

HIGHVELD SYNDICATION NO 15 LIMITED: REGISTRATION NUMBER (2003/031064/06)  
HIGHVELD SYNDICATION NO. 16 LIMITED REGISTRATION NUMBER: (2003/031129/06)  
HIGHVELD SYNDICATION NO. 17 LIMITED, REGISTRATION NUMBER: (2003/025913/06)  
HIGHVELD SYNDICATION NO. 18 LIMITED, REGISTRATION NUMBER: (2003/030778/06)  
HIGHVELD SYNDICATION NO. 19 LIMITED, REGISTRATION NUMBER: (2003/030144/06)  
HIGHVELD SYNDICATION NO. 20 LIMITED, REGISTRATION NUMBER: (2005/029425/06)  
HIGHVELD SYNDICATION NO. 21 LIMITED, REGISTRATION NUMBER: (2005/027601/06)  
HIGHVELD SYNDICATION NO. 22 LIMITED, REGISTRATION NUMBER: (2005/027390/06)

(“the companies”)

---

**BUSINESS RESCUE STATUS REPORT IN TERMS OF SECTIONS 132 OF THE COMPANIES ACT, 71 OF 2008 (“THE ACT”) READ WITH REGULATION 125 OF COMPANIES ACT FILED BY THE BUSINESS RESCUE PRACTITIONER JF KLOPPER AND A NOTICE IN TERMS OF SECTIONS 145 AND 146 OF THE ACT.**

---

1. Previous status reports set out the history of placing the companies under business rescue in September 2011 and the appointment of Johannes Frederick Klopper as Business Rescue Practitioner (“BRP”) of the companies and a Business Rescue Plan (“the Plan”) in respect of the companies was published on 30 November 2011.
2. Previous reports also contain the detail of the adoption of a business rescue plan and the subsequent proposing of a scheme of arrangement in relation to Orthotouch Limited (“the Scheme of Arrangement”) and which Scheme of Arrangement was sanctioned by the High Court of South Africa on 26 November 2014. The Order of Court was filed with CIPC on 26 November 2014 rendering the Scheme of Arrangement fully effective and binding. To date, some 6 years and 7 months later, that Order of Court is still in effect and in terms of this Order of Court all HS Investors’ claims were, in terms of the approved and sanctioned Scheme of Arrangement, ceded to a third party, being Zephan.
3. In our March and April 2021 status reports reference was made that this view is now shared by four senior counsel acting for the various respondents in the Smith application referred to in the March and April 2021 status reports below and also by a fifth senior counsel acting for Jacques du Toit in the application for a declaratory order issued on 28 January 2021.
4. During October 2014 a group of investors launched proceedings for the certification of a class action. Significantly, the legal proceedings were launched without any attempt by the attorneys representing that particular group of parties to engage with the BRP in any manner whatsoever. Instead, they chose to drive a false narrative that a class action process would

benefit the HS Investors. This false narrative was also promoted in the media by parties closely related to the litigation process engaging with the media.

5. We are strongly of the view that the litigation which commenced in October 2014 was to the severe detriment of the HS Investors as none of the litigation has benefited any of the HS Investors to date. Instead and as a consequence of the launching of this litigation many millions that could have been available for HS Investors were squandered on legal fees.
6. The further false narrative persistently driven by the proponents of the litigation over the years and aided and abetted in the media was that Orthotouch failed to take transfer of the portfolio of properties in a manner that was somehow untoward. Nothing could be further from the truth. HS Investors and their advisors are again referred to the contents of the Scheme of Arrangement sanctioned in November 2014 and which document explains in detail how it came about that the properties could not be transferred. The Scheme of Arrangement is still a binding Order of Court almost 7 years later. Much of the background in relation to the history of this matter also emerge from the answering affidavits filed in relation to the Smith application referred to below. HS Investors are urged to read those court papers for a balanced view.
7. A further false narrative being promoted by the media in articles inter alia named the “Peculiar case of the Picvest bilions” is that the companies was a failed investment scheme. It now emerges from court papers that billions have indeed been returned to HS Investors. Those details can also be found in the Court papers in relation to Smith application which is referred to below.
8. Reference was made in the March and April 2021 status reports that an application to set aside the sanctioning of the Scheme of Arrangement was launched in March 2015 (“the setting aside application”). Attorneys representing the applicants have since at least September 2019 not appraised HS Investors that the opposing affidavit filed in relation to the setting aside application includes a conditional counter application.
9. We believe that we are duty bound to inform HS Investors that the effect of this counter application could be devastating for them as it could result in the Court ordering for the repayment and restitution of all payments received by HS Investors pursuant to the

sanctioned scheme of arrangement since November 2014. A copy of the opposing affidavit may be found by clicking on the following link:

[https://restructuring.bdo.co.za/sites/default/files/filefield\\_paths/20190902%20answering%20affidavit%20Nic%20Georgiou-signed.pdf](https://restructuring.bdo.co.za/sites/default/files/filefield_paths/20190902%20answering%20affidavit%20Nic%20Georgiou-signed.pdf)

10. On 7 November 2019, Orthotouch (Pty) Limited (“Orthotouch”) and Zephan were also placed under business rescue and in respect of which two companies Jacques du Toit was appointed as the Business Rescue Practitioner.

11. HS Investors are again reminded that Mr du Toit launched an application for a declaratory order on 28 January 2021 in order to obtain clarity on the status of the HS Investors’ claims. This clarity is sought in view of the provisions of the sanctioned Scheme of Arrangement in terms of which all claims of HS Investors were ceded to Zephan and in terms of which their only remaining rights were to receive payment in terms of the sanctioned scheme of arrangement. The founding affidavit and annexures in relation to this application may be found by clicking on the following Dropbox link:

[https://www.dropbox.com/sh/debzbq6uw8wfvlgf/AADVvdu4SgpF\\_D5FI03UTzEna?dl=0](https://www.dropbox.com/sh/debzbq6uw8wfvlgf/AADVvdu4SgpF_D5FI03UTzEna?dl=0)

12. HS Investors are again reminded of a further significant development in relation to litigation to the effect that an investor and financial advisor, one Henry Arden Smith (“Smith”), and 11 others, on 13 December 2019, launched an application for leave in terms of section 164 of the Act to enable them to institute action on behalf of the companies against various parties. (“The Smith application”). The parties against whom action sought to be instituted are, inter alia, Messrs Nic, Michael and George Georgiou (as the first to third respondents), the BRP in his personal capacity (the fourth respondent), the directors of Orthotouch in their personal capacities (as the fifth to the seventh respondents) and Derek Cohen in his personal capacity (the former Receiver for Creditors in relation to the Orthotouch scheme of arrangement) as fourteenth respondent.

13. It was also reported in the March and April 2021 status reports that is inexplicable as to why Smith never served his application in December 2019 on either the sixth or the seventh respondents (being Connie Myburgh and Panos Kleovoulou) or on Derek Cohen as the fourteenth respondent under circumstances where the nature of the relief sought against

them was serious. As a result of Smith's failure to serve on these parties any claims that Smith and the other applicants could have asserted against these parties have now become prescribed.

14. The founding affidavit by Smith and all the answering affidavits by all the respondents upon whom the application was served (except Orthotouch' and Zephan represented by Jacques du Toit) may be found and accessed in the dropbox by clicking on the following link

<https://www.dropbox.com/sh/jymhjz585wxyqcb/AADTQHbYuDXfn27WoQorBNxwa?dl=0>

which was provided in the from Mr Jacques du Toit dated 10 March 2021 which was attached to the 31 March status report and which also served as his notice to all affected persons in terms of sections 145 and 146 of the Act in the business rescue proceedings of Orthotouch and Zephan.



JF KLOPPER

BUSINESS RESCUE PRACTITIONER

Date: 31 May 2021