



\*ENGLISH TEXT BELOW\*

## MAANDELIKSE NUUSBRIEF: FEBRUARIE 2021

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 onmiddellik in kennis by [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) 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 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](http://www.hsaction.co.za) webtuiste die primêre plek waar u HSAG inligting, onderhewig aan die vrywaring daarin vervat (en ook hierop van toepassing) kan bekom.

Die verpligting rus op u as HSAG lid om ons op hoogte van enige veranderinge van u persoonlike en/of kontakbesonderhede asook dat die inhoud van u maandelikse state korrek is.

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## 1. **INLEIDING**

Ons vertrou dat almal 'n geseënde en voorspoedige maand gehad het en dat al ons lesers gesond is. Die Nuwejaar is nou aan die gang en alhoewel baie in die wêreld verander, bly ons toegewyd daaraan om jul suksesvol te verteenwoordig. Die regspan bly steeds soos altyd bemoedig, ten spyte van deurlopende finansiële uitdagings wat die grotendeels bejaarde HSAG lede ervaar met gepaardgaande gevolge en gepoogde uitkalkwing van die ondersteuningsbasis.

Ons streef om steeds standvastig en toegewyd toe te sien dat u eise suksesvol deurgevoer en ingevorder word. Die HSAG Bestuur is vasberade om positief te bly en ons nuwe 'hernubare energie' beleid toe te pas, en wil almal graag herinner dat ons nie langer tyd kan en sal mors op negatiewe irrelevante aangeleenthede of vrae wat nie bydrae tot die uiteindelijke suksesvolle dryf van u eise nie. Geen verdere onnodige tyd en geld sal vermors word met irrelevante kommentaar of onwaarhede wat deur ons opponente versprei word om die klas-aksie te ontspoor nie.

Ons wil graag ons lede bedank wat deur moeilike tye lojaal en toegewyd gebly het. Die proses is nie 'n vinnige een nie. Ons weet dat die taktieke wat gebruik word deur die Respondente, gemik is daarop om die saak te verleng en ons lede te frustreer. Ons versoek u dus om te vertrou in die proses en die Stalingrad-taktieke van die opposisie teen te staan.

'n Belangrike wyse waarop die HSAG lede hul toewyding kan toon is deur die HSAG bestuur, skakelbeampies en die regspan moreel te ondersteun asook deur hul nominale jaarlikse bydraes te maak. Februarie is normaalweg die jaarlikse opvraging-maand en benodig ons asseblief almal se ondersteuning.

Die spreekwoordelike Dawid, wat grotendeels bestaan uit pensioenarisse en bejaardes staan saam teen die eiendoms-reus Goliat. Buiten hul geloof en vertrouwe in hul saak en almal wat hul ondersteun moet die klein mense ook toegewyd bly tot hul eie saak. Selfs al het ons alles in ons guns sal die magtige opponent nie kan val sonder 'n klippies in die slingervel nie.

Ons het bewus geraak van vrae wat gevra is op ons kommunikasieplatforms en ons sal graag hierdie kans gebruik om in hierdie opvragingsmaand van die finansiële vrae te beantwoord. Sien hieronder ons antwoorde op dié vrae.

Daar was ook heelwat navrae oor wat die verskil tussen die HSAG en CCAF is. Beide van hulle is akronieme wat gebruik word om die begrippe te vergemaklik. 'n Verdere klas het in die afgelope jaar ontstaan, naamlik die afgeleide aansoek wat gedurende Desember 2019 in die Hooggeregshof Pretoria uitgereik is, of kortweg DECA (akroniem vir Derivative Class Action).

Lees hieronder watter interessante nuus daar hierdie maand is!

## 2. WAT IS DIE VERSKIL TUSSEN CCAF EN DIE HSAG?

HSAG	CCAF
<ul style="list-style-type: none"> <li>• <u>HIGHVELD SYNDICATION ACTION GROUP</u></li> <li>• Die Hoëveld Sindikacie Aksie Groep bestaan uit 'n oop groep van verskillende persone: natuurlike persone (bv individue), regspersone (bv Beslote Korporasies en maatskappye), trusts, eksekuteurs van bestorwe boedels, erfgename ens.</li> <li>• Persone kan steeds aansluit</li> <li>• Aansluiting vrywillig</li> <li>• Tipe eise is beide kontraktueel en deliktueel (onregmatige dade)</li> </ul>	<ul style="list-style-type: none"> <li>• <u>CERTIFIED CLASS ACTION FAST-TRACK</u></li> <li>• CCAF bestaan ook uit verskillende persone maar is 'n geslote groep.</li> <li>• Geen verdere lede kan aansluit nie</li> <li>• Aansluiting deur 'n hofbevel gesanksioneer</li> <li>• Tipe eise is slegs kontraktueel van aard</li> </ul>

<ul style="list-style-type: none"> <li>• Befondsing deur betaling van registrasiekoste, jaarlikse en ad hoc bydraes deur lede</li> </ul> <p><u>Lede:</u></p> <ul style="list-style-type: none"> <li>• Persone wat registrasiekoste betaal het en aangesluit het deur registrasie-vorms te voltooi en aan die HSAG te stuur.</li> <li>• Beleggers in HS 15-22 wat aangesluit en geregistreer het om deel te wees van die HSAG</li> </ul> <p><u>Kommunikasie:</u></p> <ul style="list-style-type: none"> <li>• HSAG webtuiste, HSAG Bestuurskomitee, HSAG skakelbeamptes, e-posse, telefonies, whatsapps, nuusbriewe, sms'e, media, korrespondensie, ens.</li> </ul> <p><u>HSAG Regsverteenwoordigers:</u></p> <ul style="list-style-type: none"> <li>• Theron &amp; Vennote</li> </ul> <p><u>Vernaamste huidige Sake:</u></p> <ul style="list-style-type: none"> <li>• Sertifikasie Aansoek in HS19-22 en Artikel 165 Afgeleide Aksie onder</li> </ul>	<ul style="list-style-type: none"> <li>• Befondsing deur registrasiekoste van webgebaseerde Opt-In lede en daarna opvragings wanneer nodig</li> </ul> <p><u>Lede:</u></p> <ul style="list-style-type: none"> <li>• Persone wat geregistreer het op webgebaseerde registrasievorm ("Manual Opt-In" of kortweg "MOI") en persone wat outomaties aangesluit het deur opbetaalde HSAG lede te wees op 'n spesifieke tydstep (Outomatiese CCAF lede of kortweg "AOI" lede)</li> <li>• Beleggers in HS 21 &amp; 22 wat: <ol style="list-style-type: none"> <li>1. Elektronies Ge-'opt-in' het teen 16 Maart 2020 ("MOI" lede).</li> <li>2. Opbetaalde HSAG-lede was teen 31 Januarie 2020 ("AOI" lede).</li> <li>3. NIE-opbetaalde HSAG lede was teen 31 Januarie 2020 nie, maar wie eerder besluit het om elektronies te 'opt-in' ("MOI" lede).</li> </ol> </li> </ul> <p><u>Kommunikasie:</u></p> <ul style="list-style-type: none"> <li>• E-posse, telefonies, HSAG CCAF lede ook deur HSAG webtuiste , Bestuurskomitee, HSAG skakelbeamptes, e-posse, telefonies, sms'e, whatsapps, nuusbriewe, korrespondensie, media ens.</li> </ul> <p><u>CCAF Regsverteenwoordigers:</u></p> <ul style="list-style-type: none"> <li>• Theron &amp; Vennote</li> </ul> <p><u>Vernaamste huidige Sake:</u></p> <ul style="list-style-type: none"> <li>• Kontraktuele aansoek gebaseer daarop om die terug-koop</li> </ul>
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<p>andere gebaseer op bedrog en wanvoorstelling (“DECA”). Hierdie DECA aangeleentheid is relevant tot alle HS maatskappye (HS 15 – 22). Tans besig met die sertifikasie aansoek</p> <p><u>Status van Sake:</u></p> <ul style="list-style-type: none"> <li>• Aansoek om Sertifikasie</li> </ul> <p><u>Vernaamste Opponente en Belanghebbendes:</u></p> <ul style="list-style-type: none"> <li>• 26 Respondente</li> <li>• Nic Georgiou, sy seuns Michael en George, sy trusts en ander entiteite;</li> <li>• Besigheidsreddingspraktisyn Hans Klopper;</li> <li>• Direkteure van Highveld Sindikasie Maatskappye;</li> <li>• Direkteure van Zephan en Orthotouch</li> <li>• Besigheidsreddingpraktisyn Jacques du Toit van Zephan en Orthotouch</li> </ul> <p><u>Aanvang van Sake:</u></p> <ul style="list-style-type: none"> <li>• Augustus 2014</li> </ul> <p><u>Aantal geaffekteerde persone:</u></p> <ul style="list-style-type: none"> <li>• 18 300 beleggers</li> </ul> <p><u>Totale HS15-22 Beleggings betrokke:</u></p> <ul style="list-style-type: none"> <li>• R4 600 000 000.00 (4.6 miljard rand)</li> <li>• Plus rente</li> </ul> <p><u>Befondsingsmodel:</u></p> <ul style="list-style-type: none"> <li>• Groeplede befondsing</li> </ul>	<p>klousules, wat deel gevorm het van die prospektusse van die HS 21 &amp; 22 beleggings, af te dwing. Tans besig met die uitruil van dokumente met die Respondente.</p> <p><u>Status van Sake:</u></p> <ul style="list-style-type: none"> <li>• Gesertifiseerde Klas-aksie</li> </ul> <p><u>Vernaamste Opponente en Belanghebbendes:</u></p> <ul style="list-style-type: none"> <li>• 3 Respondente</li> <li>• Nic Georgiou, sy trust en Zephan (in besigheidsredding) verteenwoordig deur BRP Jacques du Toit</li> </ul> <p><u>Aanvang van Saak:</u></p> <ul style="list-style-type: none"> <li>• Sertifikasie Desember 2019</li> </ul> <p><u>Aantal geaffekteerde persone:</u></p> <ul style="list-style-type: none"> <li>• 1 796 beleggers</li> </ul> <p><u>Totale Beleggings HS21-22 betrokke:</u></p> <ul style="list-style-type: none"> <li>• R3 200 000 000.00 (3.2 miljard rand)</li> </ul> <p><u>Befondsingsmodel:</u></p> <ul style="list-style-type: none"> <li>• Groeplede befondsing</li> </ul>
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<p><u>Ledebydraes aangevra:</u> 2014-2015 per sindikasie eenmalige Registrasiekoste R1 000 en vanaf 2015 (Nov) R1 500</p> <ul style="list-style-type: none"> <li>• 2015 en 2016 Jaarlikse bydrae regskoste R1 000 per sindikasie</li> <li>• Vanaf 2017 regs- en administrasiekostes R2 000 per persoon</li> <li>• Ad hoc kostes</li> </ul> <p><u>Saak Bestuurder:</u></p> <ul style="list-style-type: none"> <li>• Regter Janse van Nieuwenhuizen</li> </ul>	<p><u>Ledebydraes aangevra:</u></p> <ul style="list-style-type: none"> <li>• 2019 (vanaf sertifikasie): <u>AOI lede:</u> Geen bydrae <u>MOI lede:</u> Geen bydrae</li> <li>• 2020 – <u>AOI lede:</u> Geen bydrae <u>MOI lede:</u> Eenmalige Registrasiekoste, onderskeidelik R4 500 en R6 500, afhange van grootte van eisbedrag.</li> <li>• 2021 AOI en MOI lede: Ad hoc bydrae</li> </ul> <p><u>Saak Bestuurder:</u></p> <ul style="list-style-type: none"> <li>• Waarnemende Adjunk Hoofregter President Potterill</li> </ul>
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### 3. WIE GAAN DIE CCAF AANGELEENTHEID BEFONDS?

CCAF se sake word deur CCAF lede befonds.

Uit die vergelykende tabelle van HSAG en CCAF is dit duidelik dat die totale beleggings in die onderskeie sindikasies R4.6 miljard en R3.2 miljard behels. Dit word deur aparte Eisers/Applikante verteenwoordig.

Die HSAG lede bestaan uit beleggers in HS15-22 terwyl CCAF slegs uit HS21 en 22 beleggers bestaan. Die HSAG se sindikasies strek veel wyer as CCAF s'n en is daar bv. sekere lede in HSAG (in HS15-20 sindikasies) wat nie aan CCAF kan behoort nie. Gevolglik is daar 'n verbod op die finansiering van CCAF uit daardie HS 15 – 20 sindikasies geplaas. Die Hof het egter beslis dat opbetaalde HSAG lede in HS 21 & 22 se bydraes wel in ag geneem word tot die HSAG sertifikasie (dus opbetaalde HS21-22 lede) en sodanig geen kostes vir registrasie hoef by te dra om deel te raak van CCAF nie. Die HSAG lede wat jaarliks opbetaal is, is ook 'n faktor wat deur die CCAF se verteenwoordigers in ag geneem kan word by enige opvragings vir kostes wat in die toekoms gemaak sou word.

HSAG (AOI) lede se bydraes asook die spesiale opvragings in 2018 en 2019 het hierdie HS21/22 saak gedryf tot die sertifisering van CCAF in Desember 2019 wat verder daartoe bygedra het dat die applikante die hof versoek het dat sodanige lede kwytgeskel word van registrasiekostes by CCAF.

CCAF se kostes wat sedert sertifikasie in Desember 2019 aangegaan was, was derhalwe tot dusver deur slegs die registrasiekoste van die MOI (Manual Opt-In) CCAF lede gedra. CCAF bestaan egter uit minder as een vyfde MOI lede. Verpligte registrasies moes steeds aangegaan word maar, weereens danksy die ekonomie van skale van 'n klas-aksie, kon die regsverteenvoerders van CCAF aansienlik besnoei op die registrasiekoste van die MOI lede, en was die registrasiekoste deur hulle geïen, ook aangewend tot regskostes van CCAF, wat opgeloop het vanaf sertifikasie van die CCAF in Desember 2019 tot en met Februarie 2021.

Aparte state sal vanaf hierdie jaar gestuur word vir alle CCAF (AOI en MOI) lede. Dié lede sal die kostes van die CCAF-saak voortaan moet dra, soos beslis deur die Hof in die sertifiseringsuitspraak.

Die regsverteenvoerders van CCAF is, soos hierbo gemeld, te vinde dat daar weer, soos met die aansluiting by CCAF en deur die Hof gelas, 'n finansiële voordeel aan AOI CCAF lede, wie ook 2021 opbetaalde HSAG lede is, deurgegee word. 'n Bepaling sal teen einde April 2021 gemaak word om te kyk hoeveel HSAG wat in CCAF is, opbetaalde lede is. Dit sal dien as 'n pluimpie van waardering vir al die jare se bydraes tot die HSAG om sodoende die CCAF saak tot hierdie gevorderde stadium te kry.

#### **4. HOE VORDER DIE HS 21 & 22, DIE CCAF AANGELEENTHEID?**

Verskeie regsdokumente wat betrekking het op CCAF is reeds gefinaliseer en geliasseer. Die funderende aansoek hofstukke was deur die CCAF prokureurs gedurende Februarie 2020 geliasseer. Georgiou en sy trust het die aansoek geopponeer en het die BRP van Zephan dit ook geopponeer. Daarna het die Respondente die aansoek verlaag deur 'n beswaar aan te teken teen die eise van die beleggers in HS21B (wie tot dusver as 'n integrale deel van die HS15-22 sindikasie maatskappye deur nie alleen Georgiou nie, maar ook die BRP en ander partye geag was).

Eerstens word twee voorwaardelike teenaansoeke deur Applikante tot die Reël 30(1) Aansoeke aanhangig gemaak deur die Respondente, geliasseer. Hierdie aansoeke versoek verlof om die opponerende stukke te liasseer en verlof aan beleggers wat ge-'opt-in' het as eisers, i.e. Highveld 21B beleggers (beleggers wat 'oorverkoopte' aandele gekoop het van Zephan Properties (Edms) Bpk in Highveld Syndication nr. 21 Bpk of Highveld Syndication nr. 22 Bpk) om ook op hul eise in die gegewe aansoek te steun op gronde anders as die terugkoop-ooreenkomste. Sodanige gronde is uiteengesit in die Applikante se verdere aanvullende eedsverklaring.

Die HSAG, CCAF en hul regverteenvoerders glo vas dat die HS 21 & 22 beleggers deel vorm van die HS 21 & 22 gesertifiseerde klas-aksie. Hierdie opinie was ook gedeel

deur Mnr. Hans Klopper, die besigheidsreddingspraktisyn van die HS 21 & 22 maatskappye asook voormalige ontvanger, Mnr. Derek Pedoe Cohen.

Die HS 21 & 22 aansoeke (insluitend 21B) was geargumenteer voor haar Edele Regter Tolmay. Nou aan die begin van 2021 beweer Georgiou en sy meelopers skielik dat hierdie groep beleggers nie deel vorm daarvan nie. Soos voorheen in die verrigtinge het hulle 'n Reël 30 kennisgewing geliasseer. Dit is ons mening dat Georgiou weereens poog om die aangeleentheid te vertraag. Dis steeds vars in almal se geheue hoe die Appèlhof 'n bestraffende kostesbevel toegeken het teen Mnr. Georgiou vir sy dergelike vorige optrede.

Ons het ook in die twee Kennisgewing van Mosies, 'n versoek ingesluit dat die bevel van die Hof (indien nodig) uitgebrei/gewysig moet word om sodoende vir hierdie eise om aangehoor te word as deel van die klas-aansoek. 'n Versoek vir die insluiting van 'n addisionele paragraaf in die bestaande uitspraak is aangevra. Die tweede (voorwaardelike) teenaansoek is gebring as 'n alternatief tot die eerste een en, terwyl die bewoording grotendeels dieselfde is as die eerste, sal dit relevant word indien die hof dié aansoek verkies. Addisioneel tot die twee voorwaardelike teenaansoeke het die regsman ook die Applikante se opponerende verklaring voltooi, wat sal gebruik word ter ondersteuning van hierdie voorwaardelike teenaansoek.

Alhoewel ons nie die volle inhoud van die dokumente kan bespreek nie, weens 'n gebrek aan spasie, wil ons onself daaraan herinner dat die wiede van geregtigheid stadig maar seker draai. Ons verstaan almal se bekommernis oor die finalisering van 'n hofdatum, maar ons wil graag herhaal dat hierdie 'n lang en moeisame proses is en dat daar baie heen-en-weer kommunikasie is tussen die partye wat handel oor prosedurele kwessies. Dit moet ook in gedagte gehou te word dat ons opponente enigiets sal doen om die HSAG en CCAF Applikante te frustreer. Hierdie is 'n uitputtingsoorlog maar ons bly toegewyd om hierdie saak tot die einde deur te sien.

## **5. WAT IS DIE VORDERING IN DIE HSAG AFGELEIDE AKSIE HS 15-22 (“DECA”)?**

Gedurende Desember 2020 het die HSAG regsman belangrike dokumente opgespoor uit 'n groot verskeidenheid dokumentasie wat oor jare deur verskillende persone oor verskeie aspekte van die verbandhoudende sake oorhandig is. Die dokumente het die Georgiou seuns letterlik in die oog van 'n storm geplaas rakende die verkoop van eiendomme van die HS maatskappye. Ons regsman het dus aangevra dat die dokumente bygevoeg kan word by die aansoek deur die liassering van 'n aanvullende eedsverklaring.

Op 3 Februarie 2021, het al die betrokke partye 'n saakbestuurvergadering gehad met Regter Janse Van Nieuwenhuizen. Geen van die Respondente het die aanvullende



eedsverklaring teengestaan nie en daarom was die dokumente as sodanig geliasseer. Die datums vir die liassering van die antwoordende eedsverklarings is egter heroorweeg en die finale antwoordende eedsverklarings word dus in die normale verloop van sake gedurende April verwag.

Die Afgeleide klas-aksie is ingestel namens beleggers in HS 15-22 teen die BRP, Georgiou familie, en andere, vir hul rol in die ondergang van die HS 15-22 maatskappy. Dit is gebaseer op heeltemal ander regsgronde as die ander klas-aksie.

In 'n onverwante aangeleentheid is die BRP, Mnr. Hans Klopper, en andere, ook gedagvaar deur die likwidateur van 'n gelijkwideerde maatskappy waarvan Klopper onder andere ook die besigheidsreddingpraktisyn was. Die feitestel in daardie saak herinner sterk aan die feite in die HSAG sake waar maatskappye wat in likwidasie geplaas moet word maar deur 'n besigheidsreddingpraktisyn, wie 'n regsplig het om ooreenkomstig die wet op te tree, die maatskappy in besigheidsredding gehou het totdat bykans al die bates tot niet was. Die Eisers in die dagvaarding eis dat daardie maatskappy bates ter waarde van R116 miljoen besit het toe dit in besigheidsredding gegaan het in Julie 2013, maar slegs was R6.1 miljoen toe die finale likwidasie bevel toegestaan is in Februarie 2017. HSAG kan hul eie afleidings maak en berig ons vorentoe daarvoor.

## **6. WAAR PAS HS 21 & 22 HSAG LEDE IN WAT OPBETAAL WAS TEEN 31 JANUARIE 2020? IS HULLE CCAF LEDE OF HSAG LEDE?**

Hierdie vraag klink meer ingewikkeld as wat dit is. Sodanige opbetaalde is HSAG lede sowel as outomatiese Opt-In CCAF lede (hulle het 'n eis in albei aangeleenthede). Hulle is nie MOI (Manual Opt-In) CCAF lede nie. Hul is egter deel van die gesertifiseerde CCAF klas wat op sy eie bene staan.

Die CCAF saak in Desember 2019 deur die Gautengse Hooggeregshof gesertifiseer. Die hof het onder ander gelas dat alle opbetaalde 2019 HSAG lede outomaties deel sou vorm van CCAF. Dit het beteken dat alle HSAG lede wie teoreties in Februarie 2019 opbetaal sou wees, sonder enige verdere bybetalings deel kon wees van die gesertifiseerde klas-aksie. Die HSAG Bestuur het egter spesiaal versoek dat sy lede tegemoetgekome moet word en letterlik uitstel vir 'n jaar by die Hof gevra moet word om die 2019 opbetalings by te bring.

Die HSAG regspan het gemelde versoek vir uitstel by die Hof aansoek ingesit en het die Hof dit toegestaan en gelas dat 2019 opbetalings tot 31 Januarie 2020 verlang word. In praktyk het dit beteken dat die HSAG 'n ekstra jaar grasie ontvang het om hul betalings op datum te kry. Gemelde toegewing het egter nie sonder gevolge gegaan nie.

Omdat daar 'n klomp HSAG lede was wat nie opbetaal was nie, het die HSAG bestuur (nadat hulle deur agterstallige HSAG lede daartoe versoek was) dringend gevra om die 2020 opvragings terug te hou. Deur sodanige versoek te rig (dat die 2020 opvragings aan die begin van 2020 teruggehou word) sou dit ruimte bied aan agterstallige lede om op datum te kom. Op daardie stadium was die prokureurs vir drie jaar nie op datum betaal nie.

Dit het beteken dat die outomatiese opvragings teruggehou was en niemand enige 2020 opvragings aan die begin van 2020 betaal het nie. Dit het opsigself weer 'n klop-effek ("knock-on effect") gehad aangesien daar effektiewelik twee klas-aksies was wat gedryf moet word en agterstallige lede die getroue opbetaalde lede in effek teruggehou het om hul bydraes vir 2020 te maak. Daarby het Covid-19 sy eie uitdagings opgelewer gedurende 2020.

Die stand van sake was soos volg:

- Gedurende 2019 het nóg outomatiese CCAF (AOI) lede nóg web geregisteerde (MOI) lede uit hul sak enige bydraes tot CCAF koste gemaak nie.
- Gedurende 2020 het AOI lede geen bydrae tot kostes van CCAF gemaak nie. Die Hof het gelas dat MOI lede registrasie kostes betaal.
- Die enigste bydraes wat CCAF ontvang het, was die registrasiekoste wat die MOI lede (wat minder as een vyfde van die totale lede uitmaak) betaal het. MOI lede het state ontvang.
- Gedurende 2021 sal MOI en AOI state ontvang.
- Die versoek en beplanning is weer om vir HSAG lede wat opbetaal is (en deur die Hof gesanksioneer) 'n voordeel te gee. Die presiese omvang en syfers sal bekend gemaak word.
- Die vasgestelde afsnydatum vir opbetaalde HSAG lede in hierdie kategorie is 31 Maart 2021 waarna 'n besluit geneem sal word.

## **7. WAAROM MOET LEDE WAT DEEL IS VAN DIE HSAG EN CCAF, WAT NIE BELEGGINGS IN LAER SINDIKASIES HET NIE, TOT DIE HSAG BYDRA?**

Die antwoord is eenvoudig. Hulle het steeds eise wat ingestel is teen die 26 Respondente op die gronde soos hierby uiteengesit. Daar is twee verskillende klas-aksies en verskillende Respondente. In CCAF is Mnr. Nic Georgiou sentraal tot die verrigtinge. By die Afgeleide Klasaksie aansoek (DECA) is sy seuns en ander partye ook sentrale figure.

Persone wat deel uitmaak van die gesertifiseerde HS 21 en 22-klasaksie (CCAF), kan uiteraard steeds HSAG-lede wees, veral as hulle verteenwoordig wil word ten opsigte van hul beleggings in die afgeleide aksie van HS 15 - 22.

Opbetaalde HSAG lede wat by CCAF is, het tot dusver beduidend gebaat by die gesertifiseerde klas-aksie deurdat hulle nie registrasiekoste wat tussen drie en vier keer meer was by CCAF (as by die HSAG) hoef te betaal het nie.

Die regsverteenwoordigers van CCAF en die Hof was tot dusver goedgunstig teenoor sodanige opbetaalde lede wie grotendeels verantwoordelik was vir die dryf van die sake tot dusver. Die regsverteenwoordigers het steeds dieselfde lojaliteit en simpatie by sodanige lede as voorheen.

Ongelukkig kan dieselfde erkenning nie aan agterstallige HSAG lede wie aangesluit het by CCAF verleen word nie. Indien hulle agterstallig is by die HSAG sal dit steeds die geval wees. Die HSAG bestuur het egter tot dusver nie enige agterstallige lid se lidmaatskap sondermeer beëindig nie. Sodanige persone kan egter hul HSAG-lidmaatskap opsê en op die voorgeskrewe wyse beëindig as hulle bv. net deel wil wees van die gesertifiseerde HS 21 & 22-klasaksie ("CCAF").

U HSAG-lidmaatskap hou egter steeds voordele in, aangesien die bestaande infrastruktuur van die HSAG tot u voordeel benut word. Dit sluit in die HSAG Whatsapp-groepe, nuusbriewe, Facebook-bladsy en webwerf waardeur kommunikasie plaasvind. Verder is die HSAG ook betrokke by die sakereddingsproses van Zephan en Orthotouch en verskaf terugvoer en verdere inligting rakende die proses. Die HSAG het ook 'n verteenwoordiger in die krediteure komitee van die maatskappye en tree dus op in die belang van sy lede.

Opbetaalde HSAG lede het 'n aansienlike voordeel getrek (tot soveel as bykans 50%) uit besparing op hul kostes oor die afgelope ses jaar alleen deurdat hulle nie die registrasiekoste by CCAF, soos deur die Hof gelas, hoef te betaal het nie.

Betaling van kostes by 'n hofsak is nooit van nature lekker nie. Verál indien 'n mens kostes moet betaal om iemand aan te vat vir wie jy beskuldig wie jou onregmatig ontnem het van jou lewensspaargeld. Ongelukkig is dit tans die enigste werkbare model om 'n privaat individu op hierdie wyse aan te vat. Daar word jaarliks letterlik enkele duisende rande van lede aangevra om letterlik miljarde rande te vorder.

Niemand kan bekostig om litigasie van hierdie aard uit eie sak te finansier nie en allermins die HSAG en CCAF se regsverteenwoordigers.

Dit is daarom uiters belangrik dat getalle bydraende lede in groot getalle bybly met hul jaarlikse bydraes.

Mense vra hoe lank gaan die saak nog loop. Dit kan niemand voorspel nie maar een ding is seker. Danksy die volharde druk en bydraes deur hoofsaaklik die HSAG is die eens magtige sakeryk van sy opponent se wankelrige bene besig om een vir een in te gee.

Die Howe het bevind dat Georgiou oneties opgetree het. Sy eens hoogs-betaalde pionne het een vir een van die toneel verdwyn. 'n Professionele persoon wat hom bygestaan het, en wie vir jare beskuldig was om ook oneties op te getree het, is deur 'n gerespekteerde regter tydens 'n insolvensie ondervraging in 'n onverwante saak bevind dat hy sodanig verkeerd opgetree het dat hy nou gedagvaar word vir meer as 'n R100 miljoen skadevergoeding.

Die boodskap is: The long arm of the law eventually catches up with all wrongdoing.

## 8. TYDLYN VAN DIE SAKE?

As daar vanaf 2020 iets geleer kan word, is dit dat daar min dinge so gevaarlik is soos om die toekoms te probeer voorspel. Die CCAF-saak is in gevorderde stadium van die uitruil van dokumente, terwyl die HSAG-afgeleide aksie (DECA) in die stadium is van die uitruil van dokumente in hul sertifiseringsaansoek.

Die HSAG Bestuur kan u verseker dat ons deurlopend daaraan werk om hierdie sake af te handel. Ons het ook in beide gevalle saakbestuurders ontvang wat hul eie direkteure kan gee met betrekking tot tydsraamwerke en die betekening regsdocumente. Hulle speel dus 'n groot rol in die bespoediging van die proses.

## 9. HOE SAL ONS KWESSIES OPLOS RONDOM HSAG STATE?

Die regspan is besig om op hoogste vlak met die bestuur van die sagteware stelsel te skakel en alternatiewe opsies. Weens die kostes was dit egter tot dusver nie moontlik nie. 'n Alternatiewe stelsel sal ons toelaat om meer beheer oor state te hê en ons sal gevolglik in staat wees om dit makliker aan te pas om aan die vereistes van die HSAG-lede te voldoen. Ons glo dat hierdie oorgang minder administratiewe probleme tot gevolg sal hê sodat state effektief en betyds uitgestuur kan word maar sal kostes altyd 'n deurslaggewende aspek wees.

## 10. KWYTSKELDING VAN HSAG 2021 REGSKOSTES

Die HSAG is uiters afhanklik van befondsing deur sy lede, en diegene wat die HSAG se versoeke en reëls verontagsaam, sal ongelukkig daardie voordele verloor wat hulle vir etlike jare geniet het. Persone met kleiner eise maak steeds 'n beduidende gedeelte van die ledetal uit en het die nie-betaling deur hulle van ledegeld 'n groot invloed op die befondsing van die HSAG. Die moontlikheid dat hulle in die toekoms slegs 'n gedeeltelike kwytskelding en nie 'n algehele vry rit kan hê nie, raak al groter.

Tot dusver het die HSAG agteroor gebuig om hulle te help maar, inderwaarheid ontvang die HSAG meestal nie enige tasbare voordeel vanaf sulke lede nie.

HSAG-kwytskelding van betaling moet in 2021 binne 30 dae na ontvangs van die eerste maandstaat, wat toon dat u agterstallig is vir die betrokke jaar se opvraging, aangevra word. Verder kan kwytskeldings nie terugwerkend of vooruit aangevra word nie. Dit kan slegs vir 'n huidige jaar aangevra word.

Ons wil ook herhaal dat kwytskelding vanjaar slegs toegestaan kan word aan HSAG-lede met 'n eis van minder as R60 000 wie se maandstate opbetaal is, behalwe vir die 2021 opvraging.

Ten einde verdere hulp te verleen moet kwytskeldings voor 31 Maart 2021 gedoen word.

## **11. HANTERING VAN BELEGGERS SE NAVRAE**

Die HSAG Bestuur, regsman sowel as skakelpersoneel sal voortaan slegs vrae van opbetaalde lede kan beantwoord. Ons sal ongelukkig nie meer tyd, en dus geld, kan bestee deur vrae te beantwoord van lede wat nie ten volle toegewyd is en belê het in die langtermyn toekoms van hierdie aksie nie. Al die vrae wat ons ontvang, word in een of ander vorm op ons webwerf hanteer, en as mense wat nie betaal nie, hul vrae beantwoord wil hê, kan hulle dit graag besoek.

## **12. ONS ANTWOORD OP DIE BRIEF VAN JACQUES DU TOIT GEDATEER 11 FEBRUARIE 2021**

Ingevolge die reëls rakende Besigheidsredding in die Maatskappywet, het mnr. Jacques du Toit, die sakereddingspraktisyn van Zephan en Orthotouch, weer op 11 Februarie 2021 'n brief aan alle beleggers gestuur. Mnr. Du Toit het wysigings gemaak aan die sakereddingsplan in samewerking met Orthotouch en Zephan se regsman.

Uit die gedrag van mnr. Du Toit kan daar duidelik afgelei word dat hy poog om die proses te vertraag (hy het selfs 'n aansoek ingedien om die uitspraak van die Hoogste Hof van Appèl skynbaar te hersien). Die strategie gevolg deur Du Toit is in die Georgiou-styl, in ooreenstemming met die vertraging van mnr. Hans Klopper en sal dienooreenkomstig hanteer word. Mnr. Klopper word vir R110 miljoen gedagvaar word vir die verontagsaming van sy pligte. Mnr. du Toit sal nie gespaar word as hy pligte versuim nie.

Volgens mnr. Du Toit is ons besig met litigasie "in flagrant disregard of the applicability of Chapter 6 of the Companies Act and moratorium against legal action as regulated by Section 133 of the Companies Act". Ons beklemtoon graag ons verbintenis om deursigtig

en regmatig te litigeer. Artikel 133 van die Maatskappyewet maak duidelik voorsiening vir sekere uitsonderings. Een van hierdie uitsonderings, artikel 133(1)(b), bepaal dat regsgedinge met die verlov van die hof kan plaasvind en in ooreenstemming met enige bepalings wat die hof as geskik ag. Dit is ons voorneme om in die verband verlov van die hof te verkry. Ons dokumente toon dit ook duidelik.

Ons beklemtoon ons standpunt dat die besigheidssreddingsplan nie aan die beste van beleggers voldoen nie en dat Du Toit willens en wetens tot nadeel van beleggers optree.

### **13. DIE VALKE SIRKEL WEER**

Teen die einde van Februarie 2021 het 'n belangrike rolspelers na vore gekom toe die gespesialiseerde handelsmisdaad-eenheid van die vervolgingsgesag, die Valke, nuwe belangstelling in die Pickvest Saga getoon het. Die ondersoekbeampte van die Valke in kontak met die HSAG en het gevra dat name van HS beleggers aan hulle gestuur word ten einde vas te stel wie geraak is deur die mislukte Hoëveld Sindikasie 15-22-maatskappye. As u nie 'n e-pos van die Valke wil ontvang nie, stuur dringend maar NIE LATER NIE as 15 Maart 2021 'n e-pos aan [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com).

### **14. ONLANGS IN DIE MEDIA: KLOPPER LAAT VAAR NAAMSKENDING KLAG VIR “GIVE THAT MAN A BELLS” KWINKSLAG**

'n Finansiële joernalis van Moneyweb het onlangs dié artikel gepubliseer. Soos in vorige nuusbriewe gaan ons voort om 'n vry-vertaalde en verkorte weergawe van die artikel te gee om sodoende verslag te gee aan beleggers wat nie Engels magtig is nie. Ons wil u graag uitnooi om die amptelike artikel in Engels te lees op die Moneyweb webtuiste. 'n Skakel na die oorspronklike artikel volg onder hierdie vertaalde weergawe.

#### **Klopper laat vaar naamskending klag vir “Give that man a Bells” kwinkslag**

Na afloop van verweerder se versoek vir sekere dokumente, wat publieke eiendom sou word indien hy die versoek sou nakom.

Hans Klopper, hoof van internasionale rekeningkunde firma, BDO, se besigheidsherstrukturering afdeling, het 'n klag van naamskending teen 'n individu wat 'n Facebook-boodskap rakende sy gedrag as besigheidsreddingparktisyne van die Highveld Sindikate (HS) maatskappye geëndosseer het, terug getrek.

Die saak dateer terug tot 2017 toe Klopper drie individue gedagvaar het vir naamskending en R2.5 miljoen geëis het vir skadevergoeding en toekomstige inkomsteverlies. (Klopper het steeds nie die sake teen die ander twee individue laat vaar nie.)

Tydens daardie tydperk was Klopper die besigheidsreddingspraktisyn van die mislukte HS maatskappye, waarin sowat 18 000 beleggers amper R5 miljard belê het.

Daar was merkwaardige ongelukkigheid tussen beleggers omtrent die proses en verwante ontwikkelings, wat gelyk het tot verskeie regsaksies.

Een van hierdie aksies het gekom vanaf die 'Highveld Syndication Action Group' (HSAG) wat 'n aansoek vir 'n klasaksie gebring het .

### **Facebook inskrywings**

Klopper was ongelukkig met die kommunikasie tussen twee partye en 'n inskrywing op die HSAG Facebook blad. Pine Pienaar, 'n voormalige makelaar en verteenwoordiger van sowat 40 HS beleggers, het geskryf aan belegger Sunette du Plessis, wie dan ook Pienaar se Whatsapp boodskap op die HSAG Facebook blad gedeel het.

Klopper het aanstoot oor die volgende uittreksels (vertaal van Afrikaans):

“Everyone knows about the influence that Jacob Zuma and the Gupta’s trickery had on the state capture of the RSA ... You can just as well replace the names of Zuma and the Guptas with [former property magnate] Nic Georgiou, Hans Klopper and the ‘role-players’ of Orthotouch ... Orthotouch was registered as a company in 2010 with the only goal of channelling the Highveld Syndication companies and other fraud through Orthotouch ...

“That is why Nic Georgiou, Hans Klopper, the attorneys, the directors of the HS Syndications, all [27 of them] should be charged with fraud in the class action court documents.

“It is really another matter to get them before a court, but [HSAG attorney] Jacques Theron and his advocates are trying their level best to have them face justice.”

Klopper het vir Pienaar gedagvaar oor die skryf van die WhatsApp boodskap, en vir Du Plessis omdat sy dit op Facebook geplaas het.

Die twee hofsake is steeds aan die hangend.

### **Cora van der Merwe**

Klopper het ook vir Cora van der Merwe gedagvaar, omdat hy die boodskap ge-‘like’ het en die volgende kommentaar gelewer het (vertaal van Afrikaans):

*“Pine hits the nail on its head! Give that man a Bells”.*

Op daardie stadium was Van der Merwe 'n kostekonsultant wat gewerk het op die gespesifiseerde rekening wat verband hou met die invordering van gelde van Orthotouch en Georgiou.

### **Naamskending en vermoënskade**

In sy dagvaarding, beweer Klopper dat Pienaar en Van der Merwe se boodskappe was “wrongful and defamatory of the plaintiff in that they were intended and were understood by the readers of the Facebook page that the plaintiff is dishonest, party to fraud and charged with fraud”.

Klopper voer aan dat hy 'n prokureur is en boonop 'n besigheidsreddingpraktisyn met 34 jaar se ervaring is en dat sy reputasie fundamenteel is tot die bedryf van sy besigheid.

Klopper eis van die drie respondente 'n bedrag van R500 000 vir skadevergoeding as gevolg van die boodskappe en vermoënsverlies van R2 miljoen vir die potensiële toekomstige verlies van “business by not being appointed as a director of companies, an advisor, a liquidator, a business rescue practitioner, a receiver, and a trustee”

### **Van der Merwe se reaksie**

In reaksie tot Moneyweb se vrae, het Van der Merwe gesê dat Klopper se prokureurs haar genader het vir 'n uitstel van die saak “after I placed them under pressure to discover for trial”.

“I informed his attorney that there had been no prosecution of the claim since I filed my plea. I asked his attorney if Klopper is serious about continuing the matter. I suggested that he withdraws, and each party pays their own costs.”

Van der Merwe sê sy dink dat Klopper slegs sy naamskending klag teen haar terug getrek het, en nie Pienaar en Du Plessis sin nie, omdat sy spesifieke dokumente van Klopper vereis het wat haar sou help om haar saak te verdedig, soos wat sy geregtig is om te doen.

Sodra Klopper die dokumente vir Van der Merwe sou gee, sou die dokumente publieke eiendom geword het en sou enigiemand toegang tot dit kon kry.

“I’m the only defendant who placed Mr Klopper under pressure with the discovery of documentation. I duly discovered and filed at court, the Harrison & White 417 Report authored by Judge Bertelsmann.

“Mr Klopper has actively promoted himself as being a high-profile, highly principled, business rescue practitioner. The 417 Report of Judge Bertelsmann suggests that this is not the case.



“The Harrison & White summons seems to mirror the Bertelsmann Report. I informed Mr Klopper via his attorney that I intend to cross-examine him, inter alia, on this.

“Mr Klopper’s boorish approach and the manner in which he has conducted himself so far in this litigation has led me to the conclusion that he believes himself to be above the law. I do believe that he did not have the appetite for a difficult defendant.”

Van der Merwe voeg by: “Mr Klopper misconstrued a social media posting ‘Give that man a Bells.’”

“He is a seasoned attorney and [should] have thought very carefully before having summons issued against me and the two others. It seems he did not..”

Klopper het geweier om kommentaar te lewer en slegs gesê: “This is a private matter and I also do not discuss legal matters with the media. I trust you will respect this position.”

**Hierdie is ’n vry-vertaalde en verkorte weergawe van die oorspronklike artikel, en die akkuraatheid van die vertaling word nie gewaarborg nie. Die oorspronklike artikel is geskryf deur Moneyweb. Hierdie artikel is gepubliseer op 5 Februarie 2021 en die amptelike weergawe is beskikbaar by: <https://www.moneyweb.co.za/in-depth/investigations/klopper-drops-defamation-suit-for-give-that-man-a-bells-quip/>**

## 15. **BELANGRIK: GEBRUIK VAN KORREKTE E-POS ADRESSE**

Die korrekte gebruik van e-pos adresse (soos vervat op ons webtuiste en e-posse) asook HSAG-lede se voorletters en van, sindikasiennommers en verwysingsnummers (bv. identiteitsnommer ens.) vir alle kommunikasie, is uiters noodsaaklik en verpligtend. Versuiming om hieraan te voldoen kan die gevolg hê van onnodige verdragings of dat u geen antwoord sal ontvang nie.

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.

Die amptelike en bestaande e-pos adresse vir CCAF (gesertifiseerde HS 21 & 22 klas-aksie), is as volg:

- **accounts@ccaf.co.za** vir betalingsbewyse
- **admin@ccaf.co.za** vir die amptelike versoek vir afbetaling-vorm
- **enquiries@ccaf.co.za** vir ander CCAF 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.

## 16. **BELANGRIKE ALGEMENE TERME EN VOORWAARDES**

Die algemene en herhalende terme, voorwaardes en ander algemene inligting wat voorheen in die Nuusbrieff vervat was, word nou beskikbaar gestel op die HSAG se webtuiste by [www.hsaction.co.za](http://www.hsaction.co.za) en kan direk besigtig word by die volgende skakel: <http://hsaction.co.za/wp-content/uploads/2020/01/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](mailto:hsactiongroup@gmail.com)



\*AFRIKAANS HIERBO\*

## **MONTHLY NEWSLETTER: FEBRUARY 2021**

**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.**

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

**The obligation to keep us up to date of any changes to your personal and/or contact details as well as to make sure that the contents of your monthly statements are correct rests on you as HSAG member.**

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## 1. **INTRODUCTION**

We trust everyone has had a blessed and prosperous month with great health. The New Year is now well underway and although much is changing in the world, our commitment to successfully represent you remain steadfast. The legal team is, as before, encouraged despite the constant financial challenges faced by the predominantly elderly HSAG members which resulted in the attempted financial draining of our supporter-base.

We are fully committed to ensuring the successful conduct, and recovery, of our members' claims. The HSAG Steering Committee also remains positive and dedicated to our new 'renewable energy' approach, and would like to emphasize that we will no longer spend time on negativity or unnecessary matters and queries that do not contribute to the ultimate success of your claims. No more unnecessary time and money will be wasted by replying to negative and irrelevant comments or lies that have been spread about the class-action by our opponents. This only seeks to derail the class-action.

We would also like to thank those members who have remained committed and loyal throughout the tough times. This process is not a swift one. We know that the tactics used by the opposition is driven towards dragging out this case and frustrating member. We also implore you to stay committed to the process by resisting these Stalingrad tactics used by our opponents.

An important manner in which the HSAG members can show their commitment is by supporting the steering committee, public relations officers, and the legal team morally and by contributing annually. February is usually the annual 'contribution-month' and we require everybody's commitment.

HSAG the proverbial David, consisting predominantly of elderly people, must stand together against the property-giant, Goliath. Besides their faith and belief in their case and everyone that supports them, the little people must also stay committed to their own case. Even if we have everything in our favour, but for the small pebbles in our slingshots the mighty Goliath cannot fall.

We have become aware of questions that have been raised on our communication platforms and we would like to take this time during this contribution month to answer some of the pressing financial questions. Kindly see hereunder our responses to some of the frequently asked questions.

There has also been some enquiries about what the difference between the HSAG and CCAF is. Both of them are acronyms which are used in order to simplify the concepts. A further class action has come to exist in the last year, namely the derivative action which was issued during December 2019 in the Pretoria High Court; DECA (which is short for Derivative Class Action).

Read below to see the interesting news for this month!

## 2. WHAT IS THE DIFFERENCE BETWEEN CCAF AND THE HSAG?

<b>HSAG</b>	<b>CCAF</b>
<u>HIGHVELD SYNDICATION ACTION GROUP</u> <ul style="list-style-type: none"> <li>• The Highveld Syndication Action Group consists of an open group of various persons: natural persons (e.g. individuals), legal persons (e.g. closed corporations and companies), trusts, executors of deceased estates, heirs etc.</li> <li>• People can still join.</li> <li>• People are free to join voluntarily</li> <li>• Type of claims are both contractual and delictual (unlawful acts)</li> <li>• Funding takes place through the payment of registration costs, yearly and ad hoc contributions by members</li> </ul>	<u>CERTIFIED CLASS ACTION FAST TRACK</u> <ul style="list-style-type: none"> <li>• CCAF consists of various persons but is a closed group.</li> <li>• No further additions.</li> <li>• Registration is sanctioned by a judgment.</li> <li>• Types of claims are exclusively contractual in nature.</li> <li>• Funding through registration costs of web-based Opt-in members and thereafter contributions when necessary.</li> </ul>

<p><u>Members</u></p> <ul style="list-style-type: none"> <li>• Persons who have paid registration fees and who have joined by way of completing the registration forms and sending it to the HSAG.</li> <li>• Investors in HS 15 – 22 who have joined and registered to be part of the HSAG</li> </ul> <p><u>Communication:</u></p> <ul style="list-style-type: none"> <li>• HSAG website, HSAG Steering Committee, HSAG liaison officers, e-mails, telephone, sms, WhatsApp, newsletters, correspondence, media etc.</li> </ul> <p><u>HSAG Legal Representatives:</u></p> <ul style="list-style-type: none"> <li>• Theron &amp; Partners</li> </ul> <p><u>Notable current cases:</u></p> <ul style="list-style-type: none"> <li>• Certification application in HS 19-22 and Article 165 Derivative Action which is based on fraud and misrepresentation (“DECA”). The DECA matter is relevant to all HS</li> </ul>	<p><u>Members</u></p> <ul style="list-style-type: none"> <li>• Persons who have manually registered on the web-based registration form (“Manual Opt-In”, in short, “MOI”) and persons who have automatically joined by way of being paid-up HSAG members at a specific date (Automatic CCAF members, in short, “AOI” members).</li> <li>• Investors in HS 21 &amp; 22 that: <ol style="list-style-type: none"> <li>1. Opted-in electronically by 16 March 2020 (“MOI” members).</li> <li>2. Were paid up HSAG members by 31 January 2020 (“AOI” members).</li> <li>3. Were not paid up HSAG members by 31 January 2020 and decided to rather electronically opt-in (“MOI” members).</li> </ol> </li> </ul> <p><u>Communication:</u></p> <ul style="list-style-type: none"> <li>• Emails, telephone, HSAG CCAF members through the HSAG website, Steering Committee, HSAG liaison officers, sms, WhatsApp, newsletters, correspondence, media etc.</li> </ul> <p><u>CCAF Legal Representatives:</u></p> <ul style="list-style-type: none"> <li>• Theron &amp; Partners</li> </ul> <p><u>Notable current cases:</u></p> <ul style="list-style-type: none"> <li>• Contractual application based on buy back clauses that were part of the prospectuses of the HS 21 &amp; 22 investments. Currently busy</li> </ul>
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<p>companies (HS 15 -22). Currently busy with the certification application.</p> <p><u>Status of cases:</u></p> <ul style="list-style-type: none"> <li>• Application for certification.</li> </ul> <p><u>Notable Opponents and interested parties:</u></p> <ul style="list-style-type: none"> <li>• 26 Respondents</li> <li>• Nic Georgiou, his sons Michael and George, his trusts and other entities;</li> <li>• A business rescue practitioner: Hans Klopper;</li> <li>• Directors of the Highveld Syndication companies;</li> <li>• Directors of Zephan and Orthotouch;</li> <li>• Business rescue practitioner, Jacques du Toit of Zephan and Orthotouch</li> </ul> <p><u>Commencement of cases:</u></p> <ul style="list-style-type: none"> <li>• August 2014</li> </ul> <p><u>Amount of affected persons</u></p> <ul style="list-style-type: none"> <li>• 18 300 investors</li> </ul> <p><u>Total HS 15 - 22 investments involved:</u></p> <ul style="list-style-type: none"> <li>• R4 600 000 000.00 (4.6 Billion Rand)</li> <li>• Plus interest</li> </ul> <p><u>Funding-model:</u></p> <ul style="list-style-type: none"> <li>• Group members funding model</li> </ul>	<p>exchanging documents with Respondents.</p> <p><u>Status of cases:</u></p> <ul style="list-style-type: none"> <li>• Certified class action</li> </ul> <p><u>Notable Opponents and interested parties:</u></p> <ul style="list-style-type: none"> <li>• 3 Respondents</li> <li>• Nic Georgiou, his trust and Zephan (in business rescue) represented by business rescue practitioner Jacques du Toit.</li> </ul> <p><u>Commencement of cases:</u></p> <ul style="list-style-type: none"> <li>• Certification December 2019</li> </ul> <p><u>Amount of affected persons</u></p> <ul style="list-style-type: none"> <li>• 1 796 investors</li> </ul> <p><u>Total HS 21- 22 Investments involved:</u></p> <ul style="list-style-type: none"> <li>• R3 200 000 000.00 (3.2 Billion Rand)</li> </ul> <p><u>Funding-model:</u></p> <ul style="list-style-type: none"> <li>• Group members funding model</li> </ul> <p><u>Members' contributions requested:</u></p>
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<p><u>Members' contributions requested:</u></p> <ul style="list-style-type: none"> <li>• 2014-2015 per syndication once-off registration costs R1 000 and from 2015 (Nov) R1 500</li> <li>• 2015 and 2016 yearly contribution legal costs R1 000 per syndication</li> <li>• From 2016, legal and administrative costs R2 000 per person</li> <li>• Ad hoc costs</li> </ul> <p><u>Case Manager</u></p> <ul style="list-style-type: none"> <li>• Judge Janse van Nieuwenhuizen</li> </ul>	<ul style="list-style-type: none"> <li>• 2019: <ul style="list-style-type: none"> <li>○ AOI members: no contributions</li> <li>○ MOI members: no contributions</li> </ul> </li> <li>• 2020: <ul style="list-style-type: none"> <li>○ AOI members: no contributions</li> <li>○ MOI members: Once-off registration costs R4 500 and R6 500 respectively, depending on the size of the claimed amount.</li> </ul> </li> <li>• 2021: <ul style="list-style-type: none"> <li>○ AOI and MOI members: Ad hoc contributions</li> </ul> </li> </ul> <p><u>Case Manager</u></p> <ul style="list-style-type: none"> <li>• Acting Deputy Judge President Potterill</li> </ul>
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### 3. WHO WILL FUND THE CCAF MATTER?

CCAF's matters will be funded by CCAF members.

From the comparative tables from HSAG and CCAF, it is clear that the total investments in the various syndications are R4.6 Billion and R3.2 Billion respectively. It is represented by separate claimants/applicants.

The HSAG members consists of investors in HS 15–22 while CCAF consists of HS 21 and 22 investors exclusively. The HSAG syndications reach far wider than that of CCAF's, for example there are certain members in the HSAG (HS 15–20 syndications) who cannot be a part of CCAF. Accordingly, there is a ban on the financing of CCAF out of those HS 15 – 20 syndications. The court has however decided that paid-up HSAG members' contributions in HS 21 & 22 can be taken into account with regards to the HSAG certification (therefore paid up HS 21 & 22 members) and therefore do not have to contribute any payments (registration fees) in order to form part of CCAF. The yearly paid-up HSAG members, is also a factor which may be taken into account by CCAF's representatives, when any requisitions for costs are made in the future.



HSAG (AOI) members' contributions as well as special trial levies in 2018 and 2019 have carried and driven this case to certification of CCAF in December 2019 which further contributed thereto that the applicants requested from the court that such members be exempted from registration fees for CCAF.

CCAF's costs incurred since certification was therefore, until now, only funded by the registration fees of the MOI (Manual Opt-in) CCAF members. CCAF consists of less than one fifth MOI members. Compulsory registrations still had to be entered into, but thanks to the economies of scale of the class action, the legal representatives of CCAF could markedly reduce the registration costs of the MOI members. The registration costs collected was also used for the legal costs of CCAF, which has rolled over from the certification of CCAF in December until February 2021.

Separate statements will be sent from this year to all CCAF (AOI and MOI) members. These members will have to carry the costs of the CCAF-matter as was directed by the court in the certification judgment.

The legal representatives of CCAF are, as is reported above, accommodating in far as that there will, as was the case when joining CCAF and ordered by court, be a financial advantage to AOI members of CCAF who are also 2021 paid up HSAG members. An estimation will be made by the end of April 2021 to determine how many HSAG members, who are in CCAF, are paid up members. This will serve as a token of appreciation for all the years' contributions to the HSAG to get the CCAF case to this advanced stage.

#### **4. WHAT PROGRESS HAS BEEN MADE IN HS 21 & 22, CCAF MATTER?**

Various legal documents relating to CCAF have been concluded and filed. The founding application court documents were filed by the CCAF attorneys during February 2020. Georgiou and his trust opposed the application as well as Zephan's BRP. Subsequently, the Respondents delayed the application by objecting to the claims of the investors in HS21B (who thus far has been deemed as an integral part of the HS15-22 syndication companies by not only Georgiou but also the BRP and others parties).

Firstly, the Applicants will file two conditional counter applications to the Rule 30(1) Applications brought by the Respondents. These applications seek to allow for the filing of opposing papers as well as that leave be granted to investors who have 'opted in' as claimants, i.e. Highveld 21B investors (investors who have bought "over-sold" shares from Zephan Properties (Pty) Ltd in either Highveld Syndication no 21 Ltd or Highveld Syndication no 22 Ltd to also rely for their claims in the said class application on grounds other than the buyback agreements. Such grounds are set out in the Applicants' further supplementary affidavit.

The HSAG, CCAF and their legal representatives firmly believe that the HS 21 & 22 investors form part parcel of the HS 21 & 22 Certified Class Action. This view was also shared by Mr. Hans Klopper, the business rescue practitioner of the HS 21 & 22 companies as well as the erstwhile receiver, Mr. Derek Pedoe Cohen.

The HS 21 & 22 applications (including 21B) were before the Honourable Justice Ms. Tolmay. Now at the beginning of 2021 Georgiou and his followers suddenly allege that this group of investors do not form part thereof. As before in these matters they have filed a Rule 30 notice. It is still our contention that Georgiou is again delaying the matter. It is still fresh in everyone's memories that the Supreme Court of Appeal awarded a punitive cost order against Mr. Georgiou for such actions.

We have also included in these Notices of Motion a request that the order of the court (if necessary) be expanded/amended in order for such claims to be heard as part of the class application. A request for the insertion of an additional paragraph into the existing judgment has been made. The second (conditional) counter application is brought as an alternative to the first one and, while the wording is largely the same as in the first, it will become relevant if the court prefers such application. In addition to these two conditional counter applications the Applicants have completed the Applicants' opposing affidavit which will be used in support of this conditional counter application.

Although we cannot discuss the entire contents of these documents herein due to lack of space, we want to remind ourselves that the wheels of justice are turning slowly but surely. We understand everyone's concern over finalisation of a court date, however we would like to reiterate that this is a long and difficult process and there is a lot of back-and-forth between the parties concerning procedural matters. It should also be borne in mind at all times that the opposition will stop at nothing to delay matters and to frustrate the HSAG and CCAF Applicants. This is truly a war of attrition and we remain committed to see this out until the end.

5. **WHAT PROGRESS HAS BEEN MADE IN THE HSAG DERIVATIVE ACTION HS 15 - 22 ("DECA")?**

During December 2020 the HSAG legal team found important documents out of a large variety of documentation handed over to the legal representatives over the years by various persons on various aspects of the related matters. These documents place the Georgiou sons in the literal 'eye of the storm' regarding the transfer of properties of the HS companies. Our legal team therefore requested that these documents be added to our application by filing a supplementary affidavit.

On 3 February 2021 all parties concerned had a case management meeting with Judge Janse van Nieuwenhuizen. None of the Respondents opposed the supplementary

affidavit and it was therefore filed. The dates for filing of answering affidavits have however been re-evaluated with the final answering affidavits in the normal course of events being expected in April.

The Derivative class action is instituted on behalf of investors in HS 15-22 against the BRP, Georgiou Family and Others for their part in the downfall of the HS 15-22 companies. It is on completely different legal grounds than the other class action.

In an unrelated matter the BRP Mr. Hans Klopper and others were also sued therein by liquidator of a liquidated company that Klopper, amongst others, was a business rescue practitioner of. The facts in that case is strongly reminiscent of the facts in the HSAG cases where companies that should have been liquidated, are kept in business rescue by a business rescue practitioner, who has a legal duty to act in accordance with the law, until almost all that assets were depleted. The summons claims this company owned assets valued at R116 million when it entered business rescue in July 2013, but only R6.1 million when the final liquidation order was granted in February 2017. HSAG can make their own conclusions. We will report on this matter in the future.

**6. WHERE DO HS 21 & 22 HSAG MEMBERS WHO WERE PAID UP ON 31 JANUARY 2020 FIT IN? ARE THEY CCAF MEMBERS OR HSAG MEMBERS?**

This question sounds more complicated than what it is. These members are HSAG **as well as** automatic opt-in CCAF members (they have a claim in both matters). They are not MOI (Manual opt-in) CCAF members. They are however part of the certificated CCAF class that stands on its own legs.

The CCAF case was certified by the Gauteng High Court in December 2019. The court ordered, among others, that all paid-up 2019 HSAG members would automatically form part of CCAF. This meant that all HSAG members, who would theoretically be paid up in February 2019, could be part of the certified class action without any further payments. HSAG Steering Committee however specifically requested of the court that its members be accommodated and literally requested postponement of a year bring the 2019 payments up to date.

The HSAG legal team filed the said request for an extension in their Court application. The Court granted said application and ordered that 2019 payments only be required by 31 January 2020. In practice this meant that the HSAG received an extra year to get their payments up to date. The said concession did however not come without consequences.

Because there were many HSAG members who were not paid up, the HSAG management (after being asked to do so by overdue HSAG members) urgently requested 2020 requisitions to be held back. This request (that the 2020 requisitions be held back

at the beginning of 2020) would have allowed room for overdue members to get up to date. At that stage the lawyers had not been paid up to date for three years.

This meant that the automatic requisitions were held back and no one paid any 2020 requisitions at the beginning of 2020. This in itself had a knock-on effect as there were effectively two class actions to be driven and the members who were not paid-up in effect held the loyal paid up members back to make their contributions for 2020. In addition, Covid-19 presented its own challenges during 2020.

The state of affairs was as follows:

- During 2019, neither automatic CCAF (AOI) members nor web registered (MOI) members made any contributions to CCAF out of their pocket.
- During 2020, AOI members made no contribution to costs of CCAF. The Court ordered that MOI members pay registration fees.
- The only contributions CCAF received were the registration fees paid by the MOI members (who make up less than one-fifth of the total members). MOI members received statements.
- During 2021, MOI and AOI will receive statements.
- The request and planning are again to give HSAG members, that are paid up (and sanctioned by the Court), an advantage. The exact scope and figures will be announced.
- The set cut-off date for paid-up HSAG members in this category is 31 March 2021 after which a decision will be made.

## **7. WHY SHOULD MEMBERS WHO ARE PART OF THE HSAG AND CCAF, WHO DO NOT HAVE INVESTMENTS IN LOWER SYNDICATIONS, CONTRIBUTE TO HSAG?**

The answer is simple. They still have claims filed against the 26 Respondents on the grounds as set out above. There are two different class actions and different Respondents. In CCAF Mr Nic Georgiou is central to the proceedings while his sons and other parties are also central figures In the Derivative Class Action application (DECA).

Persons who are part of the certified HS 21 and 22 class action (CCAF) may naturally still be HSAG members, especially if they wish to be represented in respect of their investments in the HS 15 – 22 derivative action.

Paid-up HSAG members who are with CCAF have so far benefited significantly from the certified class action in that they did not have to pay registration fees that were between three and four times more for CCAF (than at the HSAG).

The legal representatives of CCAF and the Court have so far been benignant towards such paid-up members who have largely been the driving force behind the cases thus far. The legal representatives still have the same loyalty and sympathy towards such members.

Unfortunately, the same recognition cannot be given to HSAG members who are not paid-up and have joined CCAF. If they were in arrears with the HSAG this will still be the case. HSAG steering committee has however thus far not automatically terminated any overdue member's membership. Such persons can end their HSAG membership in the prescribed manner if they for example only want to be part of the certified HS 21 & 22 class action ("CCAF").

Your HSAG membership does however still carry benefits, as the HSAG's existing infrastructure is utilised to your advantage. This includes the HSAG WhatsApp groups, newsletters, Facebook page and website through which communication takes place. Furthermore, the HSAG is also involved in the business rescue process of Zephan and Orthotouch, providing feedback and further information related to the process. The HSAG also has a representative on the creditors' committee of the companies, and thus acts in the interests of its members.

Paid-up HSAG members have benefited significantly (up to as much as almost 50%) by saving on their costs over the past six years simply by not having to pay the registration costs with CCAF, as ordered by the Court.

Paying costs in a court case is never inherently enjoyable. Especially if one has to pay costs to sue someone whom you are accusing of wrongfully depriving you of your life savings. Unfortunately, it is currently the only viable model to approach a private individual in this way. Every year literally a few thousand rand is requested from members in order to collect literally billions of rands.

No one can afford to fund litigation of this nature out of his own pocket, let alone the HSAG and CCAF's legal representatives.

It is therefore extremely important that numbers of contributing members keep up in large numbers with their annual contributions.

People are asking how long the case is going to last. No one can predict this but one thing is for sure. Thanks to the persistent pressure and contributions by mainly the HSAG, the shaky legs its opponent's once mighty business empire is giving in one by one.

The courts ruled that Georgiou was acting unethically. His once highly-paid pawns disappeared from the scene one by one. His professional assistance, who for years was accused of acting unethically, was found to have acted unethically by a respected judge during an insolvency interrogation and is now being sued for more than R100 million.

The message is: The long arm of the law eventually catches up with all wrongdoing.

## **8. TIMELINE OF THE CASES?**

If anything can be learned from 2020 it is that there are few things as dangerous as trying to predict the future. The CCAF case is an advanced stage of documents being exchanged whereas the HSAG derivative action (DECA) is in the stage of exchanging documents in their certification application.

The HSAG Steering committee can assure you that we are working continuously to finalise these matters. We have additionally obtained case managers in both cases who can make their own directives with regards to timeframes and the service of legal documents. They therefore play a huge role in expediting the process.

## **9. HOW WILL WE RESOLVE ISSUES AROUND STATEMENTS AND SAGE?**

The legal team is in the process of communicating with the highest level of management of the software system. They are currently considering alternative options. An alternative system will allow us to have more control over statements and we will accordingly be able to adjust statements easier to suit the HSAG member's demands. We believe that this transition will result in fewer administrative issues and will allow statements to be sent out effectively and timeously. Costs will however always be a crucial aspect of the decision.

## **10. HSAG EXEMPTIONS OF 2021 LEGAL FEES**

The HSAG is extremely dependent on funding by its members. The people who disregard its requests and rules will unfortunately lose the benefits that they have enjoyed for many years. Investors with smaller claims still make up a significant part of the HSAG and the non-payment of their membership fees have a big influence on the funding of thereof. The possibility that they will only receive a partial exemption instead of a general free ride is becoming greater.

Thus far the HSAG has bent over backwards to help them but the HSAG does in fact mostly not receive any tangible benefit from such members.

HSAG exemption from payment in 2021 must be requested within 30 days of receipt of the first statement showing that you are in arrears for that specific year's requisition. Furthermore, exemptions cannot be requested retrospectively or in advance. It can only be requested for a current year.

We would also like to reiterate that exemptions this year can only be granted to HSAG members with a claim of less than R60 000 who's statements are paid up except for the 2021 requisition.

In order to provide further assistance, exemptions must be made before 31 March 2021.

## **11. THE HANDLING OF QUERIES FROM INVESTORS**

The HSAG Steering committee, legal team as well as liaison personnel will henceforth only be able to answer queries from paid up members. We will unfortunately no longer be able use time resources, and therefore money, answering question from members who are not fully committed and invested in the long-term future of this action. All questions that we receive has been dealt with in some or other form on our website and if people that are not paid want their questions answered they can gladly peruse our website.

## **12. OUR RESPONSE TO THE LETTER FROM JACQUES DU TOIT DATED 11 FEBRUARY 2021**

In accordance to the rules pertaining to Business Rescue in the Companies Act, Mr. Jacques du Toit, the business rescue practitioner of Zephan and Orthotouch, once again sent a letter to all investor's on 11 February 2021. Mr. Du Toit has drafted amendments to the business rescue plan in collaboration with Orthotouch and Zephan's legal team.

From Mr. du Toit's conduct it can clearly be seen that it is aimed to delay the process (he even filed an application seemingly to review the Supreme Court of Appeal's judgment). The stratagem followed by Du Toit is in the Georgiou style, in line with Mr Hans Klopper's delays and will be dealt with accordingly. Mr Klopper is sued for R110 million for dereliction of his duties. Mr. du Toit will not be spared if he fails to do his duties.

According to Mr. du Toit's letter we are persisting with litigation "in blatant disregard of the applicability of Chapter 6 of the Companies Act and moratorium against legal action as regulated by Section 133 of the Companies Act". We hereby like to reiterate our commitment to litigate transparently and legally. Section 133 of the Companies Act clearly provides for certain exceptions. One of these exceptions, s133(1)(b), provides that legal proceedings may occur with the leave of the court and in accordance with any terms that the court considers suitable. It is our intention to seek leave from the court in this regard and our papers clearly show it.

We reiterate our position that the business rescue plan will not satisfy the best interests of investors and that Du Toit is knowingly acting to the disadvantage of the investors.

### **13. THE HAWKS ARE ONCE AGAIN CIRCILING**

As we approach the end of February 2021, a big role player came forth when the specialised commercial crime unit of the prosecuting authorities, the HAWKS, showed new interest in the Picvest Saga. The investigating officer of the HAWKS was in contact with the HSAG this week and requested that names of HS investors be forwarded to them in order to establish which persons were affected by the failed Highveld Syndication 15-22 companies. If you do not wish to receive an e-mail from the HAWKS, please send an e-mail to us urgently at [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) BEFORE 15 March 2021.

### **14. RECENTLY IN THE MEDIA: KLOPPER WITHDRAWS “GIVE THAT MAN A BELLS” DEFAMATION PROCEEDING**

**A financial journalist from Moneyweb recently published this article. As in previous newsletters, we continue to provide the article, but wish to invite you to read the official article at: <https://www.moneyweb.co.za/in-depth/investigations/klopper-drops-defamation-suit-for-give-that-man-a-bells-quip/> . In this instance, the article will be repeated verbatim to ensure its accuracy.**

#### **Klopper drops defamation suit for ‘Give that man a Bells’ quip**

After defendant requests documents that would become accessible to the public if he complied.

Hans Klopper, head of international accounting firm BDO’s business restructuring division, has withdrawn a defamation suit against an individual who endorsed a Facebook post related to his conduct as business rescue practitioner of the Highveld Syndication (HS) companies.

The case stems back to 2017 when Klopper sued three individuals for defamation and claimed R2.5 million in damages and future income loss. (Klopper has not withdrawn his cases against the other two individuals.)

At the time, Klopper was the business rescue practitioner of the failed HS companies, in which around 18 000 investors invested nearly R5 billion.

There was significant unhappiness among investors about the process and related developments, which triggered several legal challenges.

One of these challenges came from the Highveld Syndication Action Group (HSAG), which instituted an application for a class action.



## Facebook posts

Klopper was unhappy with communication between two parties and a post on the HSAG Facebook page. Pine Pienaar, a former broker and representative of around 40 HS investors, had written to HS investor Sunette du Plessis, who then posted Pienaar's WhatsApp message on the HSAG Facebook page.

Klopper took offence to the following extracts from the post (translated from Afrikaans):

“Everyone knows about the influence that Jacob Zuma and the Gupta's trickery had on the state capture of the RSA ... You can just as well replace the names of Zuma and the Guptas with [former property magnate] Nic Georgiou, Hans Klopper and the 'role-players' of Orthotouch ... Orthotouch was registered as a company in 2010 with the only goal of channeling the Highveld Syndication companies and other fraud through Orthotouch ...

“That is why Nic Georgiou, Hans Klopper, the attorneys, the directors of the HS Syndications, all [27 of them] should be charged with fraud in the class action court documents.

“It is really another matter to get them before a court, but [HSAG attorney] Jacques Theron and his advocates are trying their level best to have them face justice.”

Klopper sued Pienaar for writing the WhatsApp message, and Du Plessis for posting it on Facebook.

These two cases still stand.

## Cora van der Merwe

Klopper also sued Cora van der Merwe, who liked the post and posted the following response (translated from Afrikaans):

*“Pine hits the nail on its head! Give that man a Bells”.*

At the time, Van der Merwe was a legal cost consultant who worked on the bills of cost relating to the recovery of monies from Orthotouch and Georgiou.

## Defamation and patrimonial loss

In his summons, Klopper claims that Pienaar and Van der Merwe's posts were *“wrongful and defamatory of the plaintiff in that they were intended and were understood by the readers of the Facebook page that the plaintiff is dishonest, party to fraud and charged with fraud”*.

Klopper says he is an attorney and a business restructuring professional with 34 years' experience, and that his “reputation is fundamental to the conduct of his business”.

Klopper claimed from the three respondents an amount of R500 000 for damages he suffered as a result of the posts and a patrimonial loss of R2 million for a potential future loss of “business by not being appointed as a director of companies, an advisor, a liquidator, a business rescue practitioner, a receiver, and a trustee”.

### **Van der Merwe’s response**

In response to Moneyweb questions, Van der Merwe said Klopper’s attorney approached her for an extension of the case “after I placed them under pressure to discover for trial”.

“I informed his attorney that there had been no prosecution of the claim since I filed my plea. I asked his attorney if Klopper is serious about continuing the matter. I suggested that he withdraws, and each party pays their own costs.”

Van der Merwe said she thinks Klopper only withdrew his defamation case against her, and not Pienaar and Du Plessis, because she requested particular documents from Klopper to assist her in defending her case, as she is entitled to do.

Once Klopper provided these documents to Van der Merwe, they would become public documents which anyone can access.

“I’m the only defendant who placed Mr Klopper under pressure with the discovery of documentation. I duly discovered and filed at court, the Harrison & White 417 Report authored by Judge Bertelsmann.

“Mr Klopper has actively promoted himself as being a high-profile, highly principled, business rescue practitioner. The 417 Report of Judge Bertelsmann suggests that this is not the case.

“The Harrison & White summons seems to mirror the Bertelsmann Report. I informed Mr Klopper via his attorney that I intend to cross-examine him, inter alia, on this.

“Mr Klopper’s boorish approach and the manner in which he has conducted himself so far in this litigation has led me to the conclusion that he believes himself to be above the law. I do believe that he did not have the appetite for a difficult defendant.”

Van der Merwe added: “Mr Klopper misconstrued a social media posting ‘Give that man a Bells’.

“He is a seasoned attorney and [should] have thought very carefully before having summons issued against me and the two others. It seems he did not.”

Klopper declined to comment, saying only: “This is a private matter and I also do not discuss legal matters with the media. I trust you will respect this position.”

This article was written by Moneyweb and was published on 5 February 2021, the official version is available at: <https://www.moneyweb.co.za/in-depth/investigations/klopper-drops-defamation-suit-for-give-that-man-a-bells-quip/>

## 15. **IMPORTANT: USE OF THE CORRECT EMAIL ADDRESSES**

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 and obligatory. Failure to comply herewith may lead to unnecessary delays or any reply at all.

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;
- **hsagestates@gmail.com** for all estate related questions.

The official and existing e-mail addresses for CCAF (HS 21 & 22 certified class action) are as follows:

- **accounts@ccaf.co.za** for proof of payments
- **admin@ccaf.co.za** for the official request to pay registration fees over 6 months - form
- **enquiries@ccaf.co.za** for all other CCAF questions and enquires

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 thereof in writing.

## 16. **IMPORTANT GENERAL TERMS AND CONDITIONS**

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](http://www.hsaction.co.za) and can directly be accessed via the following link:  
<http://hsaction.co.za/wp-content/uploads/2020/01/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:

Tel: (021) 887 7877

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