



ENGLISH TEXT BELOW

MAANDELIKSE NUUSBRIEF: NOVEMBER 2019

Hierdie nuusbrieff 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 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 antivirus-programmatuur om virusse en ander kwaadwillige kodes te voorkom. Hierdie sagteware kan egter nie so 'n kode altyd 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.

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1. **TERUGVOER OOR HSAG SE HS 21 & 22 SERTIFISERINGS-AANSOEK**

BELANGRIKE KENNISGEWING AAN HSAG-LEDE

Die HSAG sertifisering aansoek vir HS 21 & 22 op 11 tot 13 November 2019, Pretoria Hooggeregshof

Die HSAG se sertifiseringsaansoek vir HS 21 & 22 was aangehoor vanaf 11 tot 13 November. Die aansoek was spoedig afgehandel binne twee en 'n half dae, alhoewel dit vir vyf dae geplaas was.

Aangesien die verrigtinge deur HSAG-lede befonds word, was daar baie navrae van lede en ondersteuners, en selfs bywoning by die hof.

Die verrigtinge is in die ope hof gevoer en die doel van hierdie boodskap is nie net om terugvoer aan lede en ondersteuners te gee nie, maar ook om die straal van geloof en hoop van uitgelewerde lede te versterk.

'n Belangrike dramatiese ontwikkeling het vroeg in die hofsak op die eerste dag van die verhoor ontstaan toe die tussenbeidetrede party (Mev. van der Sandt) se prokureur die handdoek namens sy kliënt ingegooi het. Ten spyte daarvan word daar steeds 'n bestraffende kostebevel deur die HSAG teen haar gevra omdat sy met haar optrede tyd en geld vermors het.

Van der Sandt se terugtrek van haar opponering was insiggewend. Dit was duidelik dat sy géén belang in die HS 21 & 22 sertifiserings aansoek gehad het nie, en dat haar toetrede sonder enige regs-basis was. Haar regsverteenvoording, wat bestaan het uit twee advokate en 'n prokureur, moes bloot vir aanhoor van die saak, maklik tot tien keer meer gekos het (vir skaars 'n paar uur in die hof), as ál die bydraes wat sy oor die vyf jaar aan die HSAG gelewer het, wat totaal teenstrydig is met haar tussenbeidetrede.

Van der Sandt se totale regskoste word verdermeer geskat as vyf keer die bedrag wat sy altesame in HS 15 belê het, 'n maatskappy wat nie eers voor die hof was nie! Dit laat min twyfel dat sy ter goedertrou was en véél meer dat Georgiou inderdaad haar regskoste gefinansier het.

Van der Sandt se advokatuur het haar tussenbeidetrede probeer regverdig deur aan te voer dat sy "haar weergawe van gebeure" voor die hof wil plaas, selfs al het sy geen belang in die saak of sindikasies voor die hof gehad nie.

Die laaste spyker in haar doodskis was toe die prokureur van Orthotouch (een van Georgiou se frontmaatskappye) onder eed verklaar het dat dit Helgard Hancke, wie ongetwyfeld vir Georgiou werk, was wat Mev. Van der Sandt aan haar voorgestel het.

Ons regspan het 'n bestraffende kostebevel versoek vir vermorste koste wat deur Van der Sandt veroorsaak is asook vir haar onnodige opponering van die sertifiserings-aansoek.

Die regsverteenwoordigers van die HSAG het na afloop van die saak bevestig dat hulle nou meer vasberade en positief is oor die verrigtinge en die meriete van die Applikante (HSAG) se saak.

Uit die argumente van albei regspanne blyk dit dat die vooruitsigte op sukses ten gunste van die HSAG is.

Alhoewel die regspan nie in 'n posisie is om die beslissing van die voorsittende Regter te voorspel, en ook nie die beslissing van die Hof wil vooruitloop nie, blyk dit uit die verrigtinge dat Regter Tolmay kennis geneem het van die rol van klas-aksie litigasie in Suid-Afrika en die belangrikheid daarvan om toegang tot geregtigheid te verseker.

Dit was duidelik dat Regter Tolmay ook deeglik bewus is van die beleggers se gevorderde ouderdom asook hul kwesbaarheid. Dit is ook duidelik dat 'n klas-aksie 'n gepaste manier is om die sake van beleggers voor 'n geregshof te bring, veral as die koste van litigasie op individuele vlak oorweeg word.

Daar is verder bevestig dat 'n sertifikaat uitgereik sal word indien dit in die belang van geregtigheid is.

Dit was 'n groot verligting vir die HSAG dat Georgiou se jongste pogings om die eise teen Zephan en Orthotouch af te weer deur die maatskappye in sakeredding te plaas, geen invloed op die verrigtinge gehad het nie en op hierdie stadium irrelevant is om te oorweeg of 'n klas gesertifiseer moet word al dan nie. Dit is ook toegegee deur Georgiou se regspan.

In die hof is volledig geargumenteer dat die Applikante en Theron & Vennote Prokureurs geskik is om voort te gaan as Applikante en regsverteenwoordigers in die klas-aksie en dat die wigte en teenwigte wat deur die regspan in plek gestel is, voldoende is. Daar is 'n sterk saak uitgemaak dat 'n Hof nie belas moet word met onnodige bykomende take met toesig oor die wyse waarop die litigasie tans bestuur word nie, veral nie waar meganismes reeds bestaan nie. Dit is erken.

Die bevlekte geskiedenis van die litigasie is uitgewys asook dat die vals aantygings teen die HSAG Bestuur en regspan ongegrond is. Voldoende alternatiewe remedies is beskikbaar vir enige bekommerde party. Dit was ook so deur die Regter uitgewys.

Regter Tolmay het kennis geneem van die Groepslede-befondsingsmodel in hierdie unieke saak, die feit dat fondse benodig word om voort te gaan met die klas-aksie litigasie en dat gelde en bydraes versoek word. Dit is erken dat hierdie 'n moeilike situasie is, veral as 'n mens kyk na die omstandighede waarin HS-beleggers hul bevind.

Ondanks die geweldige uitdagings wat HSAG-lede steeds ervaar, neem die regter kennis van die rol wat die HSAG, die HSAG Bestuur en regspan die afgelope vyf jaar gespeel het. As dit nie vir die HSAG-lede, gelei deur daardie individue, was nie, sou ons nie vandag wees waar ons is nie.

Regter Tolmay het verder aangedui dat sy ongelukkig haar uitspraak eers sal kan oorweeg nadat uitspraak in die Noormahomed / Zephan -appèl, wat geplaas is vir

Woensdag 20 November 2019 in die Hoogste Hof van Appèl, gelewer is aangesien dit 'n invloed mag hê op ons saak. Die regter het egter beklemtoon dat sy alle feite en omstandighede gereglik en in die beste belang van geregtigheid sal oorweeg. Dit beteken dat, ongeag die uitkoms van die saak, dit haar nie sal verhoed om die feite en meriete van ons saak te beoordeel nie (Sien by punt 2 hieronder 'n bespreking van die verrigtinge).

Regter Tolmay het aangedui dat sy 'n skriftelike uitspraak sal gee aangesien hierdie sertifiserings aansoek 'n unieke saak is, en sy van plan is om die redes vir haar uitspraak te verskaf wanneer dit gelewer word.

Ons verwag uitspraak in hierdie sertifiserings aansoek ná die komende 2019 jaareinde Hooggeregshof reses.

Een ding wat in die hof uitgekóm het, was die eindelose en vermoeiende pogings van Georgiou se senior advokaat om die hof te oorreed dat die HSAG Bestuur die enkele dryfkrag agter hierdie saak sou wees! Dit is 'n vals argument omdat die HSAG nooit sou bestaan het as dit nie vir die voortdurende en lojale ondersteuning van sy lede was nie!

Georgiou is vasbeslote om 'n wig tussen die HSAG en sy verteenwoordigers te dryf. Hy verstaan oënskynlik nie dat die Bestuur en regspan in diens van die HSAG lede is, en nie andersom nie. Maar, oor die afgelope vyf jaar was dit keer op keer duidelik dat Georgiou en sy pionne glo dat die HS miljarde aan Georgiou behoort en nie aan die HS beleggers nie.

Dit is hoekom die HSAG glo dat die enigste manier om sy lede regverdig te vergoed, deur 'n geregshof is deur hul mag in eenheid.

Die bogenoemde samevatting is hartverwarmend vir die HSAG en sy lede. Dit wys die deernis, eenheid en vasberadenheid wat onder sy lede bestaan, ten spyte van die geweldige uitdagings om die reuse in die gesig te staar.

Die HSAG Bestuur, regspan en PR wil weereens hul toewyding beloof om daar te wees, vir sy lede, insluitend die Applikante, en nie andersom nie.

DIE FINALE UITKOMS VAN ELKE HS BELEGGERS SAL DUS IN SY / HAAR EIE HANDE WEES.

2. UIT DIE MOND VAN 'N HSAG ONDERSTEUNER – KANSE OP SUKSES VIR HS21 & 22 VERSTEWIG AANSIENLIK

Tydens 'n onlangse verhoor in die Hoogste Hof Van Appèl (“HHA”) te Bloemfontein was 'n HSAG ondersteuner teenwoordig by die verrigtinge. Hierdie saak handel direk oor die HS 21 & 22 applikante se meriete wat nou staan gesertifiseer te word. Die HSAG ondersteuner het die HSAG se skakelafdeling (PR) afdeling gekontak. Hieronder is HSAG skakelbeampte, Sunette du Plessis, se weergawe van die oproep.

“20 minute my skat, toe’s hulle klaar, die HS (Highveld Sindikasie)-beleggers se advokaat het nie eers opgetree nie” is daar meegedeel. Die HS-beleggers se advokaat het saamgestem met die Regters se opmerkings en die Regters het hulle “gekap”.

Dit blyk dat Georgiou se advokaat aangevoer het dat die HS belegger sommer net aanvaar het dat sy (die HS belegger) afstand gedoen het van haar regte teen Zephan. Die hoof-appél-Regter het egter aangedui dat die Reëlinskema niks te doen het met die terugkoopklousule nie. Dit is baie positief vir die HSAG se voorgenome klas-aksie. Die regters het gesê dat die HS belegger 'n wettige kontrak aangegaan het en dat sy prestasie versoek ingevolge die kontrak deur die terugkoopklousule af te dwing. Na vyf jaar wou sy dubbel haar belegging terug hê, soos per die ooreenkoms.

“Kyk daai advokaat (Georgiou se advokaat) het gekrap die-kant toe en daai-kant toe maar hy kon niks uitrig nie. Die Hoofregter het hom die heelyd gekap en gesê “Meneer wat verstaan jy nie? Moet ek dit vir jou in Afrikaans sê ‘dit traak my nie’ dis die woorde wat hy gebruik het, ‘dit traak my nie’, die Art 155 Reëlinskema het niks met hierdie belegger se werklike kontrak te doen nie en die feit dat sy rente aanvaar het, is nie waarvoor sy geteken het nie. Sy het nie afstand gedoen van haar kontrak nie, ook nie van die produk wat sy gekoop het nie.” Dit is ook die HSAG se saak.

Die Regter het gesê: “of sy nou rente aanvaar het of nie, hulle (Georgiou) sal haar moet betaal. ‘Worst case scenario’ hulle kan haar dalk die rente terugvra maar dis ook nie te sê nie!”.

Die HS belegger se advokaat het “100% saamgestem na die Regter hom gevra het of hy iets wil sê”.

Georgiou se advokaat “het net sy kop geskud”.

“Die Hoofregter het finaal die verrigtinge gestop en gesê: ‘We are moving around in circles.’, en aangedui dat daar uitspraak gegee gaan word voor 7 Desember 2019.”

Georgiou se advokaat het na die verrigtinge die HS-belegger se advokaat se hand gaan skud.

WOW!! wens ek kon dit bywoon maar hierdie gesprek het my laat voel asof ek daar was. Ek sê vele dank aan die belegger wat my geskakel het hiervoor!!

Groete.
Sunette

3. **ORHTOUCH BESIGHEIDSREDDING – EISVORMS EN EERSTE VERGADERING VAN KREDITEURE**

Almal op Orthotouch se databasis ontvang nou ook SMS'e saam met eposse wat dieselfde strekking het, nl. dat vorms oor die plasing van Orthotouch en Zephan in Besigheidsredding onderteken word.

Die HSAG en die Regspan doen weer 'n ernstige beroep op lede en ondersteuners, en raai hulle sterk aan om, NIE SONDERMEER, BEHOORLIKE BESINNING EN SELFS ONAFHANKLIKE ADVIES, DIE EISVORMS TE ONDERTEKEN NIE (in die saak van Orthotouch/Zephan in besigheidsredding). 'n Voorbeeld waarom dit onder andere noodsaaklik is, word hieronder geplaas.

Punt nommer 4 op die eisvorm lui byvoorbeeld duidelik:

"Dat geen ander persoon behalwe die genoemde (Orthotouch) aanspreeklik is vir genoemde skuld of enige gedeelte daarvan nie."

Dit beteken dat, sou bogenoemde verklaar word, en beleggers dit só skriftelik bevestig, niemand anders nie maar slegs Orthotouch ('n leë dop), teenoor hulle aanspreeklik sou wees vir die beleggers se eise. Dit kan dus beteken dat beleggers se eise teen Georgiou en die ander Respondente in wesenlike gevaar gestel kan word en hulle sodanige verweer teen beleggers se eise kan opper.

Gerugte doen ook weer die rondte dat Georgiou homself gaan sekwestreer en Orthotouch en Zephan likwedeer. Hierdie gerugte spruit waarskynlik onder andere voort uit die teëspoed wat Georgiou weer onlangs in die Howe ervaar het. Georgiou het ook onder eed verklaar dat die entiteite miljarde rande se eise teen hulle het.

Sodanige prosesse kan inderdaad 'n positiewe uitwerking hê om die miljarde rande se vervreemde bates en fondse vinniger te verhaal.

Elke belegger moet 'n behoorlike en ingeligte besluit neem op welke wyse daar met sy/haar/hul eise teen Mnr Nic Georgiou en sy mede-Respondente gehandel word.

Indien Mnr. Georgiou gesekwestreer, of enige van sy entiteite gelikwedeer word, sal hy eerder vroeër as later in die getuiebanc tydens 'n insolvensie ondervraging wees om te verduidelik wat van die miljarde ontvang van die HS maatskappye geword het.

Ons jarelange regstryd is besig om vrugte af te werp en kan u op die ondersteuning en lojaliteit van u mede-HSAG-lede staatmaak ongeag welke roete (sakeredding/likwidasië) ook al gevolg word.

4. **UIT DIE PEN VAN 'N BELEGGER**

"Beste HSAG Bestuur en regspan.

Na aanleiding van die bemoedigende boodskap vanaf HSAG Bestuur oor die pas afgelope HS21/22 Sertifiserings-aansoek te Pretoria, asook die goeie nuus ten aansien van die Hoogste Hof van Appèl saak van 20 November 2019 in Bloemfontein, wil ek julle as ons prokureurs en Bestuur bedank vir jul harde werk en volgehoue passie vir ons saak.

Ek wil ook graag hiermee as 'n laaste poging aan alle lede van die HSAG sowel as enige belegger wat die nuusbriewe bekom op watter wyse ookal soebat/smeek om:

- Indien u wel 'n lid van die HSAG klas-aksie is – u registrasie en reghskostes op datum te bring voor einde Januarie 2020
- Indien u nog nie 'n lid is van HSAG klas-aksie nie – om so gou doenlik aan te sluit soos per sper datum bo.

Wees dus voorbereid / paraat / waak teen die moontlikheid dat u eis reeds verjaar het, raak deel van die HSAG klas-aksie. Moenie uit mis op die voordele van 'n moontlike skikking as hierdie klas gesertifiseer word nie.

Kontak die kantoor onmiddellik deur 'n epos te stuur aan:

- hsactiongroup@gmail.com – vir e-pos adres / telefoonnommer veranderinge, betalingsbewyse en aan te sluit by die HSAG WhatsApp groepe; of
- hsagregister@gmail.com – ten einde te registreer as 'n nuwe lid.

Daar is ook WhatsApp groepe wat jul kan kontak om op hoogte te kom / bly rakende ons saak. Kontak gerus 0824508854 (Engels) en 0796354165 (Afrikaans). Gaan besoek ook die webblad by www.hsaction.co.za of die Facebook blad by <https://web.facebook.com/hsaction/>

Weereens dankie aan Bestuur en ons Almagtige Vader.”

5. **DIGITALE UURGLAS – SPERDATUM VIR OUTOMATIESE OPT-IN!**

Ten einde lede behulpsaam te wees met die oog op die komende Aansoek vir Sertifisering van die klas-aksie asook moontlike skikkingsonderhandelinge, het die HSAG 'n digitale uurglas op die HSAG webtuiste aangebring by www.hsaction.co.za. Hierin word 'n afsnydatum van 31 Januarie 2020 aandui vir lede om hul bydraes en registrasiekoste op datum te bring.

LET WEL:

- Ten einde billik en regverdig te wees teenoor almal wat steeds kan en wil voortgaan met die litigasie was destyds gracie verleen aan HSAG-lede om hul opvragings op datum te bring.
- Hierdie gracie periode sal ongelukkig streng toegepas word en geen uitsonderings sal gemaak word nie.

Die sperdatum om op datum te kom met u bydraes vir outomatiese opt-in is 31 Januarie 2020.

6. **“OPT-IN”: MAAK SEKER OF JY DEEL IS VAN DIE SAAK, DIS IMMERS JOUNE**

Die HSAG het een kans om die klas-aksie gesertifiseer te kry.

Ons beklemtoon weereens dat alle beleggers in HS 21 & 22 kan deel vorm van die voorgenome klas-aksie, en dit is nie eksklusief vir HSAG lede gereserveer is nie.

Soos in vorige Nuusbriewe uitdruklik gestel ingevolge die groepslede-befondsingsmodel wat die HSAG volg, maak die Kennisgewing van Mosie voorsiening daarvoor dat geen voornemende eiser **outomaties** geag sal wees om deel te wees van die klas-aksie (outomaties “opt-in”) nie, tensy hul opbetaalde HSAG-lede is.

Die Kennisgewing van Mosie kan besigtig word by <http://hsaction.co.za/wp-content/uploads/2019/10/Amended-Notice-of-Motion-Fast-Tracking-of-buyback-claims.pdf>

Persone wat nie die vereiste finansiële bydraes lewer nie, kan ongelukkig nie outomaties deel wees van die HSAG sertifikasie aansoek nie.

Indien u nie outomaties ingesluit word nie, en ook nie “opt-in” in die vereiste metode nie, kan dit uiteindelik beteken dat u nie in die toekoms ’n eis sal kan instel nie.

Die “opt-in” bedeling se doelwit is gevolglik nie om enige persone met moontlike eise uit te sluit nie, en laat dit ’n moontlikheid vir selfs nie-HSAG lede om deel te vorm van die klas-aksie. Opbetaalde HSAG-lede kan natuurlik outomaties ingesluit word indien deur die hof goedgekeur.

Dit plaas dus ’n verantwoordelikheid op eisers (wie wil voortgaan met hul eise) om positiewe stappe te neem ten einde deel te vorm van die HSAG se doelwitte.

7. LEDEBYDRAES & DIE SPESIALE VERHOORHEFFING VIR HS 21 & 22

7.1 Waarom is Ledebydraes Belangrik?

Die HSAG maak gebruik van ’n Groepslede-befondsingsmodel, dit beteken dat alle regs- en administrasiekoste befonds word deur die HSAG-lede. Dit beteken ook dat die regspan slegs hul gewone fooie hef en nie dubbeld of selfs ’n persentasie van die HSAG-eisers of lede se eise ontvang nie. Danksy die groot getalle lede van die HSAG die afgelope vyf jaar sal, indien hierdie model gevolg word, die totale eisbedrag plus rente en koste (wat uiteindelik tot dubbeld die oorspronklike belegging kan beloop) aan die HSAG-lid toegeken word.

Enkele duisende rande word gevolglik deur HSAG-lede betaal ter vordering van hul eise.

7.2 Spesiale Verhoorheffing vir HS 21 & 22

’n Spesiale verhoorheffing is deur alle HS21&22 lede betaalbaar en sal op hul state verskyn.

Die HSAG regspraak se personeel is deurlopend besig om die uiters belangrike spesiale verhoorheffing op u staat aan te bring. Dit neem egter tyd en lede wat nog nie dié staat ontvang het nie sal dit mettertyd ontvang. Die staat sal vir u aandui wat die bedrag is wat u moet betaal.

In die tussentyd kan u, indien u nog nie u staat ontvang het nie, 'n e-pos rig aan die kantoor na hsagenquiries@gmail.com ten einde die bedrag van u spesiale verhoorheffing te bekom.

In u e-pos moet u asseblief melding maak van u volle naam, ID nommer, asook die bedrag(e) wat u in HS 21 en/of HS 22 belê het.

Die HSAG regspraak sal u dan per kerende e-pos antwoord en u verwittig van die heffing wat op u staat sal verskyn.

U betalingsverwysing moet asseblief u voorletters, van en HS nommers (sindikasies waarin u belê het) aantoon.

8. **KAN HSAG-LEDE SE EISE STEEDS BUITE DIE HOF GESKIK WORD?**

By klas-aksies, veral in lande waarin die klas-aksie meganisme langer bestaan, is dit nie ongewoon dat die partye kort voor (of na) die sertifisering van 'n klas-aksie in skikkingsonderhandelinge betrokke raak nie, omdat 'n negatiewe beslissing in litigasie, in meeste van die gevalle vir die spreekwoordelike Goliat, miljoene of miljarde rande se werklike en reputasieskade kan besorg.

Indien daar dus skikkingsonderhandelinge is, wil die HSAG ook bemagtig wees om namens ander opbetaalde lede (wat nie in HS21&22 is nie) te onderhandel. In effek sal dit neerkom dat, indien 'n skikking bereik word, alle hofsake en litigasie tot 'n einde gebring word. Dit sal ook vir die teenkant 'n einde aan uitmergelende litigasie wees.

9. **SO BERIG DIE MEDIA OOR DIE PICVEST-BELEGGINGS – DEEL 6**

DEEL 6 van die reeks staan oor vir ons kort Desember 2019 Nuusbrief.

Hierdie gedeelte van die Moneyweb ondersoek sal fokus op die verkoop transaksies verwant aan Accelerate.

10. **MIKE BOLHUIS SE ARTIKEL**

Kyk gerus uit vir die HSAG se Desember 2019 Nuusbrief vir 'n opsomming van Mike Bolhuis se artikel asook Ryk Van Niekerk se kommentaar daarop.

11. **HUIDIGE STAND VAN SAKE**

11.1 Versnelde Sertifikasie Aansoek (HS 21 & 22)

Die Aansoek vir Sertifisering van HS 21 & 22 op 11 tot 15 November 2019 in Pretoria aangehoor. Uitspraak is voorbehou en sal na verwagting vroeg 2020 gelewer word.

11.2 Beleggers met eise in HS 15 tot 20

Die HSAG regsman het sy eerste konsep aan die HSAG bestuur voorgelê en is die regsman steeds van voorneme om die stukke voor einde November 2019 uit te reik.

11.3 Van der Sandt se aansoek om tussenbeidetrede

Van der Sandt was genoodsaak om haar aansoek vir opponering van die sertifikasie terug te trek. 'n Bestraffende kostebevel word teen haar versoek.

11.4 Aansoek om as vriend van die Hof toe te tree in die Noormahomed Appèl Aansoek

Weens 'n administratiewe fout by die Griffier van die HHA kon die HSAG regsman nie die verrigtinge bywoon nie. Hulle stukke was egter voor die Hof gewees en is die HSAG van mening dat dit uiters belangrike inligting bevat het om die HSAG se belange te bevorder.

12. BELANGRIKE ALGEMENE TERME EN VOORWAARDES

Die HSAG het verskeie versoeke ontvang om die nuusbriewe korter te maak. Dit is egter nie altyd moontlik nie maar word die algemene en herhalende terme, voorwaardes en ander algemene inligting wat voorheen in die Nuusbrief vervat was, nou beskikbaar gestel op die HSAG se webtuiste by www.hsaction.co.za onder die September 2019 kennisgewings. In die alternatief kan dit besigtig word by die volgende skakel:

<http://hsaction.co.za/wp-content/uploads/2019/09/HSAGTsCs.pdf>

Die HSAG Bestuur wil iedere en elke lid alle voorspoed en sukses toewens met die afsienbare toekoms.

Vriendelike groete

HSAG-Bestuurskomitee

Kontak die HSAG en prokureurs by:

Tel: (021) 887 7877

hsactiongroup@gmail.com



AFRIKAANS HIERBO

MONTHLY NEWSLETTER: NOVEMBER 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 hsagenquiries@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, and 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.

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1. **FEEDBACK REGARDING THE HSAG'S HS 21 & 22 APPLICATION FOR CERTIFICATION**

IMPORTANT NOTICE TO HSAG MEMBERS

HS 21 & 22 – Certification Application 11 to 13 November 2019, Pretoria High Court.

The HSAG's certification application for HS 21 & 22 was heard from 11 to 13 November. The application was swiftly completed within two and a half days, although it was reserved for five days.

Since the proceedings are funded by the HSAG Members, there were many enquiries from members and supporters and there was even attendance at court.

The proceedings were conducted in open court and the purpose of this message is not only to give feedback to its members and supporters, but also to strengthen the ray of hope and faith for its destitute members.

An important dramatic development evolved in the courtroom early on the first day of the hearing when the Intervening party's (Mrs van der Sandt's) attorney, threw in the towel on behalf of his client. Despite this, the HSAG sought a punitive cost order against her for wasting time and money through her conduct.

Mrs. Van der Sandt's withdrawal of her opposition was telling. It was clear that she did not have any interest in the HS 21 & 22 certification application, and that her intervention was without any legal basis. Represented by two counsel and an attorney at the hearing must have easily cost her 10 times more (for the few hours in court), than all the contributions that she has made to the HSAG over 5 years. All of which flies in the face of her intervention.

Van der Sandt's total legal costs are furthermore estimated at up to five times the amount that she invested in HS 15 all together, a company that was not even before court! This leaves little doubt that she did not act in good faith and even less that Georgiou funded her legal costs.

Van der Sandt's counsel tried to justify her intervention by stating that she wanted to put "her version of events" before Court, even if she had no interest in the case or syndications before court.

The final nail in her coffin was when Orthotouch's (one of Georgiou's front companies) attorney stated under oath that Helgard Hancke, who undoubtedly works for Georgiou, introduced Mrs Van der Sandt to her.

Our legal team requested a punitive cost order for wasted costs caused by Van der Sandt as well as her opposition of the certification.

The legal representatives of the HSAG confirmed after conclusion of the proceedings that they are now more determined and positive about the proceedings and the Applicants' (HSAG's) merits.

It was evident from arguments by both legal teams that the prospects of success are in favour of the HSAG.

Although the legal team is not in any position to predict or foreshadow the presiding judge's decision, and also does not wish to premeditate the Court's finding, it was apparent from the proceedings that Judge Tolmay took note of the role of class action litigation in South Africa and its importance in ensuring access to justice.

It was clear that Judge Tolmay is also well aware of the age of investors, as well as their vulnerability. It is evident that a class action is an appropriate and suitable way of bringing investors' cases before a court of law, especially when the costs of litigation on an individual basis is considered.

It was furthermore confirmed that a certificate will be issued if it is in the interests of justice.

It was a great relief for the HSAG that Georgiou's latest attempts to thwart off the claims against Zephan and Orthotouch, by putting them in business rescue, did not have any bearing on the proceedings and are at this stage irrelevant in considering whether a class should be certified or not. This was also conceded by Georgiou's legal team.

It was fully argued in Court that the Applicants and Theron & Partners Attorneys are well suited to continue as applicants and legal representatives in the class action, and that the checks and balances put in place by the legal team are sufficient. A strong case was made out that a Court should not be burdened with unnecessary additional tasks in overseeing the manner in which the litigation is currently being organized, and in particular where other mechanisms were in place. This was acknowledged.

The tainted history of the litigation was pointed out, as well as that the spurious allegations made against the HSAG steering committee and legal team are unfounded. Sufficient other remedies are available to any concerned party. This was also pointed out by the judge.

Judge Tolmay took cognisance of the Group Member Funding model in this unique case and the fact that funds are needed to continue with the class action litigation and that fees and contributions are requested. It was acknowledged that it is a difficult situation, especially when one regards the circumstances that HS investors find themselves in.

Despite the enormous challenges that HSAG members continue to experience, the judge took note of the role that the HSAG, its steering committee and attorneys played over the past 5 years. If it wasn't for the HSAG members, led by those individuals, we wouldn't have been where we are today.

Judge Tolmay further indicated that she will unfortunately only be able to consider her judgement after the Noormahomed / Zephan appeal, which was set down for Wednesday, 20 November 2019, has been decided in the Supreme Court of Appeal, as this may have a bearing on our case. However, the judge emphasized that she will regard all facts and circumstances judicially and in the best interest of justice. This

means that, whatever the outcome of that case, it will not prevent her from judging the facts and merits of our case (See point 2 below for a discussion of the proceedings).

Judge Tolmay indicated that she will provide a written judgement with reasons, as this certification application is a novel case and she intends to provide the grounds for her judgement when it is handed down.

We expect judgement in this certification application after the ensuing 2019 year-end High Court recess.

One thing that emerged in court was the endless and tiresome attempts by Georgiou's senior counsel to persuade the court that the HSAG steering committee is the sole driving force of this case! This is a false argument because the HSAG would never have existed if it wasn't for the continuous and loyal support of its members!

Georgiou is determined to drive a wedge between the HSAG and its representatives. He seemingly doesn't understand that the steering committee and lawyers are in the service of the HSAG members, and not the other way around. ~~But~~ However, over the past 5 years, it was time and again clear that Georgiou and his pawns believe that the HS billions belong to Georgiou and not the HS Investors.

This is why the only manner in which the HSAG believes that its members will be justly compensated through a court of law, is through the strength in its unity.

The above synopsis is heart-warming for the HSAG and its members. It shows the compassion, unity and determination that exist amongst its members, despite the daunting challenges of facing the giants.

The HSAG Steering Committee, legal team and PR, again wish to pledge their commitment to be there for its members, including the Applicants, and not the other way around.

THE FINAL OUTCOME OF EACH AND EVERY HS INVESTOR WOULD THEREFORE BE IN HIS/HER OWN HANDS.

2. **FROM THE MOUTH OF A HSAG SUPPORTER – CHANCES OF SUCCESS FOR HS 21 & 22 INCREASES CONSIDERABLY**

During a recent hearing in the Supreme Court of Appeal (“SCA”) in Bloemfontein, an HSAG supporter attended the proceedings. This case deals directly with the merits of the HS 21 & 22 applicants who now stand to be certified. The HSAG supporter contacted the HSAG's Public Relations (PR) division. Below is HSAG liaison and PR officer Sunette Du Plessis' version of the call.

"20 minutes, my dear and they were done, the HS (Highveld Syndication) investor's advocate didn't even act," it was told. The HS investor's advocate agreed with the Judges' remarks and the Judges "nailed" them.

It appears that Georgiou's advocate argued that the HS investor simply accepted that she (the HS investor) waived her rights against Zephan. However, the Chief Appeal Judge stated that the Scheme of Arrangement indicated that it had nothing to do with the buyback clause. This is very positive for the HSAG's proposed class action. The judges said that the HS investor had entered into a legitimate contract and that she demanded performance under the contract by enforcing the buyback clause. After five years, she wanted double her investment back, as per the agreement.

"Look that advocate (Georgiou's advocate) couldn't do anything. The Chief Judge interrupted him and said "Sir, what don't you understand? Should I tell you in Afrikaans 'Dit traak my nie', that's the words he used, 'it doesn't bother me', the Sec 155 Scheme of Arrangement has nothing to do with this investor's actual contract and the fact that she accepted interest payments, is not what she signed for. She did not renounce her contract, nor the product she bought." This is also the HSAG's case.

The Judge said "Whether she accepted interest or not, they (Georgiou) would have to pay her. 'Worst case scenario' they may ask her to pay the interest back, but that's not to say!"

The HS investor's advocate "100% agreed after the Judge asked him whether he had anything to add".

Georgiou's advocate "just shook his head".

"The Chief Justice finally ended the proceedings and said 'we are talking in circles' and indicated that judgement will be given before 7 December 2019."

Georgiou's advocate shook the HS investor's advocate's hand after the proceedings.

WOW!! I wish I could have attended but this conversation made me feel like I was there. I would like to thank the investor who contacted me in this regard!!

Regards.
Sunette

3. **ORTHOTOUCH BUSINESS RESCUE – CLAIM FORMS AND FIRST MEETING OF CREDITORS**

Everyone on Orthotouch's database are now also receiving SMS' as well as emails along the same vein, namely that Forms regarding the placement of Orthotouch and Zephan into Business Rescue must be signed.

The HSAG and Legal Team again strongly urge their members and supporters NOT TO SIGN THE CLAIM FORMS, WITHOUT PROPER INDEPENDENT REVIEW OR ADVICE, (in the matter of Orthotouch / Zephan under Business Rescue). An example of why it is necessary, inter alia, will be placed below.

Point number 4 on the Claim Form for example clearly states:

"That no other person besides the said "(Orthotouch)" is liable for the said debt or any part thereof"

"This means that by declaring the above, the Investors state in writing that no one else but Orthotouch (an empty shell), is liable for the investors' claim. This can also mean that it would jeopardise investors' claims against Georgiou and the other Respondents as Georgiou and others may have a defence against claims made."

Rumours are also doing the rounds that Georgiou is going to sequester himself and liquidate Orthotouch and Zephan. This rumour probably stems from, amongst other things, the adversity Georgiou recently experienced in the Courts. Georgiou also declared under oath that the entities had billions of Rands claims against them.

Such processes may indeed have a positive result in recouping the billions' of estranged assets and funds.

Each investor must therefore make an informed decision in which way his/her claim against Mr Nic Georgiou and his fellow Respondents must be dealt with.

If Mr Georgiou is sequestered, or any of his entities liquidated, he will undoubtedly be in the witness box during an insolvency interrogation, sooner rather than later, to explain what happened to the billions received from the HS companies.

Our longstanding legal battle is beginning to pay off and you can rely on the support and loyalty of your fellow HSAG Members regardless of which route (business rescue / liquidation) will be followed.

4. **FROM AN INVESTOR'S PEN**

"Dear HSAG, Steering Committee and legal team

Following the encouraging message from HSAG Steering Committee about the recent HS21/22 Certification Application in Pretoria, as well as the good news regarding the Supreme Court of Appeal matter of 20th of November 2019 in Bloemfontein, I want to thank you as our legal team and Steering Committee for your continued passion and hard work in our case.

I would also like, as a last attempt, to plead to all members of the HSAG as well as any investor who manages to acquire the newsletters:

- If you are already a member of the HSAG Class Action - to bring your registration and legal costs up to date before end January 2020.
- If you are not yet a member of HSAG Class Action - to join as soon as possible, before the due date above.

Therefore, be prepared / ready and guard against the possibility that your claim has prescribed. Become part of the HSAG class action to not miss out on the benefits of a possible settlement if this class action is certified.

Contact the office immediately by sending an email to:

- hsactiongroup@gmail.com – regarding e-mail address / contact detail changes and proof of payments.
- hsagregister@gmail.com – for registration as a new member.

There are also WhatsApp groups that you can join to keep up to date regarding our case. Please contact 0824508854 (English Admin) and 0796354165 (Afrikaans Admin). You can also visit www.hsaction.co.za or the Facebook page: <https://web.facebook.com/hsaction/> for information.

Thanks once again to Management and our Almighty Father.”

5. **DIGITAL TIMER – DUE DATE FOR AUTOMATIC OPT-IN!**

In order to assist members with the upcoming Application for Certification of a class-action as well as possible settlement negotiations, the HSAG has added a digital hourglass to the HSAG website at www.hsaction.co.za. This indicates the cut-off date of 31 January 2020 for members to bring their outstanding contributions and registration fees up to date.

TAKE NOTE:

- To be fair and reasonable towards everyone who still wishes to proceed with the litigation, a grace period was afforded to HSAG members to bring their outstanding contributions up to date.
- This grace period will unfortunately be strictly enforced and no exceptions will be made.

The deadline for bringing your contributions up to date for automatic opt-in is 31 January 2020.

6. **“OPT-IN”: MAKE SURE THAT YOU ARE PART OF THE CASE, IT IS INDEED YOURS**

The HSAG has one opportunity to certify the class action.

Again, we emphasise that all investors in HS 21 & 22 will be able to form part of the proposed class action, and it is not exclusively reserved for HSAG members.

As expressly mentioned in previous Newsletters, in terms of the group member funding-model followed by the HSAG, the Notice of Motion provides that no proposed claimants will automatically be regarded as being part of the class action (automatically opt-in), unless they are paid-up HSAG members.

The Notice of Motion is available at:

<http://hsaction.co.za/wp-content/uploads/2019/10/Amended-Notice-of-Motion-Fast-Tracking-of-buyback-claims.pdf>

Persons who do not make the required financial contributions will unfortunately not automatically be part of the HSAG's certification application.

If you are not automatically included, and then also neglect to "opt-in" in the prescribed manner, it may eventually mean that you will not be able to institute a claim in the future.

The "opt-in" dispensation's objectives are not to exclude any persons with potential claims, and the possibility of being part of the class-action remains even for non-HSAG members. Paid-up HSAG members will indeed automatically be included, as they have indicated their intention by virtue of their membership and contributions.

It therefore places an obligation on claimants (who want to continue with their claims) to take steps to be part of the HSAG's objectives.

7. **MEMBERSHIP CONTRIBUTIONS**

7.1 **Why are Membership Contributions Important**

The HSAG implemented the Group Members funding model, which means that all legal and administrative costs are funded by the HSAG members. This also means that the legal team only charges their usual fees and does not receive double or even a percentage of the HSAG claimants or members' claims. Thanks to the large number of HSAG members over the past five years and if this model is followed, the total claim amount plus interest and costs, (which could eventually amount to double the original investment) will be allocated to the HSAG member.

As a result, HSAG members are able to institute their claims for a fraction of the cost.

7.2 **Special Trial Levy and Contribution – HS 21 & 22**

A special trial levy is payable by all HS21 & 22 members and will appear on their statements. This will be levied against all members who invested in those syndications.

The HSAG legal team's staff are in the process of adding the very important special trial levy to your statements. However, it does take time and members who have not yet received their statement will receive it in due course. The statement will indicate the amount that will be due by you.

In the meantime, if you have not yet received a statement, you may e-mail the office at [**hsagenquiries@gmail.com**](mailto:hsagenquiries@gmail.com) to obtain the amount for your special trial levy.

In your e-mail, please state your full name, ID number, as well as the amount(s) you have invested in HS21 and/or HS22.

The HSAG legal team will then reply to you via email and notify you of the amount that will appear on your statement.

Your payment reference must as usual, please reflect your initials, surname and HS numbers (syndications in which you invested).

8. **CAN HSAG MEMBERS' CLAIMS STILL BE SETTLED OUT OF COURT?**

In class actions, especially in countries where the class action mechanism has existed for some time, it is not unusual for parties to become involved in settlement negotiations shortly before (or after) certification of a class action as a unfavourable judgement in litigation (in most cases for the proverbial Goliath) may result in millions or billions of rands worth of real and reputational damages.

Therefore, in the event that there are settlement negotiations, the HSAG wants to be able to negotiate on behalf of other paid-up members (that are not in HS21 & 22). It entails that if a settlement is reached, all court cases and litigation will be brought to an end. It will also be the end of gruelling litigation for the opposition.

9. **WHAT THE MEDIA REPORTS ON PICVEST-INVESTMENTS – PART 6**

PART 6 of the series will stand over for our short December 2019 Newsletter.

This part of the Moneyweb investigation will focus on the sale transactions related to Accelerate.

10. **MIKE BOLHUIS' ARTICLE**

Keep an eye out for a summary of Mike Bolhuis' article and Ryk van Niekerk's commentary on same, in the HSAG's short December 2019 Newsletter.

11. **THE CURRENT STATE OF LITIGATION**

11.1 Fast Track Certification Application (HS 21 & 22)

The Certification Application for HS 21 & 22 was heard in Pretoria from 11 to 13 November 2019. Judgement has been reserved and expect judgement to be delivered early 2020.

11.2 Investors with claims in HS 15 to 20

The HSAG legal team has presented the first draft to the HSAG Steering Committee and the legal team still intend on issuing the the court documents before the end of November 2019.

11.3 Van der Sandt's Application to Intervene

Van der Sandt was forced to withdraw her application to oppose the Certification Application. A Punitive cost order has been sought against her.

11.4 Application to be admitted as friend of the Court in the Noormahomed Appeal Application

As a result of an administrative oversight by the Registrar of the SCA, the HSAG could not attend the proceedings. The HSAG's court documents were, however, brought before the Court and the HSAG is of the opinion that it contained extremely important information which promoted the HSAG's interests.

12. IMPORTANT GENERAL TERMS AND CONDITIONS

The HSAG received numerous requests to shorten the newsletters. This is not always possible, however the general and repetitive terms, conditions and other general information that was previously contained in the Newsletter, is now available on the HSAG website at www.hsaction.co.za under the September 2019 Notices. In the alternative, it can be directly accessed via the following link: <http://hsaction.co.za/wp-content/uploads/2019/09/HSAGTsCs.pdf>

The HSAG Steering Committee wishes prosperity and success to each and every member for the foreseeable future.

Kind regards

HSAG Steering Committee

Contact the HSAG's attorneys at:

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hsactiongroup@gmail.com