

**IN THE HIGH COURT OF SOUTH AFRICA  
FREE STATE HIGH COURT, BLOEMFONTEIN**

Case Number :

In the matter between

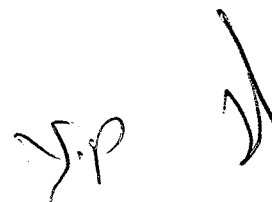
**FRANCOIS STRAUSS  
HENRY ARDEN SMITH**

First Applicant  
Second Applicant

and

**ORTHOTOUCH (PTY) LTD  
ZEPHAN PROPERTIES (PTY) LTD  
LUKE BERNARD SAFFY N.O.  
MICHAEL NICOLAS GEORGIU  
GEORGE NICOLAS GEORGIU  
JOHANNES FREDERICK KLOPPER N.O.  
JACQUES DU TOIT N.O  
DEREK PEDOE COHEN N.O  
HIGHVELD SYNDICATION NO 15 LIMITED  
HIGHVELD SYNDICATION NO 16 LIMITED  
HIGHVELD SYNDICATION NO 17 LIMITED  
HIGHVELD SYNDICATION NO 18 LIMITED  
HIGHVELD SYNDICATION NO 19 LIMITED  
HIGHVELD SYNDICATION NO 20 LIMITED  
HIGHVELD SYNDICATION NO 21 LIMITED  
HIGHVELD SYNDICATION NO 22 LIMITED  
COMPANIES AND INTELLECTUAL PROPERTY  
COMMISSION OF SOUTH AFRICA (CIPC)**

First Respondent  
Second Respondent  
Third Respondent  
Fourth Respondent  
Fifth Respondent  
Sixth Respondent  
Seventh Respondent  
Eighth Respondent  
Ninth Respondent  
Tenth Respondent  
Eleventh Respondent  
Twelfth Respondent  
Thirteenth Respondent  
Fourteenth Respondent  
Fifteenth Respondent  
Sixteenth Respondent  
Seventeenth Respondent



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**FOUNDING AFFIDAVIT**


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I, the undersigned,


**Francois Strauss**

do hereby make oath and say that:

1. I am an adult male financial advisor residing at 16 Oranje Street, Paarl, Western Cape. I am the First Applicant herein.
2. The facts contained herein fall within my personal knowledge unless otherwise stated or implied, and are both true and correct.
3. To the extent that I refer to advice given to me or if I advance legal submissions, I do so on the advice of the Applicants' legal representatives, which advice I accept as being correct.
4.
  - 4.1. This affidavit is in support of the application to convert the business rescue proceedings in respect of the Second Respondent ("Zephan") to liquidation proceedings in terms of s 132(2)(a)(ii) of the Companies Act 71 of 2008 ("the Act") - and that the it – together with First Respondent – be placed under final liquidation, alternatively provisional liquidation with a *rule nisi* being issued calling on all interested parties to show cause, if any, why a final order of liquidation should not be granted.

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- 4.2. I refer to – and expressly incorporate herein – my Founding Affidavit filed in the related application in respect of the First Respondent (Orthotouch), a copy of which (*without annexures*) I attach hereto marked “A”.
- 4.3. Given that the related application (in respect of Orthotouch) will also be served on each of the Respondents herein, I am advised that it is not necessary to attach to my said affidavit its annexures as well. Such annexures will be received by the Respondents by means of service on them of the full papers in the said related application.
- 4.4. It will be noted that my said Founding Affidavit attached hereto as “A” is drafted to apply in, or to be in support of, “both” applications, i.e. the applications to convert business rescue proceedings in respect of both entities.
- 4.5. As mentioned in the said affidavit, I am advised that it is more appropriate to bring two separate applications under two separate case numbers, given that to separate entities involved. The reasons for relying on one affidavit (“A”) only, instead of filing two similarly worded and lengthy affidavits, appear from the said attached affidavit.
- 4.6. Therefore, all allegations contained in the attached affidavit in respect of Orthotouch, are repeated expressly (*mutatis mutandis*) here for purposes of the application respect of Zephan - including issues concerning *locus standi*, and so forth.
5. It will be noted that all parties in the related application in respect of the Orthotouch matter, are also parties in this matter in respect of Zephan. I nevertheless, for the sake of completeness, hereunder repeat the names of the parties.
6. The Applicants:


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6.1 I am the First Applicant. I am an investor in the Highveld Syndication No 21 Ltd (Fifteenth Respondent), and on that basis have *locus standi* to bring this application, as explained in more detail below. I am an investor in not only my personal capacity as aforesaid, but also in my representative capacities as director of a private company, a trustee of an *inter vivos* trust, and also an executor of deceased estates. In total, all these entities invested money to the total value of R8 million in the period between 2004 and 2009 in each of the eight Highveld Companies (except Highveld 15). My wife invested in HS 17, HS 18, HS 19 and HS 21 between 2007 and 2009 to the total value of R766 000. As financial advisor, I have clients who invested a total of R48 million in the Highveld Syndication Companies 15 to 22.

6.2 The Second Applicant is Henry Arden Smith, an adult male financial advisor of 14 Forest Avenue, Bishopscourt, Cape Town, Western Cape. He is an investor in 7 of the eight so-called Highveld companies, namely Highveld Syndication No 15 Ltd, Highveld Syndication No 16, Highveld Syndication No 17, Highveld Syndication No 18, Highveld Syndication No 19, Highveld Syndication No 20 and Highveld Syndication No 22 Ltd (i.e. Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, and Sixteenth Respondents herein) – and I submit that he, similarly, has *locus standi* to bring this application, as also explained in more detail below.

## 7. The Respondents:

7.1. The First Respondent is ORTHOTOUCH (PTY) LTD (Registration number 2010/004096/07) a private company with limited liability incorporated in terms of the company laws of the Republic of South Africa with registered address 96 Raymond Mhlaba Street (Andries Pretorius Street), Naval Hill, Bloemfontein, Free State. (I will hereinafter refer to the First Respondent simply as "*Orthotouch*").

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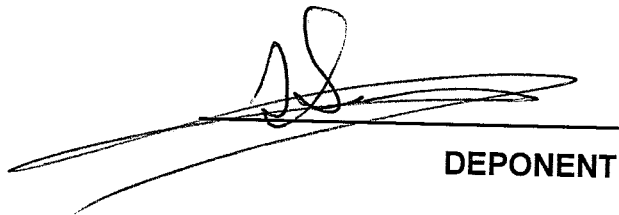
- 7.2. The Second Respondent is ZEPHAN PROPERTIES (Pty) Ltd (previously known as Zelpy 2095 (Pty) Ltd), a company registered in terms of the company laws of South Africa, with registration number 2003/020174/07, having its registered address at 96 Raymond Mhlaba Street (Andries Pretorius Street), Naval Hill, Bloemfontein, Free State.
- 7.3. The Third Respondent is LUKE SAFFY N.O, in his capacity as executor of the estate of the late Mr NICOLAS GEORGIU ("Georgiou" or "Georgiou Snr").
- 7.4. The Fourth Respondent is MICHAEL NICOLAS GEORGIU (ID number 700118 5062 008) ("Michael") an adult male businessman (and the eldest son of the late Georgiou Snr) with place of business at 96 Raymond Mhlaba Street (Andries Pretorius Street), Naval Hill, Bloemfontein, Free State and residing at 11 Webb Street, Bloemfontein, Free State.
- 7.5. The Fifth Respondent is GEORGE NICOLAS GEORGIU (ID number 720806 5041 008) ("George") an adult male businessman (and the second son of First Respondent) with place of business at 96 Raymond Mhlaba Street (Andries Pretorius Street), Naval Hill, Bloemfontein, Free State and residing at 25 Dean Lane, Bloemfontein, Free State.
- 7.6. The Sixth Respondent is JOHANNES FREDERICK KLOPPER N.O, ("*Klopper*") in his capacity as business rescue practitioner of the eight Highveld companies, with place of business at Blaauwklippen Office Park 2, Webbers Valley Road, Stellenbosch and residing at 3 Two Oceans View, Somerset West.
- 7.7. The Seventh Respondent is JACQUES DU TOIT N.O in his capacity as business rescue practitioner of the First and Second Respondents, residing in Stellenbosch;

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- 7.8. The Eighth Respondent is DEREK PEDOE COHEN N.O in his capacity as "Receiver" in respect of Orthotouch in the Scheme of Arrangement referred to below, a consultant and director of companies, conducting a business at Ground Floor, Fedgroup House, 89 Bute Lane, Sandown, Sandton.
- 7.9. The Ninth Respondent is HIGHVELD SYNDICATION NO 15 LIMITED ("HS15"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2003/031064/06.
- (This company is currently, like all the other Highveld companies, under business rescue (with Klopper – the Fifth Respondent – the appointed business rescue practitioner), and have their registered offices at the same address at 875 Schoeman Street, Pretoria).
- 7.10. The Tenth Respondent is HIGHVELD SYNDICATION NO 16 LIMITED ("HS16"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2003/03129/06.
- 7.11. The Eleventh Respondent is HIGHVELD SYNDICATION NO 17 LIMITED ("HS17"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2003/025913/06.
- 7.12. The Twelfth Respondent is HIGHVELD SYNDICATION NO 18 LIMITED ("HS18"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2003/030778/06.


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- 7.13. The Thirteenth Respondent is HIGHVELD SYNDICATION NO 19 LIMITED, ("HS19") a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2003/030144/06.
- 7.14. The Fourteenth Respondent is HIGHVELD SYNDICATION NO 20 LIMITED ("HS20"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2005/029425/06.
- 7.15. The Fifteenth Respondent is HIGHVELD SYNDICATION NO 21 LIMITED ("HS21"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2005/027601/06.
- 7.16. The Sixteenth Respondent is HIGHVELD SYNDICATION NO 22 LIMITED ("HS22"), a public company having share capital duly incorporated and registered in terms of the laws of South Africa under registration number 2005/027390/06.
- 7.17. The Seventeenth Respondent is the COMPANIES AND INTELLECTUAL PROPERTY COMMISSION OF SOUTH AFRICA (CIPC) situated in Pretoria.



DEPONENT

I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT WHICH AFFIDAVIT WAS SIGNED AND SWORN TO BEFORE ME IN MY PRESENCE AT

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Stellenbosch ON THIS 2<sup>nd</sup> DAY OF JUNE 2023,  
IN ACCORDANCE WITH GOVERNMENT NOTICE NO. R1258 DATED  
21 JULY 1972, AS AMENDED BY GOVERNMENT NOTICE NO R1648 DATED  
19 AUGUST 1977, AS FURTHER AMENDED BY GOVERNMENT NOTICE NO.  
R1428 DATED 11 JULY 1980, AND BY GOVERNMENT NOTICE NO R774 OF  
23 APRIL 1982.

J. Moollet  
COMMISSIONER OF OATHS



NAME: Yandipwa Moollet  
DESIGNATION: w/o  
ADDRESS: SAPS Du Toit Street  
STELLENBOSCH

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