



\*ENGLISH TEXT BELOW\*

## **MAANDELIKSE NUUSBRIEF: FEBRUARIE 2022**

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

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

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## 1. INLEIDING

Die tweede maand is reeds in volle swang en kan ons bevestig dat die HSAG-trein steeds op spoor is. Soos in verlede maand se nuusbrieff verduidelik, het ons gedurende Januarie 2022 skriftelike bevestiging van die eksekuteur van wyle Mnr Nic Georgiou se boedel ontvang dat hy inderdaad aangestel is, asook wie sy agent in die beredding van die boedel is. Die HSAG het in verbinding getree met genoemde eksekuteur se prokureurs en is 'n skriftelike versoek deur hulle gerig in terme waarvan die eksekuteur uitstel verlang het tot en met middel Maart 2022 ten einde die omvangryke eise (waarvan die HSAG en CCAF sekerlik van die grootste is) te oorweeg. Die HSAG en CCAF se prokureurs is tans in die proses om die eise van sy lede saam te stel en benodig ons asseblief dringend alle betrokkenes se samewerking in die verband (lees hier onder verder).

Gemelde prokureurs (wat die agente vir die eksekuteur is) het van eksterne (nuwe) prokureurs gebruik gemaak, ten einde 'n objektiewe opinie oor die litigasie te verkry, welke daar voortgegaan moet word met die heersende litigasie teen die boedel van Mnr Nic Georgiou. Indien die eksekuteur sou besluit om die eise te aanvaar benodig ons asseblief dringend alle tersaaklike inligting en ondersteuning van ons lede ten einde die verrigtinge op gemelde vlak verder te voer.

Ons het navrae gehad oor wat die proses is wat gevolg moet word wanneer 'n individu bankrot is. In 'n neutedop, is dit is welbekend dat indien 'n persoon se laste sy bates oorskry, gemelde persoon feitelik insolvent (bankrot) is en dat gemelde boedel gesekwestreer kan word, en insolvensie verrigtinge in aanvang sal neem.

Indien daar 'n insolvensie sou wees, sal dit uiteraard op 'n deeglike ondersoek van die oorledene se finansiële posisie uitloop Die insolvensie roete is een van die statutêre roetes om verlore fondse op te spoor.

Vir die afgelope paar jare is Accelerate Property Fund (Ltd) aandele by HSAG-lede bemark in 'n bod om lede te oortuig om só hul eise teen die Georgious te skik. Gedurende Januarie

2022 is dit wyd in die media berig dat Accelerate 'n swaargewig kommersiële raadsman ingespan het om die voortou by Accelerate te neem in die posisie van voorsitter (hieroor het ons ook verseie navrae gekry).

Accelerate ondervind sedert 2014 ernstige finansiële probleme, toe die aandeelprys R7.00 per aandeel was op 31 Desember van daardie jaar. Die HSAG klasaksie is aan die einde van 2014 ingestel. In April 2020 het Accelerate op sy laagste prys ooit gehandel, teen 40c per aandeel. Dit is bykans 95% minder as sy piek van R7.00. April 2020 was 4 maande na die eerste sertifisering van die CCAF klasaksie. Tydens navorsing het dit geblyk dat Accelerate nog nooit teen R7.50, die prys waarteen die HSBF aandele aanbied, verhandel het nie. Die aandeelprys staan tans op R1.00 en het dus gering herstel.

Daar is geen direkte verband tussen die twee gebeurtenisse nie, maar die impak van 'n klasaksie van dié kaliber *en* skaal se sukses kan nie ongereken gelaat word nie.

Die trefkrag van 'n tweede sertifisering sal eers met tyd te voorskyn kom. Van die geskiedenis van die aangeleentheid blyk dit duidelik dat die HSAG klasaksie baie groter as een enkele betrokke individu is.

## **2. KOMMERSIELE SKIKKING OF LITIGASIE?**

Tans is die pad vorentoe slegs deur litigasie. Net 'n hof kan nou teen die onsuksesvolle party uitspraak lewer.

Ten opsigte van 'n ander roete, is daar twee vrae wat gereeld opduik: kan die klasaksie geskik word en tweedens, is daar tans enige kommersiële skikkingsonderhandelinge tussen partye. Die antwoord op die eerste vraag is maklik:

Internasionale klasaksies toon dat die meeste klasaksie eise geskik word. Suid-Afrika behoort geen uitsondering te wees nie en behoort 'n groot hoeveelheid eise by sertifisering geskik te word. Sertifisering van 'n aksie beteken dat 'n hof bevind dat daar genoeg meriete

in die Eisers se saak is dat dit verhoorbaar voor die hof kan wees, teen Respondente. Wyle Mnr Nic Georgiou se litigasie blyk gevolglik tot dusver die uitsondering op die reël te wees. HSAG-lede word verder daarop gewys dat die aanhoor van 'n hooggeregshofaansoek van onder andere die sertifisering van die DECA-saak, geskeduleer is vir 30 Mei 2022.

Die tweede antwoord is eenvoudig NEE. Daar is tans geen kommersiële onderhandelinge tussen die Applikante en Respondente nie. In die verlede is skikkingsonderhandelinge tussen die HSAG en Mnr Nic Georgiou gevoer, maar hierdie onderhandelinge het ongelukkig skipbreuk gely.

### **3. ALLES GAAN NET OOR GELD EN NIKS ANDERS NIE**

Die HSAG het al oor die jare heen vele navrae ontvang, almal wat in twee kategorieë geplaas kan word: “hoeveel geld gaan ons kry”, en “wanneer gaan ons ons geld kry”.

Dit is die hoofdoel en *raison d'être* van die HSAG om kontraktuele en deliktuele eise namens lede in te stel. Die oorgrote meerderheid van lede is van oënskou dat hulle geen begeerte gehad het om enige iemand se lewe te verwoes of selfs om hul agter tralies te sien nie. Dit is suiwer kommersiële en siviele aksies waarin die HSAG-lede slegs hul geld of 'n noemenswaardige gedeelte wil terugvorder.

Eiendomme van etlike miljarde rande is destyds aan die sindikasie maatskappye (van die HSAG-lede) verkoop, is gemelde eiendomme betaal, maar nooit oorgedra nie. Die res is geskiedenis.

Die HSAG-lede het almal net een doel voor oë en dit is om hul belang van miljarde rande te verhaal. Dit gaan alles oor geld en niks anders nie.

Om hierdie doelstelling te verwesenlik en te danke aan die HSAG-lede se befondsingsmodel, 'n kerndeel van ons lede, ons regspan en die sisteem kon die wa dusver deur die drif getrek word. Ons wil weereens daarop wys dat indien dit vir die HSAG-lede

net oor die geld gaan, is dit die mandaat wat ons moet uitvoer sodat almal die vrugte van ons harde werk wat letterlik oor jare ingesit is, kan pluk. Almal, nie net 'n paar, moet egter ook bereid wees om hul kant te bring ten einde sodanige doel te verwesenlik.

Verskonings oor hoekom die "aandele" van Accelerate nog nie oorgedra kon word nie is gereeld deur ons opponente gemaak. Indien daar egter 'n skikking sou wees, sal die HSAG met alles in sy vermoë ondersteuning aan sy getroue en lojale lede bied om hierdie stryd tot 'n einde te bring.

#### **4. BEVESTIG JOU EIS NÓÚ TEEN DIE BOEDEL!**

As 'n blyk van waardering hoef HSAG-lede wat teen 30 April 2022 opbetaal is, nie hul eise spesiaal by die HSAG in te dien nie en sal hul eise outomaties, sonder enige verdere kostes, kwalifiseer vir indiening by die eksekuteur van wyle Mnr Nic Georgiou se boedel. Nie-opbetaalde lede se eise sal ook ingedien word maar mag dalk later onderhewig wees tot 'n addisionele heffing wat op 'n latere stadium bekend gemaak sal word.

Tyd het geleer dat opbetaalde lede tot dusver noodwendig voordeel getrek het (en is dit wat ons nog altyd aangevoer het) wanneer dit by die sertifikasie van hofsake of skikkingsonderhandelinge kom.

#### **5. IS DIE EINDE NABY?**

Hierdie is 'n vraag wat telkens opduik by HSAG-lede. Die antwoord is egter eenvoudig: "Slegs tyd sal leer!". Maar, tyd het geleer dat gesoute besigheidsmense met kundige raadgevers sonder om te blik sal sê dat jy nie jou besigheid deur howe en hofsake kan bedryf nie. Soveel te meer wanneer howe keer op keer ongunstige uitsprake teen 'n besigheid en sy leierskap maak. Een maatskappy wat na vore kom is Steinhoff, wie se aandeelprys meer as 90% geval het. Maar hulle blyk op die herstelpad te wees. Die rede? Nuwe persone aan die stuur met gesonde besigheidsin neem besluite. Hoe lank is 'n stuk tou? Slegs tyd sal leer...

## **6. MOET DIE GEORGIU SEUNS VAN DIE HOEK AF GEHAAL WORD?**

Hierdie vraag is oor 'n tydperk van maande gevra (selfs in nuusbriewe) en is HSAG-lede daarvoor gepols om insette te lewer. Die HSAG kan nou bevestig dat nie huidige óf voormalige lede aangevoer of vertoë gerig het dat selfs net één van die Georgiou seuns van die hoek gehaal word nie.

Die boodskap van ons lede is duidelik en gaan die sake teen die Georgiou seuns voort, selfs al is 'n skriftelike versoek tot dié effek deur een van hul regsverteenvoerders gerig.

## **7. DIE GEORGIU EKSEKUTEUR IS NOU OOK DEEL VAN DIE VERRIGTINGE**

Die HSAG se regsplan het in terme van die hofreëls wyle Mnr Nic Georgiou se eksekuteur tot die hofverrigtinge in die HSAG en CCAF hofsake gevoeg. Dit beteken eenvoudig dat hy ook deel vorm van die verrigtinge en aan die uitsprake gebonde is, selfs al opponeer hy dit. Anders as Hans Klopper wat baie te sê en skryf het oor sy hofsake (waarin hy 'n primêre respondente is), kan die eksekuteur nie beweer dat hulle "buite" die verrigtinge staan nie, maar kan hulself eerder vereenselwig met die oorledene.

## **8. NOW YOU SEE ME NOW YOU DON'T**

Gedurende Desember 2020 het Jacques Du Toit, die besigheidsreddingspraktisyn, 'n Hooggeregshof aansoek teen verskeie partye aanhangig gemaak. Die HSAG se regsplan was die eerste Respondente. Die doel van die aansoek blyk te wees dat 'n aansoek gebring word, klaarblyklik om die klasaksie te verhinder deur van die hoogste hof in die land as't ware op hersiening wil neem, jare na uitsprake reeds gelewer is.

Tyd het weereens geleer dat mens jou nie onnodig met kwelsugtige hofsake kan en moet bemoei nie. Die hofsake beloop duisende bladsye wat etlike honderde duisende rande kan kos. Die HSAG se regsplan het daarop, in konsultasie met die HSAG Bestuur en

advokatuur, 'n brief aan Du Toit en sy regsman gerig en gesê dat hulle nie gaan deelneem aan hierdie tipe litigasie nie.

Die HSAG regsman het daarna nooit weer enigiets van Du Toit se regsman gehoor nie, en eers nadat verdere stukke ontvang is, het dit geblyk dat Du Toit nie alleen die saak teen die HSAG regsman straks laat vaar het nie, maar ook die ongelooflike gedoen het, deur 'n hofbevel met instemming van ander te verkry, waardeur die HSAG prokureurs met ander onbekende partye vervang is!

## 9. 'N RIDDER OP 'N WIT PERD?

Of dit nou op Twitter is waar hy opslae maak oor sy aweregse tuisgekookte etes, of sy oue en getroue Clarks-skoene wat hy weier om te vervang, óf wat hy as staatsamptenaar uiter, is Mnr Tito Mboweni definitief 'n huishoudelike naam in Suid-Afrika. In sy professionele kapasiteit is Mboweni veral bekend daarvoor dat hy een van Suid-Afrika se beste Goewerneurs van die Reserwebank was. Hy het later in 2018 as Minister van Finansies by Nhlanhla Nene oorgeneem.

Min mense ken egter die details van sy lewe in die amper tien jaar tussen sy twee staatsaanstellings. Mboweni het 'n BA in Ekonomie en Politieke Wetenskappe, asook 'n M in Ontwikkelingsekonomie, wat hy in 1988 verwerf het.

Voor sy aanstelling as Goewerneur het hy verskeie kere as ekonomiese beleidsadviseur vir die ANC gewerk, en was hy demokratiese Suid-Afrika se eerste minister van Arbeid. Na hy vir tien jaar 'n uiters suksesvolle Goewerneur van die Reserwebank was, het hy die privaatsektor betree waar sy mees noemenswaardige aanstelling by Goldman Sachs was, alhoewel dit nie al is waarby hy betrokke was nie. Ander maatskappye en organisasies waarby hy betrokke was is as voorsitter of direkteur is Nampak, SacOil, AngloGold Ashanti, Discovery en PPC. Hy was ook 'n konsultant vir Total.

Noemenswaardig in die HSAG konteks is dat hy 'n voorsitter van Accelerate was voor hy Minister van Finansies geword het. En nou, na hy in Januarie uit die Parlement bedank het is hy nie net terug by Goldman Sachs nie, maar ook by Accelerate.

Accelerate is daarenteen nie 'n maatskappy wat onbekend aan HSAG-lede is nie. Hul Hoofuitvoerendebeampte is niemand anders nie as Michael Georgiou, wyle Nic Georgiou se seun. Dit is dus belangrik om alles wat Accelerate doen, fyn dop te hou, aangesien die kans dat dit 'n groot impak op die uiteinde van die saak en skikkingsooreenkoms kan hê, baie groot is. Goed óf sleg!

En as daar een mens is in wie se hande Accelerate *net* vorentoe kan gaan, is dit Tito Mboweni s'n. Sy rekord is 'n goeie een en hy is wyd en syd gerespekteer – beide in die privaatsektor, asook die staatsdiens – en ons wil beleggers gerusstel dat sy aanstelling by Accelerate, volgens ons 'n goeie ding sal wees! Ons hoop hierdie besweer grotendeels die vrese wat verskeie HSAG-lede die afgelope tyd uitgespreek het.

#### **10. VORDERING IN DIE HS 21 & 22 (“CCAF”) AANGELEENTHEID**

Die Applikante se betoogshoofde ingevolge 'n Reël 30(1) is gefinaliseer en is ons tans besig om dit met relevante belanghebbendes te bespreek. Ons het ook 'n Kennisgewing ingevolge Reël 15(2) aan die Eksekuteur van die boedel van wyle Nicolas Georgiou beteken ten einde die Eksekuteur van wyle Nicolas Georgiou, in sy verteenwoordigende hoedanigheid, as die nuwe Eerste Respondent in die aangeleentheid te vervang.

Die eksekuteur van boedel wyle Nicolas Georgiou, Mnr Victor Joseph Chemaly, het Mnr Luke Saffy van Honey Prokureurs as sy agent en wettige prokureur van rekord aangestel. Ons is meegedeel dat Mnr Chemaly geensins verwand is aan een van die vorige respondente met dieselfde van (wie as mede-trustee van die Georgiou trusts gesit is) nie. Ons gee vir hom en sy regspan wie 'n vars beskouing op die saak neem die voordeel van die twyfel – dat hulle algeheel onpartydig sal wees en nie dieselfde sloer- en vertragingstaktieke sal toepas nie. Weereens sal die tyd hierin leer!



Soos voorheen bespreek, sal die aangeleentheid voortgaan teen die boedel van Nicolas Georgiou en alle partye wat tans deel vorm van die verrigtinge. Ons sal u op hoogte hou in hierdie verband en sal mettertyd 'n saakbestuursvergadering aanvra, met die Eksekuteur wat 'n party tot die verrigtinge is. Die Eksekuteur het 'n tydperk tot middel Maart 2022 versoek om die litigasieverrigtinge en verskeie eise teen die boedel te oorweeg. Gemelde vergunning word sonder benadeling van ons regte verleen.

Die regsplan is ook besig met die indiening van eise by die eksekuteur, sodat ons as krediteure van wyle Nic Georgiou se boedel geag kan word.

#### **11. VORDERING IN DIE HS 15-20 (INSLUITEND HS 21 & 22) AANGELEENTHEID (“DECA”)**

Die HSAG-regspan het ook 'n Reël 15(2) kennisgewing uitgereik wat wyle Nic Georgiou op alle hofstukke met sy eksekuteur, Mnr Chemaly, in sy verteenwoordigende hoedanigheid, vervang. Dit is ook uitgestuur en op die relevante partye beteken.

Die regsplan is ook besig met die indiening van eise by eksekuteur, sodat ons as krediteure van wyle Nic Georgiou se boedel geag kan word.

#### **12. “VAN DIE HAND NA DIE MOND VAL DIE PAP OP DIE GROND”**

Dié is 'n Afrikaanse idioom wat beteken dat planne maklik verydel kan word as hulle amper klaar uitgevoer is, as die doel amper bereik is. En dit is waar ons nou is! Ons pap is amper in ons mond en dis nou waar verydeling van ons planne ons lelik van spoor gaan afjaag as ons nie versigtig is nie.

As ons ons aangeleenthede en ondersteuning onttrek, sal ons nie nog 'n kans gegun word nie. Ons moet lede ongelukkig herinner dat sou hulle nou van die HSAG onttrek, hul eise ongetwyfeld sal verjaar. Die Wet op Verjaring bepaal dat enige siviele eise, as 'n algemene

reël, binne drie jaar ingestel moet word, anders verstryk dit en kan dit nooit weer voor 'n hof dien nie. Lede sal ook nie weer op 'n latere stadium by die HSAG kan aansluit nie. Tot dusver probeer die HSAG nog net die groep bymekaar en almal aan boord hou.

### **13. HSBF EN HANS KLOPPER KWESSIES**

Soos reeds verklaar sal die HSAG onself nie met die HSBF of Helgard Hancke bemoei nie. Dieselfde geld ook vir Mnr Hans Klopper. Dit was egter interessant om van ons lede te hore te kom dat beleggers se aandag onlangs op 'n HSBF nuusbrieff gevestig is waarin hulle erken dat daar 'n "agterstand" en "warboel" by hulle heers ten opsigte van die uitreiking van aandele. Ons hoef ook niemand aan die HSBF se sogenaamde "25%-opsie te herinner nie. Selfs wanneer dit oppervlakkig oorweeg word, stel hierdie "aanbod" voor dat veel minder as 25% van beleggers se aanvanklike beleggings in Accelerate-aandele teruggegee word.

Die Accelerate-aandele sal egter teen R7,50 elk uitgereik word, en nie teen die heersende aandeelprys van ongeveer R1.00 nie. Die waarde van hul beleggings is dus ongeveer 90% minder per aandeel, teen Accelerate se huidige aandeelprys. Dit is ook vir die HSAG-Bestuur vreemd dat HSBF die eise van die beleggers wil uitkoop alhoewel hulle in die Respondente hofstukke volhou dat die beleggers nie eise het nie ... Behalwe dit, na iemand 'n kontrak geteken het is dit duidelik dat hulle steeds nie aandele gaan ontvang nie. Ons het elders verwys na Mnr Hans Klopper en volstaan daarby.

### **14. GEREELDE NAVRAE**

Ons kry ook gereeld navrae oor hoekom ons nie verdere kriminele klagtes teen die Georgious ingedien het nie en ons wil beleggers daarop wys dat sulke klagtes indertyd deur HSAG-lede 'n dekade gelede ingedien is en dat daar nog geen vordering met die sake gemaak is nie. Vervolgings geskied deur die Staat en is die einddoel in baie gevalle om persone agter tralies te kry, wat ongelukkig nie noodwendig ons kliënte se geld sal terugbesorg nie. Siviele sake (soos ons s'n) word gedryf as die uiteindelijke doel vergoeding

is, wat dit in ons geval natuurlik is. Kriminele verrigtinge moet ook deur die staat gedryf word en moet liefers nie private groepe nie.

## **15. ALGEMENE NAVRAE**

'n Navraag wat ons gereeld kry is aangaande oordrag van die aandele, na 'n geliefde se afsterwe. Ons wil almal graag herinner dat dit deur Orthotouch gedoen word. Hulle is die maatskappy wat die aandele se oordrag behartig en dit is eers ná ons 'n dokument, deur hulle uitgereik, wat aandui dat die aandele in 'n nuwe naam oorgedra is, ontvang het, wat ons dit op ons stelsel kan verander. Ons is ook bewus van die feit dat hulle in Sakeredding is – dit behoort egter geen impak op hul werksverrigting te hê nie een ons vra dat almal hulle op dié epos kontak:

admin@orthotouch.co.za

## **16. 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, sindikasionommers en verwysingsnommers (bv. identiteitsnommer ens.) vir alle kommunikasie, is uiters noodsaaklik en verpligtend. Versuiming om hieraan te voldoen kan die gevolg hê van onnodige vertraging of dat u geen antwoord sal ontvang nie.

Die amptelike en bestaande e-pos adresse vir die HSAG, is as volg:

- **hsactiongroup@gmail.com** vir alle Algemene Navrae (Byvoorbeeld – selfoon of adres veranderinge, betalingsbewyse, kennis van lede wie gesterf het, ensovoorts);
- **hsagenquiries@gmail.com** vir Spesifieke Navrae (Byvoorbeeld – navrae rakende besonderhede van 'n spesifieke belegger, navrae rakende kwytstelling van 'n spesifieke belegger, ensovoorts);
- **hsagregister@gmail.com** vir die Registrasie en Deregistrasie van HSAG- lede;

- **hsagwhistle@gmail.com** vir alle Vertroulike Inligting wat anoniem aan ons gestuur moet word;
- **hsagestates@gmail.com** vir alle Boedel navrae.

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

- [accounts@ccaf.co.za](mailto:accounts@ccaf.co.za) vir betalingsbewyse
- [admin@ccaf.co.za](mailto:admin@ccaf.co.za) vir die amptelike versoek vir afbetaling-vorm
- [enquiries@ccaf.co.za](mailto: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.

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

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

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

**Vriendelike groete**

**HSAG-Bestuurskomitee**

Kontak die HSAG en prokureurs by:

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## MONTHLY NEWSLETTER FEBRUARY 2022

This newsletter is addressed to you as a member of the Highveld Syndication Action Group (“HSAG”) on account of you having made an investment in the Highveld Syndication Companies 15-22 and/or support of the HSAG.

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

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

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## 1. INTRODUCTION

The second month is already in full swing and we can confirm that the HSAG train is still on track. As explained in last month's newsletter, during January 2022 we received written confirmation from the executor of the late Mr Nic Georgiou's estate that has indeed been appointed, as well as who his agent is in the administration of the estate. The HSAG contacted said executor's attorneys and a written request was made by them in terms of which the executor requested an extension until mid-March 2022 in order to consider the extensive claims (of which the HSAG and CCAF are certainly among the largest). The HSAG and CCAF's attorneys are currently in the process of compiling the claims of its members and we urgently need the cooperation of all concerned in this regard (read further below).

The said attorneys (who are the agents for the executor) made use of external (new) attorneys in order to obtain an objective opinion on the litigation, which should continue with the prevailing litigation against the estate of Mr Nic Georgiou. Should the executor decide to accept the claims, we urgently need all relevant information and support from our members in order to continue the proceeding.

We had enquiries what the process is when a person is bankrupt. In a nutshell, it is well-known that if a person's liabilities exceed his assets, said person is factually insolvent (bankrupt) and that said estate may be sequestrated, and insolvency proceedings will commence.

Should there be an insolvency, it will, of course, result in a thorough investigation of the deceased's financial position and affairs. The insolvency route is one of the statutory measures to recover lost funds.

For the past years Accelerate Property Fund (Ltd) shares were marketed amongst HSAG members. It is well-known that it was traded to settle their claims against the Georgious. During January 2022, it was widely reported in the media that Accelerate headhunted a

heavyweight commercial consultant to take its lead as chairman (In this regard we received various enquiries). Accelerate has been riddled with financial problems since 2014 when its shares traded on 31 December 2014 at R7.00 per share. The HSAG class action was also instituted at the end of 2014. In April 2020 Accelerate shares traded at an all-time low of 40c per share which is almost 95% less than its peak of R7.00. This was four months after the first certification of the CCAF class action. Research has shown that Accelerate has never traded at R7.50, the price at which the HSBF offers shares. Currently the shares recovered slightly to around R1.00 per share.

There is no direct evidence between the two occurrences but the impact of a class action of this nature and success achieved so far cannot be underestimated.

The impact of a second certification will only become in due course. From the history of the matter, it is clear that HSAG class actions are much larger than any one individual involved therein.

## **2. COMMERCIAL SETTLEMENT OR LITIGATION?**

Currently the only way forward is through litigation in which a court of law will make a finding against the unsuccessful party.

In respect of another route, two questions arise. Firstly, whether the class action can be settled and secondly whether there are currently any commercial settlement negotiations between the parties. The answer to the first question is easy:

Firstly, international class actions show that most class action claims are settled. South Africa should be no exception and a large portion of actions should be settled at certification. Certification of an action means that a court finds that there is a triable case against a Respondent. The late Mr Nic Georgiou's litigation therefore seems so far to be the exception to the rule. A second certification application is en route in the DECA case and scheduled for 30 May 2022.



The second answer is simply NO. There are currently no commercial negotiations between the Applicants and Respondents. In the past settlement negotiations were conducted between the HSAG and Mr Nic Georgiou but unfortunately these negotiations broke down.

### **3. EVERYTHING IS JUST ABOUT MONEY AND NOTHING ELSE**

The HSAG received over the years from some the following two questions: “how much money are we going to get” and “when are we going to get our money”.

This is the main objective and reason for the existence of the HSAG is to claim for contractual and delictual damages. The vast majority of members are of the view that they don't have any desire to ruin someone else's life or even to want to see them behind bars. These claims are purely commercial and civil actions in which the HSAG members only want to recover their money or a significant portion thereof from the Respondents.

Properties of several billions of rands were sold to the syndication companies (of the HSAG members) at the time, said properties were paid for but not transferred. The rest is history.

The HSAG members all have only one goal in mind and that is to recover their stake of billions of rands. It is all about money and nothing else.

To acquire this objective and thanks to the HSAG's funding model, a core of our members, the legal team and system have kept the matter alive and on course. As it is just about the money for the HSAG members, it must be remembered to fulfil this mandate and to reap the fruits does not only require hard work, but also the necessary resources. Not only some, but everyone must be willing to do their part to achieve such a goal.

Excuses why the “shares” of Accelerate could not yet be transferred were often made by our opponents. However, should there be a settlement, the HSAG will do everything in its power to support its faithful members.

#### **4. CONFIRM YOUR CLAIM NOW AGAINST THE ESTATE!**

As a token of appreciation, HSAG members who are paid up by 30 April 2022 do not have to submit their claims specifically to the HSAG. And their claims will automatically, without any further costs, qualify for submission to the executor of the late Mr Nic Georgiou's estate. Non-paid members' claims will also be submitted but may be subject to an additional charge per up person which will be announced at a later stage.

Time has shown that paid-up members have necessarily benefited (and this has always been submitted) when it comes to certifying court cases or during settlement negotiations.

#### **5. IS THE END NEAR?**

This is a question that keeps popping up with HSAG members. However, the answer is simple: "Only time will tell!". But time has taught that seasoned business people with experienced advisers will, without hesitation, say that you cannot run your business through courts of law and court cases. More so when courts repeatedly make unfavourable rulings against a business or its leadership. One such company that comes to mind is Steinhoff where its share price plunged more than 90% but now appears to be on the road to recovery. The reason? New people at the helm with sound business acumen making the decisions. How long is a piece of string? Only time will tell ...

#### **6. SHOULD THE GEORGIU SONS BE LET OFF THE HOOK?**

This question was asked by the HSAG over a period of months (even in newsletters) and HSAG members were asked to provide input. We can now confirm neither its current nor former members asked that the Georgiou sons (or even one of them) be let off the hook.

The message from our members is clear and the case against the Georgiou sons must continue, even though a written request to that effect was made by one of their legal representatives.

## **7. THE GEORGIU EXECUTOR IS NOW ALSO PART OF THE PROCEEDINGS**

The HSAG's legal team added the late Mr Nic Georgiou's executor to the court proceedings in the HSAG and CCAF court cases in terms of the court rules. It simply means that he is also part of the proceedings and is bound by the court orders, even if he intends to oppose any relief sought. Unlike Hans Klopper who has a lot to say and write about the court case (in which he is a primary respondent), the executor cannot claim to be "outside" the proceedings but rather stand in the shoes of the deceased.

## **8. NOW YOU SEE ME NOW YOU DON'T"**

During December 2020, Jacques du Toit, the business rescue practitioner, filed a Supreme Court application against several parties. The HSAG's attorneys were the First Respondents. The aim of this application appears to be that an application is seemingly brought to stall the class action, by taking judgements of the highest courts in the country on review many years later.

Time has once again taught you that you cannot and should not interfere unnecessarily with vexatious court cases. The high court case amounts to several thousand pages that can eventually cost several hundred thousand rands. In consultation with the HSAG Steering committee and counsel, the attorneys wrote a letter to Du Toit and his legal team stating that they would not participate in this type of litigation.

The HSAG legal team has, ever since, not heard from Du Toit's legal team, but during the further exchange of papers, it became apparent that Du Toit had not only removed the HSAG legal team as first respondents, but also replaced them with other unknown parties!

## **9. A KNIGHT IN SHINING ARMOUR?**

Whether it's on Twitter where he makes headlines about his questionable homecooked meals, or his old and faithful Clarks shoes he refuses to replace, or what he articulates as a civil servant, Mr Tito Mboweni is definitely a household name in South Africa. In his professional capacity, Mboweni is best known for being one of South Africa's most excellent Governors of the Reserve Bank and then taking over as Minister of Finance from Nhlanhla Nene in 2018.

However, few people know the details of his life in the nearly ten years between his two state appointments . Mboweni holds a BA in Economics and Political Science, as well as an MA in Development Economics, which he obtained in 1988.

Prior to his appointment as Governor, he was an economic policy advisor to the ANC, and was democratic South Africa's first minister of Labour. After being an extremely successful Governor of the Reserve Bank for ten years, he entered the private sector where his most notable appointment was at Goldman Sachs, although that is not all he was involved in. Other companies and organizations were as chairman or director of Nampak, SacOil, AngloGold Ashanti, Discovery and PPC. He has also been a consultant for Total .

Notable in the HSAG context is that he was a chairman of Accelerate before he became Minister of Finance. And now, after resigning from Parliament in January, not only is he back at Goldman Sachs, but also at Accelerate .

Accelerate, on the other hand, is not a company unknown to HSAG members. Their CEO is none other than Michael Georgiou, son of the late Nic Georgiou. It is therefore important to keep a close eye on everything Accelerate does, as chances are that it might have a major effect on the end of the case, whether good or bad, is possible.

And if there is one man in whose hands Accelerate can *only* go forward, it's Tito Mboweni's. His record is a good one and he was respected in both the private sector as well as in the

civil service. One can therefore assuage investors' fears that his appointment at Accelerate may after all be a good thing!

#### **10. PROGRESS IN HS 21 & 22 ("CCAF") MATTER**

The Applicants' arguments in terms of a Rule 30 (1) have been finalized and we are currently discussing them with relevant stakeholders. We also served a Notice in terms of Rule 15 (2) to the Executor of the estate of the late Nicolas Georgiou in order to replace the Executor of the late Nicolas Georgiou, in his representative capacity, as the new First Respondent in the matter.

The executor appointed in respect of the estate of the late Nicolas Georgiou is Mr. Victor Joseph Chemaly and he has appointed Mr. Luke Saffy of Honey Attorneys as his agent and attorney of record. We have been informed that Mr Chemaly is in no way related to one of the previous respondents (with the same surname), who was cited as a co-trustee of the Georgiou trusts. We trust they will take a fresh approach and give them the benefit of the doubt - that they will be completely impartial and will not apply the same delaying tactics. Once again, time will tell!

As previously discussed, the matter will continue against the estate of Nicolas Georgiou and all parties currently forming part of the proceedings. We will keep you informed in this regard and will in due course request a case management meeting, with the executor being a party to the proceedings. The executor requested a period until mid-March 2022 to consider the litigation proceedings and various claims against the estate. Such indulgence is made without prejudice.

The legal team is also filing claims with the executor so that we can be considered creditors of the late Nic Georgiou's estate.

#### **11. PROGRESS IN HS 15-20 (INCLUDING HS 21 & 22) MATTER ("DECA")**

The HSAG legal team has also issued a Rule 15 (2) notice replacing the late Nic Georgiou on all court documents with his executor, Mr Chemaly, in his representative capacity. It was also sent out and served on the relevant parties.

The legal team is also filing claims with the executor so that we can be considered creditors of the late Nic Georgiou's estate.

## **12. “VAN DIE HAND NA DIE MOND VAL DIE PAP OP DIE GROND”**

This is an Afrikaans idiom which means that one's plans can easily be thwarted if they are almost completed and the goal is almost achieved. And this is where we are now! So close but yet so far! We cannot allow our opponents to thwart our plans and drive us off course.

If we withdraw our cases and support now, we won't have another bite on the cherry and our claims will undoubtedly prescribe. The Prescription Act states that a civil claim can, as a general rule, prescribe if it was not instituted timeously within a period of three years. Once prescribed, it can never be brought to court again. Members left behind will also not be able to rejoin the HSAG at a later stage. So far, the HSAG has done everything in its power to keep the group together and all aboard.

## **13. HSBF AND HANS KLOPPER ISSUE**

We stated before that we will not concern ourselves with the HSBF or Helgard Hancke. The same applies to Mr Hans Klopper. However, it was interesting to learn from our members that investors' attention were recently drawn to a HSBF newsletter in which they acknowledged that there is a "backlog" and "confusion" with them regarding the issuing of shares. We need not remind anyone of the agreement that the HSBF sells to investors, namely their so-called "25% share option". Even when superficially considered, this "offer" proposes far less than 25% of investors' initial investments be returned in Accelerate shares.

If Accelerate shares are acquired at R7.50 each, it is way beyond the prevailing share price of approximately R1.00. This effectively means investors will receive less than 90% of their original investments according to Accelerate's current share price. It is also strange that the HSBF wants to persuade investors to settle and thereby waiving all their rights, even though the Respondents maintain in court documents that the investors do not have any claims ... Besides this, after you have signed a contract, it is now evident that you won't receive your shares. Suffice it to say, we have dealt elsewhere with Mr Hans Klopper.

#### **14. REGULAR ENQUIRIES**

We also receive regular enquiries as to why we have not filed further criminal charges against the Georgious and we would like to point out to investors that criminal charges were filed by HSAG members a decade ago and that no real progress has been made so far on the cases. The prosecution is done by the State and in many cases the ultimate goal is to get people behind bars, which unfortunately will not necessarily return our customers' money. Civil cases (like ours) are pursued when the ultimate goal is compensation, which is natural in our case. Criminal proceedings should also be driven by the state and not private groups.

#### **15. GENERAL ENQUIRIES**

A query we often receive is regarding the transfer of the shares, after the death of a loved one. We would like to remind you that this is done by Orthotouch. They are the company that handles the transfer of the shares and it is only after we have received a document from them indicating that the shares have been transferred to a new name that we can change them on our system. We are also aware of the fact that they are in Business Rescue - however, this should have no impact on their work performance and we ask that everyone contact them on this email:

admin@orthotouch.co.za

#### **16. 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](mailto:accounts@ccaf.co.za) for proof of payments
- [admin@ccaf.co.za](mailto:admin@ccaf.co.za) for the official request to pay registration fees over 6 months form
- [enquiries@ccaf.co.za](mailto:enquiries@ccaf.co.za) for all other CCAF questions and enquiries

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.



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

The general and repetitive terms, conditions and other general information that was previously contained in the Newsletter, is now available on the HSAG website at [www.hsaction.co.za](http://www.hsaction.co.za) and can directly be accessed via the following link:

<http://hsaction.co.za/wp-content/uploads/2020/01/HSAGTsCs.pdf>

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

**Kind regards**

**HSAG Steering Committee**

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