



ENGLISH TEXT BELOW

MAANDELIKSE NUUSBRIEF: JULIE 2024

HIERDIE NUUSBRIEF WORD AAN U GERIG AS LID VAN DIE HOËVELD SINDIKASIE AKSIEGROEP (“HSAG”) OP GROND VAN U BELEGGING IN DIE HOËVELD SINDIKASIEMAATSKAPPYE 15-22 EN/OF U ONDERSTEUNING VAN DIE HSAG.

HIERDIE E-POS IS VERTROULIK EN UITSLUITLIK VIR DIE GEADRESSEERDE HSAG LID BEDOEL. (SIEN ONS VRYWARING HIERONDER)*

HSAG AMPTELIKE NUUSBRIEF – INHOUDSOPGAWE

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1 INLEIDING

Geagte HSAG-lede,

Soos ons deur die uitdagings van ons veeleisende regsgedinge hierdie winter stuur, word ons herinner aan die ongelooflike krag van meelewende samewerking. Net soos 'n enkele saad kan groei in 'n magtige boom, voed elke individuele bydraes ons strewe na geregtigheid. Hierdie uitgawe van ons nuusbrieff delf in beduidende ontwikkelings en gebeurtenisse wat ons gedeelde missie beïnvloed.

In hierdie nuusbrieff verskaf ons gedetailleerde opdaterings oor ons voortgesette litigasie, insluitend die DECA-saak, die CCAF-saak, en onlangse hofuitsprake. Elke afdeling toon ons vasberadenheid en strategiese beplanning om die uitdagings voor ons te oorkom.

Almal se deurlopende ondersteuning en betrokkenheid vorm die kern en wortels van ons stryd. Saam kan ons ons strewes in prestasies omskep en verseker dat geregtigheid seëvier. Dankie vir alle getroue lede se volgehoue verbintenis tot ons gemeenskaplike saak.

Vriendelike groete,

Die HSAG-span.

2 BELANGRIKE KENNISGEWING AAN HS 15-22 BELEGGERS

Die wiele rol! Hieronder is 'n kennisgewing wat in terme van 'n hofbevel, soos verkry deur die HSAG, aan alle HS 15-22 beleggers versend moet word. Die hofbevel is in Engels en daarom word dit so hieronder herhaal. Later in die Nuusbrieff het ons egter 'n vrye vertaling in Afrikaans, ten einde ons Afrikaanse lede behulpsaam te wees. Let egter daarop dat die Engelse bevel die geldende kennisgewing is.

“NOTICE TO ALL INVESTORS IN THE SO-CALLED HIGHVELD SYNDICATION PROPERTY SCHEMES:

You are hereby notified of an application by certain Highveld investors under case number 3201 of 2023 and case number 3202 of 2023 in the Free State High Court, Bloemfontein, to convert the business rescue proceedings in respect of Orthotouch (Pty) Ltd and Zephan Properties (Pty) Ltd to liquidation proceedings under section 132(2)(a)(ii) of the Companies Act of 2008.

The court papers filed in such proceedings are available for reading and download from the website “hsaction.co.za”.

Should you wish to oppose the application under either case number 3201 or 3202 (of 2023) in such court, you are to deliver your opposing affidavit/s on or before 20 August 2024 by filing the same at court and providing a copy thereof to the applicants’ attorneys as well as the attorneys for those parties who are opposing such litigation.

Take note further that you are also deemed to have been effectively joined as parties (Respondents) to such litigation”.

3. WAAR STAAN ONS NOU?

Lede wie ons nuusbriewe die afgelope jare gevolg het sal merk dat daar ‘n afgelope tyd ‘n merkbare verandering plaasgevind het in die litigasie, en dat dinge nou tot ‘n groot mate na ‘n kant toe staan. Sommige mense wie in beheer van “onbeperkte fondse” was kan skielik nie meer na willekeur elke klein dispuut wat hulle kan skep tot op die hoogste vlak vat nie.

Die dag van verrekening kom al nader en uit die kennisgewing hierbo, blyk dit duidelik dat die likwidasië van Orthotouch en Zephan nie alleen nader kom nie, maar dat dit onafwendbaar te wees. Waar al die beleggers se miljarde rande se fondse vroeër wederregtelik gehou, sonder enige rekenkundige rekords vermors en kwaadwillig teen

HS beleggers aangewend was, sal 'n likwidasië proses nie sodanige optrede duld nie. Ons hoef nie die geskiedenis te herhaal nie, maar kan wel opmerk dat daar geweldige veranderinge plaasgevind het in die hofsake, wat eens meedoënloos gedryf was teen ons HSAG beleggers.

In kort het dit beteken dat R4.6 miljard deur beleggers inbetaal was in 'n mislukte eiendoms sindikasië skema, waarvan R3.2 miljard ontvang was sonder enige teenwaarde, naamlik dat die eiendomme wat gekoop was, aan die beleggers se maatskappye, HS 15-22 oorgedra was. Sedert Hans Klopper die BRP beheer gevat het en die aflos stok aan Jacques du Toit oorgegee was, was die beleggers koorsagtig geopponeer en het hul geen waarde vir hul geld ontvang nie. Beide Klopper en Du Toit was beambtes van die reg moes toesien dat geregtigheid seëvier, maar is HSAG lede se standpunt deurlopend dat gemelde persone hul pligte ernstig versaak het om die ongeruimdhede te ontbloot.

Die winde van verandering is egter besig om in Suid-Afrika te waai en is ons vol moed dat geen wandaad ongestraf gelaat sal word nie. Ons vertrou in hierdie baie laat oomblik dat beide Klopper en Du Toit die lig sal sien en hul samewerking sal gee om 'n einde aan die stryd te maak.

Hierna kortlikse terugvoer oor sake wat tans gevoer word:

3.1 DECA (HS 15-22): PRETORIA

Vroeër verlede maand het ons 'n uitspraak ontvang in ons litigasië rakende die Highveld Sindikasië Skema. Die Edele Mevrou Regter Janse van Nieuwenhuizen het 'n uitspraak gelewer wat die uitstel van die aansoek teen die veertiende respondent (Derek Cohen) tot 3 Maart 2025 bevestig, om saam met al die ander respondente aangehoor te word. Hierdie besluit is gefinaliseer in 'n uitspraak wat op 6 Junie 2024 gelewer is, na 'n Saakbestuursvergadering op 24 April 2024, waar die voorlopige sekwestrasie van die boedel van wyle Nic Georgiou bespreek is.

Tydens die Saakbestuursvergadering, bygewoon deur alle litigerende partye, is daar oorweeg of die verhoor kan voortgaan in die lig van die voorlopige sekwestrasie van

wyle Nic Georgiou. Daar is daarna besluit om die verrigtinge uit te stel, 'n besluit wat bevestig is tydens die hofsaak van 13-17 Mei 2024. Ons het voorheen in ons nuusbriewe uiteengesit dat wyle Nic Georgiou en sy afsterwe tot dusver aansienlike vertraging in die aanhoor van ons sake veroorsaak het.

As gevolg van mnr. Nic Georgiou se ontydige dood, sy eksekuteur se dood en die huidige voorlopige sekwestrasie, en al die uitstellings wat daardeur veroorsaak is, is ongelukkig heeltemal buite die beheer van die HSAG of sy regspan. Die regter het voorheen beklemtoon dat die saak nie stuksgewys aangehoor kan word nie. Die fokus van die vergadering was dus vierkantig op die beduidende impak van die voorlopige sekwestrasie van die oorledene se boedel van Nic Georgiou, spesifiek die implikasies daarvan vir ons komende hofverrigtinge.

Die Edele Regter Janse van Nieuwenhuizen se uitspraak stel nou die nuwe datum vir 3 Maart 2025. Hierdie besluit weerspieël die hof se deeglike oorweging van prosedurele vereistes en die noodsaaklikheid vir alle partye om 'n billike geleentheid te hê om hul saak voor te lê.

3.2 CCAF (HS 21-22): PRETORIA

Terwyl ons ons regspad in die CCAF-saak voortgaan, is dit noodsaaklik om ons lede op hoogte te hou van die huidige status en strategiese rigting van ons litigasiepogings. Die boedel van wyle mnr. Nic Georgiou, die eerste respondent, bly onder voorlopige sekwestrasie, wat alle litigasie teen hierdie boedel tydelik tot stilstand gebring het. Hierdie pouse is nodig totdat finale trustees aangestel is, 'n kritieke stap in die bewaring van die boedel se bates en die beskerming van die eise van skuldeisers gedurende hierdie tussentydse periode.

Huidige Status en Komende Verhore

Ons bevind ons tans in 'n situasie waar die finale sekwestrasie van mnr. Georgiou se boedel later vanjaar aangehoor sal word, met die reël *nisi* wat vir later vanjaar vasgestel is. Hierdie verhoor is 'n belangrike aspek in ons saak aangesien dit die toekomstige verloop van ons litigasie teen die eerste respondent sal bepaal.

Daarbenewens is daar 'n hangende appèl teen die voorlopige sekwestrasie wat vroeër vanjaar toegestaan is, rakende die aansluiting van die laat Nic Georgiou se Trust. Hierdie appèl frustreer verder die verrigtinge en beklemtoon die noodsaaklikheid om die finalisering van die sekwestrasieproses af te wag.

Die implikasies van hierdie voorlopige sekwestrasie is beduidend. Aangesien mnr. Georgiou een van die hoofrespondente in die CCAF-saak is, is die oplossing van sy boedel se status noodsaaklik voordat ons met litigasie teen hom persoonlik kan voortgaan. Die hangende appèl en die komende verhoor oor die finale sekwestrasie is gevolglik kritieke draaipunte wat ons noukeurig moet oorweeg om te verseker dat ons saak effektief voortgaan.

Momentum Handhaaf te midde van Uitdagings

Ten spyte van hierdie uitdagings wil ons ons lede verseker dat ons vasberadenheid om geregtigheid te soek onveranderd bly. Terwyl die sekwestrasie van Nic Georgiou se boedel 'n tydelike pouse in ons aksies teen hom noodsaak, gaan die HSAG-regspan voort om litigasie teen die ander respondente te vervolg.

Ons verstaan dat die voorlopige sekwestrasie en die hangende appèl moontlik kommer oor potensiële vertragings en die algehele vordering van ons saak kan wek. Ons is egter gereed om hierdie struikelblokke te hanteer en bly gefokus op die bereiking van 'n gunstige uitslag. Ons benadering is duidelik: sodra die finale trusteees aangestel is en hul gesag bevestig is, sal ons gereed wees om litigasie teen mnr. Georgiou se boedel te hervat. Intussen sal ons pogings teen die ander respondente voortgaan.

3.3 OORPLASINGAANSOEK (JHB NA PTA): JOHANNESBURG

In ons volgehoue strewe na geregtigheid vir die HSAG-lede, was een verdere regsontwikkeling ons Oorplasingaansoek, waar 'n Aansoek om Verlof tot Appèl ingedien is teen die uitspraak wat teen die HSAG toegestaan is. Hierdie aansoek het beoog om die Hoofaansoek (Tersydestelling van die S155 Skema van Reëling) van die Johannesburgse Hooggeregshof na die Pretoria Hooggeregshof te skuif. Die

rasionaal agter hierdie versoek was duidelik: die aansienlike oorvleueling in feite en regs kwessies tussen hierdie saak en die verwante DECA-aansoek het 'n gekonsolideerde verhoor geregverdig om duplisering te vermy en konsekwente uitsprake te verseker.

Die Hoofaansoek en die DECA-saak behels albei die Highveld Syndikasie 15-22 maatskappye, en fokus op kwessies van finansiële wanbestuur, verbreking van fidusiêre pligte en onetiese gedrag deur maatskappybestuurders. Ons argument het die gerief en toepaslikheid beklemtoon van die aanhoor van beide sake in die Pretoria Hooggeregshof, wat tyd en hulpbronne sou bespaar en die geregtelike proses sou stroomlyn. Ons het ook die hof verseker dat geen benadeling uit die oorplasing sou voortspruit nie.

Haar Edele Regter Crutchfield se Uitspraak

Ten spyte van die dwingende redes wat aangevoer is, het Haar Edele Regter Crutchfield op 14 Mei 2024 'n uitspraak gelewer wat ons Oorplatingsaansoek geweier het. Die uitspraak, na 'n verhoor op 22-23 Januarie 2024, het die aansoek van die hand gewys. Soos in vorige nuusbriewe bespreek, gee ons hieronder 'n uiteensetting van ons gronde vir die appèl, wat sleutel aspekte beklemtoon wat ons glo 'n redelike vooruitsig op sukses bied.

Verskil van Applikante

Een van die primêre punte van twis in die uitspraak is die bewering dat die applikante in die Oorplatingsaansoek "verskil" van dié in die Smith (DECA) aansoek. Terwyl dit algemene kennis is dat beide stelle applikante lede van die HSAG is, is hulle deur die HSAG genomineer om as nominale applikante op te tree. Ons argumenteer dat hierdie gemeenskaplike verteenwoordiging nie die idee van verskil regverdig nie.

Relevansie van Oorvleuelende Faktore

Die uitspraak het die relevansie van oorvleuelende faktore tussen die stukke wat in die Tersydestelling en die Smith Aansoek ingedien is, van die hand gewys. Met respek

voer ons aan dat hierdie oorvleuelende kwessies ernstige bewerings bevat wat hoogs relevant en deurslaggewend is vir die beregting van beide aansoeke. Die ignorering van hierdie faktore ondermyn die omvattende oorweging wat nodig is vir 'n billike uitspraak.

Konsolidasie Bede

Die afwesigheid van 'n bede vir die konsolidasie van die Tersydestelling aansoek met die DECA-aansoek is as 'n beduidende oorsig beskou. Ons glo dat 'n ander hof sou moontlik bevind het dat so 'n konsolidasie slegs deur die Pretoria Hooggeregshof toegestaan kon word sodra die saak oorgedra is. Hierdie oorsig kon die uitspraak verkeerdelik beïnvloed het.

Kennisgewing aan Betrokke Partye

Die vereiste vir die applikante om kennis te gee aan betrokke partye van die Oorplasingaansoek is deur die hof as noodsaaklik beskou. Ons argumenteer dat hierdie kennisgewing onnodig was aangesien die regte van hierdie partye om die Tersydestelling Aansoek teë te staan nie negatief deur die oorplasing binne dieselfde afdeling van die hof beïnvloed sou word nie. Hierdie prosedurele vereiste het 'n onnodige las op die applikante geplaas.

Impak op Skema van Reëling

Die uitspraak het verklaar dat die oorplasing, indien toegestaan, nie die S155 Skema van Reëling sou beïnvloed nie. Ons voer aan dat die uitdruklike bepalings van die Skema van Reëling die aanvaarding daarvan heeltemal afhanklik maak van die sanksionering deur 'n hofbevel. Hierdie punt is nie voldoende oorweeg in die aanvanklike uitspraak nie.

Relevansie van Skikking

Die uitspraak het die relevansie van die skikking deur sommige vorige applikante van hul eise met Nic Georgiou opgemerk. Ons argumenteer dat vir 'n geldige

Oorplasingaansoek, slegs een Aansoeker behoorlik voor die hof moes wees. Hierdie oorweging moes nie die algehele besluit beïnvloed het nie.

Adres van Eerste Respondent

Die relevansie van die Eerste Respondent (Orthotouch) se adres in Fourways is oorweeg ten spyte daarvan dat dit 'n korporatiewe entiteit in besigheidsredding sedert 2019 is. Ons argumenteer dat hierdie punt moot is aangesien die besigheidsreddingspraktisyn (wat in Kaapstad werk) nie die Oorplasingaansoek teengestaan het nie.

Vertraging in Smith Aansoek

Die potensiële vertraging in die Smith Aansoek as gevolg van die oorplasing is as 'n bekommernis genoem. Dit is egter belangrik om daarop te let dat die Smith Aansoek steeds nie tot Maart 2025 aangehoor sal word nie, wat hierdie punt minder beduidend maak as wat voorgestel is.

Nakoming van Spilg J se Bevel

Die HSAG applikante is deur die Regter genoem vir nie-nakoming van Regter Spilg se bevel rakende kennisgewing. Ons voer aan dat hierdie kennisgewing die datum van die aanhoor van die Tersydestelling Aansoek moes insluit, wat nie bepaal kon word totdat die aanhoordatum vasgestel is nie. Dus was die kennisgewing voortydig.

Relevansie van Nie-Kennisgewing en Bestraffende Kostebevel

Die nie-kennisgewing is relevant geag tot die skaal van die koste bevel, en 'n bestraffende kostebevel is uitgereik. Ons voer aan dat geen bestraffende kostebevel geregverdig was nie, en enige kostebevel moet ontstaan tot die aanhoor van die Tersydestelling Aansoek.

Gronde vir Appèl

Na hierdie terugslae het ons HSAG-regspan onmiddellik 'n aansoek om verlof tot appèl teen Regter Crutchfield se besluit ingedien. Die gronde vir ons appèl sluit in:

Oorvleuelende Faktore

Ons voer aan dat die oorvleuelende kwessies tussen die Tersydestelling en DECA aansoeke hoogs relevant is en krities vir 'n omvattende beregting. Die ignoreer van hierdie faktore ondermyn die integriteit en doeltreffendheid van die geregtelike proses.

Verskil van Applikante

Ons argumenteer dat die gemeenskaplike verteenwoordiging van HSAG-lede in beide sake nie as 'n verskil gesien moet word wat die weiering van die oorplasing regverdig nie.

Gerief en Doeltreffendheid

Die logistieke en praktiese oorwegings wat die Pretoria Hooggeregshof bevoordeel, is nie voldoende in die uitspraak aangespreek nie. Die oorplasing sou doeltreffende saakbestuur fasiliteer en potensiële botsende uitsprake vermy.

Kennisgewing Vereistes

Ons glo die prosedurele vereistes rakende kennisgewing aan belanghebbende partye is verkeerd geïnterpreteer. Die kennisgewing moet in lyn wees met die aanhoordatum, wat nie vasgestel kon word sonder dat die oorplasing toegestaan is nie.

Komende Appèlverhoor

Ons appèlverhoor is geskeduleer vir 29 Julie 2024 voor Regter Crutchfield via MS Teams. Hierdie virtuele verhoorreëling strook met ons voorkeur en fasiliteer deelname sonder die noodsaaklikheid vir reis. Ons is deeglik voorbereid om ons saak voor te lê, met klem op die redelike vooruitsig op sukses in die appèl.

Die appèl verteenwoordig 'n kritieke geleentheid om die argumente te heroorweeg en 'n gunstige uitspraak te soek wat die onderling verbonde aard van ons sake erken. Ons bly vol vertroue in ons regs-strategie en verbind tot die strewe na geregtigheid vir al die HSAG-lede.

3.4 Tersydestelling Aansoek: JOHANNESBURG

Brief aan die Edele Adjunk-Regterpresident Sutherland

Weens verskeie kommersiële en tydverwante oorwegings, en met die oog op die komende DECA-verhoor in Maart 2025, het ons formeel die Adjunk-Regterpresident Sutherland van die Gautengse Plaaslike Afdeling versoek om die saak aan die Kommersiële Hof toe te wys vir 'n bespoedigde verhoor voor die einde van 2024.

Die versoek beoog om die Reëlinskema wat Orthotouch en 26 ander respondente betrek, te laat ter syde stel in die kommersiële hof, 'n gespesialiseerde hof geskep vir slegs kommersiële sake. Dit het betrekking op die Highveld-sindikasieskemas en behels beleggings van meer as R4.6 miljard van meer as 18,000 beleggers landwyd.

Alle nodige dokumentasie in die Tersydestelling Aansoek is ingedien, met die uitsondering van die respondente se hoofde van argument. Die geopponeerde aansoek, ondersteun deur byna 'n duisend bladsye hofstukke en bekommernisse oor Orthotouch se versuim om skemaverpligtinge sedert 2018 na te kom, word bemoelijk deur daaropvolgende besigheidsreddingsprosesse. Sleutelgronde vir die Tersydestelling van die Reëlinskema sluit beweerde nie-openbaarmakings aan beleggers en prosedurele gebreke tydens hof sanksionering in.

Die dringendheid vir Kommersiële Hof jurisdiksie spruit voort uit die saak se kompleksiteit in maatskappyreg en kontrakbeginsels onder die Maatskappywet van 2008. Boonop het dit 'n direkte impak op verwante litigasie en oorvleuelende partye, wat tydige oplossing vereis om regsverwikkelinge en beweerde vertragingstaktieke deur sommige respondente te vermy.

Ten spyte van prosedurele verdragings, insluitend uitstaande antwoorde en hoofde van argument van die opponerende partye, beklemtoon ons HSAG-regspan die kritieke behoefte aan 'n vinnige oplossing, en pleit vir prosedurele billikheid en geregtelike doeltreffendheid binne die Kommersiële Hof se saakbestuursraamwerk. Die brief beklemtoon die belangrikheid om verrigtinge te bespoedig gegewe die aansienlike finansiële en regsimplikasies wat op die spel is.

Ten slotte het ons met respek versoek dat ons saak aan die Kommersiële Hof toegewys word, en die ingewikkelde kommersiële aard daarvan en die noodsaaklikheid van 'n vinnige oplossing te midde van voortgesette regsverwikkelinge en strategiese maneuvers benadruk.

Alternatiewelik is oorweeg indien die Oorplasingaansoek suksesvol is, sal die Tersydestelling Aansoek na die Pretoria Hooggeregshof oorgedra word en 'n aansoek deur die HSAG gedoen word om hierdie saak met die DECA-saak te konsolideer. As die saak egter na die Kommersiële Hof verwys word, sal 'n gespesialiseerde hof die saak waarskynlik vroeër as die DECA-saak kan aanhoor.

In die Tersydestelling Aansoek het ons HSAG-regsadviseurs reeds hul hoofde van argument ingedien, wat verskeie sleutelkwessies in die saak uiteensit.

Eerstens beklemtoon die HSAG-advokaat kommer oor die gedrag van amptenare by belangrike vergaderings van die voormalige HS-maatskappye, waar goedkeuringsbesluite onder sekere omstandighede geneem is. Beweerde prosedurele onreëlmatighede en onopgeloste dispute werp twyfel op die legitimiteit van hierdie goedkeuringsprosesse.

'n Ander belangrike punt wat geopper is, is die jurisdiksie-kwessie. HSAG-advokaat voer aan dat die skema deur 'n onvanpaste hof gesanksioneer is, in stryd met die gespesifiseerde jurisdiksie wat in die skema se dokumentasie uiteengesit is. Hierdie teenstrydigheid daag die geldigheid van die hof se gesag uit in die goedkeuring van sulke beduidende finansiële reëlings.

Verder voer die HSAG-advokaat aan dat die nietigverklaring van die hof se sanksioneringsbevel logies die hele skema ongeldig sal maak. HSAG-advokaat beklemtoon die skema se afhanklikheid van geregtelike goedkeuring, en stel voor dat die herroeping van die sanksioneringsbevel belanghebbendes na 'n pre-skema status sal laat terugkeer.

In reaksie op hierdie eise het Orthotouch 'n voorwaardelike teen eis ingedien, wat daarop gemik is om die skema te handhaaf en, paradoksaal, terugbetaling van beleggers te eis indien die skema nietig verklaar word. Hierdie teen eis voeg kompleksiteit by tot die regsdinge en beklemtoon die botsende belange wat betrokke is.

Nadat hulle hul hoofde van argument ingedien het, voer die HSAG-advokaat aan dat hulle gereed is vir die naderende regsdinge. Die hof staan nou voor die taak om hierdie argumente onpartydig te evalueer, hul regsrag teen die breër implikasies vir korporatiewe bestuur en die beskerming van beleggers in Suid-Afrika op te weeg.

3.5 LIKWIDASIE-AANSOEK: BLOEMFONTEIN

Hiermee verskaf ons aan u 'n opdatering oor die nuutste regsverwikkelinge rakende die Likwidasië-aansoek wat Orthotouch (Edms) Bpk en Zephan Properties (Edms) Bpk by die Vrystaat Hooggeregshof, Bloemfontein betrek (sien kennisgewing aan alle HS 15-22 beleggers hierbo en hier onder).

Die HSAG het op 18 Julie 2024 'n aansoek ingedien om 'n bevel te verkry op die volgende basis. Hierdie aansoek poog om, indien en waar nodig, bykomende partye, spesifiek beleggers verbonde aan die Highveld 21 en Highveld 22-maatskappye, in te sluit. Hierdie beleggers, wat ingeskryf het in die klasaksie teen Zephan, is relevant om 'n omvattende verteenwoordiging in hierdie litigasieproses te verseker.

Die Voegingsaansoek het 'n kennisgewing aan hierdie beleggers ingesluit en ook meganismes vir hul effektiewe deelname verskaf. Soos in ons Kennisgewing van Mosie uiteengesit, sal HS-beleggers kennisgewings onder andere via e-pos en deur

aangewese prokureursfirmas ontvang. Hierdie kennisgewing sal ook op die HSAG-webwerf gepubliseer word by: <https://hsaction.co.za> (klik hier):

*Vrye vertaling

**Kennisgewing aan alle beleggers in die sogenaamde Highveld Syndikasie Eiendoms Skemas:

U word hiermee in kennis gestel van 'n aansoek deur sekere Highveld beleggers onder saaknommer 3201 van 2023 en saaknommer 3202 van 2023 in die Vrystaat Hooggeregshof, Bloemfontein, om die besigheidsreddingsverrigtinge ten opsigte van Orthotouch (Edms) Bpk en Zephan Properties (Edms) Bpk om te skakel in likwidasiëverrigtinge kragtens artikel 132(2)(a)(ii) van die Maatskappywet van 2008.

Die hofstukke wat in sulke verrigtinge ingedien is, is beskikbaar vir lees en aflaai vanaf die webwerf "hsaction.co.za".

Indien u die aansoek onder een van die saaknommers 3201 of 3202 (van 2023) in sodanige hof wil teenstaan, moet u u opponerende beëdigde verklaring(e) op of voor 20 Augustus 2024 lewer deur dieselfde by die hof in te dien en 'n afskrif daarvan aan die applikante se prokureurs sowel as die prokureurs vir daardie partye wat sulke litigasië teenstaan, te verskaf.

Neem verder kennis dat u ook geag word om effektief aangesluit te wees as partye (Respondente) tot sodanige litigasië".

Verder het Applikante versoek dat HS-beleggers formeel aangesluit word as Respondente in die Hoofaansoek. Hierdie versoek is deur die hof goedgekeur. Dit beteken dat hulle geag word om partye in die saak te wees, en toekomstige hofstukke sal hulle as sodanig insluit.

Die Bevel sluit ook 'n konsep van die kennisgewing in wat aan beleggers gestuur moet word, wat hulle inlig oor die aansoek om besigheidsreddingsverrigtinge van

Orthotouch (Edms) Bpk en Zephan Properties (Edms) Bpk om te skakel in likwidasië verrigtinge (sien hierbo).

Ten slotte bepaal die Kennisgewing dat enige partye wat die aansoek wil teenstaan, dit moet doen deur 'n kennisgewing van teenkantië teen 20 Augustus 2024 in te dien en hul antwoordende beëdigde verklarië binne tien dae na die gee van kennis van hul voorneme om te teenstaan, te verskaf.

Die Voegingsaansoek is op 18 Julie 2024 aangehoor waarop uitspraak ten gunste van die HSAG toegestaan is vir potensiële krediteure om aangesluit te word.

Die BRP, mnr. Jacques du Toit, is ook deur die Hofbevel opdrag gegee om sy opponerende beëdigde verklarië in hierdie sake in te dien.

Daarna sal ons voortgaan om 'n datum vir die aanhoor van die likwidasië-aansoek te verkry.

4. BLY OP HOOGTE: HSAG-WEBWERF

Soos voorheen, wil ons u ingelig en op hoogte hou van al die jongste verwickelinge in ons voortgesette regsdinge. Om hierdie proses te stroomlyn en te verseker dat u toegang het tot belangrike inligting, nooi ons u weer uit om ons toegewyde HSAG Action-webwerf te besoek. Hierdie platform bevorder die HSAG se saak onder sy lede en dien as 'n omvattende stasie vir hofstukke, uitsprake en opdaterings rakende ons verskeie regsdinge.

Op die HSAG Action-webwerf sal u inligting en amptelike dokumente vind wat betrekking het op ons sake en onder andere soos: die Likwidasië Aansoeke van Orthotouch en Zephan, Tersydestelling van die Skema van Reëling, Smith (DECA) Aansoek, CCAF Aansoek en die Oorplasingaansoek .

Ons webwerf word van tyd tot tyd opgedateer met nuwe dokumente en inligting soos dit beskikbaar word, wat verseker dat u betyds toegang het tot alle tersaaklike besonderhede. Deur die HSAG Action-webwerf te besoek, kan u ingelig bly en

betrokke wees by die voortgesette regsdinge. Indien u iets benodig wat nie op die webwerf is nie, kontak asseblief ons kantore vir bystand.

Dankie vir u volgehoue ondersteuning en vertrouwe in ons pogings.

5. U POSISIE AS 'N BELEGGER IN ONS REGSGEDINGE

Oor die afgelope paar maande het ons versoeke van beleggers ontvang wat duidelikheid oor hul posisie in die voortdurende litigasie rakende die verskillende maatskappye soek. Soos hierbo genoem is ons tans betrokke by die likwidasië-aansoeke van Orthotouch en Zephan, die Tersydestelling van die Skema van Reëling, die DECA-aansoek, die CCAF-aansoek en die Oorplasingaansoek . Hierdie afdeling sal poog om 'n mate van duidelikheid te bring rakende die posisie van beleggers in die voortgesette litigasieprosesse. Al die litigasie wat hangende is teen ons opponente het een aspek in gemeen, naamlik om duidelikheid te kry oor die miljarde rande wat HS 15-22 beleggers in die HS-maatskappye belê het, wat met daardie fondse gebeur het en om daardie fondse te verhaal.

Smith (DECA) Aansoek

Die DECA Aansoek is die Hoofaansoek in hierdie aangeleentheid. Die verligting wat in hierdie aansoek gesoek word, is dat alle beleggers in die agt

HS 15-22 maatskappye hul beleggingsgelde terugontvang. Hierdie aansoek word gebring vir verligting teen die Georgiou-groep van persone van maatskappye sowel as ander. Eerstens, om te verklaar dat die Georgiou-groep van maatskappye skade aan die beleggers veroorsaak het en tweedens, dat genoemde skade vergoed moet word.

CCAF (HS 21-22) Aansoek

CCAF en DECA loop langs soortgelyke lyne, maar CCAF is slegs van toepassing op HS21-22 waarin terugkoop-ooreenkomste destyds vir beleggers bestaan het. Die

verligting is essensieel dieselfde as met DECA, maar die gronde vir verligting is kontraktueel van aard en nie skadegebaseer nie.

Tersydestelling Aansoek

Soos voorheen aangedui, is die Skema van Reëling ingevolge S155 van die Maatskappywet tussen 'n gedeelte van die HS-beleggers en die eerste Besigheidsreddingspraktisyn (BRP) van die HS-maatskappy, mnr. Hans Klopper, aangegaan. Dit het essensieel die regte van beleggers verwater en minder kriminele aanspreeklikheid vir die Georgiou-groep van maatskappy en persone voorsien. Die SoA het die eiendomme in 'n enkele entiteit bekend as Orthotouch verskuif. Die SoA is nooit nagekom nie en gevolglik is Orthotouch en Zephan onder Besigheidsredding geplaas.

Die noodsaaklikheid vir die Tersydestelling van die SoA spruit voort uit die feit dat die reëling steeds van krag is, al is besigheidsreddingsverrigtinge op die maatskappy self ingestel. Ons beskou dit daarom as 'n verdere baksteenmuur tussen beleggers en hul geld wat deur die Tersydestelling van die SoA neergehaal moet word.

Likwidasië Aansoeke

Na ons mening, en soortgelyk aan die S155 SoA, is die Besigheidsredding van Orthotouch en Zephan bloot 'n verdere baksteenmuur wat neergehaal moet word aangesien die bestaan daarvan eerstens met die SoA onmoontlik is aangesien twee regsinnige ooreenkomstige eiendom reguleer. Soortgelyk aan die SoA, verwater die Besigheidsreddingsplan (BRP) net verder die regte van beleggers tot hul eie geld en bied beter anonimiteit aan die Georgiou-groep van maatskappy en persone. Om hierdie rede moet hierdie muur ook neergehaal word en die beste manier om dit te doen na ons mening is 'n omskakelingsaansoek van besigheidsredding na likwidasië.

Waar laat dit u as 'n belegger?

Dit laat HS-beleggers in die volgende posisie: alle HS-beleggers is aandeelhouers in die onderskeie agt HS 15-22 maatskappye, afhangend van in watter sindikasië

maatskappy elke belegger belê het. As gevolg van die eerste Besigheidsredding is die agt HS 15-22 maatskappye die aandeelhouders van Orthotouch en Zephan (wat tans onder Besigheidsredding is).

Indien die Tersydestelling Aansoek van die S155 sowel as die likwidasië-aansoek suksesvol is, sal dit die gevolg hê dat 'n likwidateur oor hierdie twee maatskappye aangestel sal word met die magte om bates van hierdie twee maatskappye te verkry, wat op hul beurt gebruik sal word om die skuldeisers te betaal naamlik, HS 15-22 wat op sy beurt in 'n posisie sal wees om die beleggers, wat u is, terug te betaal.

Sowel die CCAF as DECA-aansoek sal aktief bly, tesame met die likwidasië-aansoek, om te verseker dat die eise van die beleggers intak bly.

6. UIT DIE PERS SE BEK

Hierdie artikels het in Engels verskyn en word as sulks deur gegee

Article: South Africa's biggest shopping mall's owner in serious trouble

A journalist from BusinessTech published this article on 17 July 2024 where the article discusses Accelerate Property Fund, the owner of Fourways Mall in South Africa, is facing significant financial difficulties due to delays in finalising its audited financial statements, raising concerns of a possible suspension from the Johannesburg Stock Exchange. Additionally, the fund is struggling with low rentals and high vacancies at Fourways Mall, compounded by controversial business practices and recent significant share transactions involving Investec. We have provided a summary of the article below, which some HSAG members may find interesting

Accelerate Property Fund (APF), the owner of South Africa's largest shopping centre, Fourways Mall, is facing significant financial and operational difficulties. The company recently informed shareholders of another delay in finalising its audited annual

financial statements. This marks the third postponement since its initial announcement on 27 June 2024, when it first delayed the release of its financial results for the year ended 31 March 2024.

The Johannesburg Stock Exchange (JSE) has taken a dim view of these continual delays. Accelerate's failure to meet the three-month period stipulated in the JSE's listings requirements has resulted in its listing being annotated with a 'RE' for late submission of statements. The JSE has warned that if the financial statements are not submitted by 31 July 2024, Accelerate's listing may be suspended.

Compounding these issues are significant challenges with APF's major investment, Fourways Mall. The mall has been struggling with low rentals and poor financial performance, with vacancies increasing from 14,349 square meters in March 2023 to 15,109 square meters six months later. The net rent per square meter has declined from R298 in 2020 to R262 in 2023, and the mall's fair value has dropped from R4.8 billion in 2020 to R4.02 billion in 2023.

Jean Pierre Verster, founder and CEO of Protea Capital Management, has highlighted additional concerns about the fund's business practices, including material related-party transactions and the purchase of properties from companies owned by its founder. These practices have raised red flags for investors.

Moreover, a recent significant share transaction involving Investec has added to the fund's woes. On 21 May 2024, Investec acquired an 8.02% beneficial interest in the company's shares following a lending arrangement. This acquisition followed the sale of 107 million shares by director Michael Georgiou, likely linked to a defaulted loan.

With ongoing financial difficulties and questionable business practices, the future of Accelerate Property Fund remains uncertain.

Here is the link to the article:

<https://businesstech.co.za/news/property/782961/south-africas-biggest-shopping-malls-owner-in-serious-trouble/>

***VRYWARING**

As u dit per ongeluk / verkeerdelik 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 onakkurate inligting of enige veranderinge van u persoonlike en/of kontakbesonderhede asook dat die inhoud van u maandelikse state korrek is.

7. BELANGRIK: GEBRUIK VAN KORREKTE REKENINGNOMMERS EN VERWYSINGS.

HSAG lede wie in beide HSAG en CCAF is, moet asseblief by beide die HSAG en CCAF se epos-adresse enige verandering aanmeld, hetsy afsterwe van 'n lid, verandering van 'n e-pos-adres, selfoonnommer of woonadres.

Lede word daaraan herinner om te let op die verwysingsnommers soos vervat op hul state. Opvragings moet deur lede in die korrekte rekening inbetaal word met die korrekte verwysingsnommer daarby aangeheg. Die tyd, moeite en administrasie wat dit die HSAG se regsplan kos om elke foutiewe betaling te korrigeer ly daartoe dat die HSAG saak onnodig duur word.

Rekeningnommers en verwysings word op elke staat aangebring en ons versoek dat lede asseblief hul state noukeurig deurgaans maak wanneer hulle betalings maak.

Indien jy jou bedrag in 'n verkeerde rekening inbetaal het, stuur 'n e-pos met 'n versoek om die bedrag na die korrekte rekening oor te dra, en onthou om jou bewys van betaling by die e-pos aan te heg.

Indien u die bedrag in bv. CCAF Trustrekening 3 inbetaal het, maar die bedrag was bedoel vir u HSAG Trustrekening 2, of anders om.

Betalings verkeerd in CCAF betaal, stuur e-pos na admin@ccaf.co.za.

Betalings verkeerd in HSAG betaal, stuur epos aan hsactiongroup@gmail.com

8. ALGEMENE NAVRAE

'n Navraag wat ons gereeld kry is aangaande oordrag van aandele, na 'n geliefde se afsterwe. Ons wil almal graag herinner dat dit deur Orthotouch gedoen word. Dit 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 dit in besigheidsredding 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.

Oor jare het sommige mense se eise vermeerder tot 'n bedrag groter as die aanvanklike beleggings wat in die Hoëveld Sindikasie belê is, weens die feit dat hulle onder andere beleggings vanaf hulle ouers die geërf het. Lede moet baie seker maak dat hulle dokumente en sertifikate wat die oordrag bewys lewer, aangesien dit uiteindelik by die bewys van die verhoogte eisbedrag gaan nodig word. Op hierdie

stadium aanvaar ons mense se waarde van hul belegging op grond van hul skriftelike bewyse.

Laastens, neem asseblief kennis dat indien geen betalings oor 'n lang tydperk deur u gemaak is nie, dit moontlik is dat vorige trustopvragings en betalings nie op die staat gereflekteer kan word nie.

9. 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 (Bv. – selfoon of adres veranderinge, betalingsbewyse, betalings foutiewelik in HSAG Trust Rek 2 betaal het, foutiewe verwysing gebruik het ensovoorts);
- **hsagenquiries@gmail.com** vir Spesifieke Navrae (Bv. – navrae rakende besonderhede van 'n spesifieke belegger, navrae rakende kwytstelling van 'n spesifieke belegger, ensovoorts);
- **hsagregister@gmail.com** vir die Registrasie en Deregistrasie (indien 'n lid uit die klas-aksie wil onttrek), sowel as kennis van lede wie gesterf het;
- **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, foutiewe verwysing op betalings bewyse;

- **admin@ccaf.co.za** vir die amptelike versoek vir afbetaling-vorm, sowel as onttrekkings, betalings foutiewelik aan CCAF Trust Rek 3 , onttrekking uit CCAF;
- **enquiries@ccaf.co.za** vir ander CCAF navrae, bv. navrae oor state wat nie ontvang is nie.
- 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.

10. 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 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: JULY 2024

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. (SEE OUR DISCLAIMER HEREUNDER)

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.

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1 INTRODUCTION

Dear HSAG members,

As we steer through the challenges of our demanding legal journey this winter, we are reminded of the incredible power of compassionate collective effort. Just as a single seed can grow into a mighty tree, every individual contribution nourishes our quest for justice. This edition of our newsletter delves into significant developments and events that impact our shared mission.

In this newsletter, we provide detailed updates on our ongoing litigation, including the DECA case, the CCAF case, and recent court rulings. Each section showcases our determination and strategic planning to overcome the challenges before us.

Your continuous support and engagement form the centre and roots of our struggle. Together, we can transform our aspirations into achievements and ensure that justice prevails. Thank you for every loyal member's continued commitment to our shared cause.

Warm regards,

The HSAG Team.

2 IMPORTANT NOTICE TO ALL HS 15-22 INVESTORS (see hereunder)

The wheels are turning! Below is a notice that, in terms of a court order obtained by the HSAG, must be sent to all HS 15-22 investors.

“NOTICE TO ALL INVESTORS IN THE SO-CALLED HIGHVELD SYNDICATION PROPERTY SCHEMES:

You are hereby notified of an application by certain Highveld investors under case number 3201 of 2023 and case number 3202 of 2023 in the Free State High Court, Bloemfontein, to convert the business rescue proceedings in respect of Orthotouch (Pty) Ltd and Zephan Properties (Pty) Ltd to liquidation proceedings under section 132(2)(a)(ii) of the Companies Act of 2008.

The court papers filed in such proceedings are available for reading and download from the website "hsaction.co.za".

Should you wish to oppose the application under either case number 3201 or 3202 (of 2023) in such court, you are to deliver your opposing affidavit/s on or before 20 August 2024 by filing the same at court and providing a copy thereof to the applicants' attorneys as well as the attorneys for those parties who are opposing such litigation.

Take note further that you are also deemed to have been effectively joined as parties (Respondents) to such litigation".

3 WHERE ARE WE NOW?

Members who have followed our newsletters over the past few years will notice that recently there has been a noticeable change in the litigation, and that things are now largely at a standstill. Some people who were in control of 'unlimited funds' suddenly can no longer arbitrarily take every small dispute they can create to the highest level.

The day of reckoning is approaching, and from the notice above, it is clear that the liquidation of Orthotouch and Zephan is not only approaching but seems inevitable. Where previously all investors' billions of rands were unlawfully held, wasted without any accounting records, and maliciously used against HS investors, a liquidation process will not tolerate such actions. We do not need to repeat the history but can note that there have been significant changes in the court cases that were once ruthlessly driven against our HSAG investors.

In short, this means that R4.6 billion was paid in by investors into a failed property syndication scheme, of which R3.2 billion was received without any value in return, namely that the properties purchased were not transferred to the investors' companies, HS 15-22. Since Hans Klopper took control as the BRP and the baton was passed to Jacques du Toit, the investors have been feverishly opposed and received no value for their money. Both Klopper and Du Toit, as officers of the court, were supposed to ensure that justice prevailed, but it is the ongoing stance of HSAG members that these individuals seriously neglected their duties to expose the irregularities.

However, the winds of change are blowing in South Africa, and we are hopeful that no wrongdoing will go unpunished. We trust, at this very late moment, that both Klopper and Du Toit will see the light and cooperate to bring an end to the struggle.

Here is a brief update on current cases:"

3.1 DECA (HS 15-22): PRETORIA

Earlier last month, we received judgment in our litigation involving the Highveld Syndication Scheme. The Honourable Madam Justice Janse van Nieuwenhuizen has issued a judgment confirming the postponement of the application against the fourteenth respondent (Derek Cohen) to 3 March 2025, to be heard alongside together with all the other Respondents. This decision was finalised in a judgment handed down on 6 June, 2024, following a Case Management Meeting on 24 April, 2024, where the provisional sequestration of the estate of the late Nic Georgiou was discussed.

During the Case Management Meeting, attended by all litigating parties, it was deliberated whether the trial could proceed in light of the provisional sequestration of the Late Nic Georgiou. It was subsequently decided to postpone the proceedings, a decision reaffirmed during the court session from 13-17 May 2024. We have previously

set out in our newsletters, that the Late Nic Georgiou and his passing away have so far caused considerable delays in the hearing of our matters.

Due to Mr Nic Georgiou's untimely death, his executor's death and the current provisional sequestration and all of the postponements due to it, are unfortunately completely outside the HSAG or its legal team's control. The judge previously emphasised that the matter cannot be heard on a piecemeal basis. The focus of the meeting was therefore squarely on the significant impact of the provisional sequestration of the deceased estate of Nic Georgiou, specifically its implications for our upcoming court proceedings.

The Honourable Justice Janse van Nieuwenhuizen's ruling now sets the new date for 3 March 2025. This decision reflects the court's careful consideration of procedural requirements and the need for all parties to have a fair opportunity to present their case.

3.2 CCAF (HS 21-22): PRETORIA

As we continue our legal journey in the CCAF case, it is crucial to update our members on the current status and strategic direction of our litigation efforts. The estate of the late Mr. Nic Georgiou, the first respondent, remains under provisional sequestration, which has put all litigation against this estate on temporary hold. This pause is necessary until final trustees are appointed, a critical step in preserving the estate's assets and protecting the claims of creditors during this interim period.

Current Status and Upcoming Hearings

We are currently in a situation as the final sequestration of Mr. Georgiou's estate is scheduled to be heard later this year, with the rule nisi set down for later this year. This hearing is an important aspect in our case as it will determine the future course of our litigation against the first respondent. Additionally, an appeal is pending against the provisional sequestration granted earlier this year, regarding the joining of the late Nic

Georgiou's Trust. This appeal further frustrates the proceedings and highlights the necessity of awaiting the finalisation of the sequestration process.

The implications of this provisional sequestration are significant. As Mr. Georgiou is one of the main respondents in the CCAF case, the resolution of his estate's status is essential before we can proceed with litigation against him personally. The pending appeal and the upcoming hearing on the final sequestration are accordingly critical junctures that we must consider carefully to ensure that our case proceeds effectively.

Maintaining Momentum Amidst Challenges

Despite these challenges, we want to assure our members that our determination to seek justice remains unchanged. While the sequestration of Nic Georgiou's estate necessitates a temporary pause in our actions against him, the HSAG legal team continues to pursue litigation against the other respondents.

We understand that the provisional sequestration and the pending appeal might raise concerns about potential delays and the overall progress of our case. However, we are prepared to handle these stumble blocks and remain focused on achieving a favourable outcome. Our approach is clear: once the final trustees are appointed and their authority confirmed, we will be ready to resume litigation against Mr. Georgiou's estate. In the meantime, our efforts against the other respondents will continue.

3.3 TRANSFER APPLICATION (JHB TO PTA): JOHANNESBURG (*see hereunder)

In our ongoing pursuit of justice for the HSAG members, one further legal development has been our Transfer Application, where an Application for Leave to Appeal was filed against the judgement granted against the HSAG. This application sought to move the Main Application (Setting Aside of the S155 Scheme of Arrangement) from the Johannesburg High Court to the Pretoria High Court. The rationale behind this request was clear: the substantial overlap in facts and legal issues between this case and the

related DECA application warranted a consolidated hearing to avoid duplicative efforts and ensure consistent rulings.

The Main Application and the DECA case both involve the Highveld Syndication 15-22 companies, centring on issues of financial mismanagement, breaches of fiduciary duty, and unethical behaviour by company executives. Our argument emphasised the convenience and appropriateness of having both matters heard in the Pretoria High Court, which would save time and resources and streamline the judicial process. We also assured the court that no prejudice would result from the transfer.

Judge Crutchfield's Judgment

Despite the compelling reasons presented, Honourable Madam Justice Crutchfield delivered a judgment on 14 May 2024, refusing our Transfer Application. The judgment, following a hearing on 22-23 January 2024, dismissed the application. Below, as discussed in previous newsletters, we outline our grounds for the appeal, highlighting key aspects that we believe present a reasonable prospect of success.

Variance of Applicants

One of the primary points of contention in the judgement is the assertion that the applicants in the Transfer Application are "at variance" with those in the Smith (DECA) application. While it is common knowledge that both sets of applicants are members of the HSAG, they have been nominated by the HSAG to act as nominal applicants. We argue that this common representation does not justify the notion of variance.

Relevance of Overlapping Factors

The judgement dismissed the relevance of overlapping factors between the papers filed in the Setting Aside Application and the Smith Application. We respectfully contend that these overlapping issues contain serious allegations that are highly relevant and crucial for adjudicating both applications. Ignoring these factors undermines the comprehensive consideration necessary for a fair ruling.

Consolidation Prayer

The absence of a prayer for the consolidation of the setting aside application with the DECA Application was deemed a significant oversight. We believe that another court might have found that such consolidation could competently be granted only by the Pretoria High Court once the matter is transferred. This oversight could have influenced the judgement erroneously.

Notice to Affected Parties

The requirement for the Applicants to give notice to affected parties of the Transfer Application was deemed necessary by the court. We argue that this notice was unnecessary since the rights of these parties to oppose the Setting Aside Application would not be affected negatively by the transfer within the same division of the court. This procedural requirement imposed an undue burden on the Applicants.

Impact on Scheme of Arrangement

The judgement stated that the transfer of the Rescission Application, if granted, would not affect the S155 Scheme of Arrangement. We submit that the express terms of the Scheme of Arrangement make its adoption completely dependent on its sanctioning by a court order. This point was not adequately considered in the initial ruling.

Settlement Relevance

The judgement noted the relevance of the settlement by some previous Applicants of their claims with Nic Georgiou (Applicants who settled with Mr Georgiou behind the backs of the HSAG). We argue that for a valid Transfer Application, only one Applicant needed to be properly before the court. This consideration should not have influenced the overall decision.

First Respondent's Residency

The relevance of the First Respondent's (Orthotouch) residency in Fourways was considered despite it being a corporate entity in business rescue already since 2019. We argue that this point is moot as the business rescue practitioner (who operates in Cape Town) did not oppose the Transfer Application.

Delay in Smith Application

The potential delay in the Smith Application due to the transfer was cited as a concern. However, it is important to note that the Smith Application is still not being heard until March 2025, rendering this point less significant than portrayed.

Compliance with Spilg J's Order.

The HSAG Applicants were mentioned by the Judge for not complying with Judge Spilg's order regarding notice. We submit that this notice had to include the hearing date of the Setting Aside Application, which could not be determined until the hearing date was set. Thus, the notification was premature.

Relevance of Non-Notice and Punitive Cost Order

The non-notice was deemed relevant to the scale of the costs order, and a punitive cost order was issued. We contend that no punitive cost order was warranted, and any costs order should stand over until the hearing of the Setting Aside Application.

Grounds for Appeal

Following this setback, our HSAG legal team promptly filed an application for leave to appeal against Judge Crutchfield's decision. The grounds for our appeal include:

Overlapping Factors

We contend that the overlapping issues between the Setting Aside and DECA applications are highly relevant and critical for a comprehensive adjudication. Ignoring these factors undermines the integrity and efficiency of the judicial process.

Variance of Applicants

We argue that the common representation of HSAG members in both cases should not be viewed as a variance that justifies refusal of the transfer.

Convenience and Efficiency

The logistical and practical considerations favouring the Pretoria High Court were not adequately addressed in the judgment. The transfer would facilitate efficient case management and avoid potential conflicting judgments.

Notice Requirements

We believe the procedural requirements regarding notice to interested parties were misinterpreted. The notice should align with the hearing date, which could not be set without the transfer being granted.

Upcoming Appeal Hearing

Our appeal hearing is scheduled for 29 July 2024, before Justice Crutchfield via MS Teams. This virtual hearing arrangement aligns with our preference and facilitates participation without the need for travel. We are thoroughly prepared to present our case, emphasising the reasonable prospect of success on appeal.

The appeal represents a critical opportunity to revisit the arguments and seek a favourable ruling that acknowledges the interconnected nature of our cases. We remain confident in our legal strategy and committed to pursuing justice for all HSAG members.

*During the publication of this newsletter there are further developments in the process of the Setting Aside Application, which will be dealt with hereunder.

3.4 SETTING ASIDE APPLICATION: JOHANNESBURG

Letter To Honourable Deputy Judge President Sutherland

Due to various commercial and time-related considerations, and in view of the upcoming DECA trial in March 2025, we have formally requested the Gauteng Local Division's Deputy Judge President Sutherland to allocate the matter to the Commercial Court for an expedited hearing before the end of 2024.

The request seeks to set aside in the commercial court, a specialised court created for only commercial matters, the Scheme of Arrangement involving Orthotouch and 26 other respondents, linked to the Highveld syndication schemes and encompassing investments exceeding R4.6 billion from over 18,000 investors nationwide.

All necessary documentation in the Setting Aside Application has been submitted, with the exception of the respondents' Heads of Argument. The opposed application, backed by nearly a thousand pages of court filings and concerns regarding Orthotouch's failure to meet scheme obligations since 2018, compounded by subsequent business rescue proceedings. Key grounds for setting aside the arrangement include alleged non-disclosures to investors and procedural flaws during court sanctioning.

The urgency for Commercial Court jurisdiction stems from the matter's complexity in company law and contract principles under the Companies Act of 2008. Additionally, its direct impact on related litigations and overlapping parties necessitates timely resolution to avoid legal entanglements and alleged delaying tactics by some respondents.

Despite procedural delays, including outstanding replies and Heads of Argument from the opposing parties, our HSAG legal team highlights the critical need for a swift resolution, advocating for procedural fairness and judicial efficiency within the Commercial Court's case management framework. The letter emphasises the significance of expediting proceedings given the substantial financial and legal implications at stake.

In conclusion, we respectfully urged the allocation of our case to the Commercial Court, highlighting its intricate commercial nature and the imperative for a prompt resolution amidst ongoing legal complexities and strategic manoeuvres.

In the alternative, it was considered if the Transfer Application be successful, then the Setting Aside Application will be transferred to the Pretoria High Court and an application will be made by the HSAG to consolidate this matter with the DECA case. However, if the matter is referred to the Commercial Court, then a specialised court will be able to hear the matter, in all probabilities earlier than the DECA case.

In the Setting Aside Application, our HSAG legal counsel has already filed their Heads of Argument, detailing several key issues in the matter.

Firstly, the HSAG counsel highlights concern regarding the conduct by certain officials by crucial meetings of the erstwhile HS Companies, where approval decisions were made under certain circumstances. Allegations of procedural irregularities and unresolved disputes cast doubt on the legitimacy of these approval processes.

Another important point raised is the jurisdictional matter. HSAG Counsel argues that the scheme was sanctioned by an inappropriate court, contrary to the specified jurisdiction outlined in the scheme's documentation. This discrepancy challenges the validity of the court's authority in approving such significant financial arrangements.

Moreover, HSAG Counsel contends that annulling the court's sanctioning order should logically invalidate the entire scheme. HSAG Counsel emphasises the scheme's dependency on judicial approval, suggesting that revoking the sanctioning order would revert stakeholders to a pre-scheme status.

In response to these claims, Orthotouch has filed a conditional counterclaim, aiming to uphold the scheme and, paradoxically, seeking repayment from investors should the scheme be nullified. This counterclaim adds complexity to the legal proceedings, underscoring the conflicting interests involved.

Having filed their Heads of Argument, HSAG Counsel asserts readiness for the impending legal proceedings. The court now faces the task of impartially evaluating these arguments, weighing their legal merit against the broader implications for corporate governance and investor protection in South Africa.

3.5 LIQUIDATION APPLICATION: BLOEMFONTEIN

Herewith we provide to you an update on the latest legal developments regarding the Liquidation Application involving Orthotouch (Pty) Ltd and Zephan Properties (Pty) Ltd at the Free State High Court, Bloemfontein (See notice to all HS 15-22 Investors above and here under).

The HSAG brought an application on 18 July 2024 to seek an order on the following basis. This application seeks to include, if and where necessary, additional parties, specifically investors connected with the Highveld 21 and Highveld 22 companies. These investors, who have opted into the class action litigation against Zephan, are relevant to ensure a comprehensive representation in this litigation process.

The Joinder Application encompassed a notification to these investors and also provided mechanisms for their effective participation. As outlined in our Notice of Motion, HS investors will receive notifications *inter alia* via email and through designated attorney firms. This notice will also be published on the HSAG website at: <https://hsaction.co.za> (click here):

“NOTICE TO ALL INVESTORS IN THE SO-CALLED HIGHVELD SYNDICATION PROPERTY SCHEMES:

You are hereby notified of an application by certain Highveld investors under case number 3201 of 2023 and case number 3202 of 2023 in the Free State High Court, Bloemfontein, to convert the business rescue proceedings in respect of Orthotouch (Pty) Ltd and Zephan Properties (Pty) Ltd to liquidation proceedings under section 132(2)(a)(ii) of the Companies Act of 2008.

The court papers filed in such proceedings are available for reading and download from the website “hsaction.co.za”.

Should you wish to oppose the application under either case number 3201 or 3202 (of 2023) in such court, you are to deliver your opposing affidavit/s on or before 20 August 2024 by filing the same at court and providing a copy thereof to the applicants’ attorneys as well as the attorneys for those parties who are opposing such litigation.

Take note further that you are also deemed to have been effectively joined as parties (Respondents) to such litigation”.

Furthermore, Applicants requested that HS investors be formally joined as Respondents in the Main Application. This request was approved by court. This means that they are considered to be parties to the case, and future court documents would include them as such.

The Order also includes a draft of the notice to be sent to investors, informing them of the application to convert business rescue proceedings of Orthotouch (Pty) Ltd and Zephan Properties (Pty) Ltd into liquidation proceedings (see above).

Finally, the Notice stipulates that any parties wishing to oppose the application must do so by filing a notice of opposition by 20 August 2024 and provide their answering affidavits within ten days of giving notice of their intention to oppose.

The joinder application was heard on 18 July 2024 upon which judgment was granted in favour of the HSAG for potential creditors to be joined.

The BRP, Mr Jacques du Toit, was also directed by the Court Order to file his opposing affidavit in these matters.

Subsequently thereto we will proceed to acquire a date for the hearing of the liquidation application.

4 STAY UPDATED: HSAG WEBSITE

As before, we want to keep you informed and up-to-date with all the latest developments in our ongoing legal battles. To streamline this process and ensure that you have access to crucial information, we again invite you to visit our dedicated HSAG Action website. This platform promotes the HSAG's cause amongst its members and serves as a comprehensive station for court documents, judgments, and updates related to our various legal proceedings.

On the HSAG Action website, you will find information and official documents pertaining to our cases and amongst other such as: the Liquidation Applications of Orthotouch and Zephan, Setting Aside of the Scheme of Arrangement, Smith (DECA) Application, CCAF Application and the Transfer Application.

Our website is updated from time to time with new documents and information as they become available, ensuring that you have timely access to all pertinent details. By visiting the HSAG Action website, you can stay informed and engaged with the ongoing legal processes. If you require anything that is not on the website, please contact our offices for assistance.

Thank you for your continued support and trust in our efforts.

5 YOUR POSITION AS AN INVESTOR IN OUR LEGAL PROCEEDINGS

Over the last few months we received with requests from investors who seek clarity of their position in the continuous litigation regarding the different companies. As mentioned above we are currently involved in the liquidation applications of Orthotouch and Zephan, the Setting Aside of the Scheme of Arrangement, the DECA Application, CCAF Application and the Transfer Application. This section will attempt to bring some clarity with regard to the position of investors in the ongoing litigation processes. All the litigation pending against our opponents have one aspect in

common, namely to get clarity on the billions of rands that HS 15-22 investors paid into the HS Companies, what happened to those funds, and to recover those funds.

Smith (DECA) Application

The DECA Application is the Main Application in this matter. The relief sought in this application is for all investors in the eight HS 15-22 companies to receive their investment monies back. This application is brought for relief against the Georgiou group of persons of companies as well as others. Firstly, declaring that the Georgiou group of companies caused damage to the investors and secondly, that said damage must be paid.

CCAF (HS 21-22) Application

CCAF and DECA run along similar lines, however CCAF is only applicable to HS21-22 wherein buy-back agreements existed for investors then. The relief is essentially the same as with DECA, however the grounds for relief are contractual in nature and not damage based.

Setting Aside Application

As indicated before the Scheme of Arrangement in terms of S155 of the Companies Act was entered into between a portion of the HS investors and the first Business Rescue Practitioner (BRP) of the HS Companies, Mr Hans Klopper. This essentially diluted the rights of investors and provided less criminal liability for the Georgiou group of companies and persons. The SoA moved the properties into a singular entity known as Orthotouch. The SoA was never complied with, and subsequently Orthotouch and Zephan was placed in Business Rescue.

The necessity for the Setting aside for the SoA flows from the fact that the arrangement is still intact, even though Business Rescue proceedings have been instituted on the companies itself. We therefor in our view serves only as a further brick wall between investors and their money, which should be knocked down by way of setting aside of the SoA.

Liquidation Applications

In our view, and similarly to the S155 SoA, the Business Rescue of Orthotouch and Zephan is merely a further brick wall that must be knocked down as its existence firstly with the SoA is impossible as two legal mechanisms are regulating over the same property. Similarly, to the SoA the Business Rescue Plan (BRP) only further dilutes investors' rights to their own money and provides better anonymity to the Georgiou group of companies and persons. For this reason, this wall should also be knocked down and the best way to do so in our view is a conversion application from business rescue to liquidation.

Where does this leave you as an investor

This leaves HS investors in the following position: all HS investors are shareholders in the respective eight HS 15-22 companies, depending on which syndication company each investor invested. As a result of the first Business Rescue, the eight HS 15-22 companies are the shareholders of Orthotouch and Zephan (currently in Business Rescue).

Should the Setting Aside Application of the S155 as well as the liquidation applications be successful, this will have the effect that a liquidator will be appointed over these two companies with the powers to acquire assets of these two companies, which will in turn be used to settle the creditors namely, HS 15-22 which in turn will be in a position to repay the investors, which is you.

Both the CCAF and DECA applications will remain active, alongside with the liquidation applications, to ensure that the claims of the investors remain intact.

6 FROM THE "BENCH PRESS"

Article: South Africa's biggest shopping mall's owner in serious trouble

A journalist from BusinessTech published this article on 17 July 2024 where the article discusses Accelerate Property Fund, the owner of Fourways Mall in South Africa, is facing significant financial difficulties due to delays in finalising its audited financial statements, raising concerns of a possible suspension from the Johannesburg Stock Exchange. Additionally, the fund is struggling with low rentals and high vacancies at Fourways Mall, compounded by controversial business practices and recent significant share transactions involving Investec. We have provided a summary of the article below, which some HSAG members may find interesting

Accelerate Property Fund (APF), the owner of South Africa's largest shopping centre, Fourways Mall, is facing significant financial and operational difficulties. The company recently informed shareholders of another delay in finalising its audited annual financial statements. This marks the third postponement since its initial announcement on 27 June 2024, when it first delayed the release of its financial results for the year ended 31 March 2024.

The Johannesburg Stock Exchange (JSE) has taken a dim view of these continual delays. Accelerate's failure to meet the three-month period stipulated in the JSE's listings requirements has resulted in its listing being annotated with a 'RE' for late submission of statements. The JSE has warned that if the financial statements are not submitted by 31 July 2024, Accelerate's listing may be suspended.

Compounding these issues are significant challenges with APF's major investment, Fourways Mall. The mall has been struggling with low rentals and poor financial performance, with vacancies increasing from 14,349 square meters in March 2023 to 15,109 square meters six months later. The net rent per square meter has declined from R298 in 2020 to R262 in 2023, and the mall's fair value has dropped from R4.8 billion in 2020 to R4.02 billion in 2023.

Jean Pierre Verster, founder and CEO of Protea Capital Management, has highlighted additional concerns about the fund's business practices, including material related-

party transactions and the purchase of properties from companies owned by its founder. These practices have raised red flags for investors.

Moreover, a recent significant share transaction involving Investec has added to the fund's woes. On 21 May 2024, Investec acquired an 8.02% beneficial interest in the company's shares following a lending arrangement. This acquisition followed the sale of 107 million shares by director Michael Georgiou, likely linked to a defaulted loan.

With ongoing financial difficulties and questionable business practices, the future of Accelerate Property Fund remains uncertain.

Here is the link to the article:

<https://businesstech.co.za/news/property/782961/south-africas-biggest-shopping-malls-owner-in-serious-trouble/>

DISCLAIMER

THIS EMAIL IS CONFIDENTIAL AND IS EXCLUSIVELY MEANT FOR THE ADDRESSEE. If you have received it in error/ wrongly, please notify the sender immediately at hsagenquiries@gmail.com and delete it. You may not copy, disclose or deliver any email received in error or any part of it to anyone else. HSAG's webmaster uses antivirus software to prevent viruses and other malicious code. However, such software cannot prevent or eradicate all such code. The HSAG or its representatives will not be liable for any loss, harm or damage whatsoever arising from receipt or use of this email or otherwise, whether arising through negligence of the HSAG, its members, steering committee, and agents or otherwise.

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 with any inaccurate information or 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. Participation in the HSAG is voluntary, however, persons that do not belong to the HSAG or who are not up to date with their payments, would not be able to claim any rights or privileges that faithful members of the HSAG can. Persons that refuse or neglect to pay their membership fees, would be removed as members of the class action

7 IMPORTANT USE OF ACCOUNT NUMBERS AND REFERENCES

HSAG members who are in both HSAG and CCAF, please report any change to both HSAG and CCAF's e-mail addresses, be it death of a member, change of email address, mobile phone number or residential address.

Members are reminded to note the reference numbers as contained on their statements. 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.

If you have paid your amount into an incorrect account, send an e-mail with a request to transfer the amount to the correct account, and remember to attach your proof of payment to the email.

If you paid the amount into e.g. CCAF Trust Account 3, but the amount was intended for your HSAG Trust Account 2, or vice versa.

Payments made incorrectly in CCAF, send email to admin@ccaf.co.za.

Payments incorrectly paid in HSAG, send email to hsactiongroup@gmail.com

8 GENERAL ENQUIRIES

A query we often get is regarding the transfer of shares, after the death of a loved one. We would like to remind everyone 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, issued by them, indicating that the shares have been transferred in a new name, that we can change it 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.

Finally, please note that if no payments have been made by you over a long period of time, it is possible that previous trust requisitions and payments may not be reflected on the statement.

9 IMPORTANT USE OF 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 erroneously paid into HSAG Trust Account 2, 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, as well as notice of members who have died;
- **hsagwhistle@gmail.com** for all Confidential Information that you would like to send to us anonymously;
- **hsagstates@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 erroneously made to CCAF Trust Account 3, as well as deregistering from CCAF;
- **enquiries@ccaf.co.za** for statements not received and 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](http://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:

Tel: (021) 887 7877

hsactiongroup@gmail.com