



AFRIKAANS HIERBO

MONTHLY NEWSLETTER: NOVEMBER 11.4 2022

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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

Over the years, at the end of the year, the HSAG has noticed a pattern with the various cases we tackle and, tongue-in-cheek, and has started to call it, "The NG season". Time and time again, year after year, the opposition suddenly got new wind in their sails at the end of the year, and there was a scramble to get everything in place in as short a time as possible. In this way, the attention was taken away from the main case, and the blame of "delaying tactics" was then placed on their opponents.

It seems to the HSAG that this habit of the opposing side has rubbed off a bit on our own legal team this year, as in the past two weeks they have served court documents numbering almost 500 pages on the various Respondents. There were also lots of emails sent (and still are), to be able to organize case management meetings in our two main court cases. It was endearing to the HSAG, when the executor of the late Nic Georgiou asked our legal team, in writing, if they could also get advertising space in the HSAG newsletter to present their case - which of course did not warrant a response to said letter.

Therefore, the HSAG has a lot to share with investors, as per the snippets we've had in our news flashes over the past few weeks.

There was a case management meeting with Judge Tolmay, who is hearing the CCAF case and, although several emails were exchanged between all the parties in the DECA case to try to get a possible date for a case management meeting with Judge Janse van Nieuwenhuizen, we have not yet been able to fix a day and time that suits everyone at the time of writing this.

2 PROGRESS IN DIE CCAF CASE

On Tuesday 15 November 2022, the CCAF legal team had a case management meeting with the opposing sides before the Honourable Judge Tolmay and wishes to advise investors as follows:

- The Judge has just returned from long leave and ordered that the Rule 30(1) application relating to the HS 21B investors should be heard before the main application, by way of a special motion. Everyone agrees that she should hear this matter as well
- The Judge is of the opinion that the HS 21B investors' status in the current litigation must first be determined before the main case can proceed.
- The judge also ordered that the parties arrange the exchange of further documents among themselves to ensure that the trial is expedited, failing which a further case management meeting can be requested before the end of this year.

The CCAF legal team delivered the relevant letters to Judge Tolmay, as well as the office of the Honorable Deputy Judge President Ledwaba, requesting a date for the special motion to be heard and also requesting that the case be referred to Judge Tolmay to be awarded. She has already indicated that she is prepared to hear said case and had already indicated her willingness to do so in the first term, and requested that it be done urgently, as the court rolls are very full. After the parties reached consensus on the content of the letter, an urgent letter was sent, in which a hearing date has been requested

Feedback was received from the office of Judge Ledwaba, who confirmed that the hearing of the Special Motion will not take place until the second term of 2023, and we will arrange a suitable date for all the parties involved and give feedback accordingly.

If a further case management meeting is scheduled, the date of such meeting will be communicated to the CCAF members.

3 PROGRESS IN THE SETTING-ASIDE APPLICATION OF THE S 155 SCHEME OF ARRANGEMENTS AND THE TRANSFER APPLICATION

Although the HSAG would have liked to be able to give feedback to investors about a case management meeting before Judge Janse van Nieuwenhuizen, we understand that

the sheer size of the group involved in the case will always complicate such a meeting. Our legal team always tries to be as flexible and available as possible, but the previous meeting was necessarily postponed because all legal representatives, which include lawyers and advocates, were not available on the same date. In the Smith case there are 22 Respondents, some of which are law firms acting for multiple respondents.

The new set of dates proposed by the Judge for the meeting is unfortunately after the writing of this newsletter, but fortunately is still before the end of the year. The HSAG trusts to have a final word in the last Newsletter of the year about the way forward, specifically with regard to the transfer of the Section 155 Setting-aside application.

What the HSAG can tell investors is that two major court documents in the Setting-Aside and the Transfer Application matters have been drawn up and served on the opposing sides.

In the Johannesburg High Court, the Applicants filed a Replying Affidavit, in which we ask that the moratorium that was then imposed on any cases against Orthotouch be lifted. This will enable us to continue the case regardless of the outcome of the Pretoria High Court's decision regarding Transfer, or not.

The Applicants in the DECA matter also filed a Founding Affidavit for the transfer of the Setting-Aside application to the Pretoria Court. The reason for this is that the Applicants agree that the two cases should be jointly heard. True to their nature, one of the sons immediately filed an intention to defend, which actually goes directly against their intention of wanting to have the case “settled quickly”, as this opposition to the transfer to Pretoria will now certainly delay the case even further.

This is also why the case management meeting before Judge Janse van Nieuwenhuizen is appropriate in the proceedings.

4 LATEST FROM JACUES DU TOIT

The HSAG also received different newsletters from the opposition within the span of one week. In the very first paragraph, Du Toit refers to Helgard Hancke, former HSAG board member, who had to leave the group under a cloud of dishonour, by stating that he (DTB) now also supports Hancke "to catch" the culprits, in collaboration with the Hawks. However, everyone knows whose payroll some were on, and where their sentiments lie and the Hawks will certainly not have an easy task.

Mr Jacques du Toit (DTB), Orthotouch and Zephan's business rescue practitioner, indicated in his latest letter that "the investigation" is at an advanced stage and that he expects a report from his lawyers before the end of October, after which he can start implementing his "action plan". It's almost December and we're still waiting for it.

Furthermore, Mr du Toit informs his readers that he is "in contact" with the "officers" of Orthotouch and Zephan and that they are very close to appointing new directors of the companies, of which Mr Georgiou ceased to be a director, since his death almost 15 months ago.

Du Toit confirms that "they" have full control over all the properties and that some of the properties show an increase in the monthly income, and that they received an offer of more than R 11 million for three of the properties. However, no further information is given about the valuations, income or other details about the condition of "the properties".

Mr du Toit also mentions (between the lines) that the HSAG is "disregarding" the moratorium on any cases against the two companies and that he "strongly opposes" all such litigation. No mention of the application brought by the HSAG is made, but only links to outdated DTB newsletters are attached. We are still awaiting on any replying court papers from the opposing side after serving our papers on them.

Furthermore, Mr du Toit also sheds "light" on the Applicants' legal team as Respondents in his Declaratory Application, and the "disappearance" of their names on the court documents. He claims that it was a "cost-saving initiative", a statement that the HSAG cannot understand, as he is said to have already spent several hundred thousand rands on legal fees. We challenge Mr du Toit to do the honourable thing and indicate exactly how much money he has already spent on legal fees, since becoming the business rescue practitioner of Orthotouch and Zephan.

Unfortunately, the HSAG feels that Mr du Toit's newsletter is, as always, meaningless. Promises of feedback are made, as well as assurances about "investigation reports" to be released. There is even a reference to a "Proposer", but after the passage of three years, nothing concrete has been put on the table about who this person is, and exactly what he will bring to the table. Mr du Toit has already made such promises in previous newsletters and, after all these years, still nothing has come of it. Next to Mr Hans Klopper, according to our knowledge, Mr du Toit holds the record for keeping companies in business rescue, while the law expressly provides for this to be completed within three months.

5 LATEST FROM THE HSIF

Apart from the so-called "Share option" that the HSIF has been selling for the past two years, it has now shifted its focus to the Hawks from the forensic investigator, whom it has been supporting lately. Suddenly they are also not good enough anymore.

Helgard Hancke again sent out a newsletter to investors via the "HSIF" in which it is now claimed that the Hawks informed the HSIF during a recent meeting that the 2012 case will be dug up from the Hawks archive and then added to the 2019 investigation is added. This investigation will try to establish "the involvement of various role players in the failed Highveld Syndication Companies ... investment scheme". He asks that investors support the cause by contributing a once off amount of R100 towards administrative costs. According to the newsletter, these costs will enable the HSIF to assist and support the

Hawks, a state institution that provides a service free of charge to the South African public, in their investigation. Their reasoning is that it can lead to the ultimate success of the investigation if they enlist the support of investors ... to support the complainants ... on an organized basis". The HSAG already lodged a complaint with the Hawks 10 years ago and then, upon further request, provided a complete list of the investors, and is not sure why administrative costs are now required.

6 NEW DIRECTION FOR THE ROAD AHEAD

The role of the Hawks came to the fore again following the HSIF's newsletter, as well as Jacques du Toit's reference to it. It is therefore clear that the said persons aim to achieve a criminal process with arrests and eventual convictions. We briefly confirm, as many times before, that the Hawks' role is limited to criminal matters that lead to the conviction of persons. In contrast, the HSAG's main aim is to recover its members' money.

Furthermore, the HSAG wants to assure investors that we share their impatience and frustration after another year without a real day in court. The death of Mr Georgiou's first executor and the inability of the opposite side to appoint a new one before the court date in May greatly set our efforts back, but every cloud always has a silver lining. The adjournment enabled the HSAG to bring the Funding Application, as well as to revive the Setting Aside Application from the s 155 Scheme of Arrangement.

But it is not only the HSAG who prefers to look at the silver lining instead of the big, dark cloud. We have recently come into possession of a publication by a respected political analyst, which offers interesting reading material and possibly explains the current state of affairs of South Africa and future state order. While it focuses primarily on the criminal side of it, it also spills over into civil matters, which fall squarely within the state order, and from which many claim the entire justice system has been hijacked.

Every year JP Landman compiles a report on the fight against corruption, and every year it is reading material to think about. His latest report is definitely positive. Of more or less

seven cases where funds were stolen or misappropriated from state institutions, 43 arrests were made and the NPA was able to get R5 and half a billion rand worth of assets frozen, where last year it was only R611 million. The Specialized Commercial Crime Unit within the NPA was able to finalize 388 cases with a conviction rate of over 90%. There are 119 civil servants who have been found guilty on charges of corruption, which is 33 more than last year. In the same vein, 58 more individuals in the private sector were convicted of fraud than last year and the number currently stands at 205! The NPA was also able to fill more than 800 vacant positions this year.

South Africans have been aware of the term "state capture" since 2016, but the longer time goes on, the more we realize that it has been going on under our noses for longer than we would like to think. South Africans are also very earnest to see results quickly when it comes to the arrest and conviction of those charged. If we read about it in the newspaper, we must remember that the evidence that a journalist puts on paper will not necessarily be able to stand up in a court of law. The police must first conduct a thorough investigation and collect as much evidence as possible. Their investigative process cannot be neglected either, because then the accused could have a defence that they can use in court to have the case thrown out on the grounds of procedural errors that were made or processes that were not followed by the book.

The same applies to the NPA, who must view the dossier to determine whether, on the face of it, there is enough evidence to prosecute an accused and whether the NPA has any chance of getting a conviction from a court case. If their decision is yes, the exchange of court documents begins, where the accused is notified by means of a summons. On average, 20 days pass between each court document that is exchanged between parties and the NPA may only apply for a court date at the end of the pre-litigation stage, which can be up to six months away. And as everyone knows, the Police Service and the NPA have a lot on their plates at all times. So, it's no surprise that it takes years for arrests and eventual convictions.

As investors may have heard many times: The wheel of justice turns, albeit slowly.

One good example of this is the events of the past week: Monday morning, 21 November 2022, every person in South Africa with an internet connection or access to the media, received a notification of some kind with more or less the same message: Former President Jacob Zuma irregularly received medical parole, and must go back to prison. This comes after the former president was allowed to go home more than a year ago, on September 5, 2021, following a controversial decision by the former head of correctional services.

The verdict does come 14 months after the ex-president was released for all intents and purposes, and whether his parole should be counted as part of his 15-month prison sentence, the Department itself must decide, but the importance is the principle of the verdict. The more judges rule that the government and its officials do not have absolute power to act as they please, the faster officials who are considering doing the same will think twice. The same applies to the freezing of assets, as stated above. Not everyone who pleads guilty to fraud goes to jail, but more and more individuals lose the money they stole, or lose access to it until the court case is settled. And isn't this a step in the right direction for those who believe that the criminal justice system is the only solution?

The HSAG trusts that just as the above-mentioned individuals get their day in court, the HSAG will also get its day in court and that law and justice will prevail on that day.

7 GENERAL ENQUIRIES

Over time, several HSAG members objected to the long statements that the HSAG sends out every month. The problem many people have is that not only does it take additional data to download, but it also wastes extra paper and ink each month by printing out. This or next month will soon be the last month where an entire history of the States appears, after which only the “year to date” will appear on the statements. Members who wish to view their full statement can send the HSAG an e-mail at: hsagenquiries@gmail.com

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. It is 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 it is 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

Over the years, some people's claims have increased to an amount greater than the initial investments invested in the Highveld Syndication, due to the fact that, among other things, they inherited investments from their parents. Members must make sure that they provide documents and certificates that prove the transfer, as they will eventually be needed to prove the increased claim amount. At this stage we accept people's value of their investment based on their written evidence.

8 IMPORTANT: USE OF CORRECT ACCOUNT NUMBERS AND REFERENCES

Requisitions must be paid by members into the correct accounts with the correct reference number attached. The time, effort and administration it costs the HSAG's legal team to correct any erroneous payment leads to the HSAG case becoming unnecessarily expensive.

Account numbers and references are affixed to each statement and we request that members please review their statements carefully when making payments.

9 IMPORTANT: USE OF THE CORRECT EMAIL ADDRESSES!

The correct use of e-mail addresses (as stipulated on our website and e-mails) as well as HSAG members' initials and surnames, syndication numbers and reference numbers (e.g. identity number, etc.) for all communications are essential and obligatory. Failure to comply herewith may lead to unnecessary delays or any reply at all.

The official and existing e-mail addresses for the HSAG are as follows:

hsactiongroup@gmail.com for all General Enquiries; (For Example - to change contact details, Proof of Payments, Death of a Member, payments incorrectly made to HSAG, incorrect references 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, incorrect references on proof of payments

admin@ccaf.co.za for the official request to pay registration fees over 6 months form, payments incorrectly made to CCAF

enquiries@ccaf.co.za for all other CCAF questions and enquires

If an investor or any person sends an email to the wrong address, it will result in the email not receiving the speedy or necessary attention, if any. If you do not wish to receive any further emails, please inform us thereof in writing.

10 IMPORTANT GENERAL TERMS AND CONDITIONS

The general and repetitive terms, conditions and other general information that was previously contained in the Newsletter, is now available on the HSAG website at

**www.hsaction.co.za and can directly be accessed via the following link:
<http://hsaction.co.za/wp-content/uploads/2020/01/HSAGTsCs.pdf>**

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

Kind regards

HSAG Steering Committee

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