

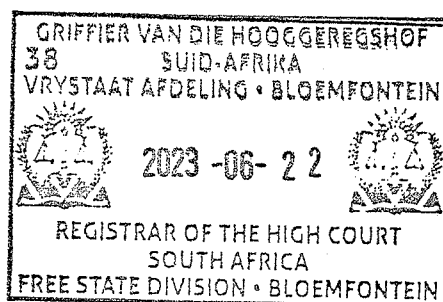
IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE HIGH COURT, BLOEMFONTEIN

Case Number : 3201/2023

In the matter between

FRANCOIS STRAUSS
HENRY ARDEN SMITH

and



First Applicant
Second Applicant

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

NOTICE OF MOTION

TAKE NOTICE that application will be made by the above Applicants to the above Honourable Court – which application is to be heard simultaneously with a similar application in respect of the above First Respondent under case number 3202/2023 for an order in the following terms:

1. That the business rescue proceedings in respect of Second Respondent (“Zephan”) be converted to liquidation proceedings in terms of s 132(2)(a)(ii) of the Act - and that it be placed under final liquidation, alternatively provisional liquidation with a *rule nisi* to be issued calling on all interested parties to show cause why a final order of liquidation should not be granted.
2. That the liquidator/s to be appointed be someone *other* than:
 - The appointed Business Rescue Practitioner in respect of the Zephan (i.e. other than the Seventh Respondent);
 - The appointed Business Rescue Practitioner in respect of the Highveld companies (i.e. other than the Sixth Respondent).
3. That the Chief Master be directed and requested to identify and appoint an appropriate liquidator.
4. That, in so far as Applicants may lack *locus standi* to bring this application, that Applicants be granted leave under section 165(6) of the Act to bring this application on behalf of the Highveld Companies (i.e. Ninth to Sixteenth Respondents respectively) (hereinafter “*the Highveld companies*”).
5. That the cost of this application be cost in the said liquidation

6. That, in the event of this application being opposed, it be ordered that the costs of the application:-
- be paid by all parties who oppose this application, jointly and severally;
 - in the case of the application being opposed by any of the three Respondents that are cited *nomino officio*, that such parties be ordered to pay, jointly and severally, the *costs de bonis propriis*.
 - such costs to be taxed on the scale of attorney and own client.
7. That it be declared, in so far as necessary, in terms of section 133(1)(b) of the Act, that these proceedings against Zephan may commence despite the fact that Zephan is under business rescue.
8. Further and/or alternative relief.

TAKE NOTICE THAT the accompanying affidavit of First Applicant and others will be used in support of this application.

TAKE FURTHER NOTICE THAT if you intend opposing the relief sought, you are required:

- a) to file notice of opposition within 5 (five) days of receiving notice of this application;
- b) and to file your answering affidavits, if any, within 15 (fifteen) days of filing the aforementioned notice of opposition.

If you do not oppose this above relief, application will be brought on **THURSDAY, 10 AUGUST 2023**.

TAKE FURTHER NOTICE THAT a copy of this will also be served on the Master of the above honorable court, the South African Revenue Service, the employees (if any) and the trade union of the employees.

DATED AT BLOEMFONTEIN ON THIS 13th DAY OF JUNE 2023.

THERON & PARTNERS

Attorneys for the Applicants

18 Alexander Street

STELLENBOSCH

TEL: (021) 887 7877

Email: law1@theronlaw.co.za

law3@theronlaw.co.za

clerk4@theronlaw.co.za

info@theronlaw.co.za

C/O MATSEPES ATTORNEYS

28 Aliwal St

Bloemfontein Central

Bloemfontein

TEL: (051 448 3145)

FAX: (051 447 4299)

TO: THE REGISTRAR OF THE FREE STATE HIGH COURT
THE HIGH COURT, BLOEMFONTEIN

AND TO: ORTHOTOUCH (PTY) LTD

1st Respondent

96 Raymond Mhlaba Street (Andries Pretorius Street)

Navalsig

BLOEMFONTEIN

AND TO: ZEPHAN PROPERTIES (PTY) LTD

2nd Respondent

96 Raymond Mhlaba Street (Andries Pretorius Street)

Navalsig

BLOEMFONTEIN

AND TO: LUKE BERNARD SAFFY N.O.

3rd Respondent

First Floor

Honey Chambers

Kenneth Kuanda Drive

Northridge Mall

BLOEMFONTEIN

AND TO: MICHAEL NICOLAS GEORGIU

4TH Respondent

96 Raymond Mhlaba Street (Andries Pretorius Street)

Navalsig

BLOEMFONTEIN

AND TO: GEORGE NICOLAS GEORGIU

5th Respondent

96 Raymond Mhlaba Street (Andries Pretorius Street)

Navalsig

BLOEMFONTEIN

AND TO: JOHANNES FREDERICK KLOPPER N.O

6th Respondent

Blaauwklippen Office Park 2

Webbers Valley Road

STELLENBOSCH

AND TO: JACQUES DU TOIT N.O

7th Respondent

70 Carmine Drive

Burgundy Estate

CAPE TOWN

AND TO: DEREK PEDOE COHEN N.O

8th Respondent

3 Villa Quattro

97 Atholl Road

SANDTON

**AND TO: COMPANIES AND INTELLECTUAL PROPERTY COMMISSION OF
SOUTH AFRICA (CIPC)**

17th Respondent

Block F
the DTIC Campus
77 Meintjies St
Sunnyside
PRETORIA

AND TO: THE EMPLOYEES OF ZEPHAN (PTY) LTD
96 Raymond Mhlaba Street (Andries Pretorius Street)

Navalsig

BLOEMFONTEIN

OR

JACQUES DU TOIT N.O

7th Respondent

70 Carmine Drive

Burgundy Estate

CAPE TOWN

AND TO: THE TRADE UNION OF THE EMPLOYEES OF ZEPHAN (PTY) LTD

96 Raymond Mhlaba Street (Andries Pretorius Street)

Navalsig

BLOEMFONTEIN

OR

JACQUES DU TOIT N.O

7th Respondent

70 Carmine Drive

Burgundy Estate

CAPE TOWN

AND TO: MASTER OF THE HIGH COURT, FREE STATE PROVINCE

57 Charlotte Maxeke Street

Bloemfontein Central

BLOEMFONTEIN

AND TO: SOUTH AFRICAN REVENUE SERVICE

88 Zastron Street

Bloemfontein

