

ENGLISH TEXT BELOW

MAANDELIKSE NUUSBRIEF: MEI 2019

Hierdie nuusbrief word aan u gerig as lid van die Hoëveld Sindikasie Aksiegroep (“HSAG”) op grond van u belegging in die Highveld Sindikasiemaatskappye 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 / verkeerdlik ontvang het, stel asseblief die versender by 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 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.

1. INLEIDING

Die HSAG bestuur wil graag vir elke HSAG-lid bedank vir sy of haar lojale ondersteuning gedurende 2019.

Die HSAG en sy regsman verstaan dat HS- beleggers soms gefrustreerd, kwaad en moedeloos voel. Ons kan u egter die versekering gee dat die HSAG span deeglik bewus is van die omvang van hierdie saak en dat die regsman op 'n daaglikse basis met beleggers praat wat ook gefrustreerd is.

Die deurlopende harde werk is besig om vrugte af te werp en die HSAG vol moed dat ons reeds in 2019 moontlik sertifikasie van die eerste twee sindikasies mag kry. Daarby is die tersydestelling van die Art 155 Reëlinskema op spoor en het Mnr Georgiou se prokureur onderneem dat hy teen 30 Julie 2019 op die tersydestelling / appèl aansoek sal antwoord. U kan gerus ons webblad, by www.hsaction.co.za en die WhatsApp-groepe dophou vir toekomstige nuus en inligting hieromtrent.

Die HSAG bestuur wil ook vir elke HSAG-belegger wat getrou hul bydraes aan die HSAG maak, bedank vir hul ondersteuning. Sonder sy getroue lede sou die suksesse nie moontlik gewees het nie.

Die Tersydestelling van die Art 155 Reëlinskema en die Sertifisering van HS 21 & 22 is besig om 'n realiteit te raak. Ongelukkig sal die voortsetting van hierdie sake slegs suksesvol kan geskied indien lede finansiëel bydrae.

Daar is egter nog 'n hele aantal HSAG-lede wie voordeel trek uit die hofgedinge, maar nie finansiëel bydra nie. Ons wil graag 'n ernstige beroep doen op sodanige HSAG-lede (wat nog nie hul bydraes gemaak het nie) om agterstallige bydrae so spoedig as moontlik op datum te bring ten einde die HSAG in fondse te plaas om die saak suksesvol af te handel.

2. HUIDIGE STAND VAN SAKE

2.1. Versnelde Sertifikasie Aansoek (HS 21 & 22)

U sal onthou dat die vorige HSAG Nuusbriëf melding gemaak het van die feit dat die Aansoek vir Sertifisering van HS 21 & 22 in twee dele aangehoor sal word, naamlik:

- **Gedeelte A** – Waar die HSAG die Hof gevra het om 'n Hofbevel (wat bepaal het dat Georgiou en Andere, tot tyd en wyl die Art 155 Reëlinskema nie tersydegestel is nie, nie Opponeerende Verklarings ten aansien van die Aansoek vir Sertifikasie te beteken en te liasseer nie) te wysig ten einde die Respondente te verplig om Opponeerende Verklaring(s) ten aansien van die Aansoek vir Sertifisering te beteken en te liasseer.
- **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.

Gedeelte A van die Aansoek vir Sertifisering van HS 21 & 22 was op 29 April 2019 deur die Saakbestuurder, Regter Ronel Tolmay in die Hooggeregshof, Pretoria, aangehoor en is die HSAG se aansoek toegestaan.

Georgiou en Andere word dus nou verplig om Opponeerende Verklarings ten opsigte van die Sertifisering te beteken en liasseer.

Die onderskeie regspanne van die partye het op 'n tydtafel ooreengekom waarvolgens Verklarings beteken en geliasseer moet word, en is die tydtafel ook vervat in die Hofbevel wat Regter Tolmay toegestaan het.

Selfs voordat al die stukke gelewer word, sal Regter Tolmay versoek dat daar 'n voorkeurdatum gegee word vir die aanhoor van gedeelte B. Alle aanduidings is dat Gedeelte B van die HSAG se Aansoek in die vierde termyn van die Hofsitting aangehoor sal word, maar ervaring het ons geleer om te wag tot die hof 'n datum bevestig voordat enige aannames gemaak word. 'n Skrywe is reeds in hierdie verband deur die saakbestuurder aan die Regter President vir 'n vervroegde datum versend.

Sien asseblief punt 3 van die HSAG Nuusbriëf wat handel oor belangrike datums.

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 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 was dit nie deur die HSAG toegelaat nie en moes hy voortgaan en die aftog blaas.

2.2 Beleggers met eise in HS 15 tot 20

Eise in ander HS-maatskappye is tans definitief nie verlore of in gedrang nie. Die HSAG gaan nog steeds voort met stappe ten einde die beleggers se eise af te dwing. Tydsberekening asook die ondersteuning deur al die HSAG lede is egter van kardinale belang om sukses te behaal.

Al is die partye in litigasie 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 eis-oorake van hierdie eise 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.

Tot op datum 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 vir individue op te tree, eksponensieel 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 verjaring op daardie eise (sonder inagneming van enige ander faktore) eers op sigwaarde in 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.

Die HSAG is steeds van voorneme om die Art 155 Reëlinskema tersyde te stel. Ten einde die tersydestellings proses te bespoedig het die HSAG op 9 Mei 2019 'n skrywe aan Regter Weiner (die Saakbestuurder in die Hooggeregshof in Johannesburg) gestuur ten einde aanwysings te vra ten aansien van die lewering van Antwoordende Verklarings deur mnr Georgiou en Ander.

Regter Weiner tree tans op as 'n Regter van die Hoogste Hof van Appèl.

Georgiou se prokureurs van rekord het na aanleiding van ons skrywe aan Regter Weiner skriftelik bevestig dat Georgiou, voor of op 30 Julie 2019 hul Antwoordende Verklaring ten opsigte van die HSAG se Aansoek vir die Tersydestelling van die Art 155 Reëlinskema sal beteken en liasseer.

Orthotouch se prokureur van rekord het ook op die HSAG se skrywe gereageer en Regter Weiner versoek om aanwysings te gee ten aansien van die betekening en liassering van Antwoordende Verklarings. Orthotouch se prokureur het bygevoeg dat indien Regter Weiner se aanwysing is dat die Respondente Antwoordende Verklarings moet beteken en liasseer, hul geleentheid moet kry tot 30 Julie 2019.

Orthotouch is egter 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 direkteurskap van Mnr. Nic Georgiou, is dus tans besig om sy eie reëlinskema, soos gesanksioneer deur die Hooggeregshof, te minag. Dit is soveel te meer rede om die Art 155 Reëlinskema, tersyde te stel.

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.

2.3 Aansoek om Tussenbeidetrede

'n Voormalige HSAG-lid en pensioenaris, mev. Magdalena Gerbrecht Van der Sandt ("Van der Sandt"), wat onlangs tussenbeide getree het in die Aansoek vir die Tersydestelling van die Reëlinskema (gebring deur die HSAG) wat in die Hooggeregshof in Johannesburg aangehoor word, het op dieselfde dag van die aanhoor van Gedeelte A van die HSAG se Aansoek vir Sertifisering in HS 21 & 22, ook 'n Aansoek in die Pretoria hof beteken om in dáárdie saak tussenbeide te tree.

Na konsultasie met hul advokatuur, het die HSAG besluit om nie haar Tussentrede in die Johannesburg Hof te opponeer nie. Die HSAG regspan het egter na 'n verdere konsultasie met hul advokatuur besluit om Van der Sandt se Aansoek om Tussenbeide te tree in die Aansoek vir Sertifisering van HS 21 & 22 in Pretoria, te opponeer met 'n bestaande kostebevel.

'n Kennisgewing van Opposering is reeds op 14 Mei 2019 op Van der Sandt se prokureurs van rekord beteken en moet die HSAG binne 15 Hofdae 'n Opposerende Verklaring beteken en liasseer.

Van der Sandt het aangedui dat sy in HS 17 belê het (en Opsie 2 in die Skema gekies het) en het dus geen locus standi (gronde) om in die Aansoek vir Sertifisering van HS 21 & 22 tussenbeide te tree nie.

Hierdie Aansoek om Tussenbeidetrede is weereens niks anders as 'n poging om die Aansoek vir Sertifisering van HS 21 & 22 te frustreer en te vertraag nie – die HSAG en sy regspan sal dit onder geen omstandighede duld nie!

Indien die HSAG suksesvol sou wees met die opposering van Van der Sandt se nuutste Aansoek vir Tussenbeidetrede in die Aansoek vir Sertifisering van HS 21 & 22, sal ons vir die Hof vra om 'n bestaande kostebevel teen haar toe te staan.

Die HSAG se Opponerende Verklaring sal ook eersdaags op die HSAG webblad verskyn.

3. BELANGRIKE DATUMS

- **30 Junie 2019** - Georgiou moet sy Opponerende Verklaring ten aansien van die Aansoek vir Sertifisering van HS 21 & 22 beteken en liasseer (Pretoria);
- **30 Julie 2019** - Georgiou se prokureurs het onderneem om Georgiou se Antwoordende Verklaring ten aansien van die HSAG se Aansoek vir Tersydestelling te beteken en te liasseer (Johannesburg);
- **31 Julie 2019** - Die HSAG moet 'n Antwoordende Verklaring in antwoord op Georgiou se Opponerende Verklaring beteken en liasseer (Pretoria);
- **15 Augustus 2019** - Georgiou se prokureurs van rekord moet hul Hoofde van Betoog beteken en liasseer (Pretoria);
- **15 September 2019** - Die HSAG se prokureurs van rekord moet hul Hoofde van Betoog beteken en liasseer (Pretoria).

4. HSBF/ORTHOTOUCH SKRYWE AAN HS-BELEGERS

Dit het onder die HSAG-bestuur se aandag gekom dat Orthotouch/mnr Helgard Hancke verdere korrespondensie aan diegene (wat nog nie 'n keuse ten opsigte van die 50% / 55% Skikkingsopsie uitgeoefen het nie) gestuur het.

Die HSAG-bestuur het selfs klagtes ontvang van lede dat mnr Helgard Hancke beleggers as te ware dreig met bewerings dat “die Hoëveld Sindikasie Maatskappy beleggingskema die gevaar loop om in duie te stort wat noodgedwonge likwidasië tot gevolg sal hê weens al die “doellose” hofsake gevoer deur Theron & Vennote”.

Dit is 'n skreiende skande dat Orthotouch/mnr Helgard Hancke 'n moontlike likwidasië van sekere Georgiou-maatskappye voor die deur van die HSAG en ander litigante kan plaas.

Likwidasië word deur die Insolvensie wette van die land gereguleer. Indien 'n maatskappy onder insolvente omstandighede bedryf word, is likwidasië die enigste uitweg en het die HSAG geen beheer daarvoor nie.

Wat egter wél van belang is, is dat HSAG-lede vooraf gewaarsku word om nie met sodanige maatskappye (bv. Orthotouch en Zephan) besigheid doen sonder regsvertegenwoordiging nie, aangesien dit hul regte ernstig kan benadeel, en spesifiek dat hulle in sodanige gevalle belet mag word om met regs-aksies teen mnr Georgiou en ander Respondente voort te gaan.

Van die redes waarom die maatskappye gelikwideer kan word, sal onder andere wees weens die nie-nakoming van die Sakereddingsplan en die wan-administrasie van die eiendom en ander bates, asook die onvermoë om vonnisskulde te betaal.

Die regsaksies of regskostes sal nie die oorsaak wees van enige likwidasië nie.

Soos voorheen vermeld is daar miljarde rande by die HS-transaksies betrokke. Buiten die kostebevele wat die HSAG teen Georgiou en Orthotouch verkry het, word die klasaksie word algeheel befonds deur sy eie lede. Daarteenoor befonds Georgiou en Orthotouch húl regsdinge met die miljarde rande wat Beleggers in die HS maatskappye belê het.

Indien Orthotouch/Zephan gelikwieder word, kan die direkteure van die hierdie maatskappye vir etlike jare deur likwidasië-ondervragings gesleep word waartydens hulle onder streng kruisondervraging en eed sal moet verduidelik waar die miljarde rande en eiendomme van beleggers is.

5. OPVRAGING VIR BYDRAE TOT REGS- EN ADMINISTRASIEKOSTE – 2019

Die jaarlikse bydrae tot regs- en administrasiekoste wat gehê 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 kwytsteldings vir beleggers met kleiner eise.

Die jaarlikse bedrag het, niesteenstaande die geweldige prysstygings die afgelope drie jaar, onveranderd gebly. Die HSAG en sy regsverteenwoordigers 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 wat beskikbaar is veel minder en is die gemoedsrus waarvoor die HSAG beleggers betaal om te veg vir 100% van hul eise, plus rente, uiteindelik minder as R5 per dag. Die gemiddelde eise per persoon beloop ongeveer R250 000.

Die HSAG oorweeg deurgaans watter graad van regsverteenwoordiging bekom moet word in die Hofsake aanverwant. Alhoewel ons senior advokaat betrokke was by die opstel en skikking van die stukke eersdaags voor die Hooggeregshof, was die noodsaaklikheid om 'n senior advokaat met gepaardgaande kostes by aanhoor van Gedeelte A te betrek onderhewig aan die finansiële ondersteuning wat van HSAG lede ontvang word. Uiteindelik was besluit om nie 'n senior advokaat vir hierdie gedeelte te brevetteer nie en ten spyte daarvan was die HSAG steeds suksesvol. Elke geval moet egter op sy eie meriete beoordeel word en sal die eerste prys altyd wees om die beste moontlike verteenwoordiging by die hoof te kan hê.

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 regsverteenwoordiging vir die HSAG sake te verseker.

6. 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 waarna die HSAG u sal bystaan.

7. 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 beskikbaar of in die alternatief kan u 'n e-pos na hsagregister@gmail.com stuur om 'n registrasievorm te versoek. Alle versoeke en voltooide registrasievorms moet gestuur word aan hsagregister@gmail.com.

8. 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 geskied en word sodanige persone daarvan in kennis gestel. Indien enigeen wat in hierdie kategorie val sy lidmaatskap wil behou, moet hulle dringend met die HSAG by 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.

9. 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 vir alle Algemene Navrae (Byvoorbeeld – selfoon of adres veranderinge, betalingsbewyse, kennis van lede wie gesterf het, ensovoorts);

- 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 vir die Registrasie en Deregistrasie van HSAG- lede;
- hsagwhistle@gmail.com vir alle Vertroulike Inligting wat anoniem aan ons gestuur moet word;
- 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.

10. 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 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 besigtig, ge-“like” en kommentaar op gelewer word.

11. 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 belê 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 die HSAG se prokureurs (hsagenquiries@gmail.com), kwytsgekeld van die 2019 administratiewe- en regskostes.
- x. Kwytskelding geskied jaarliks en **is nie van toepassing nie** op vorige jare se registrasie / administrasie / regskostes /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 aangeleenthede suksesvol af te handel. Almal se samewerking word vereis.

12. 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
- 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
- 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-, regskostes 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

AFRIKAANS HIERBO

MONTHLY NEWSLETTER: MAY 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 hsenquiries@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 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.

1. INTRODUCTION

The HSAG management would like to thank each and every HSAG member for his/her loyal support during 2019.

The HSAG and its legal team understands that HS investors may feel frustrated, angry and discouraged at times. However, we can assure you that the HSAG team is aware of the impact of this case as they speak to frustrated investors on a daily basis.

The continuous hard work is beginning to pay off and the HSAG is confident that the class action for the first two syndications may possibly be certified in 2019. In addition, the application to set aside the Sec 155 Scheme of Arrangement (SoA) is on track and Mr Georgiou's attorney undertook to furnish his reply to the setting aside / appeal application by 30 July 2019. You can keep an eye on our website, www.hsaction.co.za and the WhatsApp groups for future news and information in this regard.

The HSAG management would also like to thank every HSAG investor who has faithfully paid their annual contribution to the HSAG, for their support, without which we would not have been successful.

The setting aside of the Sec 155 Scheme of Arrangement and the Certification of HS 21 & 22 is becoming a reality. Unfortunately, these matters can only continue successfully if members contribute financially.

There is still a number of HSAG members who benefit from the legal proceedings, but do not contribute financially. We would appeal to these HSAG members (who has not yet paid their contributions) to settle the outstanding amount as soon as possible in order to place the HSAG in funds to successfully conduct the case.

2. CURRENT STATE OF LITIGATION

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

You will recall from the previous HSAG Newsletter that the HS 21 & 22 Certification Application will be heard in two parts, namely:

- **Part A** – Georgiou and others relied on a previous order which stipulates that they do not have to serve their Opposing Affidavits in the Application for Certification, until such time as the Sec 155 Scheme of Arrangement is set aside. This part of the HSAG's application was to ask for an order to compel the Respondents to file their Opposing Affidavit(s) in this regard.
- **Part B** - The Application for Certification of the Class Action for HS 21 & 22 brought by the HSAG.

Undoubtedly, success in the above matters will also be to the benefit of the other HSAG members, as the Court will have to consider and decide on the merits of the matters between the HSAG and Mr. Georgiou, which will in turn give momentum to the HSAG and its members.

Part A of the HS 21 & 22 Certification Application was heard on 29 April 2019 by the Case Manager, Judge Ronel Tolmay in the High Court, Pretoria, and the HSAG's application was granted.

Georgiou and Others are now obliged to serve and file their Opposing Affidavits regarding the Certification Application.

The respective legal teams of the parties have agreed on a time table for the delivery of their affidavits, which time table has been made an order of the court, granted by Judge Tolmay.

Even before all the papers have been delivered, Judge Tolmay will request that a preferential court date be allocated for the hearing of Part B. All indications are that Part B of the HSAG's Application will be heard in the fourth court term, but experience have taught us that we must wait until a date has been fixed before we make any assumptions. A letter in this regard has already been sent through the case manager to the Judge President for an expedited court date.

Please refer to point 3 of the HSAG Newsletter which sets out these important dates.

The Notice of Motion, as well as the affidavits in support of the Notice of Motion, are available on the HSAG website at www.hsaction.co.za and we invite you to

read them. As expected, Mr. Georgiou filed an application one day before the hearing of this matter, obviously hoping that the matter would be postponed, but it was not allowed by the HSAG and he had to proceed.

2.2. Investors with claims in HS 15 to 20

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

Even though the parties in litigation are the same, the claims of HS 15 to 20 are based on different facts, circumstances and legal principles, for example, fraud and misrepresentation, and the cause of action of these claims 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.

To date it has not been necessary to institute a certification application on behalf of HS 15 to 18 investors as prescription is, according to the HSAG's counsel, not yet of concern.

In addition, the legal costs to act for individuals are exponentially higher and may amount to hundreds of thousands of Rands, or even more, per case.

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

In order to save costs, 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. The HSAG determines its priorities and systematically proceeds accordingly.

The HSAG still intends to set aside the Sec 155 Scheme of Arrangement. In order to expedite the process, the HSAG sent a letter to Judge Weiner (the Case Manager in the High Court in Johannesburg) on 9 May 2019, asking for directions in respect of the delivery of Answering Affidavits by Mr Georgiou and Others.

Judge Weiner is currently acting as a Judge of the Supreme Court of Appeal.

Georgiou's attorneys of record, following our letter to Judge Weiner, confirmed in writing that Georgiou, will submit his Answering Affidavit on or before 30 July, 2019 regarding the HSAG's Application to set aside the Section 155 Scheme of Arrangement.

Orthotouch's attorney of record also responded to the HSAG's letter and asked Judge Weiner to give directions regarding the service of its Answering Affidavits. Orthotouch's attorneys added that if Judge Weiner's decision is that the

Respondents should file Answering Affidavits, they should be given the opportunity to do so until 30 July 2019.

Orthotouch remains obliged to pay monthly interest to HS investors in terms of the SoA, at least until such time as the SoA is set aside.

Orthotouch, under directorship of Mr Nic Georgiou, is therefore currently in contempt of his own Scheme of Arrangement, as sanctioned by the High Court. This gives even more reason to set aside the SoA.

Persons outside of the HSAG run a serious risk that their claims may be met by a defence of prescription by Mr. Georgiou and others.

2.3. Application to Intervene

A former HSAG member and pensioner, Mrs. Magdalena Gerbrecht Van der Sandt ("Van der Sandt"), who recently intervened in the Application for the rescission of the Scheme of Arrangement in the Johannesburg High Court, brought by the HSAG, also brought an application in the Pretoria Court to intervene in the HSAG's Certification Application for HS 21 & 22 on the same day of the Hearing of Part A.

After consulting with counsel, the HSAG decided not to oppose her Intervention in the Johannesburg Court. However, after a further consultation with counsel, the HSAG legal team decided to oppose Van der Sandt's Application to intervene in the HS 21 & 22 Certification Application in Pretoria, with a punitive cost order.

A notice to Oppose has already been served on Van der Sandt's attorneys on 14 May 2019, and the HSAG will serve and file an opposing affidavit within 15 Court Days.

Van der Sandt has indicated that she has invested in HS 17 (and opted for Option 2 in terms of the Scheme of Arrangement) and therefore has no locus standi (grounds) to intervene in the HS 21 & 22 Certification Application.

This Application to intervene is once again nothing but an attempt to frustrate and delay the HS 21 & 22 Certification application - the HSAG and its legal team will under no circumstances tolerate this!

If the HSAG is successful with its opposition of Van der Sandt's latest Application to Intervene in the Application for Certification of HS 21 & 22, we would ask the Court to grant a punitive cost order against her.

The HSAG's Opposing Affidavit will also appear on the HSAG website soon.

3. IMPORTANT DATES

- **30 June 2019** - Georgiou must serve and file his Opposing Affidavit regarding the Application for Certification of HS 21 & 22. (Pretoria);
- **30 July 2019** - Georgiou's attorneys undertook to serve and file Georgiou's Answering Affidavit in terms of the Rescission of Judgement Application. (Johannesburg);
- **31 July 2019** - The HSAG must serve and file a Replying Affidavit in response to Georgiou's Opposing Affidavit; (Pretoria);
- **15 August 2019** - Georgiou's attorneys of record must serve and file their Heads of argument. (Pretoria);
- **15 September 2019** - The HSAG's attorneys of record must serve and file their Heads of argument (Pretoria).

4. HSIF/ORTHOTOUCH LETTER TO HS-INVESTORS

It has come to the HSAG management's attention that Orthotouch / Mr Helgard Hancke has sent further correspondence to those who have not yet opted for the 50% / 55% Settlement Share option.

The HSAG management has even received complaints from members that Mr Helgard Hancke is threatening investors with allegations that "the Highveld Syndication Companies Investment Scheme is in danger of collapsing which will inevitably result in liquidation due to all the court cases conducted by Theron & Partners".

It is such a crying shame that Orthotouch / Mr Helgard Hancke, can blame the HSAG and other litigants for the possible liquidation of certain Georgiou-companies.

Liquidations are regulated by the Insolvency Acts of the Country. If a company operates under insolvent circumstances, liquidation is the only resort and the HSAG has no control over it.

What is important, however, is that HSAG members are forewarned not to do business with such companies (e.g. Orthotouch and Zephan) without legal assistance, as this may be detrimental to their rights, and specifically that they may be prevented in such cases to proceed with legal action against Mr Georgiou and other Respondents.

Some of the reasons why the companies may be liquidated, will amongst other things, be due to non-compliance with the business rescue plan and the mismanagement of the properties and other assets as well as inability to pay judgement debts.

The legal actions or legal costs will not be the cause of any liquidations.

As mentioned previously, billions of Rands are involved in the HS transactions. In addition to the cost orders granted in favour of the HSAG against Georgiou and Orthotouch, the class action is funded as a whole by its own members. In contrast, Georgiou and Orthotouch fund their legal proceedings with the billions of Rands that Investors have invested in the HS companies.

If Orthotouch/Zephan is liquidated, the directors of these companies may undergo liquidation interrogations for several years, during which period they will have to explain, under strict cross-examination and oath, where the billions of Rands belonging to the investors has gone.

5. 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 available to use is much less. The investors pay less than R5 a day for the peace of mind to have 100% of their claims plus interest pursued. The average claim per person amounts to approximately R250 000.00.

The HSAG continuously considers the degree of legal representation that must be obtained in the court cases and related matters. Although our senior advocate was involved in the drafting and settlement of the papers before the High Court, the necessity of appointing a senior advocate thereby incurring additional costs at the hearing of Part A was subject to the financial support received from HSAG members. Eventually it was decided not to brief a senior advocate for this part and despite this the HSAG was ultimately still successful. Every case will be decided on its own merits and the first prize will always be to have the best possible representation at Court.

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.

6. 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 whereafter the HSAG will assist you.

7. 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 or can be requested from us at hsagregister@gmail.com. All requests and completed registration forms must be sent to hsagregister@gmail.com.

8. 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.

This process is implemented over time and such persons will receive notices thereof. If any person, falling in this category, would like to retain his/her membership they should inform the HSAG at hsagregister@gmail.com in this regard.

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.

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

10. **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 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.

11. **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 the HSAG' attorneys (hsagenquiries@gmail.com), 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 rescission 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.

12. 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;
 - 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;
 - 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