments in terms of the 55% settlement offer have on the investors who choose *not* to settle, and why should these investors be affected by a possible settlement in any event? In terms of the S 155 Scheme of Arrangement, Orthotouch is in any event obligated to pay interest to the investors and thus this aspect should not even be considered by Orthotouch in order to convince investors to settle! Orthotouch is bound by its own Court order, which it obtained in secret, and it cannot try to avoid that order now!

Why is Hancke emphasizing cash flow, when Mr Nic Georgiou already has possession of the investors' capital? Where has all the money gone, and why has only miniscule amounts thereof trickled back to investors in the form of interest? It is about time that Mr Nic Georgiou and Orthotouch open their books and explain what has happened to the investors' money. One aspect that Hancke never manages to explain to investors, is as follows: What has happened with the billions of rands that Georgiou took?

It seems that Orthotouch should indeed be worried about their healthy cash flow as emphasised on several occasions to execute the HSIF settlement.

Investors therefore have to ask themselves an important question, which is, whether Orthotouch is capable of honouring a settlement agreement, whilst being mindful of its apparent financial inability to meet its obligations under the current Scheme of Arrangement?

The HSAG members are again earnestly warned (and are advised to seek legal advice from their own lawyers) when doing business and negotiating with Mr Nic Georgiou/Orthotouch, as it can have a negative impact on their rights and is inherently risky.

The Hawks have recently been in contact with HSAG and confirmed that investigations are proceeding. It is clear that certain persons must tread lightly and will have to explain what has happened to the missing billions.

8. MEMBERSHIP CONTRIBUTIONS AND REGISTRATION COSTS

The life blood of the HSAG is the right of access to courts and the nominal yearly contributions by members and supporters. The HSAG's opponents, who sit with the investors' hard-earned millions, will do everything in their power to prevent a court from ordering the repayment of the investors' capital. Thus far the courts have decided on the merits in more than 15 applications (save for one case) in the HSAG's favour. The overwhelming indications are therefore that the investors are supporting a case which has merits in their favour.

From the very beginning the HSAG members have been informed that they would be expected to make yearly contributions depending on the cooperation and support from the prospective HSAG claimants.

Earlier this year the HSAG management decided that another requisition for costs and will commence in February 2018/ March 2018. An amount of R 2000 per person shall be payable (and not an amount per syndication as in 2016) and investors with more two or more syndications are accommodated.

The requisition will systematically be displayed on investors' statements. The first group of requisitions will commence in February 2018 and be reflected on the monthly statement. The second group of requisitions will be reflected on the monthly statements for March 2018.

From the end of February 2018 persons with a **total claim value** of R 50 000 or less together with a prior written request to Theron & Partners, will be exempted during 2018 from legal and administrative costs. Take notice: no registration-, administrative or legal costs will be repayable.

We can assure you that the membership contributions are allocated carefully and utilized wisely. All the funds with regards to the HSAG are paid in to a separate trust account and is allocated toward legal fees, expenses and administration of HSAG, representing approximately 7000 members.

This account, which was opened specifically for the HSAG, is audited by independent auditors. The HSAG legal team only charge fees as and when it becomes necessary and only after the necessary work has been completed.

It is of utmost importance that members make their payments timeously, and that they settle any outstanding accounts in order to enable the HSAG legal team to take the class action forward.

The HSIF continuously attempts to demotivate investors from contributing nominal amounts towards the class action, which in turn is claiming billions from Mr Nic Georgiou / Orthotouch. The HSIF furthermore states that the legal team of the HSAG has only been appointed in order fill their pockets. The fact of the matter is that the attorneys have only been fully paid for services rendered up until March 2015.

9. 2018 HSAG INFORMATION SESSIONS

The HSAG management reviewed the success of the information sessions as well as the costs thereof and arrived at the decision that possible information sessions will be held in 2018.

Keep an eye on our website for information relating to the 2018 HSAG information sessions. For obvious reasons, the costs relating to these sessions will play a significant roll where and when sessions will be held.

10. SURVEY MONKEY

In 2017 the HSAG started with quarterly questionnaires via Survey Monkey on the HSAG website amongst its members. These questionnaires have provided us with valuable insight into the needs of the investors, as well as establishing the investors' current opinion regarding the class action. The new set of Survey Monkey questions

will be available on our website at www.hsaction.co.za throughout the course of the first quarter of 2018. We kindly invite you to complete the current questionnaire, if you have not already done so, and to also complete the new questionnaire as soon as it is made available on the website.

11. COSTS

From the very beginning in 2014 the HSAG members have been informed that they would be expected to make yearly contributions depending on the cooperation and support from the prospective HSAG claimants. In 2016 the first cost requisition was made and has since been made annually. Fortunately, the vast majority of members understand that this case is being driven on behalf of and for the benefit of the investors. Unfortunately, there are some investors that cannot and / or will not make contributions towards this case, which in turn places a financial burden on the other investors, and especially the legal team. Due to the number of members who have not paid their contributions timeously, there had to be trust requisitions on a more frequent basis. Fortunately, the HSAG has been able to keep cost requisitions nominal.

Registration, administration and legal costs will be payable from time to time and is not repayable.

The management has decided that the costs for 2018 will once more be R 2000 per person and the latest trust requisition will appear on your statement from date hereof within the next two months.

12. THE CURRENT STATE OF AFFAIRS

As mentioned in the January Newsletter, the Supreme Court of Appeal in Bloemfontein has to adjudicate an extremely important legal question in 2018, namely whether a nominal applicant (an individual investor who is a mere “placeholder” for thousands of other investors) in a class action, can bring an application to withdraw both the application to certify the class action, as well as the application to have Orthotouch’s Scheme of Arrangement set aside.

We confirm that our opponents have served the court record on our correspondents in Pretoria and Johannesburg. In terms of the Rules of the Supreme Court of Appeal, the Appellants are now obliged to hand in their heads of arguments within the prescribed time period, where after the legal representatives of the HSAG will have the opportunity to hand in the same.

You will recall that both Judges in Johannesburg and Pretoria confirmed that the Registrar of the SCA can be approached to allocate an expedited appeal date when a normal appeal process could cause the Class Action to be delayed unnecessarily.

Our offices have sent a letter on 12 February 2018 addressed to the Registrar of the SCA urgently requesting guidelines with regards to the acceleration of the process that should be followed in the future. A similar letter was sent to the Judge President of the SCA on 22 February 2018.

13. LATE APPLICATIONS FOR REGISTRATION WITH THE HSAG

Late applications shall be considered strictly on an *ad hoc* basis. Registration forms are available on our website at www.hsaction.co.za or can be requested from us at hsagregister@gmail.com. All requests and completed registration forms must be sent to hsagregister@gmail.com.

14. STATEMENT FOR PARTICIPATION IN THE HSAG

Please find attached your statement for contribution in the HSAG.

Kindly take note of the following:

1. If no trust requisition regarding registration, legal or administration costs or a credit appears on your statement, it means that you are in a group which has not yet been processed and/or allocated and will the amount only reflect on a later statement.
2. The requested amount for 2016 legal costs was R1 000 per syndication.
3. In May 2017 a further requisition for a contribution towards legal and administration costs of R2 000 per person was made, and a similar trust requisition will most likely follow in 2018.
4. A once-off registration fee of R1 000 per syndication was also levied and should also be reflected on your statement.
5. In February 2018/ March 2018 there will be a further requisition of R 2000 per person towards legal and administrative costs.
6. If a credit balance appears on your statement, it confirms that you are a registered member, but we have not received your completed application form. Kindly download same from our website or request same from hsagregister@gmail.com
7. Please be advised that the information on our records was gathered from the application forms.
 - a. If your application form is faulty, vague or incomplete, there is a possibility that you may not receive statements or emails from us.
 - b. Kindly complete the HSAG Questionnaire via Survey Monkey that is posted on our website from time to time, in order to update your information, or send an email to hsagregister@gmail.com
8. Please click on the **email link** at the bottom of the newsletter to enter the "Customer Zone" where you will see all your trust requisitions for registration and legal costs, as well as all payments made.
9. Due to the continuous high volume of enquiries, registrations, the amendment of personal information and allocations, it is possible that your payment/s and / or registration/s will not yet appear on the attached statement but rather on a later statement. Please ensure that your information is correct.
10. Automated statements will be sent out from time to time (usually monthly), but your link to the "Customer Zone" will stay active and you may therefore view your future payments and transactions as they are being allocated.

11. If there are any outstanding amounts with reference to your registration and / or legal costs, you are kindly requested to pay such outstanding balances as soon as possible to prevent unnecessary administration and/or further costs, and also to prevent such members' membership from being suspended from the HSAG.
12. Registration surcharges are payable on all new and arrear (90 days and older) registrations. Registration costs currently amount to R1 500 per syndication and, if further registrations are allowed beyond the deadline, it is probable that there will be a further requisition for registration costs per syndication for new registrations, in order to relieve the financial contributions made by our current HSAG members.
13. Participation in the HSAG is entirely voluntarily, however, persons that do not belong to the HSAG or who are not up to date with their requested payments, will not be able to claim any rights or privileges that faithful members of the HSAG can. Persons who persistently refuse or neglect to pay their membership contributions will have their membership suspended.
14. We thank you for your loyal support, without which the HSAG and class action would not have been possible.
15. At the same time, you can be certain of our undivided loyal support to the members and associates of the HSAG.
16. All enquiries must be sent to hsagenquiries@gmail.com.

Kind regards

HSAG Steering Committee

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