



MAANDELIKSE NUUSBRIEF: MEI 2021

ENGLISH BELOW

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 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

Welkom beleggers by nog 'n nuwe nuusbrief. Ons vertrou dat dit goed gaan met u en dat almal en hul geliefdes nog gesond bly. Ons is bewus daarvan dat ieder en elk van ons beleggers geaffekteer is, sommige meer as ander, deur die Covid-19 pandemie. Ons medelye aan die wat geliefdes in die proses verloor het. Julle is in ons gedagte en gebede.

Ons kry gereeld navrae van ons lede dat ons die regsproses, wat ingewikkeld is, moet vereenvoudig en by wyse van voorbeelde verduidelik, wat ons poog in hierdie nuusbrief.

Ons het al voorheen hierdie regstryd teen ons opponente met die Comrades maraton vergelyk. Hierdie maand wil ons u aanmoedig om kontak te maak met u mede-beleggers om te verseker dat hulle ook die maandelikse nuusbrief lees. Dit sal die gevolg hê dat almal op datum is met die HSAG aangeleenthede, maar sal ook die wat moedeloos is aanmoedig dat daar steeds hoop is. Ons is bewus dat sommige beleggers nie die HSAG nuusbriewe lees nie, maar ons glo dit is 'n waardevolle platform vir kommunikasie met die HSAG, sy regspan en beleggers.

Dit is soms moeilik om die belangrike inligting van ons saak en stukke van die legkaart van die bogstories op Whatsapp-groepe en die valse inligting wat versprei word deur die HSBF-webtuiste en nuusbriewe te onderskei, maar op hierdie platform glo ons dat u 'n formele opsomming kan kry van al die gebeure rakende u aangeleentheid. As sodanig glo ons dat elke belegger die maandelikse nuusbrief moet lees as hy/sy ernstig is daaroor om op hoogte te bly, aan boord te bly en sinvolle gesprekke met die HSAG wil voer.

Ons glo dat baie mense sal vind dat hul mees drukkende bekommernisse maandeliks aangespreek word en partymaal hoe om kop bo water te hou. Moedig dus asseblief u mede-beleggers aan om op hoogte te bly met die HSAG-nuusbriefe en aan boord te bly aangesien dit net as gevolg van die groot getalle van die HSAG-lede is dat ons tot nou toe 'n magtige eiendomsmagnaat en sy assosiate kon aanvat. Dit sal die regspan in staat stel om te fokus op die belangrikste kwessies, naamlik die voorbereiding van

regsdokumente wat noodsaaklik is om 'n suksesvolle saak aan te voer. Baie beleggers sal oplet dat hul vrae reeds beantwoord word in die nuusbriewe. Ons vra byvoorbeeld hierdie maand spesifieke inligting van beleggers en hoe meer terugvoer ons kry, hoe beter.

Ons bedank elk van diegene wat op hoogte bly met die nuusbriewe en hul bydraes betyds maak.

2. WAT BEHELS DIE HSAG HOFSAKE?

Daar is meer moontlike iterasies van skaakwedstryde as wat daar atome in die waarneembare heelal is. Hierdie waarde, bekend as die Shannon-nommer, verteenwoordig alle moontlike skuiwe in 'n skaakwedstryd.

Daar was onlangs 'n baie suksesvolle reeks op Netflix met die titel, The Queen's Gambit. Alhoewel skaak blykbaar 'n vervelige spel is, het die Queen's Gambit, wat tot op hede een van die suksesvolste reekse op Netflix was (met 62 miljoen intekenare wat dit in die eerste 28 dae gekyk het) die ingewikkeldheid van die sport uitgelig. Litigasie in hierdie aangeleentheid is baie soortgelyk aan 'n skaakspel, daarom streef die HSAG daarna om die beste moontlike kundiges te gebruik wat by ons spesifieke behoeftes pas.

In skaak is die moontlikhede vir bewegings en openinge eindeloos. Indien jy nie versigtig genoeg is nie en te aggressief aanval, stel jy jouself bloot vir 'n teenaanval. Indien jy te stadig beweeg, sal jy beheer verloor oor die middel van die bord en sal jou aanvalslinies nie genoegsaam ontwikkel nie.

Daar is verskeie strategieë en patrone wat 'n Skaakmeester moet memoriseer en verstaan. Ruimtelike bewysvoering is ook 'n baie moeilike deel van die spel. 'n Speler moet verskeie beweging vooruit kan sien en moet ook die posisie en opposisie akkuraat kan analiseer. Dit is presies die geval met ons saak teen Mnr. Georgiou en die ander respondente.

Skaak is uiters kompleks en ingewikkeld. Jy kan 'n uiterse komplekse strategie gebruik om slegs 'n opponer se pion te neem. Vir die ongeoefende oog mag dit vrugteloos voorkom, aangesien 'n pion net 'n enkele punt werd is en ook beperkte beweging het, maar 'n Skaakmeester weet dat dit teen die einde van die spel verskil tussen wen en verloor mag beteken. Die regsplan het verskeie strategieë en beweging in plek met die eindspel voor oë. Dit is eers aan die einde van die spel waar al die klein "oorwinnings" bymekaar getel sal word en die teenkant se koning blootgetel sal wees. Sover was die HSAG al suksesvol in meer as 20 sake teen ons opponente, ons het dus al soveel skaakstukke van ons opponente geneem in hierdie toernooi. Een en elk van die lede van die HSAG, maak nie saak hoe klein, is van groot waarde vir ons en kan die verskil wees tussen wen en verloor van die spreekwoordelike oorlog.

Toe die regsproses van stapel gestuur is, het die regsplan verduidelik dat die aangeleentheid tweeledig is. Eerstens is dit die sertifisering van die klas-aksie en daarna die hofsak. Dit is verduidelik dat dit drie tot vyf jaar kan neem voordat 'n normale Hooggeregshof-aangeleentheid aangehoor word. Dit is nou 18 maande, ten spyte van Covid, sedert die CCAF-aangeleentheid gesertifiseer is en ons vertrou dat, indien moontlik, die aangeleentheid voor die einde van die jaar aangehoor sal kan word.

3. BELANGRIKE VERSOEK: DECA (HS 15-22)

Hierdie versoek is gerig aan **alle** beleggers en/of finansiële adviseurs. As een van u dokumente of inligting in u besit het wat aantoon dat die Georgiou's as 'n groepseenheid gefunksioneer het, dit wil sê as 'The Georgiou Group', stuur hierdie inligting so gou moontlik na die onderstaande e-posadres:

hsagwhistle@gmail.com (alle e-posse gestuur aan hierdie adres sal anoniem hanteer word)

Dit is van uiterse belang, aangesien die Georgiou seuns nou aanvoer dat hulle nooit deel was van 'n groep saam met hul pa nie. Ons het alreeds inligting ontvang en opgespoor wat hierdie aantygings weerlê, maar ons benodig die beste moontlike bewysstukke om ons saak te veg.

Maak asseblief seker dat u mede-beleggers hierdie versoek ontvang.

4. 2021 CCAF EN HSAG OPVRAGINGS

Soos u almal weet, is daar tans twee onderskeibare klas-aksies teen Mnr. Nic Georgiou en andere. Die eerste is van stapel gestuur in 2014 en die tweede in 2019. Hierdie twee klas-aksies verskil aangesien aan die een gebaseer is onder andere op kontraktuele eise (wat CCAF insluit) teen Mnr. Nic Georgiou en sy twee entiteite. Die tweede klas-aksie sluit ook Mnr. Georgiou se seuns (die sogenaamde Georgiou-groep) in en is in 2019 uitgereik.

Tans is daar reeds 'n groepsgeeding wat bestaan uit 1 800 eisers (CCAF) waarvan die oorgrote meerderheid HSAG-lede is wat die HSAG gedurende hierdie jare in verskeie verrigtinge ondersteun het. Beide CCAF en die HSAG word hoofsaaklik gedryf deur 'n aantal opbetaalde HSAG-lede. Tydens die sertifiseringsaansoek het die hof sekere finansiële verligting toegestaan aan opbetaalde HSAG-lede, maar het ook bevestig dat ander sindikate nie die CCAF-aangeleentheid mag finansier of subsidieer nie. Die HSAG-bestuurskomitee het in oorleg met die CCAF-regspan aangedui dat hulle weer finansiële verligting vir opbetaalde HSAG-lede sal ondersoek. Dit is met groot dankbaarheid dat ons u kan inlig dat ons nou in 'n posisie is om te bevestig dat sodanige verligting in die HSAG verleen sal word.

CCAF:

Die gesertifiseerde klas-aksie (“CCAF”) is al vir 18 maande in proses nadat dit op 10 Desember 2019 gesertifiseer is. Geen fondse is al aangevra deur die regspan van die lede in die klas-aksie nie. 'n Trust-opvraging is dus nou onafwendbaar. CCAF sal in twee groepe verdeel word vir die 2021 opvraging:

- beleggers wat R 100 000 **of minder** in HS 21 en/of HS 22 belê het.
- beleggers wat **meer as** R 100 000 in HS 21 en/of HS 22 belê het.

Die CCAF opvraging vanaf 10 Junie 2021 sal die volgende bedrae wees:

- R2 000 onmiddellik betaalbaar en R1 000 betaalbaar binne ses maande (trustopvraging van altesame R3 000 per persoon) vir beleggers wat R 100 000 **of minder** belê het.
- R2 000 onmiddellik betaalbaar en R2 000 betaalbaar binne ses maande (trustopvraging van altesame R 4 000 per persoon) vir beleggers wat **meer as** R100 000 belê het.

HSAG:

Alle opbetaalde HSAG lede in CCAF kan finansiële verligting ontvang. Sodanige lede wat deel is van **beide** die HSAG en CCAF kan kwalifiseer vir **R500.00 krediet** vir hul 2022 opvraging, mits hulle **volopbetaalde HSAG lede was teen 30 April 2021** was.

In praktiese terme is die R500 krediet 'n 25% krediet op die huidige jaarlikse fooie. In CCAF sal persone met 'n eis minder as R100 000 ook 'n 25% vermindering in hul opvraging ontvang.

In lyn met die sertifikasie bevel, sal hierdie krediet ongelukkig **nie oorgedra** kan word na die CCAF aangeleentheid toe nie. Dit sal ook **nie uitbetaal** word aan enige HSAG lede nie.

Neem asseblief kennis dat die beleggers wat kwalifiseer vir sodanige finansiële verligting tot **31 Augustus 2021** sal hê om **skriftelik** aansoek te doen vir die bogenoemde finansiële verligting ten opsigte van die bogenoemde opvraging.

Die HSAG bestuur is net by magte om besluite te maak oor HSAG aangeleenthede en kan dus, te same met die regsman, net hierdie finansiële verligting **eksklusief** aan opbetaalde lede van die HSAG aanbied wie ook lede van CCAF is.

5. VORDERING IN CCAF (HS 21 & HS 22)

Met betrekking tot die HS 21 en HS 22 Gesertifiseerde klas-aksie en die Reël 30-aansoek wat deur die Respondente aanhangend gemaak is rakende HS 21B, is ons repliserende verklaring beëdig, geliasseer, en beteken op die Respondente in beide die

'Waxham'-saak (Saak Nr: 9272/2020) asook as die 'Vlok'-saak (Saak Nr: 80811/2014). Hierdie twee sake loop gelyktydig, aangesien dit belangrik is dat hulle gesinkroniseer bly.

Die repliserende verklaring is 'n reaksie op die antwoordende verklaring van die Respondente en spreek al die bekommernisse van die respondente aan tot die mate wat dit feitlik en volgens wet vereis word. Die antwoordende verklaring van die Respondente, en op sy beurt, ons repliserende verklaring, het hoofsaaklik betrekking op die sogenaamde 21B-beleggers en of hulle deel vorm van die HS 21 & 22 groep van beleggers. Ons het nog altyd volgehou dat die 21B-beleggers deel uitmaak van HS 21 & 22 en dat hul eise vierkantig binne die bestek van die sertifiseringsbevel van Regter Tolmay val. Dit is ook die siening van ons regsplan.

Die doel van die twee kennisgewings van mosie, gedateer 15 Desember 2020, was eenvoudig om voorsiening te maak vir 'n situasie waar die hof bevind dat 21B nie outomaties ingesluit is nie. Hierdie aansoeke poog dus om voortaan te verseker dat 21B beleggers nie uitgesluit word nie, indien nodig. Die voorwaardelike teenaansoek beoog in wese dieselfde uitkoms as dié van die twee kennisgewings van 15 Desember 2020.

Ons vertrou dat die opposisie se reël 30(1) aansoek nie meriete het nie en van die hand gewys sal word.

Die kwessie wat deur die Georgiou' en andere geopper is, was as gevolg van HS21B-lede wat "ge-Opt-In" het toe hulle die geleentheid gehad het om dit te doen ingevolge die bevel van Regter Tolmay. Niemand is oorgehaal of gemanipuleer om te "Opt-In" nie, maar in alle gevalle volgens ons kennis het die HS-beleggers wat "ge-Opt-In" het, dit gedoen omdat hulle hulself ten volle geassosieer het met die HS21- en HS22-gesertifiseerde klas-aksie, in die mate dat hulle hulself as deel beskou het van die gesertifiseerde klas-aksie. Sedert die sertifisering van Regter Tolmay van die klas-aksie, was daar nie 'n enkele kansellasie deur 'n sogenaamde HS21B-belegger nie, ondanks 'n kragtige poging van Georgiou en sy span om sulke beleggers af te weer om finansiëel tot die gesertifiseerde klas-aksie by te dra.

Ons regsplan het verskeie opsies gebied en probeer met dieselfde doel voor oë: om nie 21B-beleggers uit te sluit as deel van die gesertifiseerde klas toe hulle die name ingedien het van die wat “ge-Opt-In” het nie, of dit nou outomaties of persoonlik was. In reaksie hierop het die Respondente hierdie doel teëgestaan deur op hoogs tegniese prosedures en verweere staat te maak ten einde die saak op enige manier te vertraag. Dit is direk teenstrydig, soos ons dit verstaan, met die moderne benadering wat substansie bo vorm bevorder, veral waar die ander party nie in 'n werklike of reële sin benadeel word nie. Die klagtes van die Respondente berus elkeen op die bogenoemde hoogs tegniese prosedures, waarvan nie een hulle in die minste benadeel nie. Die Respondente het ook weereens begin met 'n smeerveldtog teen ons regsplan.

Die Respondente maak ook staat op 'n beëdigde verklaring wat in stryd is met die sogenoemde Lensvelt-reël. Die Lensvelt-reël verbied getuienis (of 'n beëdigde verklaring) van 'n getuie wat in 'n ander saak/verhoor aangebied is, tensy daar aan streng kriteria voldoen word (wat in hierdie saak nie die geval is nie). Die verklaring bevat verskeie teenstrydighede, onwaar en lasterlike opmerkings wat ooreenstem met die aard waarop ons opposisie die saak tot dusver gedryf het. Behalwe vir die bogenoemde, is die deponent van die eedsverklaring niemand anders nie as een van die voormalige applikante wat gedompel is in skande nadat sy op 'n onetiese wyse met Mnr. Georgiou geskik het en daarna probeer het om die klas-aksie vir sertifikasie terug te trek. Nodeloos om te noem dat sy en die ander voormalige applikante, wat in oneer gebring is, onsuksesvol was.

Noudat die antwoordende beëdigde verklaring gelyasseer en beteken is, is wat volg: die verhoor. Die volgende stap sal dus wees om die hoofde van betoog op te stel waarna die aansoek neergelê sal word ten einde aangehoor te word. Gewoonlik word 'n reël 30(1) aansoek aangehoor voordat die hoof saak aangehoor word, maar in hierdie geval het ons regsplan die saakbestuurder gevra dat die aangeleentheid aangehoor word by aanvang van die verhoor.

Die regsplan het 'n saakbestuursvergadering te versoek rakende die bogenoemde wat so gou moontlik aangehoor sal word deur Regter Potterill.

6. HSAG EN CCAF LIDMAATSKAP

Soos hierbo gemeld is dit belangrik om uit te lig aan alle HSAG en CCAF lede (veral die wat belê het in HS21B) van die feit dat hulle uit vryewil by die verrigtinge aangesluit het, maar die HSAG wil gelyktydig die versekering gee dat ons en die regsman sal poog om hulle te ondersteun so ver en volledig as moontlik. Die HS21B lede wat “ge-Opt-In” het, het dit gedoen ingevolge Regter Tolmay se bevel in die HSAG sertifikasie klas-aksie. Dit is nie nodig om die CCAF-lede, wat HS 21B beleggers is, daaraan te herinner dat hulle op eie stoom en risiko by die groep aangesluit het in die sertifisering deur regter Tolmay op 10 Desember 2019 nie. Hierdie beleggers het hulself volledig verbind met die HSAG se gesertifiseerde klas-aksie en sal die ondersteuning van die HSAG en CCAF regsman geniet. Alhoewel geen enigiemand of ons regsman 'n uitkoms kan waarborg nie, vertrou ons dat die HS 21B-beleggers nie hul bydraes tot die bogenoemde regsgeding vermors het nie. Hierdie beleggers beskou hulself onomwonde as deel van die ‘Fast Track Certified class action’, inaggenome dat die hof oor die aansoek moet beslis, alternatiewelik kan die voorwaardelike teenaansoeke, wat ook voor die hof sal dien, bevestig dat hulle ingesluit is al dan nie.

Ons wil nie spekulêr rakende die uitkoms nie en sal daarmee handel sodra ons bevestiging van die hof ontvang het.

7. BESIGHEIDSREDDINGSVERSLAG GELIASSEER DEUR HANS KLOPPER - HOËVELD SINDIKASIE MAATSKAPPYE

Die Besigheidsreddingspraktisyn van die Hoëveld Sindikasie 15 - 22-maatskappye, Hans Klopper, het op 30 April 2021 'n verslag oor die status van die besigheidsredding aan beleggers gestuur. In hierdie verslag gee Klopper 'n uiteensetting van hoe 'n sakereddingsplan aanvaar is om eiendomme aan Orthotouch Bpk. “oor te dra”. Hy verduidelik verder hoe Orthotouch 'n reëlinskema aan Hoëveld Sindikasie-beleggers voorgestel het. Klopper beweer dat die reëlinskema “fully effective and binding” is, wat

ons natuurlik betwis. Die reëlinskema het probeer om alle beleggers se eise aan 'n derde party (Zephan) te sedeer, wat volgens Klopper die gevolg gehad het dat die maatskappy nie meer geaffekteerde persone gehad het nie. Effektiewelik sê hy dat omdat beleggers se eise aan 'n ander maatskappy gesedeer is, kan die beleggers nie meer die HS maatskappy aanspreeklik hou nie. Klopper meen dat HS beleggers se regte beperk is tot betaling ingevolge die goedgekeurde reëlinskema. Indien hierdie benadering aanvaar word, wat sterk teengestaan word deur die HSAG, dan sal 'n hof in effek moet aanvaar dat die Georgiou's verryk is tot die nadeel van HS beleggers nie, was ondenkbaar is.

Klopper maak wel melding van ons aansoek om die reëlinskema, wat in Maart 2015 van stapel gestuur is, tersyde te stel, maar het natuurlik nie dieper gedelf in die meriete van sodanige aansoek nie. Nic Georgiou het 'n opponerende verklaring saam met 'n voorwaardelike-teenaansoek geliasseer.

Dit is Klopper se mening dat die klas-aansoek, wat in Oktober 2014 ingestel is, nie hanteer kan word voordat duidelikheid verkry word met betrekking tot die status van die Reëlinskema nie.

Klopper noem kortliks die feit dat beide Orthotouch en Zephan op 7 November 2019 ook onder sakeredding geplaas is en dat Jacques du Toit aangestel is as die Besigheidsreddingspraktisyn ten opsigte van die twee maatskappye. Die HSAG glo dat die twee maatskappye heeltemal bankrot is en is dit dus net 'n verdere bewys is dat sekere professionele-persone hulself assosieer met die tipe gedrag waar 'n besigheidsredding presies is wat die naam sê, op 'n spoedige wyse. Die aansoek tot 'n verklarende bevel, wat deur Mnr. du Toit gebring word, sal hieronder in meer besonderhede bespreek word. Hierdie aansoek is van stapel gestuur om duidelikheid te verkry oor die status van die belegger se eise.

8. VERSLAG VAN JACQUES DU TOIT – ZEPHAN EN ORTHOTOUCH (IN BESIGHEIDSREDDING)

Ten spyte van die voor die hand liggende insolvente toestand van beide Zephan en Orthotouch het Mnr. Jacques du Toit, Sakereddingspraktisyn van Zephan en Orthotouch, 'n duur aansoek om 'n verklarendebevel ingestel met betrekking tot 'n onderwerp wat reeds deur die Hoogste Hof van Appèl oorweeg is en waarop daar reeds 'n uitspraak gelewer is, naamlik die kwessie rakende die terugkoop klousules.

In Mnr. du Toit se "Declaratory Litigation Letter" van 1 April 2021, spreek hy alle geaffekteerde persone aan, dit wil sê beleggers, en lig hulle in (soos hy verplig is) rakende die aansoek om 'n verklarendebevel. 'n Verklarendebevel is 'n buigsame remedie wat behulpsaam kan wees ten einde regs kwessies spoedig uit te klaar. Die aansoek om 'n verklarendebevel sal slegs van toepassing wees indien die aangeleentheid 'n suiwer regsvraag of interlokutêr is van aard. Die toestaan van 'n verklarendebevel is 'n diskresionêre beslissing wat deur die hof uitgeoefen word met betrekking tot die spesifieke omstandighede rondom die saak. Dit is belangrik dat 'n hof nie ondersoek instel na die feite ten einde 'n regsvraag te beantwoord nie.

Alhoewel dit blyk om selfs voordelig te wees vir HSAG-lede, sal dit baie geld kos en is dit bloot 'n vertragingstaktiek van Mnr. du Toit wat ons nie van meer duidelikheid sal voorsien nie aangesien die Hoogste Hof van Appèl reeds oor hierdie kwessie 'n bevel gemaak het. Die vraag is dus: teen watter koste word so 'n aansoek gebring?

Die Orthotouch-verslag van Februarie - Maart vir 2021 is op 31 Maart beskikbaar gestel. In hierdie verslag maak Du Toit dit duidelik dat 'n tweede skuldeisersvergadering uitgestel sal word totdat 'n finale uitspraak gelewer word in die aansoek tot 'n verklarendebevel soos deur Du Toit gebring. Sy pogings om die verrigtinge teen die Georgiou's te vertraag is duidelik.

Die Applikant stel dat die aansoek tot 'n verklarendebevel steeds aangehoor moet word en dat 'n datum daarvoor steeds voorsien moet word. Ons het hierdie aansoek teëgestaan, maar terselfdertyd 'n streng brief aan die senior prokureur van Mnr. du Toit geskryf om hom in kennis te stel dat die HSAG nie sal deelneem in die vrugtelose en duur aansoek nie. Mnr. du Toit wil nie duidelikheid verkry oor hoe om die leë Zephan en Orthotouch-doppe te red nie, maar eerder hoe om Mnr. Nic Georgiou en sy entiteite vry te stel. Du Toit se passiewe benadering tot sakereddingsproses, wat in wese 'n spoed

remedie is, is die kern van die probleem. Hy sal slegs 'n gewysigde besigheidreddingsplan publiseer sodra die verklarende bevel deur die hof gemaak word. Uit ervaring jare kan ons stel dat dit jare kan duur voordat die finale appèl aangehoor of bepaal word.

'n Deel van die regshulp in die verklarende aansoek is om verlof te kry om die aansoek op ons prokureurs en twee ander regsfirmas te beteken. Ons het geen aanduiding ontvang wat dui daarop dat verlof vir sodanige betekening toegestaan is nie. Dit is vir ons beswarend en voortydig om enige verdere stappe te neem totdat verlof tot vervangende betekening toegestaan word.

Die gebrek aan 'n bevel wat vervangendebetekening goedkeur is die eerste manier waarop die aansoek onreëlmatig is. Daarbenewens verontagsaam die aansoek die hangende klas-aansoek in die Hooggeregshof van Pretoria (saak nr.: 9272/2020) en probeer dit die onlangse uitspraak van die hoogste hof van Appèl in *Noormahomed v Zephan (Edms.) Bpk.* waar die hof beslis het dat sodanige regte nie deur die reëlinskema aangetas is nie, omkeer. Litigasie in hierdie aangeleentheid (die verklarendebevel aansoek) is buitengewoon duur, maar ook nutteloos aangesien dit fataal gebrekkig en in substansie onreëlmatig is. Die aansoek is ook nie op 'n *bona fide*-basis gebring nie.

Ten slotte is die verligting vir hierdie tipe betekening soortgelyk aan 'n bevel vir vervangendebetekening. Alhoewel die verligting wat gevra word soortgelyk is aan vervangendebetekening, is dit duidelik nie 'n aansoek om vervangendebetekening nie. In die lig van die bogenoemde faktore asook die berekende poging van Georgiou om kosbare fondse en hulpbronne te vermors, sal die HSAG op advokaatsadvies geen verdere stappe in die aangeleentheid neem nie, tensy die bevel vir vervangendebetekening toegestaan word.

Die aansoek is ook in verskeie ander opsigte onreëlmatig. Een van die bedes in die aansoek kan aangeveg word met 'n beswaar en/of spesiale pleit van *lis pendens*. Een van die ander bedes blyk te poog om op omslagtige wyse die onlangse uitspraak van

die HHA in *Noormahomed v Zephan (Edms.) Bpk.* saak om te keer. Ons vermoed dat litigasie gebring is op 'n basis wat nie *bona fide* is nie en slegs bedoel is om koste en tyd van die beleggers te mors, soos die taktiek van Mnr. Georgiou in die verlede ook al was. Die Hooggeregshof het al voorheen die onetiese gedrag van Mnr. Georgiou veroordeel. Die regsman van Mnr. du Toit het ook 'n etiese verpligting om 'n geregtelike presedent voor die hof te stel wat nie hul saak ondersteun nie, en sodoende hul aansoek oorbodig maak. Die HSAG sal die saak volg en sy regsman opdrag gee indien en wanneer nodig.

9. BRIEF ONTVANG VAN HSBF

Sommige beleggers het weer naamlose briewe ontvang wat bloot aan die 'HSBF' geakkrediteer is. Hierdie briewe is 'n manipulasietaktiek wat nie anders is as vorige briewe nie; die skikkingsaanbod is werklik 'n verleentheid. In die brief gee die HSBF toe dat die beloofde aandele (na al die jare) slegs in die proses is om oorgedra te word en dat dit klaarblyklik nog nie oorgedra is nie.

Die HSBF se probeerslae om die HSAG-regsman in hul briewe en voorstelle te beledig, sal nie werk nie. Reeds toe Mnr. Helgard Hancke die HSBF anoniem gestig het namens Mnr. Nic Georgiou, was hy uitgevang dat hy die stigter daarvan was maar sedert 2019 verskyn sy naam (buiten in ou dokumente) nie op enige plek op hul webtuiste of nuusbriewe nie. Die leë beloftes wat aan beleggers gemaak word, dra geen gewig nie.

Ons bly standvastig en toegewyd aan ons saak en ons span. Niks sal ons verhinder om namens u geregtigheid na te streef nie.

10. VALKE / NVG PROSEDURES

Die lys met volle besonderhede, soos versoek, is voorsien aan die Valke. Ons kry verskeie navrae oor die vordering van die ondersoek van die Valke. Let wel, die HSAG verskaf bloot inligting op versoek van die Valke en is nie aktief betrokke by enige klagtes of kriminele vervolgings nie.

Verskeie beleggers mag deur die Valke gekontak word ten einde hul verklarings te verkry rakende die verlies gely met hul beleggings.

Dit is belangrik dat lede so gou doenlik daarop reageer met hul antwoorde.

Om die proses te bespoedig is dit ook belangrik om, indien enigeen om welke rede ook al, nie onmiddellik op hul navraag kan antwoord nie, dit so aan die Valke oorgedra word, sodat hul die volgende persoon kan kontak.

2021 blyk die jaar te wees waarin die Valke en vervolgingsgesag daadwerklik begin optree teen persone wat die wet oortree. Sien hieronder 'n opsommende uittreksel uit 'n artikel geskryf deur Sarel van der Walt in Die Burger van 5 Junie wat hoofsaaklik handel oor werkwyse van en uitdagings wat die Valke in hul ondersoeke ondervind.

NVG "kry nou momentum teen die groot visse"

"Die polisiekundige prof. Rudolph Zinn van Unisa sê "ons sien waarskynlik nou die eerste groot stappe in die regte rigting" nadat die hooggeregshof in Bloemfontein 'n aansoek van die nasionale vervolgingsgesag (NVG) se ondersoekende direktoraat toegestaan het om bates van Iqbal Sharma, sy maatskappy asook 'n Gupta-maatskappy voorlopig te bevries het.

Zinn sê die stappe van die NVG is die regte prosedure om korrupsiesake te ondersoek.

"Dit is belangrik om te verstaan dat wanneer korrupsie ondersoek word jy eers die bates wat betrokke is en deur die korrupsie aangekoop is moet bevries of daarop beslag lê. Dit is nodig omdat die verdagtes die bates kan vervreem terwyl die ondersoek aan die gang is. Dit is waarskynlik die doeltreffendste manier.

"Nadat die eiendom bevries is maak die Wet voorsiening vir 'n volgende proses – en dit is dat daar op die eiendom beslag gelê kan word.

"Daar is 'n ander stel reëls wat hier geld en wat gebruik word om te sê die bates is moontlik deur korrupte en misdadige bedrywighede bekom. Dit kan die NVG help om

die bates later te verkoop en die opbrengs daarvan aan die staat te gee. Waarmee die slagoffers byvoorbeeld vergoed kan word.”

“Dit is ‘n parallelle lyn met die strafregtelike klagte wat ondersoek word. Dit is wat jy nodig het om groot korrupsiesake doeltreffend te hanteer. Dit is die eerste groot stap in die regte rigting en mens sal wil sien in watter mate die NVG dit deurvoer.

“Dit sal alles daarvan afhang of die NVG genoeg bewyse het om ‘n skuldigbevinding moontlik te maak – of as dit dan in ‘n siviele saak oorgaan of die NVG genoeg getuienis het om ‘n oorwig van omstandighede te regverdig om beslag te kan lê op die eiendom,” sê Zinn.

Zinn se Unisa-kollega emeritus prof. Pieter Labuschagne, ‘n regs-en politieke kenner, sê die een mens na die ander wat na bewering by korrupsie betrokke was, word nou aangekla. Dit gaan groter momentum begin kry.

“Dit is die groot visse wat nou gevang word. Mense is dikwels bekommerd omdat dit so lank neem, maar die NVG moet seker van sy saak wees voordat iemand aangekla word.

“Onthou, daar is net een kans omdat iemand nie vir 'n tweede keer weens dieselfde klag verhoor kan word nie,” sê Labuschagne.

“Die wêreld raak nou klein vir die Guptas na Suid-Afrika se versoek aan Interpol om hulp met hul inhegtenisneming.”

Die Valke het die lys en hulle is in die proses om die beleggers te kontak. Ons weet nie wie gekontak sal word nie.

Hulle vra baie basiese vrae soos:

- hoeveel en waarin het u belê
- aan wie het u betaal
- waar het u gehoor van die beleggingsopsie
- watter dokumente het u hieroor ontvang
- hoeveel rente het u ontvang ens.?

Die HSAG-lede het niks om oor te bekommer nie aangesien hulle slegs getuies is in die hangende ondersoek.

Ons versoek dat indien u nie in die posisie is om die dokumente so gou moontlik bymekaar te kry nie, (aangesien u gesertifiseerde kopieë sal moet aanheg) dat u onmiddellik die persoon wat u gekontak het daarvan inlig dat hulle aan kan beweeg na die volgende persoon.

Hoe vinniger hulle genoeg inligting het om die verklarings te voltooi, hoe vinniger kan hulle aansoek doen by die hof om 'n ondersoek te begin.

Daarom moet ons asseblief nie tyd mors in hierdie aangeleentheid nie.

11. HSAG-LIDMAATSKAP EN BESKERMING

Dit het onder die HSAG-bestuur se aandag gekom dat Nic Georgiou se HSBF vorms aan adviseurs en beleggers stuur wat die kansellasië / beëindiging van hul lidmaatskap en mandaat met die HSAG aanmoedig deur die sogenaamde 25% Aandele aanbod met Orthotouch (wat tans in Besigheidsredding is) op te neem.

'n Paar belangrike feite wat in ag geneem moet word, word hieronder gelys:

- I. Die HSAG is spesifiek gestig deur Hoëveld Sindikasie beleggers om van Mnr. Nic Georgiou en ander te eis vir skade wat hulle gely het toe hulle aandele gekoop het in die mislukte HS maatskappye. Ons wil graag aan die beleggers benadruk dat die doelstellings van die HSAG steeds dieselfde is en lidmaatskap heeltemal vrywillig is.
- II. Tot nou toe, buiten vir 'n paar sleutelpersone wat deur Georgiou in die geheim afgekoop is, was die algemene klagte aan die HSAG (van persone wat met wie Georgiou sou geskik het), dat nie een van sy beloftes gematerialiseer het nie. Enige nuwe skikkings met Mnr. Nic Georgiou en/of Mnr. Helgard Hancke (en ander persone buite die HSAG) sal in alle waarskynlikheid 'n voorwaarde bevat wat beteken dat die belegger al sy/haar regte sal afteken om 'n lid van die HSAG

klas-aksie te bly, asook dat alle persone soos Georgiou, sy familie en Hans Klopper teen wie opgetree word, kwytkeseld word van aanspreeklikheid.

- III. Indien lede soos hierbo skik, sal dit die effek hê dat die belegger nie aan die HSAG klas-aksie kan deelneem nie, en dus sy/haar regte sou afteken om te skik vir die balans van sy/haar eis, of hy/sy nou betaling van Georgiou ontvang het, al dan nie.
- IV. Mnr. Hancke en Georgiou se meelopers is nie prokureurs, geregistreerde finansiële adviseurs of lede van die HSAG nie en moet HSAG lede uiters versigtig wees om dokumente wat deur hulle aangebied word, te onderteken sonder om behoorlike regsadvies in te win.
- V. Die HSBF is 'n gesiglose organisasie sonder enige bekende regs-vertegenwoordigers, prokureurs en/of geregistreerde finansiële adviseurs.
- VI. Mense wat buite die HSAG skik, sal geen beskerming ontvang as Georgiou versuim om sy verpligtinge na te kom nie, en moet dus regstappe in hul eie name instel, waarvan die kostes vir hul eie rekening enorm kan word.
- VII. Die gevolge van 'n lid van die HSAG wat so 'n skikking onderteken het, kan verreikende gevolge hê. Dit kan onder andere beteken dat daardie belegger se eis verjaar het, en daar nie meer regstappe vir sodanige eis ingestel kan word nie.
- VIII. Win gevolglik regs- en/of finansiële advies in voordat u enige verdere dokumente met Orthotouch, Mnr. Nic Georgiou of enige van sy agente onderteken.
- IX. As beleggers as lede van die HSAG klas-aksie wil voortgaan, moet ons op jou finansiële en morele ondersteuning kan staatmaak. Aangesien die meeste van

die beleggers pensioenarisse met baie beperkte middele is, is elke persoon se bydrae van groot belang.

- X. Die HSAG Bestuur en Span is steeds lojiaal aan ons lede. Ons bly vasbeslote en werk hard om die Respondente aan die pen te laat ry.

12. 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.

13. 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 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: MAY 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 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

Welcome investors to another new newsletter. We trust that you are doing well and that everyone and their loved ones are keeping healthy. We know that each and every one of our members have been affected, some more than others, by the Covid 19 pandemic. Our condolences to those who have lost loved ones in this process. You are in our thoughts and prayers.

We regularly receive requests from our members that we must explain the complicated legal proses in simpler terms. We therefore attempt same in this newsletter.

Previously we compared our legal battle against our opponents with the Comrades marathon. This month we would like to encourage you to reach out to your fellow investors and ensure that they too, read the newsletter every month. This would not only bring everybody up to speed with the HSAG matters but will also encourage those who are destitute, that there is still hope. We are aware that some investors do not read the HSAG newsletters but we believe this to be a valuable platform for communication between the HSAG, its legal team and the investors.

It is sometimes difficult to distinguish between the important pieces of the puzzle and information in our case from the hogwash on Whatsapp groups and the misinformation spread on the HSIF websites and newsletters. On this platform we believe we can provide you with a formal summary of all the goings-on in YOUR case. As such we believe that every investor should read each month's newsletter if they are serious about staying on board up to date, and engaging in meaningful dialogue with the HSAG. We believe that many will find that their most pressing concerns are addressed on a month to month basis and some, how to make ends-meet. Therefore, kindly encourage your fellow investors to stay up to date with the HSAG newsletters and on-board as it is only due to the big numbers of the HSAG members that we were until now able to take the mighty property tycoon and his associates on. This will enable the legal team to focus on the most important matters, such as preparing the legal documents needed for

a successful case. Many investors will find that their questions have already been answered in the newsletters. For example, this month we are requesting specific information from investors and the more feedback we get, the better.

Thank you for those of you who do stay up to date with the newsletters and make their contributions timeously.

2. WHAT DOES THE HSAG CASES ENTAIL?

There are more possible iterations of chess games than there are atoms in the observable universe. This value, known as the Shannon Number, represents all of the possible move variations in the game of chess.

Recently there was a very successful series on Netflix titled The Queen's Gambit. Although chess is seemingly a boring game, the Queen's Gambit, which was the most successful scripted limited series on Netflix to date with 62 Million subscribers watching it in the first 28 days, enlightened the intricacies of the sport thereof. Litigating in this matter is very similar to being embroiled in a game of chess, however that is why the HSAG strives to make use of the best possible experts to suit our specific cases.

In chess the possibilities for different moves and openings are endless. If you throw caution to the wind and attack too aggressively then you leave yourself exposed to a counterattack. If you move too slowly you will cease control of the centre of the board and your ranks will be underdeveloped.

There are various strategies and patterns in chess that a Grandmaster must memorize and understand. Spatial reasoning is also an extremely difficult part of the game. One must be able to see several moves ahead and still accurately analyse the position and the opposition, this is exactly the same with our case against Mr. Georgiou and the other opponents.

The game of chess is extremely complex and intricate. You may adopt an extremely complex strategy just to take one of the opposition's pawns. To the untrained eye it may seem futile, for a pawn is worth merely a single point and only has limited movement, but Grandmasters know that during the endgame the value of having one more pawn than your opponent could be the difference between winning and losing the game. The legal team has various strategies and moves in place all with the end game in mind. It is only during the end game where all the little 'victories' will stack up and will leave the

oppositions king exposed. So far the HSAG was successful in more than 20 cases against our opponents, thereby taking so many chess pieces from our opponents in this tournament. Each and every member of the HSAG, no matter how small, is of great value to us and could be the difference between winning and losing the proverbial war. When the legal proceedings commenced, the legal team explained that this matter is two-fold. First the certification of the class action and then the court case. It was explained that it can take three to five years for a normal High Court matter to be prosecuted. It is now 18 months, despite Covid, since the CCAF matter was certified and we believe that, if possible, the matter can be heard before the end of this year.

3. IMPORTANT REQUEST: DECA (HS 15-22)

This request is directed to **all** investors and/or financial advisors. If any of you have any documents or information in your possession that show that the Georgious functioned as a group unit, i.e. as “The Georgiou Group”, kindly forward such information to the below mentioned email address:

hsagwhistle@gmail.com (all email sent to this address will be treated anonymously)

[This is extremely important, as the Georgiou sons now aver that they were never part of a group with their father. We have already received and found information in rebutting this allegation, but we need the best possible evidence to fight our case.](#)

Please make sure that your fellow investors see this request.

4. 2021 CCAF AND HSAG REQUISITION

As you are all aware, there are currently two distinguishable class actions against Mr. Nic Georgiou and others. The first commenced in 2014 and the second in 2019. These two class actions differ as on the one hand the claims are based on inter alia contractual claims (which include CCAF) against Mr. Nic Georgiou and his two entities. The second class action also includes Mr. Georgiou’s sons (the so called Georgiou group) and was issued in 2019.

Currently there is one class action already certified that consists of 1 800 claimants (CCAF) of which the vast majority are HSAG members who supported the HSAG

throughout these years in various proceedings. Both CCAF and the HSAG is predominantly driven by a number of paid up HSAG members. During the certification application, the court granted certain financial relief to paid up HSAG members but it also reiterated that other syndicates may not fund or subsidise the CCAF matter. The HSAG steering committee in consultation with the CCAF legal team indicated that they will once again investigate financial relief for paid up HSAG members. It is with great pleasure that we can advise that we are now in a position to confirm that such relief will be granted in the HSAG.

CCAF:

The Certified Class Action (“CCAF”) has been in process for 18 months since its certification on 10 December 2019 and no funds were requested by the legal team from those members in this class action. A trust requisition is now imminent. CCAF will be divided into two groups for the 2021 requisition:

- those investors who have invested R100 000 **or less** in HS 21 and/or HS 22.
- those investors who invested **more than** R100 000 in HS 21 and/or HS 22

The CCAF requisition from 10 June 2021 will amount to the following:

- R2 000 payable immediately and R1 000 within six months (total trust requisition of R3 000 per person) for investors who have invested R100 000.00 **or less**
- R2 000 payable immediately and R2 000 within six months (total trust requisition of R4 000 per person) for investors who have invested **more** than R100 000.00

HSAG:

All paid up HSAG members in CCAF will receive financial relief and such investors who are members of **both** the HSAG and CCAF will however be able to qualify for **R500.00 credit** for their 2022 requisition, provided that they were **fully paid up HSAG members by 30 April 2021**.

In practical terms the R500 credit is 25% credit on the current yearly fees. In CCAF persons with claims less than R100 000 also receives a 25% reduction in their requisition.

In line with the certification order, this credit will unfortunately **not be transferable** to the CCAF matter. And will also **not be paid out** to any HSAG members.

Kindly take note that these Investors who qualify for such financial relief will have until **31 August 2021** to apply **in writing** for the above financial relief with regards to the aforementioned requisition.

As the HSAG steering committee can only decide on HSAG matters and thus, along with the legal team, offer this financial relief **exclusively** to HSAG paid up members who are also members of CCAF.

5. PROGRESS IN CCAF (HS 21 & HS 22)

With regards to the HS 21 and HS 22 Certified class action and the Rule 30 application instituted by the Respondents regarding HS 21B, our replying affidavit has been commissioned, filed and served on the opposition in both the 'Waxham' case (Case No: 9272/2020) as well as the 'Vlok' case (Case No: 80811/2014). These two matters run concurrently as it could be important for them to stay synchronized.

The replying affidavit is a response to the Respondents' answering affidavit and addresses all of the opposition's concerns in so far as required both factually and legally. The opponent's answering affidavit and in turn, our replying affidavit, primarily concerns the 21B investors and whether they form part of the HS 21 & 22 group of investors. We have always maintained that the 21B Investors form part and parcel of HS 21 & 22 and that their claims fall squarely within the ambit of the certification order of Judge Tolmay. This is the concurring view of our legal team as well.

The goal of the two notices of motion, dated 15 December 2020, was simply to provide for a scenario where the court does not find that HS 21B is automatically included. These applications therefore seek to make sure that HS 21B investors are not excluded henceforth, if necessary. The conditional counter applications essentially seek the same outcome as that of the two notices of motion dated 15 December 2020.

We trust that the opposition's rule 30(1) application does not have any merits and will be discharged.

The issue raised by the Georgiou's and others were as a result of HS21B members who Opted-In when they had the opportunity to do so in terms of Judge Tolmay's order. No one was persuaded or manipulated to Opt-In but in all instances to our knowledge those

HS investors who Opted-In did so because they associated themselves fully with the HS21 and HS22 certified class action, to the extent that they see themselves as part and parcel of the certified class action. Since Judge Tolmay's certification of the class action there was not a single cancellation by a so called HS21B investor despite a vigorous attempt by Georgiou and his team to dissuade such investors to contribute financially to the certified class action.

Our legal team has provided and pursued different avenues with the same goal in mind: by not excluding HS 21B investors as part of the certified class when they submitted the names of those who Opted-In, whether automatically or manually. In response, the Respondents have opposed this by once again relying on highly technical procedures and defences to delay the matter in every manner possible. This is in direct conflict, as we understand, with the modern approach of promoting 'substance' over form, especially where no actual or real prejudice is to be suffered by the other party. The opposition's complaints all rely on the aforementioned highly technical procedures, none of which prejudice them in the slightest and also, once again, embarking on a smear campaign against our legal representatives.

The opposition also relies on an affidavit which is in direct contravention of the so called Lensvelt rule. In law, the Lensvelt rule prohibits evidence (or an affidavit) of a witness which was presented in a different matter/hearing, unless strict criteria have been met (which is not the case in this matter). The affidavit contains various inconsistencies, incorrect and slanderous comments which is true to the nature in which our opposition has driven the case thus far. Besides the aforementioned, the deponent to that affidavit is no other than one of the disgraced erstwhile applicants who settled with Mr. Georgiou in an unethical manner and then tried to withdraw the application for certification. Needless to say she, and the other dishonoured erstwhile applicants were unsuccessful...

Now that the replying affidavits have been filed and served, what follows is setting the matter down for hearing. So the next step will be to draft the heads of argument whereafter the application shall be set down for hearing. . Usually a rule 30(1) application will be heard prior to the main hearing but in this instance our legal team has requested the case manager that the matter be heard at the commencement of the trial.

The legal team has requested a case management meeting regarding the above, which will be heard as soon as possible by Judge Potterill.

6. HSAG AND CCAF MEMBERSHIP

As stated above, it is important to highlight to all HSAG and CCAF members (in particular those persons who invested in HS21B) of the fact that they have joined the proceedings freely and voluntarily but the HSAG will simultaneously give them the assurance that it and its legal team shall endeavour to support them as far and comprehensively as possible. The HS21B members who Opted-In, did so in following Judge Tolmay's order in the HSAG certification class action. It is not necessary to remind the CCAF members, who are HS 21B investors of the fact that they have joined the group at their own accord and risk as per the certification by Judge Tolmay on 10 December 2019. These investors have associated themselves fully with the HSAG's certified class action and will receive the support of the HSAG and CCAF legal team. Although no outcome can be guaranteed by anyone or our legal team, we are confident that the HS 21B investors have not wasted their contributions towards the said legal proceedings. These investors unequivocally consider themselves to be a part of the Fast Track Certified class action, taking into account the fact that the court needs to decide on the application, alternatively the conditional counter applications before the court can confirm their inclusion or not.

We do not want to speculate about the outcome and will deal with it once we have received confirmation by the court.

7. BUSINESS RESCUE STATUS REPORT FILED BY HANS KLOPPER – HIGHVELD SYNDICATION COMPANIES

The Business Rescue Practitioner of the Highveld Syndication 15 - 22 Companies, Hans Klopper, sent a business rescue status report to investors on 30 April 2021. In this report Klopper sets out how a business rescue plan was adopted 'transferring' properties to Orthotouch Limited. He goes on to explain how Orthotouch proposed a scheme of arrangement to Highveld Syndication investors. Klopper contends that the

scheme of arrangement is “fully effective and binding” which, of course, we have disputed. The scheme of arrangement attempted to cede all investors’ claims to a third party (Zephan), which Klopper believes has resulted in the companies having “no more affected persons”. Effectively he is saying that because investors’ claims have been ceded to another company, the HS companies are no longer liable to investors. Klopper believes that HS Investors’ rights are limited to payment in terms of the sanctioned scheme of arrangement. If this approach is accepted which is strongly opposed by the HSAG, then a court would in effect have to accept that the Georgious were not enriched at the expense of HS investors which is unthinkable.

Klopper does make mention of our application to set aside the scheme of arrangement which was launched in March 2015, but has of course not delved into the merits of such application. Nic Georgiou filed an opposing affidavit along with a conditional counter application.

It is Klopper’s view that the class application, launched in October 2014, cannot be dealt with until such time as clarity has been obtained in relation to the status of the scheme of arrangement.

Klopper briefly mentions the fact that on 7 November 2019, both Orthotouch and Zephan were also placed under business rescue and that Jacques du Toit was appointed as the Business Rescue Practitioner in respect of the two companies. The HSAG believes that these two companies are completely bankrupt and that this is just a further proof of certain professionals associating themselves with this type of conduct where a business rescue is precisely what its name says in a speedily manner. The application for a declaratory order, launched by Mr du Toit, will be discussed in more detail hereunder. This application was launched in order to “obtain clarity on the status of the Investor’s claims”.

8. JACQUES DU TOIT PROGRESS REPORT – ZEPHAN AND ORTHOTOUCH (IN BUSINESS RESCUE)

Despite the obvious insolvent state of both Zephan and Orthotouch, Mr Jacques du Toit, Business Rescue Practitioner of Zephan and Orthotouch, launched an expensive

application for a declaratory order in regards to a subject that has already been considered and adjudicated upon by the Supreme Court of Appeal, namely the issue of the buyback agreements

In Mr du Toit's "Declaratory Litigation Letter" dated 1 April 2021, he addresses all "affected persons" i.e. investors, and informs them (as he is obligated to) of the declaratory order application. A declaratory order is a flexible remedy which can assist in clarifying issues of law expeditiously. The application for a declaratory order will only apply where the issue at hand is purely a question of law, or is interlocutory in nature. The granting of a declaratory order is a discretionary decision exercised by the court in relation to the particular circumstances of the case. Crucially, a court will not enquire into, nor make findings of fact in order to answer a question of law.

Although it appears to be beneficial to even HSAG members, it will be costly and as such, is merely a delaying tactic by Mr du Toit which will not bring us closer to any clarity because the Appellate Division has already adjudicated upon this issue. So, the question is: at what cost is such an application launched?

The Orthotouch February – March Report for 2021 was made available on 31 March. In this report du Toit makes it clear that a second creditor's meeting will be postponed until a final judgment is granted in the application for a declaratory order instituted by Du Toit. His efforts to delay the proceedings against Georgiou and others is clearly frivolous.

The Applicant states that the application for a declaratory order is still to be heard with a date to be advised. We have opposed this application, but simultaneously wrote a stern letter to Mr du Toit's senior attorney, informing him that the HSAG will not become embroiled in fruitless and costly litigation. The only clarity that du Toit seeks to obtain is not how to save the empty Zephan and Orthotouch shells, but simply to exonerate Mr Nic Georgiou and his entities. Du Toit's passive approach to business rescue proceedings, which are in its essence a speedy remedy, lies at the heart of the problem. He will only publicise an amended business rescue plan subject to the declaratory order being made by court, which can, from experience, take years until the final appeal has been heard or determined.

Part of the relief sought in the declaratory application is to obtain leave to serve the application on our attorneys and two other law firms. We have not received any indication as to whether leave for such service has been granted. It is burdensome and futile for us to take any further steps until such time as leave for substituted service is granted.

The lack of an order seeking substituted service is the first manner in which the application is irregular. In addition to that the application disregards the pending class application in the High Court of Pretoria (Case no: 9272/2020) and tries to “overturn” the recent SCA judgment in *Noormahomed v Zephan (Pty) Ltd*, where the Supreme Court of Appeal unanimously held that such rights have not been compromised by the scheme of arrangements. Litigation in this matter (the declaratory order application) is extremely expensive but likewise futile given its fatally defective and of irregular substance. The application has also not been brought on a *bona fide* basis.

In conclusion, the relief for this type of service is akin to an order allowing for substituted service. Although the relief sought is akin to substituted service, it is clearly not an application for substituted service. In light of the aforementioned factors as well as the calculated effort by Georgiou to waste precious funds and resources, the HSAG will not be taking any further steps on counsel’s advice in the matter unless the order for substituted services is granted by a court of law.

The application is also irregular in various other respects. One prayer in the application could be met with an objection and/or special plea of *lis pendens*. One of the other purports to overturn the recent SCA judgment in the matter of *Noormahomed v Zephan (Pty) Ltd* in a cumbersome manner. We suspect that litigation has been brought on a basis that is not *bona fide*, and only to waste costs and time of investors, as has been the tactic of Mr Georgiou in the past. The High Court has already condemned Mr Georgiou’s unethical behaviour before. The legal team of Mr du Toit also has an ethical obligation to put before the court judicial precedent which does not support their case, thereby rendering their application redundant. The HSAG will follow the case and instruct its legal team if and when necessary.

9. LETTER RECEIVED FROM HSIF

Some investors have again received nameless letters that were merely accredited to the 'HSIF'. These letters are a manipulation tactic no different than previous letters comprising a settlement offer which frankly, is embarrassing. In the letter the HSIF admits that the promised shares are (after all these years) only in the process of being transferred and have, evidently, not been transferred yet.

The HSIF's attempts to insult the HSAG legal team in their letters and proposals will not work. Already when Mr. Helgard Hancke founded the HSIF anonymously on behalf of Mr. Nic Georgiou, he was caught out as being the founder thereof, but since 2019 his name does not appear anywhere (other than in old documents) on the website or latest newsletters. No weight is attached to these empty promises made to investors as a whole.

We remain steadfast and committed to our case and our team. Nothing will sway us from seeking justice on your behalf.

10. HAWKS / NPA PROCEDURE

The full list of particulars, as requested, has been supplied to the Hawks. We are receiving various questions relating to the progress of the investigation by the Hawks. Take note, the HSAG merely supplies information to the Hawks upon request and is not actively involved in any charges/complaints or criminal prosecutions.

Various investors may be contacted by the Hawks as they attempt to gather information (in the form of sworn affidavits) with regards to losses due to their investments.

It is very important that members respond as soon as possible by supplying their affidavits.

In order to speed up the process it is vital that investors who are not able to answer or supply information to the Hawks readily, communicate that to the Hawks so that they may move the process along and contact the next person.

2021 seems to be the year that the Hawks and the prosecuting authority actually start acting against persons that break the law. See hereunder a loosely and informally translated summary from an article written by Sarel van der Walt in 'Die Burger' of 5 June, which deals predominantly with the way in which the Hawks are conducting their investigations as well as the hurdles that they have come across.

“NPA “starting to generate momentum against the big fish”

“The police expert Professor Rudolph Zinn of UNISA said: “we are now probably seeing the first major steps in the right direction” after die High Court in Bloemfontein allowed an application from the National Prosecuting Authority’s (NPA) investigative directorate which will provisionally freeze the assets of Iqbal Sharma, his company, as well as a Gupta-company.

Zinn said that the NPA is following the correct procedure in corruption cases. “It is important to understand that when corruption is being investigated, one first has to freeze or lay claim to the assets which are involved or have been funded through corruption. It is necessary because the accused persons can alienate the assets while the investigation is still being conducted. This is probably the most productive method.

“After the assets have been frozen, the Act makes provision for process that follows- which is that the property can be attached.

“There are different rules that apply here and are being used to say that the assets have possibly been obtained through corrupt or criminal procedures. This can help the NPA to sell the assets at a later date and to give the proceeds thereof to the state. This can, for example, be used to compensate victims.”

“It is a parallel line with the criminal claims that are being investigated. This is what is needed in order to handle a large corruption matter effectively. This is the first large step in the right direction and people will want to see in which manner the NPA carries it out. This will all depend on whether the NPA has enough proof to make a guilty verdict possible, or if it evolves into a civil claim, whether the NPA has enough testimony and proof to show on a balance of probabilities, that the property should be attached.” said Zinn.

Zinn's UNISA colleague Emeritus Professor Pieter Labuschagne, a legal and political expert, said that one-after-the-other, people who were involved in corruption are being charged. It is going to start gathering momentum.

"The big fish are ones being caught now. People are often worried because it is taking so long, but the NPA must be certain of its case before it can charge someone.

"Remember there is only one chance as one cannot be tried twice for the same crime" said Labuschagne.

The world is becoming too small for the Guptas after South Africa's plea to Interpol for help with their capture."

The Hawks have the list and they are in the process of contacting investors. We do not know who will be contacted.

They ask very basic questions such as:

- how much and in what and when did you invest
- to whom did you pay
- where did you hear about the investment option
- what documentation did you receive about this
- how much interest did you receive etc.?

The HSAG members do not have anything to worry about as they are merely witnesses in the pending investigation.

We request that if you are not in a position to get your documentation together as soon as possible, (because you have to attach copies and you have to have it certified by the police) that you immediately notify the person that contacted you and say that you cannot do it so as to enable them to move on to the next person.

The sooner they get enough information to complete statements/affidavits, the faster they can apply to the court to start an investigation.

Therefore, we must please not waste time with this matter.

11. HSAG MEMBERSHIP AND PROTECTION

It has come to the HSAG Management's attention that Nic Georgiou's HSIF is sending forms to Advisors and Investors promoting the cancellation / termination of their membership and mandate with the HSAG in order to take up the so called 25% Share Offer with Orthotouch (which is currently in Business Rescue).

A few important facts to take into consideration are listed below:

- XI. The HSAG was formed specifically by Highveld Syndication investors to claim from Mr. Nic Georgiou and others damages which they suffered when they bought shares in the failed HS companies. We would like to reiterate to the investors that the objectives of the HSAG are still the same and that membership of the HSAG is still completely voluntary.
- XII. Until now, except for a few key persons bought out in secret by Mr Georgiou, the general complaint to the HSAG (from persons who would have settled with Georgiou) none of his promises materialized. Any new settlements with Mr Nic Georgiou and/or Mr Helgard Hancke (and other persons outside of the HSAG) would in all possibility contain a condition entailing that the investor would waive all his/her rights to remain a member of the HSAG class action and that all persons such as Georgiou, his family and Hans Klopper that are being acted against are exempted from all liability.
- XIII. Should you settle on these above terms it would have the effect that the investor cannot partake in the HSAG class action and would thus have waived his/her rights to settle for the balance of his/her claim, whether he receives payment from Georgiou or not.

- XIV. Neither Mr Hancke nor Georgiou's followers are attorneys, registered financial advisors or members of the HSAG and HSAG members must be extremely cautious to sign documents presented by him without taking proper legal advice.
- XV. HSIF is a faceless organisation without any known legal representatives, attorneys and/or registered financial advisors.
- xvi. People who settle outside the HSAG will receive no protection if Georgiou fails to honour his obligations and must therefore institute legal action in their own names where the costs could become enormous.
- XVII. The consequences of a member of the HSAG signing a settlement has far reaching consequences, and may mean, amongst other things, that those investor's claim has prescribed and they may no longer institute legal action for such claim.
- XVIII. Kindly take legal and/or financial advice before you sign any further documents with Orthotouch, Mr Nic Georgiou or any of his agents.
- XIX. If investors want to continue as members of the HSAG class action, we need to be able to count on your financial and moral support. As most of the investors are pensioners with very limited funds, every person's contribution is of great importance.
- XX. The HSAG Steering Committee and Team have been loyal to our Members. We continue to be determined and work hard to bring the Respondents to book.

12. 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.

If you have a question regarding your monthly newsletter or statement, do not reply to the e-mail from **admin3@theronlaw.co.za** but use the correct email address as set out above.

13. 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:

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hsactiongroup@gmail.com