

*\*ENGLISH TEXT BELOW\**

## MAANDELIKSE NUUSBRIEF: APRIL 2019

Hierdie nuusbrief word aan u gerig as lid van die Hoëveld Sindikasie Aksiegroep (“HSAG”) op grond van u belegging in die Highveld Sindikasiemaatskappy 15-22 en/of u ondersteuning van die HSAG.

Hierdie e-pos is vertroulik en uitsluitlik vir die geadresseerde bedoel. As u dit per ongeluk / verkeerdelik ontvang het, stel asseblief die versender by [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) onmiddellik hiervan in kennis en vernietig dit. U mag nie 'n e-pos, of enige deel daarvan, wat foutiewelik ontvang aan enigiemand anders stuur, kopieer of openbaar nie. HSAG se webmeester gebruik antivirusprogrammatuur om virusse en ander kwaadwillige kodes te voorkom. Hierdie sagteware kan egter nie so 'n kode voorkom of uitwis nie. Die HSAG of sy verteenwoordigers sal nie aanspreeklik wees vir enige verlies of skade wat voortspruit uit ontvangs of gebruik van hierdie e-pos of andersins, of dit voortspruit uit die nalatigheid van HSAG, sy lede, bestuurskomitee en agente of andersins nie.

Alhoewel e-posse, HSAG Nuusflitse en HSAG Inligtingsbrokkies van tyd tot tyd uitgestuur word, is die [www.hsaction.co.za](http://www.hsaction.co.za) webtuiste die primêre plek waar u HSAG inligting, onderhewig aan die vrywaring daarin vervat (en ook hierop van toepassing) kan bekom.

Die verpligting rus op u as HSAG lid om ons op hoogte van enige veranderinge van u persoonlike en/of kontakbesonderhede.

Neem kennis dat, weens die talle vakansiedae in April, sommige lede-bydraes moontlik nie op die jongste staat verskyn nie, maar dat die allokasies wél so spoedig moontlik sal geskied. Indien u bydrae nie op u staat verskyn nie, is u welkom om die HSAG se regspan se kantore te kontak ten einde die bogenoemde reg te stel.

### **1. WAT GELD VIR DIE EEN, GELD VIR DIE ANDER!**

Die aap is uit die mou en die HSAG-bestuur het 'n tyd gelede by drie onafhanklike bronne betroubaar verneem dat Mnr. Nic Georgiou die 46-Applikante in die HS sindikasie sake teen hom en ander (die De Lange-saak) se eise (insluitend rente en regskostes) ten volle geskik het.

Soos te wagte, is die terme en voorwaardes van bogenoemde skikkings, op spesifieke aandrang en versoek van Mnr. Georgiou, egter uiters vertroulik en mag dit nie in die algemene domein openbaar word nie.

Mnr. Georgiou se prokureurs het verder onlangs teenoor die HSAG prokureurs skriftelik bevestig dat die beslissing waarop die De Lange applikante gesteun het en tot in die Hoogste Hof van Appèl (“HHA”) op die meriete gelyk gegee was, intussen tersyde gestel is. HSAG-lede hoef weinige verbeelding te gebruik om te aanvaar dat een van die voorwaardes, wat duidelik deel is van die skikkingsooreenkoms,

voorsiening daarvoor sou maak dat Mnr. Georgiou / Orthotouch die Hiemstra-uitspraak (wat bepaal dat die destydse Sakereddingsplan en die Art 155 Reëlinskema (“Skema”) nie ‘n effek op die Terugkoopklousule van HS 21 & 22 het nie) tersyde gestel kan word.

Dit is gevolglik, niestandaard sodanige skikking waaraan die HSAG nie gebonde is nie, uitstekende nuus vir die HSAG lede ten aansien van hul meriete, wat in elk geval deur die HHA bekragtig is.

Die feit dat bogenoemde uitspraak tersyde gestel is, gaan gevolglik nie die HSAG se planne en voornemens van die baan bring nie aangesien die tersydestelling duidelik nie gebring was op die meriete van die saak (ten tye van die toestaan van die Hiemstra uitspraak) nie, welke meriete dieselfde is as die HSAG se meriete. Niestandaard skriftelike versoek weke gelede deur die HSAG se prokureurs aan Mnr. Georgiou se prokureurs, is geen van die hofstukke in gemelde tersydestelling ontvang nie en is die afleiding dus onafwendbaar negatief teen Mnr. Georgiou, wie kwansuis nie daarby betrokke was nie.

Die 46 Applikante het, ongelukkig met geweldige hoë regskostes, uiteindelik geslaag in hul jarelange stryd om te veg vir wat hul toekom en die HSAG verleen erkenning daarvoor.

Die feit dat Mnr. Georgiou / Orthotouch na al die jare se baklei letterlik geen ander keuse of uitweg gehad het as om handdoek in te gooi nie, is verseker vir die HSAG goeie nuus.

Dit is net weereens ‘n aanwyser dat die HSAG met die regstryd moet voortgaan, asook met die voorgestelde aksies teen Mnr. Georgiou/Orthotouch, ten einde die saak suksesvol namens die HSAG-beleggers te voer!

Ons nooi u dus opnuut weer uit om met u ondersteuning die HSAG se hande te vat, ten einde te veg vir dit wat u toekom. Dit is immers u saak waarvoor daar geveg word.

U kan terselfdertyd staatmaak op die HSAG en sy regspan, solank as wat hulle daartoe in staat is, se onvoorwaardelike en voortgesette ondersteuning!

## **2. HUIDIGE STAND VAN SAKE**

### **2.1 Versnelde Sertifikasie Aansoek (HS 21 & 22)**

Die HSAG-regspan het reeds gedurende 2018 ‘n Aansoek vir die Sertifisering van ‘n klas-aksie ten opsigte van HS 21 & 22 op Mnr. Georgiou/Orthotouch en ander Respondente beteken waarin die HSAG die Hof vra dat sodanige Sertifikaat toegestaan moet word.

Bogenoemde Aansoek word in twee dele aangehoor:

- **Gedeelte A** – Die HSAG en Mnr. Georgiou/Orthotouch se regspanne het by aanvang van die Sertifikasie Aansoek in Pretoria ooreengekom dat Mnr. Georgiou se Opponerende Verklarings in die Sertifiserings Aansoek eers na

afloop die Tersydestellings Aansoek in Johannesburg geliasseer moet word. 'n Hofbevel, wat effek gee aan bogenoemde is derhalwe op versoek van Mnr. Georgiou se regsman deur die Hooggeregshof in Pretoria op 27 Mei 2015 toegestaan. Die HSAG se regsman het destyds besluit om dit nie teen te staan nie.

Intussen het daar egter heelwat plaasgevind en verál in die lig van standpunte gehuldig deur die HHA het die HSAG se regsman geadviseer dat, verál in lig van aanmoediging deur sy lede en die lang tydsverloop, om in Gedeelte A van die Aansoek vir die Hooggeregshof te vra om die Hofbevel te wysig ten einde die Respondente te verplig om Opponerende Verklaring(s) ten aansien van die Aansoek vir Sertifisering te beteken en te liasseer.

Indien Gedeelte A van die Aansoek toegestaan word, sal die Respondente verplig wees om Opponerende Verklaring(s) te liasseer in antwoord op die HSAG se Aansoek vir Sertifisering vir HS 21 & 22.

- **Gedeelte B** – Waar die HSAG die Aansoek bring vir die Sertifisering van 'n klas-aksie vir HS 21 & 22.

Sukses in voormelde sake sal ongetwyfeld ook tot voordeel van die ander HSAG lede wees, omdat 'n Hof dan oor die meriete van die sake tussen die HSAG en Mnr. Georgiou en ander sal beslis wat op sy beurt weer momentum aan die HSAG en sy lede sal gee.

Die Saakbestuurder in die Hooggeregshof, Pretoria, Regter Tolmay, het aangedui dat sy bereid is om "Gedeelte A" van die Aansoek op **29 April 2019** aan te hoor.

Beide die HSAG en Mnr. Georgiou se advokate het intussen aangedui dat hulle beskikbaar is op die voorgestelde datum, en is die HSAG dus van voorneme om voort te gaan op 29 April 2019.

Die HSAG bevestig egter dat slegs "Gedeelte A" op 29 April 2019 aangehoor sal word.

Die HSAG-Bestuur en regsman is steeds positief oor die saak en wil weer hul onderneming gee dat hulle alles in hul vermoë sal doen om seker te maak dat die HSAG lede se sake voor 'n geregshof sal dien ten einde te verseker dat reg en geregtigheid geskied. U finansiële ondersteuning is egter van kardinale belang om te verseker dat die HSAG die bes moontlike regsverteenvoering kan hê.

Die Kennisgewing van Mosie, asook die verklaring ter ondersteuning van die Kennisgewing van Mosie, is op die HSAG se webblad by [www.hsaction.co.za](http://www.hsaction.co.za) geplaas en ons nooi u uit om dit deur te lees. Soos te wagte het Mnr. Georgiou een hofdag voor die aanhoor van die saak 'n aansoek gebring, ooglopend met die hoop dat die saak uitgestel sal word, maar sal dit nie toegelaat word nie.

## **2.2 Beleggers met eise in HS 15 tot 20**

Soos hierbo gemeld is eise in ander HS-maatskappye glad nie verlore of in gedrang nie en die HSAG gaan nog steeds voort met stappe ten einde die beleggers se eise

af te dwing. Tydsberekening asook die finansiële ondersteuning deur al die HSAG lede is egter van kardinale belang om sukses te behaal.

Al is die partye dieselfde, berus die eisoorake van HS 15 tot 20 breedweg op ander feite, omstandighede en regsbeginnels. Byvoorbeeld, onder andere ook bedrog en wanvoorstellings, en is die roete wat met hierdie eise gevolg moet word gevolglik anders as in die kontraktuele eise van HS 21 & 22.

Beleggers in HS 19 tot 20 se eise is reeds ingestel deur middel van die Sertifikasie-Aansoek en stuit hierdie aansoek die verjaring van eise. Persone wat buite die HSAG val loop egter 'n ernstige risiko dat hul eise straks deur 'n verweer van verjaring deur Mnr. Georgiou en andere begroet mag word.

Dit was nog nie nodig om beleggers in HS 15 tot 18 se eise in te stel deur middel van die Sertifikasie-Aansoek nie aangesien verjaring, op advies van ons advokatuur, ten aansien van HS 15 tot 18 nog nie ter sprake is nie. Daarbenewens is die regskostes om individueel op te tree, eksponensiëel hoër en kan letterlik honderde duisende rande of meer per saak beloop.

Sou beleggers ingevolge die Sakereddingsplan veronderstel gewees het om op 15 Desember 2016 hul kapitaal te ontvang, sal blote verjaring op daardie eise (sonder inagneming van enige ander faktore) eers op 15 Desember 2019 geskied.

Die Sertifikasie-Aansoek ten aansien van HS 15 tot 18 sal derhalwe uitgereik en beteken word sodra die HSAG se advokatuur adviseer dat dieselfde gedoen word ten einde onnodige kostes te bespaar. Die HSAG bepaal dus sy prioriteite en werk sistematies daarvolgens.

Alhoewel die HSAG steeds van voorneme is om die Skema tersyde te stel, is Orthotouch in terme van die Skema verplig om maandelikse rente aan HS-beleggers te betaal, minstens tot tyd en wyl gemelde skema tersyde gestel word, al dan nie. Orthotouch, onder die alleen leiding van Mnr. Nic Georgiou, is dus tans besig om sy eie reëlinskema, soos gesanksioneer deur die Hooggeregshof, te minag.

Volgens Orthotouch se webblad is Mnr. Hans Klopper steeds 'n Nie-Uitvoerende Direkteur van Orthotouch maar die HSAG het op goeie gesag verneem dat Mnr. Hans Klopper bedank het as direkteur (en straks ook Mnr. Connie Myburgh). Mnr. Klopper verkondig sy bedanking wyd en syd.

### **2.3 Aansoek om Tussenbeidetrede**

Soos voorheen berig, het 'n voormalige HSAG-lid en HS-belegger, 'n pensioenaris, ene mev. Magdalena Gerbrecht Van der Sandt ("Van der Sandt"), onlangs kennis gegee dat sy van voorneme is om tussenbeide te tree in die Aansoek vir die Tersydestelling van die Reëlinskema (welke aansoek deur die HSAG gevoer word).

Die HSAG se regspan het na konsultasie met hul advokatuur, waartydens die regsposisie van die HSAG ten opsigte van die aansoek van mev. Van der Sandt oorweeg is, egter besluit om nie die aansoek te opponer nie.

Die HSAG regsplan het egter wel 'n Eedsverklaring geliasseer in antwoord op Van der Sandt se eedsverklaring, welke verklaring, wat duidelik nie binne haar kennis kon val nie, deurtrek is met onwaarhede en lasterlike bewerings. Van der Sandt het byvoorbeeld in haar eedsverklaring aangedui dat sy Opsie 2 in die Skema gekies het, welke opsie al in April 2017 uitbetaal het, maar nou aandrang op volle betaling van haar kapitaal en rente. Daarby het sy gesteun op 'n magdom van nuusbriewe wat sy bekom het, nádat sy aangedui het dat sy wil onttrek vanaf die HSAG en nie meer haar ledegelde sedert 2016 betaal het nie. Hierdie skandalige optrede was daardeur versterk dat sy 'n lys van huidige (en voormalige) HSAG-lede by haar hofstukke aangeheg het wat kwansuis daarop sou dui dat gemelde persone vanaf die HSAG sou onttrek het.

Die HSAG hou sy lede se inligting en besonderhede vertroulik en het nie aan haar versoeke om sy lede se identiteit te openbaar, gehoor gegee nie. Dit was duidelik 'n poging van Mnr. Georgiou en sy ondersteuners om vas te stel wie die HSAG se gewaardeerde lede is, bloot om hulle later met mooi beloftes af te rokkel.

Die HSAG is, nieteenstaande die formele onttrekking van 158 lede, tans sterker as voorheen en staan die geregistreerde getal HSAG-lede volgens die hofstukke op 6 817 teenoor 'n vorige getal van 6 688. 'n Verdere drie persent HSAG-lede het informeel aangedui dat hulle wil onttrek, of oorweeg om te onttrek, 'n groot aantal hoofsaaklik weens die onbehoorlike druk wat deur Mnr. Georgiou en sy trawante op hul geplaas word. Geeneen het egter die vereiste eedsverklaring voltooi nie. Die HSAG wil weereens, soos voorheen male sonder tal, beklemtoon dat sy lidmaatskap algeheel vrywillig is.

Ons bevestig gevolglik dat die Hooggeregshof in Johannesburg op 15 April 2019 verlof aan Van der Sandt gegee het om tussenbeide te tree in die Aansoek vir die Tersydestelling van die Art 155 Reëlinskema.

Die HSAG regsplan wil HSAG-lede gerusstel dat bogenoemde toetrede geen daadwerklike effek op die HSAG se saak en die verloop het nie.

Aangesien Van der Sandt nou 'n party tot die litigasie is, sal sy voortaan moet antwoord op toekomstige hofstukke en bestaan die wesenlike gevaar ook dat sy 'n kostebevel teen haar kan kry indien sy onsuksesvol sou wees in haar opponering van die Tersydestelling van die Reëlinskema.

### **3. OPVRAGING VIR BYDRAE TOT REGS- EN ADMINISTRASIEKOSTE – 2019**

Die jaarlikse bydrae tot regs- en administrasiekoste wat gehef word bly sedert 2017 onveranderd in 'n bedrag van R2 000.00 per persoon ongeag die hoeveelheid sindikasies waarin 'n persoon belê het. Daarby is daar sedert 2016 kwytskeldings vir beleggers met kleiner eise.

Die jaarlikse bedrag het, nieteenstaande die geweldige prysstygings die afgelope drie jaar, onveranderd gebly. Die HSAG en sy regsvertegenwoordigers doen alles in hul vermoë om die saak so bekostigbaar moontlik te doen. Indien BTW, bankkoste en ander kostes afgetrek word, is die netto bedrag veel minder en is die gemoedsrus

waarvoor die HSAG beleggers betaal om te veg vir 100% van hul eise, plus rente en koste, uiteindelik minder as R 5.00 per dag. Die gemiddelde eise per persoon beloop ongeveer R250 000.

Die HSAG oorweeg deurgaans watter regsverteenvoordinging verkry moet word in die Hofsake met aanverwante sake en, alhoewel ons senior advokaat betrokke was by die opstel en skikking van die hofstukke eersdaags voor die Hooggeregshof, is die moontlikheid of 'n senior advokaat met gepaardgaande kostes by aanhoor van Gedeelte A betrek moet word, hoofsaaklik onderhewig aan die finansiële ondersteuning wat van HSAG lede ontvang word.

Ons versoek u dus vriendelik om so spoedig as moontlik toe te sien dat u bydrae tot regs-en administrasiekoste op datum gebring en/of betaal word, word ten einde die bes moontlike regsverteenvoordinging vir die HSAG sake te verseker.

#### **4. ALGEMENE BOEDEL NAVRAE**

Indien u algemene boedelnavrae het met betrekking tot boedels en die eise van HSAG-lede, is u welkom om 'n e-pos te stuur na [hsagestates@gmail.com](mailto:hsagestates@gmail.com) waarna die HSAG u sal bystaan.

#### **5. LAAT- AANSOEKE VIR REGISTRASIE BY DIE HSAG**

Laat-aansoeke sal op 'n streng ad hoc basis oorweeg word. Die registrasievorms is op die webtuiste by [www.hsaction.co.za](http://www.hsaction.co.za) beskikbaar of in die alternatief kan u 'n e-pos na [hsagregister@gmail.com](mailto:hsagregister@gmail.com) stuur om 'n registrasievorm te versoek. Alle versoeke en voltooide registrasievorms moet gestuur word aan [hsagregister@gmail.com](mailto:hsagregister@gmail.com).

#### **6. OPSKORTING VAN HSAG-LIDMAATSKAP**

Die HSAG-Bestuur het tydens 'n vorige vergadering besluit, welke besluit verwelkom was deur baie van die opbetaalde HSAG-lede, dat HSAG-lede wie nie hul **2014 / 2015 registrasiekoste** vóór of op **31 Desember 2018** op datum bring nie, se lidmaatskap aan die HSAG ongelukkig opgeskort word. Hierdie is 'n proses wat oor tyd sal geskied en sal sodanige persone mettertyd daarvan in kennis gestel word. Indien enigeen wat in hierdie kategorie val sy lidmaatskap wil behou, moet hulle dringend met die HSAG prokureurs by [hsagregister@gmail.com](mailto:hsagregister@gmail.com) in verbinding tree.

Ons bevestig dat indien sodanige lede se lidmaatskap opgeskort is, hulle nie sondermeer geregtig sal wees op enige voordele van die HSAG suksesse nie.

'n E-pos, waarin die opskorting van lidmaatskap bevestig word, sal aan diegene wie se lidmaatskap opgeskort is gestuur word ten einde die opskorting te bevestig. Hierdie proses sal deurlopend geskied gedurende 2019.

Die gevolge van hierdie opskorting is verreikend, en beteken dit ondermeer dat daardie HSAG-belegger se eis teen Orthotouch/ Mnr. Georgiou straks verjaar het. In die huidige bedeling van die klas-aksie aansoek kan dit ook beteken dat diegene wie se lidmaatskap opgeskort is, nie weer sal deel vorm van die HSAG klas-aksie nie en is dit ook moontlik dat hul van die HSAG se databasis en e-pos adreslys verwyder word.

**LET WEL: Lede wie op die e-poslys is, kan spesiaal versoek dat hul name behou word en hul agterstallige betalings op datum bring.**

## **7. GEBRUIK VAN KORREKTE E-POS ADRESSE EN VERWYSINGS**

**Die korrekte gebruik van e-pos adresse (soos vervat op ons webtuiste en e-posse) asook HSAG lede se voorletters en van, sindikasiennommers en verwysingsnommers (bv. identiteitsnommer ens.) vir alle kommunikasie, is uiters noodsaaklik en verpligtend.**

Die amptelike en bestaande e-pos adresse vir die HSAG, is as volg:

- [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) vir alle Algemene Navrae (Byvoorbeeld – selfoon of adres veranderinge, betalingsbewyse, kennis van lede wie gesterf het, ensovoorts);
- [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) vir Spesifieke Navrae (Byvoorbeeld – navrae rakende besonderhede van 'n spesifieke belegger, navrae rakende kwytstelling van 'n spesifieke belegger, ensovoorts);
- [hsagregister@gmail.com](mailto:hsagregister@gmail.com) vir die Registrasie en Deregistrasie van HSAG- lede;
- [hsagwhistle@gmail.com](mailto:hsagwhistle@gmail.com) vir alle Vertroulike Inligting wat anoniem aan ons gestuur moet word;
- [hsagestates@gmail.com](mailto:hsagestates@gmail.com) vir alle Boedel navrae.

**Indien 'n belegger of enige persoon 'n epos na die verkeerde adres sou stuur sal dit daartoe lei dat daardie e-pos nie spoedig of enigsins die nodige aandag geniet nie.**

**Indien u nie verder enige verdere e-posse wil ontvang nie, stel ons ook asseblief skriftelik in kennis daarvan.**

## **8. HSAG SE AMPTELIKE WHATSAPP-GROEPE**

Dit is 'n groot uitdaging om spoedige kennisgewings, nuusbrokkies of belangrike boodskappe aan bykans 7 000 individue oor te dra.

Ons versoek dus HSAG-lede om aan te sluit by die HSAG se amptelike WhatsApp-groepe om kennisgewings, nuusbrokkies of nuusflitse per WhatsApp te kan ontvang.

Deur by een van die HSAG se amptelike WhatsApp-groepe aan te sluit sal u gereeld op hoogte gehou word van die nuutste verwickelinge met betrekking tot u saak.

Stuur bloot u Selfoonnommer; Identiteitsnommer; Volle Naam en Van, na [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) waarna u op die groepe gelaai sal word.

Direkte kontak kan ook gemaak word met die Administrateurs van die onderskeie WhatsApp-groepe by 079 635 4165 (Afrikaans) en 082 450 8854 (Engels).

Die HSAG het ook 'n amptelike facebook-blad, en kan by [www.facebook.com/hsaction](https://www.facebook.com/hsaction) besigtig, ge-“like” en kommentaar op gelewer word.

## **9. LEDE BYDRAES EN REGISTRASIEKOSTE**

**Ignoreer asseblief hierdie punt indien u registrasie- en regskostes reeds ten volle vereffen is.**

Dit is van uiterste belang dat enige uitstaande registrasie- en regskostes, waarvan sommige s lank gelede as 2014 reeds uitstaande is, so spoedig moontlik op datum gebring moet word. Bykans vier jaar sedert die totstandkoming van die HSAG is dit uiters onbillik teenoor getroue lede van die HSAG dat persone wie regsverteenvoordiging verlang in 'n saak waar die gemiddelde eisbedrag R250 000.00 is, nie bereid of gewillig is om die nominale bydrae vir registrasie en/of regskostes te betaal nie.

Let asseblief op die volgende:

- i. 'n Eenmalige registrasiekoste van R1 000 **per sindikasie** was gehef tot Oktober 2015 en daarna is dit verhoog na R1 500 **per sindikasie** en behoort so op u staat te verskyn
- ii. Die aangevraagde opvraging vir 2016-regskoste was R1 000 **per sindikasie**;
- iii. In Mei 2017 was 'n verdere opvraging vir bydrae tot regs- en administrasiekoste van R2 000 **per persoon** gemaak;
- iv. In Februarie 2018/Maart 2018 was 'n verdere opvraging tot regs- en administrasiekoste van R2 000 **per persoon** gemaak;
- v. In November 2018/Desember 2018 is daar 'n spesiale opvraging tot regs- en administrasiekoste vir HSAG-lede wie in HS 21 & 22 bel  het van R500 **per persoon** gemaak word;
- vi. In Februarie 2019 is 'n verdere opvraging tot regs- en administrasiekoste van R2 000 **per persoon** gemaak word;
- vii. Indien daar enige uitstaande bedrae is, word u vriendelik versoek om dit so spoedig moontlik te betaal ten einde onnodige administrasie en/of verdere kostes te verhoed. Sodanige lede wie se registrasiekostes steeds agterstallig is, loop die gevaar dat hul lidmaatskap by die HSAG opgeskort gaan word;
- viii. Registrasieheffings is betaalbaar op alle nuwe en agterstallige (90 dae en ouer) registrasies. Registrasiekoste beloop tans R1 500,00 per sindikasie en, indien latere registrasies toegelaat word, mag daar 'n verdere heffing vir



- registrasiekoste per sindikasie vir alle nuwe registrasies gehef word ten einde finansiële bydraes deur huidige HSAG-lede te verlig;
- ix. Van die einde van Februarie 2019 word persone wie se bydraes op datum betaal is met 'n totale eiswaarde wat R60 000,00 of minder tesame met 'n skriftelike versoek aan Theron & Vennote, kwytgeskeld van die 2019 administratiewe- en regs-kostes.
  - x. Kwytskelding geskied jaarliks en **is nie van toepassing nie** op vorige jare se registrasie / administrasie / regs-kostes / agterstallige fooie en die spesiale opvraging vir HS 21 & 22 lede nie en is steeds betaalbaar.
  - xi. **Geen registrasie, administratiewe of regsfooie is terugbetaalbaar nie.**

Die HSAG geniet die beskerming van 'n regsplan wat bestaan uit prokureurs, junior en senior advokate wat reeds 'n vêr pad gestap het om voornemende eisers onder die sambreel van die HSAG te beskerm. In die lig van die feit dat die HSAG nou voortgaan met die sertifisering van 'n klas-aksie en die proses wat nou gevolg gaan word ten einde die Art 155-Reëlinskema tersyde te stel, versoek ons dat al die HSAG-lede hul kant te bring ten einde die aangeleentheid suksesvol af te handel. Almal se samewerking word vereis.

## **10. STAAT VIR DEELNAME AAN DIE HSAG**

Die HSAG en hul prokureurs, Theron & Vennote, wil u graag bedank vir u volgehoue en lojale ondersteuning aan die HSAG. Die HSAG-saak behoort aan elke individuele belegger, daarom wil ons u versoek om u eie saak te ondersteun ten einde die nagenoeg R4.6 miljard van Orthotouch en andere te eis.

Vind asseblief hiertoe aangeheg u bydraestaat vir u deelname aan die HSAG, let asseblief op die volgende:

- i. Indien geen opvraging ten aansien van registrasie-, regs- of administrasiekoste of 'n krediet op u staat verskyn nie, beteken dit dat u waarskynlik in 'n groep val wat nie geprosesseer en / of geallokeer is nie, en sal dit, indien dit onder ons aandag kom of gebring word, op 'n latere staat verskyn;
- ii. Indien 'n staat 'n kredietbedrag toon, is u 'n geregistreerde lid van die HSAG, maar het ons nog nie u voltooide aansoekvorm ontvang nie. Geliewe die aansoekvorm af te laai vanaf ons webwerf, of rig 'n versoek aan ons daarvoor per e-pos by [hsagregister@gmail.com](mailto:hsagregister@gmail.com)
- iii. Die HSAG-beleggers se inligting wat gebruik word was aanvanklik verkry vanaf die aansoekvorms wat HSAG-lede ingevul het. Indien u aansoekvorm gevolglik foutief, onduidelik of onvolledig is, sal u moontlik geen state of e-posse ontvang nie
- iv. Die verpligting rus op u as belegger om ons op hoogte van enige veranderinge van u persoonlike en/of kontakbesonderhede deur in te skakel of om 'n e-pos te stuur na [hsagregister@gmail.com](mailto:hsagregister@gmail.com)
- v. Weens die voortdurende groot hoeveelheid navrae, registrasies, wysigings van persoonlike besonderhede en allokasies, is dit moontlik dat sommige betalings

en/of registrasies nie op die aangehegte Staat sal verskyn nie, maar eers op 'n latere Staat.

- vi. Kliek asseblief op die skakel om na die "Customer Zone" te gaan waar u die opvragings vir registrasie-, reghskostes en u betalings kan sien, geoutomatiseerde state word van tyd tot tyd (gewoonlik gedurende 'n maand) uitgestuur word, maar u skakel na die "Customer Zone" sal deurentyd aktief bly en u kan ter enige tyd u betalings en transaksies daarop sien, soos wat dit geallokeer word.

**Vriendelike groete**

**HSAG-Bestuurskomitee**

Kontak die HSAG en prokureurs by:

Tel: (021) 887 7877

[hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com)

\*AFRIKAANS HIERBO\*

## MONTHLY NEWSLETTER: APRIL 2019

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.

This email is confidential and is exclusively meant for the addressee. If you have received it in error/ wrongly, please notify the sender immediately at [hsequiries@gmail.com](mailto:hsequiries@gmail.com) and delete it. You may not copy, disclose or deliver any email received in error or any part of it to anyone else. HSAG’s webmaster uses antivirus software to prevent viruses and other malicious code. However, such software cannot prevent or eradicate all such code. The HSAG or its representatives will not be liable for any loss, harm or damage whatsoever arising from receipt or use of this email or otherwise, whether arising through negligence of the HSAG, its members, steering committee, agents or otherwise.

The [www.hsaction.co.za](http://www.hsaction.co.za) website is the primary place where you will find HSAG information, subject to the disclaimer contained therein (and also applicable hereto), although emails are also sent out from time to time.

The obligation to keep us up to date of any changes to your personal and/or contact details rests on you as HSAG member.

Take notice that, as a result of the numerous public holidays in April, some members’ recent contributions may not reflect on their latest statement and that such allocations will be attended to. In the event that your contribution is not reflected on your statement, feel free to contact our legal advisors’ offices in order to attend to same.

### **1. WHAT’S GOOD FOR THE GOOSE IS GOOD FOR THE GANDER!**

The cat is out of the bag and the HSAG was informed confidentially a while ago by three independent sources that Mr. Nic Georgiou settled the claims of the 46 Applicants in the HS syndication cases against him and others (the De-Lange case) in full (including interest and legal costs).

As expected, the terms and conditions of the above settlement is, under specific insistence and request by Mr. Georgiou, kept strictly confidential and it may not be revealed to the general public domain.

Furthermore, Mr. Georgiou’s attorneys recently confirmed in writing to the HSAG legal team that the decision on which the De Lange Applicants relied, which was given equal in the Supreme Court of Appeal (“SCA”) on merits, has in the meantime been set aside. HSAG members require the use of little imagination to accept that one of the conditions, which is clearly part of the settlement agreement, provides that Mr Georgiou / Orthoutouch may set aside the Hiemstra J judgement (which judgement determined that the then Business Rescue Plan and Sec 155 Scheme of

Arrangement (“SOA”) does not have an effect on the Buy-Back clause of HS 21 & 22).

It is consequently, notwithstanding such settlement which the HSAG is not bound by, outstanding news for the HSAG members in relation to their merits, which are in any event ratified by the SCA.

The fact that the above judgement is set aside will not derail the HSAG’s plans and intentions as the setting aside was clearly not brought on the merits of the case which merits (at the time of Hiemstra J’s judgement) are the same as the HSAG’s. Notwithstanding a written request weeks ago by the HSAG legal team to Mr Georgiou’s attorneys, none of the court documents in the mentioned setting aside have been received and the negative inference against Mr Georgiou is therefore ineluctable, who supposedly indicated that he was not a party thereto.

The 46 Applicants have, unfortunately with immensely high legal costs, finally succeeded in their battle for what they are entitled and the HSAG grants them recognition for it.

The fact that Mr Georgiou / Orthotouch, after years of fighting, had literally no choice other than to throw in the towel, is definitely good news for the HSAG.

Once again it is indicative that the HSAG must continue the legal battle as well as the suggested actions against Mr Georgiou / Orthotouch in order to successfully drive the case on behalf of HSAG Investors!

We therefore, once again invite you to take the hands of the HSAG with your support to fight for that which is due to you. It is indeed your case that is being fought for.

You may at the same time rely on the HSAG and the HSAG legal team’s unconditional and continuous support as long as they are able to!

## **2. CURRENT STATE OF AFFAIRS**

### **2.1. Fast-Track Certification Application (HS 21 & 22)**

During 2018 the HSAG legal team served an Application for the Certification of a class action in respect of HS 21 & 22 on Mr Georgiou / Orthotouch and other Respondents in which the HSAG asks for such certification to be granted.

The above Application will be heard in two parts:

- **Part A** – The HSAG and Mr Georgiou / Orthotouch’s legal teams agreed at commencement of the Certification Application in Pretoria that Georgiou’s Opposing Affidavits in the Certification Application are to be filed after the end of the Setting Aside Application in Johannesburg. A court order that gives effect to the above was, at request from Mr Georgiou’s legal team, granted by the Pretoria High Court on 27 May 2015. The HSAG legal team then decided not to oppose the above order.

In the meantime much has happened and, especially in light of the position held by the SCA, the HSAG legal team advised, in light of the encouragement received from its members and the lengthy timespan, to ask for the amendment of the court order in Part A of the Application for Certification in order to compel the Respondents to file and serve Opposing Affidavit(s) in answer to the HSAG's Application for Certification for HS 21 & 22.

In the event that Part A of the Application is granted, the Respondents will be compelled to serve and file Opposing Affidavit(s) in answer to the HSAG's Application for Certification for HS 21 & 22.

- **Part B** - Where the HSAG will bring an Application for the Certification of a class-action for HS 21 & 22.

Success in the abovementioned cases will undoubtedly be to the advantage of the other HSAG members, as a court will decide on the merits of the cases between the HSAG and Mr Georgiou and others, which will in turn provide more momentum to the HSAG and its members.

The case manager in the High Court of Pretoria, Judge Tolmay, indicated that she is willing to hear Part A of the Application on **29 April 2019**.

Both the HSAG and Mr. Georgiou's counsel have in the meantime indicated that they are available on the proposed date and the HSAG therefore intends to proceed on 29 April 2019.

The HSAG confirms however, that only Part A will be heard on 29 April 2019.

The HSAG management and legal team remains positive about the case and once again undertakes to pursue all possible avenues to ensure that the HSAG members' cases are heard before a court of law to ensure that justice is served. Your financial support is of utmost importance to ensure that the HSAG has the best possible legal representation.

The Notice of Motion, as well as the affidavit in support thereof, can be found on the HSAG webpage at [www.hsaction.co.za](http://www.hsaction.co.za), and we invite you to read same. As may be expected, Mr Georgiou brought an application one court day before the case was heard, clearly with the hope that the case is postponed, but this will not be allowed.

## **2.2. Investors with claims in HS 15 to 20**

As mentioned above, claims for investments in other HS companies are not lost or in jeopardy and the HSAG is still proceeding with steps to enforce investors' claims. Timing, as well as the financial support by all the HSAG members, is of utmost importance to achieve success.

Even though the parties are the same, the claims of HS 15 to 20 are based broadly on other facts, circumstances and legal principles, for example, fraud and

misrepresentation, and this route must be followed with these claims, which consequently differ from the contractual claims of HS 21 & 22.

Claims of investors in HS 19 to 20 have already been instituted by way of the Application for Certification and this application suspends the running of prescription of HSAG members' claims. Persons who do not fall within the HSAG do however run the serious risk of their claims being met with the defence of prescription by Mr Georgiou and others.

To date it has not been necessary to institute claims on behalf of HS 15 to 18 investors through a certification application as prescription is, according to our counsel, not yet of concern. In addition, the legal costs to act individually are exponentially higher and may amount to hundreds of thousands of rands or more per case.

If investors should have received their capital amounts on 15 December 2016 in terms of the Business Rescue Plan, these claims (without considering any other factors) will only prescribe on 15 December 2019.

The Certification Application in relation to HS 15 to 18 will therefore be issued and served as soon as the HSAG's counsel advises same in order to save costs. The HSAG determine its priorities and systematically work accordingly.

Although the HSAG's intention of setting aside the SOA remains, Orthotouch is obliged, in terms of the SOA, to pay monthly interest to HS investors, at least until the SOA is set aside. Orthotouch, under sole leadership of Mr Nic Georgiou, is currently in contempt of his own SOA as sanctioned by the High Court.

According to Orthotouch's website Mr Hans Klopper remains a non-executive director of Orthotouch, but the HSAG received news on good authority that Mr Hans Klopper has resigned as director (and later also Mr Connie Myburgh). Mr. Klopper is announcing his resignation left and right.

### **2.3. Application to Intervene**

As previously reported, a former HSAG member and investor, a pensioner, Mrs Magdalena Gerbrecht Van der Sandt ("Van der Sandt"), recently gave notice that she intends to intervene in the application to set the SOA aside (the application brought by the HSAG).

The HSAG legal team, after consultation with their counsel, in which consultation the legal position of the HSAG in relation to the application of Van der Sandt was considered, decided not to oppose the application.

The HSAG legal team did however file an affidavit in answer to Van der Sandt's affidavit, which affidavit clearly could not have been within her knowledge and is pervaded with untruths and defamatory statements. For example, Van der Sandt indicated in her affidavit that she took Option 2 of the SOA, in terms of which part of her capital should have been paid out in April 2017, but she now insists on full payment of her capital with interest. She also relied on a multitude of HSAG newsletters that

she obtained, this after she indicated that she wanted to withdraw her HSAG membership and after not paying membership fees since 2016. This scandalous conduct was strengthened when she attached a list of current (and former) HSAG members to her court documents, which list supposedly indicated that the mentioned persons would have withdrawn from the HSAG.

The HSAG keeps its members' information and particulars strictly confidential and did not adhere to her requests to publicise the identity of its members. This was clearly an attempt by Georgiou and his supporters to determine who the valued members of the HSAG are, only to later poach them with attractive promises. The HSAG is, notwithstanding the formal withdrawal of 158 members, currently stronger than before and the registered number of HSAG members are, according to the court documents, 6817 compared to a previous number of 6 688. A further three percent of HSAG members have informally indicated that they want to withdraw, or are considering withdrawal, a large amount primary as a result of the undue pressure that Mr Georgiou and his acquaintances have put them under. None of them have however completed the requisite affidavit. The HSAG wants to once again emphasise that its membership is completely voluntary.

We consequently confirm that the Johannesburg High Court granted leave to Van der Sandt to intervene in the Application for Setting Aside the Sec 155 SOA on 15 April 2019.

The HSAG legal team wants to reassure HSAG members that the above intervention has no real effect on the course of the HSAG's case.

Seeing as Van der Sandt is now a party to the litigation, she has to continue to answer to future court documents and the material danger exists that she will have a cost order granted against her should she be unsuccessful in her opposing of the Setting Aside of the SOA.

### **3. CONTRIBUTION TOWARDS LEGAL AND ADMINISTRATION COSTS - 2019**

The annual contributions towards legal and administration costs for 2019 remain unchanged since 2017 in the amount of R2 000.00 per person, which will be levied irrespective of the number of syndications that an investor has invested in. In addition thereto, exemptions were made for investors with smaller claims since 2016.

The annual amount has remained unchanged despite the huge price increases over the past three years. The HSAG and its legal representatives are doing everything in their power to make the case as affordable as possible. However, if VAT, bank charges and other costs are deducted, the net amount is much less. The peace of mind for which the HSAG investors pay in order to have 100% of their claims plus interest recovered, eventually costs them less than R5.00 per day. The average claim per person amounts to approximately R250 000.00.

The HSAG considers the legal representation that must be obtained in the court cases and related matters throughout and, although our senior advocate was involved in the

draft and settlement of court documents before the High Court, the possibility of appointing a senior advocate, with the additional costs, at the hearing of Part A, primarily subject to the financial support that is received from HSAG members.

We therefore kindly request that you see to it that your contribution to legal and administrative costs are brought up to date and/or paid in order to ensure the best possible legal representation for the HSAG cases.

#### **4. GENERAL ESTATE ENQUIRIES**

If you have any general estate related enquiries regarding the estates and claims of HSAG members, you are welcome to send an email to [hsagestates@gmail.com](mailto:hsagestates@gmail.com) whereafter the HSAG will assist you.

#### **5. LATE APPLICATIONS FOR REGISTRATION WITH THE HSAG**

Late applications will be considered on a strictly *ad hoc* basis. Registration forms are available on our website at [www.hsaction.co.za](http://www.hsaction.co.za) or can be requested from us at [hsagregister@gmail.com](mailto:hsagregister@gmail.com). All requests and completed registration forms must be sent to [hsagregister@gmail.com](mailto:hsagregister@gmail.com).

#### **6. SUSPENSION OF HSAG MEMBERSHIP**

The HSAG Steering Committee decided at a previous meeting in 2018, which decision was welcomed by many of the HSAG members who have settled all their fees and contributions, that membership to the HSAG would unfortunately be suspended immediately if such members do not settle their outstanding **2014 / 2015 registration costs** before or on **31 December 2018**. This process will take place over time and such persons shall be duly informed in time. If anyone that forms part of this category wishes to retain his or her membership, they will have to contact the HSAG legal team urgently at [hsagregister@gmail.com](mailto:hsagregister@gmail.com).

We confirm that, in the event that these investors' memberships have been suspended, they will not be entitled to any advantages that may accompany the HSAG's successes.

An email confirming the suspension of membership will be sent to the relevant parties. This process will take place throughout 2019.

The consequences of HSAG membership being suspended are far-reaching, and may mean, amongst other things, that those HSAG investor's claims against Orthotouch / Mr Georgiou have prescribed. In the current scheme of the class action application, it may also mean that a member may not be able to re-join the HSAG class action at a later stage and it is also possible that such members will be removed from the HSAG database and email address list.

**PLEASE NOTE: Members who are currently on the e-mail list can specifically request that their names remain as well as settle their outstanding payments.**



## **7. USE OF CORRECT EMAIL ADDRESSES AND REFERENCES**

The correct use of e-mail addresses (as stipulated on our website and e-mails) as well as HSAG members' initials and surnames, syndication numbers and reference numbers (e.g. identity number, etc.) for all communications are essential.

The official and existing e-mail addresses for the HSAG are as follows:

- [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) for all General Enquiries; (For Example - to change contact details, Proof of Payments, Death of a Member etc.)
- [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) for Specific Enquiries; (For Example requesting information/statements regarding a specific member, exemption queries for a specific member)
- [hsagregister@gmail.com](mailto:hsagregister@gmail.com) for the registration and deregistration of HSAG members;
- [hsagwhistle@gmail.com](mailto:hsagwhistle@gmail.com) for all Confidential Information that you would like to send to us anonymously or interest not paid;
- [hsagestates@gmail.com](mailto:hsagestates@gmail.com) for all estate related questions.

If an investor or any person sends an email to the wrong address, it will result in the email not receiving the speedy or necessary attention, if any.

If you do not wish to receive any further emails, please inform us in writing thereof.

## **8. HSAG'S OFFICIAL WHATSAPP GROUPS**

It is a huge challenge to promptly convey notices, news snippets or important messages to almost 7 000 individuals.

We therefore request HSAG members to join the HSAG's official WhatsApp Groups to receive notices, news snippets or news flashes per WhatsApp.

By joining one of the HSAG's official WhatsApp groups, you will be informed of the latest developments regarding your case on a regular basis.

Simply send your mobile number; identification number; full name and surname, to [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) after which you will be uploaded to the groups.

You can also contact the administrators of the respective WhatsApp groups directly at 079 635 4165 (Afrikaans) and 082 450 8854 (English).

The HSAG also has an official Facebook page, and can be viewed, "liked" and commented on at [www.facebook.com/hsaction](http://www.facebook.com/hsaction).

## **9. MEMBERSHIP CONTRIBUTIONS AND REGISTRATION COSTS**

**Please ignore this point if your registration and legal costs have already been settled up to date.**

It is of utmost importance that any outstanding registration and legal costs, of which some are outstanding as long ago as 2014 should be settled as soon as possible. Almost four years have elapsed since the HSAG came into being and it is extremely unfair towards loyal HSAG members that persons who seek legal representation in a case where the average claim amounts to R250 000.00 are not willing to make a nominal contribution towards registration and / or legal costs.

Kindly take note of the following:

- i. A once-off registration fee of R1 000 **per syndication** was also levied up to 2015, which then increased to R1 500 **per syndication** thereafter and should reflect on your statement accordingly;
- ii. The requested amount for 2016 legal costs was R1 000 **per syndication**;
- iii. In May 2017 a further requisition for a contribution towards legal and administration costs of R2 000 **per person** was made;
- iv. In February 2018/ March 2018 a further requisition of R2 000 **per person** towards legal and administrative costs was made;
- v. In November 2018/December 2018 a special contribution request of R 500.00 **per person** was made towards legal- and administration costs for HSAG members who invested in HS 21 & 22;
- vi. In February 2019 a request for a further R2 000.00 **per person** contribution to legal and administrative costs was made.
- vii. 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;
- viii. 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;
- ix. From the end of February 2019 persons whose contributions are paid up to date, with a total claim value of R60 000 or less, together with a prior written request to Theron & Partners, will be exempted during 2019 from administrative -and legal costs;
- x. Exemption is **not applicable** to previous years registration / administration and legal costs and overdue fees are still payable;
- xi. **No registration, administration or legal fees are refundable.**

The HSAG enjoys the protection by way of a legal team consisting of attorneys, junior and senior advocates who have already gone a long way towards protecting the prospective plaintiffs under the umbrella of the HSAG. In light of the fact that the HSAG will proceed with the certification of a class action for HS 21-22 and the recession of the Sec 155 Scheme of Arrangement, we request that all HSAG members to give their cooperation in order to successfully complete these matters. Everyone's cooperation is required.

## **10. STATEMENT FOR PARTICIPATION IN THE HSAG**

The HSAG and its attorneys, Theron & Partners, would like to thank you for your continued and loyal support of the HSAG. The HSAG's case belongs to each individual

investor, and we would therefore like to ask you to support your own case in order to claim approximately R4.6 billion from Orthotouch and others.

Please find attached your contribution statement for participation in the HSAG, kindly take note of the following:

- i. If no trust requisition regarding registration, legal or administration costs, or if a credit appears on your statement, it means that you are in a group which has not yet been registered, processed and/or allocated and could the amount reflect on a later statement;
- ii. 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](mailto:hsagregister@gmail.com);
- iii. The HSAG members' information on our records was gathered from the application forms completed by the HSAG members. If your application form is faulty, vague or incomplete, there is a possibility that you may not receive statements or emails from us
- iv. The obligation rests on you as investor to inform us of any changes to your personal and / or contact details either telephonically or by e-mail to [hsagregister@gmail.com](mailto:hsagregister@gmail.com);
- v. 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.
- vi. 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, automated statements are sent from time to time (usually during a month), but your link to the "Customer Zone" will be continuously active, enabling you to view your payments and transactions, as it is allocated, at any time.

Kind regards

HSAG Steering Committee

Contact the HSAG Attorneys at:

Tel: (021) 887 7877

[hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com)