



ENGLISH TEXT BELOW

MAANDELIKSE NUUSBRIEF: MAART 2021

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

Hierdie e-pos is vertroulik en uitsluitlik vir die geadresseerde bedoel. As u dit per ongeluk / verkeerdlik ontvang het, stel asseblief die versender onmiddellik in kennis by 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 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.

HSAG AMPTELIKE NUUSBRIEF – INHOUDSOPGAWE

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1. INLEIDING

2021 is nou sterk op dreef en ons hoop dat alle lede gedurende hierdie moeilike tyd baie seëninge ontvang het. Die HSAG is trots om so 'n toegewyde groep te verteenwoordig en is steeds verbind daartoe om die poging om ons ondersteunersbasis finansiëel te dreineer te beveg.

Die bestuur van die sake van die HSAG is 'n fyn balanseringstoertjie. Aan die een kant is daar lede wat deeglik en ywerig aan al die versoeke van die HSAG-bestuurskomitee voldoen. As hulle gevra word om nie onnodige oproepe te maak nie, doen hulle dit. Aan die ander kant het die HSAG en sy regspan ook simpatie en is hulle lojaal teenoor lede wat nie die ervaring het om hofaangeleenthede te verstaan of die middele het om daaraan te voldoen nie. Dit is nie net moeilik is om te begryp nie, maar daar is ook groot bedrae geld en papierwerk ter sprake. Sommige mense het groot bedrae geld verloor, maar kan nog steeds oorleef terwyl ander kleiner bedrae verloor het, maar alles wat hulle besit verloor het, insluitend hul lewenslange spaargeld. Tot nou toe het die HSAG alles in sy vermoë probeer om alle lojale lede aan boord te hou. Soos iemand voorheen genoem het, inderdaad 'n merkwaardige Comrades Maraton. Ons verstaan dat daar frustrasie is oor sekere lede wat die res van die groep metafories moet dra in die HSAG (“DECA”) en CCAF-aangeleenthede. Ons verstaan u frustrasie. Ons voel dit ook.

Ons verwelkom alle navrae en wil dit na die beste van ons vermoë beantwoord, maar die tyd wat dit neem om die onnodige vrae te beantwoord, is beide finansiëel en fisies uitputtend. Lede word aangemoedig om weer na vorige nuusbriewe op die webtuiste te gaan kyk as ook die FAQ's wat opgelaaie was voordat nuusbriewe versprei is. Die mannekrag en tyd wat dit neem om hierdie navrae effektiewelik en korrek te beantwoord, neem uiteindelik die tyd in beslag wat bestee kon word om vir u eise te veg. Baie tyd is aan die verifiëring van die nuusbriewe van Februarie 2021 spandeer en ons hoop dat ons u 'n mate van duidelikheid gegee het deur sekere gereelde vrae te beantwoord. Ons vertrou dus dat dit enige verwarring tussen die HSAG en CCAF uit die weggeruim het.

Ons het al voorheen die Stalingrad-taktieke van die Respondente genoem. Hulle sal alles en enigiets in hul vermoë doen om hierdie saak uit die hof te hou. Om dit te bekamp, het ons almal nodig om saam te staan. Ons kan nie die Respondente alleen beveg nie. Ons het almal nodig om die regstryd teen die Respondente te finansier, want dit neem tyd en

geld om die saak voor te berei om hof toe te gaan. As ons suksesvol wil wees, sal ons moet saamstaan. Dit sal die oorwinning des te meer suiwer maak.

In die nuusbrieff van hierdie maand behandel ons die brieff van Jacques du Toit van 10 Maart. Ons sal ook die Valke- en DECA-aangeleenthede bespreek. Soos gewoonlik sal ons die skakel verskaf na 'n insiggewende Moneyweb-artikel wat 'n direkte of indirekte betrekking het op die HSAG lede. Uiteindelik sal ons u kortliks op hoogte bring van die CCAF-aangeleentheid.

2. HOE VORDER DIE HS 21 & 22, DIE CCAF AANGELEENTHEID?

Soos genoem in die nuusbrieff van Februarie 2021, is verskeie regsdokumente wat verband hou met CCAF gefinaliseer en geliasseer tydens die afgelope 12 maande. Die hofstukke van die funderende aansoek is deur die CCAF regspan geliasseer en twee voorwaardelike teenaansoeke t.o.v. die Reël 30 (1) Aansoeke wat deur die Respondente gebring is, is ingedien en beteken. Hierdie aansoeke versoek toestemming om opponerende stukke te liasseer, asook dat verlof toegestaan word aan beleggers wat 'geopt-in' het as beleggers, naamlik Hoëveld 21B Beleggers (beleggers wat 'oorverkoopte' aandele van Zephan Properties (Pty) Ltd gekoop het in óf Highveld Syndication no 21 Ltd óf Highveld Syndication no 22 Ltd) om ook op hul eise in die genoemde klas-aksie op ander gronde as die terugkooppooreenkomste te steun. Sodanige gronde word uiteengesit in die applikante se verdere aanvullende verklaring. Alhoewel dit in die vorige nuusbrieff genoem is, is ons van mening dat dit van belang is, gegewe die belangrikheid daarvan vir lede, om weer die presiese doel van hierdie hofstukke uiteen te sit.

Die onlangse bewerings deur Mnr. Georgiou dat 21B-beleggers nie deel uitmaak van die HS 21 & 22-aansoeke nie, is veelseggend, maar is in ons opinie misleidend en verkeerd. Sodanige bewerings poog bloot om die saak verder te vertraag. In hierdie Kennisgewings van Mosie is ook 'n versoek ingesluit dat die bevel van die hof (indien nodig) uitgebrei / gewysig word sodat sodanige eise as deel van die klas-aansoek aangehoor word.

Die hofstukke is geliasseer en beteken. Ons is werklik te midde van 'n uitputtingsoorlog en dit sal ongelukkig tyd neem om te reageer op die vertragingstaktieke van die Respondente, maar as ons saamstaan, kan ons enigiets oorkom wat na ons gegooi word. Altesaam is daar duisende bladsye wat relevant is tot die gesertifiseerde klas-aksie en die regspan moet dit versigtig bestudeer en opweeg watter informasie en dokumentasie relevant en noodsaaklik is vir die hofsaak.

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

Gedurende die afgelope maand het die HSAG regsverteenwoordigers die antwoordende verklaring van Mnr. Hans Klopper, George Georgiou, Michael Georgiou en op 26 Maart 2021 Nic Georgiou is ontvang. Die verklaring is baie omslagtig en bestaan uit groot volumes dokumente en aanhangsels. In totaal was daar honderde bladsye geliasseer. Die regspan is hard aan die werk om die dokumente deur te gaan en sal so gou moontlik terugvoer gee aan alle beleggers. Soos voorheen vermeld moet die BRP, Mnr. Jacques du Toit, steeds antwoord. Die finale antwoordende verklaring word verwag tydens Mei 2021.

Die regspan sal, nadat alle antwoordende verklaring ontvang is, die Applikante se repliserende verklaring liasseer waarin daar geantwoord sal word op die beweringe gemaak deur die voormelde partye. Indien alle stukke geliasseer is en die aangeleentheid hofgereed is, kan aansoek gedoen word by die saakbestuurder, Regter Janse van Nieuwenhuizen, vir 'n hofdatum ten einde hierdie groep te sertifiseer.

4. DIE HSAG SE ANTWOORD OP DIE BRIEF VAN JACQUES DU TOIT GEDATEER 10 MAART 2021

Die besigheidsreddingspraktisyn van Zephan en Orthotouch het weereens in Maart 'n brief aan geaffekteerde partye gestuur soos wat die Maatskappywet vereis. Die brief behou 'n lys van amper 60 aangeleenthede waarin Zephan en Orthotouch 'n party is. Die feit dat daar ook ander partye is wat poog om vir Zephan en Orthotouch aanspreeklik te hou, is vir die HSAG-regspan net nóg 'n bevestiging dat hulle wel nog op die regte spoor is om beleggers se miljoene te verhaal.

5. LEDE SE REAKSIE OP DIE VALKE SE VERSOEK

Die reaksie van HSAG lede was oor die algemeen positief. Die HSAG-regspan het enkele navrae ontvang rakende die Valke se nuwe belangstelling in die aangeleentheid en hul versoek om die inligting van die beleggers in die HS-Sindikasies te bekom. Die Valke het onderneem om beleggers te kontak om meer inligting te bekom rakende die HS-Sindikasies.

Die sperdatum vir 'n versoek om uitsluiting was op 15 Maart 2021 gewees en word die lys nou gefinaliseer vir verskaffing. Ons is in die proses om die informasie te bewerk en om 'n opgedateerde lys bymekaar te sit.

Die HSAG regspan is wettiglik gebonde om samewerking te verskaf met betrekking tot die versoekte dokumentasie en sal mnr. Klopper N.O. en Du Toit N.O. ingelyk verplig

wees om dit aan die Valke te oorhandig. Die vervolgingsgesag sal in elk geval 'n lasbrief kan bekom om die rolspelers te dwing om die inligting aan hulle te oorhandig. Sommige HSAG-lede voel dat strafregtelike verrigtinge moontlik positiewe gevolge kan hê vir siviele skikkingsonderhandelinge. Ons wil dit egter duidelik beklemtoon dat daar 'n verskil tussen die sivieleprosesreg en die strafprosesreg is. Die staat kan voortgaan met vervolging en is dit algeheel onafhanklik van enige siviele aksies. Die staat kan 'n skikking in ag neem (soos wat voorheen die geval was), maar sal dit nie outomaties die geval wees nie. Mnr. Georgiou het voorheen ook aangedui dat hy wel bereid is om met opbetaalde lede te skik, wat duidelik daarop gemik is om die klas-aksie van sy meer vermoënde lede te ontnem. Volgens Artikel 300 van die Strafproseswet kan beskuldigdes (wat skuldig bevind is), tesame met die straf wat hof aan hulle gee, ook aanspreeklik gehou word om skadevergoeding te betaal aan die slagoffers van hul misdrywe. Hierdie is 'n vereenvoudiging van antwoorde op verskeie vra wat ons ontvang, maar dit moet duidelik gemaak word dat die VALKE aangeleentheid geheel en al onafhanklik is en nie gedryf word deur die HSAG of sy regspraak nie.

6. HSAG STATE

Die HSAG administratiewe personeel het die maand enkele navrae van beleggers ontvang aangaande die feit dat hul betalings nie op hul state verskyn nie. Betalings word nie outomaties geallokeer nie en moet individueel op beleggers se state gelaai word. Beleggers word dus versoek om geduldig te wees aangesien dit 'n proses is wat tyd neem. Indien 'n belegger se twee agtereenvolgende state nie die betrokke inligting weerspieël nie, moet hulle asseblief dadelik met die HSAG in verbinding tree.

7. VERLIGTING VIR HSAG LEDE WAT OOK CCAF LEDE IS

Soos berig in die nuusbrieff van Februarie 2021 het die HSAG bestuurkomitee besluit om verligting te versoek vir HS 21 & 22 HSAG lede, wat opbetaal is op 30 April 2021, wat ook CCAF lede is. Die enigste verligting wat oorweeg kon word was om dieselfde formule te gebruik as wat voor die Hooggeregshof gedien het en goedgekeur is deur die hof, naamlik dat daar onderskeid getref moet word tussen (1) eise kleiner as R 100 000 en groter as R 100 000 asook (2) opbetaalde HSAG 21 & 22 lede wat ook in CCAF is. Die hof het spesifiek beveel dat laer sindikasies (m.a.w. HS 15 – 20) nie HS 21 en 22 mag subsidieer en nie en daarom kan verligting net aan opbetaalde lede gegee word met betrekking tot hul betalings. Hierdie verligting sal weereens dien as pluimpie van waardering vir die opbetaalde HSAG 21 & 22 lede wat 'n groot rol gespeel het om die CCAF-aangeleentheid by so 'n gevorderde stadium te kry.

8. ONLANGS IN DIE MEDIA: HOËVELD SINDIKASIE BESIGHEIDSREDDINGSPRAKTISYN EN MEDE-ORTHOTOUCH DIREKTEURE GEDAGVAAR VIR R110 M

'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.

Die HSAG lede word uitgenooi om om die feitestelle hieronder te vergelyk met die HS maatskappy sin en daarna hul eie afleidings te maak oor die rolspelers hierin wat ook mnre. Hans Klopper en Jacques du Toit insluit.

HOËVELD SINDIKASIE BESIGHEIDSREDDINGSPRAKTISYN EN NOVA VOORSITTER GEDAGVAAR VIR R110 M

Hans Klopper en Connie Myburgh en andere ontvang dagvaardings wat verband hou met beweerde wangedrag om die likwidasië van 'n maatskappy te vertraag.

Die likwidateurs van Harrison & White Investments (H&W) het die maatskappy se direkteure, sy sakereddingspraktisyn (BRP) en sy voormalige regsadviseurs vir R110 miljoen gedagvaar omdat hulle die "onvermydelike" likwidasië van die maatskappy met meer as drie-en-'n-half jaar vertraag het.

Volgens die dagvaarding het die vertraging die voormalige direkteure van die maatskappy in staat gestel om die maatskappy te buit deur feitlik al die bates te verkoop, wat die skuldeisers byna met leë hande gelaat het toe die maatskappy uiteindelik in 2017 gelikwedeer is.

Die BRP is 'n bekende herstruktureringsspesialis en hoof van BDO se sakeherstruktureringseenheid, Hans Klopper.

Die voormalige regsadviseurs van H&W is korporatiewe prokureurs en die huidige voorsitter van Nova Property Group, Connie Myburgh, en Diaan Ellis, 'n direkteur van Faber Goërtz Ellis Austen.

Klopper en Myburgh was betrokke by die reddingspogings van die mislukte Highveld Syndication (HS) maatskappy. Hulle is ook steeds betrokke by die reddingspogings van

die mislukte Sharemax-eiendomsindikasieskema. Meer as 30 000 mense het gesamentlik byna R10 miljard in hierdie skemas belê.

Die voormalige direkteure van H&W is Gavin Zietsman en Michael Ralston. Zietsman is waarskynlik beter bekend daarvoor dat hy in 2011 skuldig bevind is aan binnehandel en met R1 miljoen beboet is.

Antwoorde

Klopper, Myburgh en Ellis het op Moneyweb se vrae gereageer en bevestig dat hulle die dagvaarding en eis gaan verdedig. Hulle het nie kommentaar gelewer op die meriete van die bewerings wat in die dagvaarding gemaak is nie.

Myburgh en Ellis het egter verklaar dat sommige van die aantygings lasterlik is en het Moneyweb gewaarsku dat die publisering van hierdie bewerings ook lasterlik sal wees. Die volledige antwoorde verskyn onderaan hierdie artikel.

Zietsman en Ralston kon nie vir kommentaar bereik word nie.

Geskiedenis en verdoemende artikel 417-verslag

H&W was 'n onderneming gebaseer in Benoni wat huiskrane verhuur het in die konstruksiebedryf.

Dit het in 2011 finansiële probleme ondervind en was in verstek met leningsterugbetalings aan FirstRand. Dit was destyds nagenoeg R150 miljoen aan die bank verskuldig en die partye het 'n herstruktureringsooreenkoms aangegaan om die uitstaande skuld terug te betaal. H&W het egter nie die bedrae ingevolge die ooreenkoms terugbetaal nie, en FirstRand het die lening in Julie 2013 opgeroep. Die direkteure het die maatskappy enkele dae later in besigheidsredding geplaas, en Klopper is as die BRP aangestel.

'n Besigheidsreddingsproses se doel is om 'n maatskappy, wat in finansiële-nood verkeer, spasie te gee om asem te haal van skuldeisers se regsaksies om hul skulde te verhaal en om die BRP tyd te gee om 'n reddingsplan te formuleer en te publiseer om die maatskappy weer finansiëel lewensvatbaar te maak.

'n Besigheidsreddingsproses is bedoel om 'n korttermynproses te wees - en as die BRP besluit dat die maatskappy nie gered kan word nie, moet dit onmiddellik gelikwideer word.

Die dagvaarding en 'n artikel 417-verslag (sien hieronder) beweer dat die maatskappy destyds insolvent was en onmiddellik gelikwideer moes word. Die sakereddingsproses is egter verleng en die maatskappy is uiteindelik eers in Februarie 2017 gelikwideer – meer as drie en 'n half jaar later.

Dit is ten spyte van die feit dat FirstRand aansoek gedoen het vir die voorlopige likwidasië in Februarie 2015, wat die partye teengestaan het.

Eis van R110 miljoen

Cloete Murray en Kgashane Monyela, die gesamentlike likwidateurs van H&W, het die dagvaarding in Desember verlede jaar uitgereik.

Die dagvaarding beweer dat die maatskappy bates ter waarde van R116 miljoen besit het toe dit in Julie 2013 in sake-redding geplaas is, maar slegs R6,1 miljoen oor gehad het toe die finale likwidasiëbevel in Februarie 2017 toegestaan is.

Hulle beweer dat hierdie vertraging gelei het tot meer as R110 miljoen se verliese, wat die likwidateurs nou van individue eis.

Krities oor Klopper, Myburgh en Ellis

Die dagvaarding beweer dat die vertraging die weg gebaan het vir die verkoop van die bates tot nadeel van die skuldeisers.

Dit is veral krities oor Klopper se optrede as BRP en sê dat hy versuim het om H&W se sake behoorlik te ondersoek en dat dit grof nalatig was om die maatskappy nie in likwidasië te plaas nie. Klopper het volgens die dagvaarding ook gefaal daarin om te verseker dat die sakereddingsproses nie deur Ralston, Zietsman, Myburgh en Ellis misbruik word nie.

Die dagvaarding is ewe krities teenoor Myburgh en Ellis and stel dat hulle versuim het in hul fidusiëre pligte aan H&W en sy aandeelhouers en krediteure.

“Had Myburgh and Ellis not breached their obligations and acted properly, H&W would have been liquidated in June 2013.”

“The conduct of placing H&W in business rescue, keeping it in business rescue, opposing the winding-up and leaving the affairs to Ralston and [Kevin] Kemp [a manager at H&W at the time] was intended to benefit Ralston, Kemp, Myburgh, Klopper and Ellis and the shareholders and some creditors of H&W. The conduct aforesaid was reckless and was intended to, or resulted in, prejudice to and was in fraud of the general body of creditors of H&W and in particular to FirstRand.”

Artikel 417-verslag

Die dagvaarding volg op 'n artikel 417-verslag, geskryf deur die gerespekteerde afgetrede regter Eberhard Bertelsmann, as die kommissaris in 2019. Hy is in November 2017 deur

die Meester van die Hof aangestel om te ondersoek of H&W se bates wel voor die likwidasië gestroop of geplunder is.

Bertelsmann het ook tot die gevolgtrekking gekom dat die sakereddingsproses bedrieglik misbruik is om 'n onvermydelike likwidasië te vertraag, wat die verkoop van die bates van die maatskappy moontlik gemaak het.

Bertelsmann het ook aanbeveel dat die meester die optrede van Zietsman, Ralston en Myburgh na die nasionale direkteur van openbare vervolging verwys vir strafregtelike ondersoek.

Sharemax en Picvest

Klopper en Myburgh is nou betrokke by die reddingskemas van twee van Suid-Afrika se grootste mislukte beleggingskemas: Sharemax en Picvest.

Klopper was die BRP van die mislukte HS-maatskappy, wat in September 2011 in sakeredding geplaas is. Ingevolge die oorspronklike sakereddingsplan en die daaropvolgende artikel 155-reëlinskema, moes alle eiendomme wat as deel van die HS-skemas gesindikeer was, oorgedra word aan 'n enkele maatskappy, Orthotouch, maar dit het nooit gebeur nie.

Bykans al hierdie eiendomme is vervolgens verkoop aan derde partye tydens die ag jaar wat dit in besigheidsredding was. Dit sluit in die gelyste entiteit, Accelerate.

Die sakereddingsproses is beëindig toe Orthotouch self in November 2019 in sakeredding geplaas is.

Klopper en Myburgh was direkteure van Orthotouch.

Klopper en Myburgh is ook betrokke by Nova, die reddingsvoertuig van die mislukte Sharemax-beleggingskema. Hulle is die twee ontvangers en is verantwoordelik vir die implementering van die reëlinskema om beleggers terug te betaal.

Myburgh is ook Nova se uitvoerende voorsitter.

Nova is egter 'n paar jaar reeds in finansiële nood en het verskeie onderliggende eiendomsbates verkoop om sy bedryfsuitgawes te finansier. Die maatskappy staan ook korporatiewe bestuur uitdagings in die gesig. Die maatskappy het vir drie agtereenvolgende jare daarin gefaal om binne ses maande ná jaareinde sy finansiële jaarstate (AFS's) te publiseer, soos voorgeskryf deur die Maatskappywet. Die 2020 AFS, wat voor einde Augustus 2020 moes verskyn, is nog nie gepubliseer nie.

Verder het Nova se ouditeure Nova se 2018 en 2019 AFS's gekwalifiseer en hul kommer uitgespreek oor die vermoë om voort te gaan as 'n lopende saak.

Volledige antwoord van Klopper (via sy regsadviseur)

Dear Sir

Questions sent to Mr JF Klopper on 29 January 2021

1. We act for Mr Klopper in the claim brought by Harrison & White Investments (Pty) Ltd (in liquidation).
2. We refer to your email to our client on 29 January 2021, in which you addressed a number of questions to him in relation to this matter.
3. Our client will be addressing the allegations made in the claim against him, in the normal course of the litigation proceedings.
4. Our client will not be commenting further on this matter at this time.

Yours faithfully

WEBBER WENTZEL

Volle antwoord van Connie Myburgh

Mr van Niekerk.

I refer to your email dated 29 January 2021.

I will be defending the action through my lawyers.

The matter is sub judice and you will appreciate that I cannot comment on or enter into a debate with you regarding the allegations raised in your email.

The allegations raised by you regarding me are defamatory of me, and I caution you regarding publishing such defamatory matter, as such publication will be equally defamatory.

You are requested to quote this response verbatim in any publication you may release.

Yours faithfully.

Connie Myburgh.

Volledige antwoord van Diaan Ellis

Dear Mr van Niekerk

1. I am defending the action that you speak of, insofar as it pertains to me and am legally represented in that regard.
2. You will thus readily appreciate that it would not be appropriate to enter into a debate with you regarding the merits of the matter whilst the matter is the subject of litigation and I will not do so at this juncture, particularly in circumstances where my professional indemnity insurance policy precludes me from commenting on the matter.
3. I trust that you will agree with me that it would be unreasonable, in the circumstances, to expect me to respond in any other manner at this time.
4. As a postscript, I must just point out that the assertions made against me in the action are defamatory and any publication by Moneyweb of these allegations would similarly constitute an act of defamation on the part of Moneyweb, the author of the article and Moneyweb's editor.

Sincerely

Diaan Ellis

FABER GOERTZ ELLIS AUSTEN INC

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 19 Februarie 2021 en die amptelike weergawe is beskikbaar by: <https://www.moneyweb.co.za/in-depth/investigations/highveld-syndication-brp-and-nova-chair-sued-for-r110m/>

9. 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;
- **hsagstates@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.

10. **BELANGRIKE ALGEMENE TERME EN VOORWAARDES**

Die algemene en herhalende terme, voorwaardes en ander algemene inligting wat voorheen in die Nuusbrieff vevat was, word nou beskikbaar gestel op die HSAG se webtuiste by 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



AFRIKAANS HIERBO

MONTHLY NEWSLETTER: MARCH 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.

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 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**

2021 is now well and truly underway and we hope that all members have had many blessings bestowed upon them during this difficult time. The HSAG is proud to represent such a dedicated group and remains committed to fighting the attempted financial draining of our supporter-base.

Managing the affairs of the HSAG is a fine balancing act. On the one hand there are members who duly and diligently adhere to all the requests made by the HSAG Steering Committee. If they are asked to refrain from making unnecessary calls, they do so. On the other hand, the HSAG and its legal team also have sympathy and are loyal to those members who don't have the experience to understand or means to comply with court matters that are not only difficult to grasp and understand, but also involve vast amounts of money and paperwork. Some people have lost large amounts of money but can still survive. Others have lost smaller amounts, but have lost everything they have, including their lifelong savings. Until now the HSAG has tried everything in its power to keep all the loyal members aboard. As someone mentioned before, indeed a Comrades marathon of note. We understand that there is frustration with regards to certain members having to metaphorically carry the rest of the group in both the HSAG ("DECA") and CCAF matters. We understand your frustration. We feel it too.

We welcome any queries and look to answer them to the best of our abilities but the time it takes to answer unnecessary queries are both financially and physically draining. Members are encouraged to revisit previous newsletters on the website well as FAQ's which were posted there before newsletters were distributed. The manpower and time it takes to answer these queries effectively and correctly are ultimately taking away time that could be spent fighting for your claims. Much time was spent verifying the February 2021 newsletter and we hope that by answering some frequently asked questions, we have provided you with a degree of clarity. We trust that any confusion between the HSAG and CCAF has been resolved.

We have mentioned the opposition's Stalingrad tactics before. They will do anything and everything in their power to keep this case out of court. In order to combat this, we need everybody to stand together. We cannot fight the opposition alone. We need everybody to help fund the legal battle against the opposition, because ultimately preparing a matter to go to court takes time and costs money. If we are to be successful then we will need to stand together. This will make the victory all the more cathartic.

In this month's newsletter we will address Jacques du Toit's letter dated 10 March. We will also discuss the Hawks- and DECA matters. As per usual we will provide the link to an informative *Moneyweb* article that has a direct or indirect bearing on the HSAG members. Finally, we will briefly update you on the CCAF matter.

2. HOW IS THE HS21 & 22, CCAF, MATTER PROGRESSING?

As was mentioned in the February 2021 newsletter, various legal documents relating to CCAF have been concluded and filed during the past 12 months. The founding application court documents were filed by the CCAF attorneys and two conditional counter applications to the Rule 30(1) Applications brought by the Respondents have been filed and served. 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. Although this has been mentioned in the previous newsletter, we believe it pertinent, given its importance to members, to set out the exact aims of these court documents once more.

The recent allegations by Mr. Georgiou that 21B investors do not form part of the HS 21 & 22 applications are telling, but is in our opinion misguided and incorrect. Such allegations merely seek to delay the matter further. Also included in these Notices of Motion is 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.

The court documents have been filed and served. We are truly embroiled in a war of attrition and unfortunately it will take time to respond to the opposition's deferring tactics, however if we stand together, we can overcome anything that is thrown at us. Altogether, thousands of pages are relevant to the certified class action and the legal team must carefully study and weigh up which information and documentation are relevant and necessary for the court case.

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

During the past month, the HSAG legal representatives have received the responding affidavits of Messrs. Hans Klopper, George Georgiou, Michael Georgiou and, on 26

March 2021, Nic Georgiou. The affidavits are very cumbersome and consist of large volumes of documents and attachments. In total, hundreds of pages were filed. The legal team is working hard to go through the documents and will provide feedback to all investors as soon as possible. As previously mentioned the BRP, Mr. Jacques du Toit, must still answer. The final answering affidavit is expected during May 2021.

After receiving all answering affidavits, the legal team will file the Applicants' replying affidavit in which it responds to the allegations made by the aforementioned parties. When all documents have been filed and the matter trial ready, an application can be made to the case manager, Judge Janse van Nieuwenhuizen, for a court date in order to certify this class.

4. THE HSAG'S RESPONSE TO THE LETTER FROM JACQUES DU TOIT DATED 10 MARCH 2021

The business rescue practitioner of Zephan and Orthotouch once again sent a letter to affected parties in March as required by the Companies Act. The letter lists a number of almost 60 court cases in which Zephan and Orthotouch are currently involved in. The fact that there are other parties who are also trying to hold Zephan and Orthotouch accountable is just another confirmation for the HSAG that we are still on the right track to recover investors' millions.

5. MEMBERS' RESPONSE TO THE HAWKS' ENQUIRY

The response from HSAG members was in general positive. The HSAG legal team received a few enquiries regarding the Hawks' new interest in the matter and their request to obtain information from the investors in the HS Syndications. The Hawks undertook to contact investors for more information regarding the HS Syndications.

The deadline for requesting exclusion was 15 March 2021 and the list is now being finalised to be supplied. We are in the process of processing the information and compiling an updated list.

The HSAG legal team is legally bound to co-operate with regard to the requested documentation, as are Messrs.' Klopper N.O. and Du Toit N.O. who will equally be obliged to hand it over to the Hawks. The prosecuting authority will in any case be able to obtain a warrant to force the role players to hand over the information to them. Some HSAG members feel that criminal proceedings could have positive consequences for civil settlement negotiations. However, we would like to emphasise clearly that there is a difference between civil law and criminal law. The state can continue to prosecute completely independent of any civil actions. The state can consider a settlement (as was

previously the case), but it will not automatically be the case. Mr Georgiou has also previously indicated that he is willing to settle with paid-up members, which is clearly aimed at depriving the class action of its more affluent members. According to Section 300 of the Criminal Procedure Act, accused persons (who have been convicted) may, together with the punishment given to them by court, also be held liable to pay damages to the victims of their crimes. These are simplifying the answering of several questions asked, but it must be emphasised that the HAWKS' matter is completely independent and not driven by the HSAG or its legal team.

6. HSAG STATEMENTS

The HSAG administrative personnel has received some queries from investors this month regarding the fact that their payments did not appear on their statements. Payments are not automatically allocated and must be individually loaded to investors' statements. Investors are therefore urged to be patient as this is a time-consuming process. If two consecutive statements do not reflect the relevant information, an investor should contact the HSAG immediately.

7. RELIEF FOR HSAG MEMBERS WHO ARE ALSO CCAF MEMBERS

As reported in the February 2021 newsletter, the HSAG steering committee has decided to request for relief to HS 21 & 22 HSAG members, who are paid-up by 30 April 2021, who are also CCAF members. The only relief that could be considered was to apply the same formula that served before the High Court and that was approved by the court, namely that differentiation be made between (1) claims less than R 100 000 and above R 100 000 and also (2) paid-up HSAG 21 & 22 members who are also in CCAF. The court specifically ordered that lower syndications (i.e. HS 15 – 20) cannot subsidise HS 21 and HS 22 and therefore relief can only be granted to paid-up members in respect of their payments. This relief will again serve as a token of appreciation for the paid-up HSAG 21 & 22 members who played a major role in getting the CCAF matter to such an advanced stage.

8. RECENTLY IN THE MEDIA: HIGHVELD SYNDICATION BRP AND CO-ORTHOTOUCH DIRECTORS SUED FOR R110M

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/highveld->

[syndication-brp-and-nova-chair-sued-for-r110m/](#). In this instance, the article will be repeated verbatim to ensure its accuracy.

HSAG members are invited to compare the facts hereunder with that of the HS-Companies and to draw their own conclusions afterwards with regards to the role players which also include Messrs. Hans Klopper and Jacques du Toit.

HIGHVELD SYNDICATION BRP AND NOVA CHAIR SUED FOR R110M

Hans Klopper and Connie Myburgh, along with others, receive summons related to alleged misconduct in delaying the liquidation of a company.

The liquidators of Harrison & White Investments (H&W) have sued the company's directors, its business rescue practitioner (BRP) and its former legal advisors for R110 million for delaying the "inevitable" liquidation of the company by more than three-and-a-half years.

The summons states that this delay allowed the former directors to loot the company by selling off virtually all the assets, leaving the creditors nearly empty-handed when the company was eventually liquidated in 2017.

The BRP is a well-known restructuring specialist and head of BDO's Business Restructuring Unit, Hans Klopper.

The former H&W legal advisors are corporate lawyer and current Nova Property Group chair Connie Myburgh, and Diaan Ellis, a director of Faber Goërtz Ellis Austen.

Klopper and Myburgh were involved with the rescue efforts of the failed Highveld Syndication (HS) companies. They are also still involved with the rescue efforts of the failed Sharemax property syndication schemes. More than 30 000 people collectively invested nearly R10 billion in these schemes.

The former directors of H&W are Gavin Zietsman and Michael Ralston. Zietsman is probably better known for being convicted of insider trading and fined R1 million in 2011.

Responses

Klopper, Myburgh and Ellis responded to Moneyweb's questions and confirmed they would defend the summons and claim. They did not comment on the merits of the allegations made in the summons.

However, Myburgh and Ellis stated that some of the allegations are defamatory and warned Moneyweb that republishing these allegations would also be defamatory. The full responses appear at the bottom of this article.

Zietsman and Ralston could not be reached for comment.

History and damning Section 417 report

H&W was a Benoni-based company that offered crane hire services to the construction industry.

It ran into financial difficulty in 2011 and defaulted on loan repayments to FirstRand. It owed the bank nearly R150 million at the time, and the parties entered into a restructuring agreement to repay the outstanding debt. However, H&W failed to repay the amounts under the agreement, and FirstRand called up the loan in July 2013. The directors put the company into business rescue a few days later, and Klopper was appointed as the BRP.

A business rescue process intends to allow a financially-distressed company some breathing room from creditors' legal challenges to recover their debts and afford the BRP time to formulate and publish a rescue plan to return the company to financial viability.

Business rescue is intended to be a short-term process – and if the BRP decides the company cannot be saved, it must be put into liquidation immediately.

The summons and a Section 417 report (see below) allege that the company was insolvent at the time and should have been liquidated immediately. However, the business rescue process was prolonged and the company was only finally liquidated in February 2017 – more than three-and-a-half years later.

This is despite FirstRand applying for the company's provisional liquidation in February 2015, which the parties opposed.

Claim of R110 million

Cloete, Murray and Kgashane Monyeal, the joint liquidators of H &W issued the summons in December of last year.

The summons claims the 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.

This delay, they claim, resulted in over R110 million in losses, which the liquidators are now claiming from individuals.

Critical of Klopper, Myburgh and Ellis

The summons alleges that the delay paved the way for the selloff of the assets to the creditors' detriment.

It is especially critical of Klopper's conduct as BRP and says he failed to investigate H&W's affairs properly and that not putting the company in liquidation was "grossly negligent". Klopper, according to the summons, also failed to ensure that the business rescue process was not abused by Ralston, Zietsman, Myburgh and Ellis.

The summons is equally critical of Myburgh and Ellis and states that they were in breach of their fiduciary duties to H&W and its shareholders and creditors.

“Had Myburgh and Ellis not breached their obligations and acted properly, H&W would have been liquidated in June 2013.”

“The conduct of placing H&W in business rescue, keeping it in business rescue, opposing the winding-up and leaving the affairs to Ralston and [Kevin] Kemp [a manager at H&W at the time] was intended to benefit Ralston, Kemp, Myburgh, Klopper and Ellis and the shareholders and some creditors of H&W. The conduct aforesaid was reckless and was intended to, or resulted in, prejudice to and was in fraud of the general body of creditors of H&W and in particular to FirstRand.”

Section 417 report

The summons follows a Section 417 report, penned by respected retired judge Eberhard Bertelsmann as the commissioner, in 2019. He was appointed in November 2017 by the Master of the Court to investigate whether H&W’s assets were indeed stripped or looted before the liquidation.

Bertelsmann also concluded that the business rescue process was fraudulently abused to delay an inevitable liquidation, which allowed for the selloff of the company’s assets.

Bertelsmann also recommended that the master refer the conduct of Zietsman, Ralston and Myburgh to the National Director of Public Prosecutions for criminal investigation.

Sharemax and Picvest

Klopper and Myburgh are closely involved with the rescue schemes of two of South Africa’s biggest failed investment schemes: Sharemax and Picvest.

Klopper was the BRP of the failed HS companies, which were placed in business rescue in September 2011. In terms of the original business rescue plan and a subsequent Section 155 Scheme of Arrangement, all properties syndicated as part of the HS schemes should have been transferred to a single company, Orthotouch, but this never happened.

Virtually all of these properties were subsequently sold to third parties during the eight years it remained in business rescue, including the listed entity Accelerate.

The business rescue process ended when Orthotouch itself was placed into business rescue in November 2019.

Klopper and Myburgh were directors of Orthotouch.

Klopper and Myburgh are also involved with Nova, the rescue vehicle of the failed Sharemax investment scheme. They are the two receivers and are responsible for implementing the scheme of arrangement to repay investors.

Myburgh is also Nova's executive chairman.

However, Nova has been in financial distress for a few years and has sold several underlying property assets to finance its operating expenses. The company is also facing corporate governance challenges. It failed to publish its annual financial statements (AFSs) for three consecutive years within six months after the year-end, as the Companies Act prescribes. The 2020 AFS, which was due before the end of August 2020, has still not been published.

Furthermore, Nova's auditors qualified Nova's 2018 and 2019 AFSs and expressed concerns regarding its ability to continue as a going concern.

Full response from Klopper (via his legal counsel)

Dear Sir

Questions sent to Mr JF Klopper on 29 January 2021

1. We act for Mr Klopper in the claim brought by Harrison & White Investments (Pty) Ltd (in liquidation).
2. We refer to your email to our client on 29 January 2021, in which you addressed a number of questions to him in relation to this matter.
3. Our client will be addressing the allegations made in the claim against him, in the normal course of the litigation proceedings.
4. Our client will not be commenting further on this matter at this time.

Yours faithfully

WEBBER WENTZEL

Full response from Connie Myburgh

Mr van Niekerk.

I refer to your email dated 29 January 2021.

I will be defending the action through my lawyers.

The matter is sub judice and you will appreciate that I cannot comment on or enter into a debate with you regarding the allegations raised in your email.

The allegations raised by you regarding me are defamatory of me, and I caution you regarding publishing such defamatory matter, as such publication will be equally defamatory.

You are requested to quote this response verbatim in any publication you may release.

Yours faithfully.

Connie Myburgh.

Full response from Diaan Ellis

Dear Mr van Niekerk

1. I am defending the action that you speak of, insofar as it pertains to me and am legally represented in that regard.
2. You will thus readily appreciate that it would not be appropriate to enter into a debate with you regarding the merits of the matter whilst the matter is the subject of litigation and I will not do so at this juncture, particularly in circumstances where my professional indemnity insurance policy precludes me from commenting on the matter.
3. I trust that you will agree with me that it would be unreasonable, in the circumstances, to expect me to respond in any other manner at this time.
4. As a postscript, I must just point out that the assertions made against me in the action are defamatory and any publication by Moneyweb of these allegations would similarly constitute an act of defamation on the part of Moneyweb, the author of the article and Moneyweb's editor.

Sincerely

Diaan Ellis

FABER GOERTZ ELLIS AUSTEN INC

This article was written by Moneyweb and was published on 19 February 2021, the official version is available at: <https://www.moneyweb.co.za/in-depth/investigations/highveld-syndication-brp-and-nova-chair-sued-for-r110m/>

9. 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.

10. 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 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

