

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. The companies were placed under business rescue in September 2011 and Johannes Frederick Klopper was appointed as Business Rescue Practitioner (“BRP”) of the companies at the time.
2. A Business Rescue Plan (“the Plan”) in respect of the companies was published on 30 November 2011 and adopted by affected persons (“HS Investors”) on 14 December 2011.
3. Status reports submitted over past few months contain:
 - 3.1. details of the adoption of the Plan and the subsequent proposing of a scheme of arrangement in relation to Orthotouch Limited and the sanctioning thereof by the High Court of South Africa in November 2014;
 - 3.2. references to the fact that the scheme of arrangement is still in force despite an application to set it aside having been launched as long ago as March 2015,;
 - 3.3. reference to the proceedings for the certification of a class action launched by certain applicants during October 2014 and the fact that the matter has, almost some 7 years later, still not been advanced and concluded;
 - 3.4. details of the various false narratives persistently driven by the legal team representing certain HS Investors and how these false narratives were supported by the media;
 - 3.5. details of the “Smith Application” launched in December 2019 and of false statements under oath contained therein and how the media illegally published the contents of a report in an unrelated matter under circumstances where the report was confidential and factually incorrect in many material respects.

4. HS investors are again urged to carefully read the various answering affidavits filed by the various respondents in relation to the Smith Application (see the links below) and in which it is alleged by some of the respondents that certain of what is contained in Smith's founding affidavit is scandalous and vexatious.
5. Furthermore, in relation to the Smith Application, one of the respondents, in his answering affidavit, states that Smith and his co-applicants did not even have the locus standi to launch the application as they labour under the misapprehension that they are still shareholders of the companies (which they are not). This respondent also pointed out that paragraph 2.2.3.13.1 of the scheme of arrangement (sanctioned by the High Court of South Africa) stated clearly that:

“The claims of all trade creditors and HS investors against the company as at the effective date... reduced by an amount equal to one cent in the rand thereon, shall be deemed to have been purchased by and see that to the financial proposal or the nominee of the financial proposal, with effect from the effective date...”
6. HS Investors are reminded about the pending application by Ortohouc's business rescue practitioner, Jacques du Toit, in the High Court of South Africa on the issue referred to in paragraph 5 above. Jacques du Toit launched an application seeking an order to obtain clarity on the provisions of the sanctioned Scheme of Arrangement in terms of which all claims (including shares) of HS Investors were ceded to Zephan Properties (Pty) Limited and in terms of which their only remaining rights were to receive payment in terms of the sanctioned scheme of arrangement. The court papers may be accessed on the following link:

https://www.dropbox.com/sh/debzq6uw8wfvlg/AADVvdu4SgpF_D5FI03UTzEna?dl=0
7. In the BRP's June status report reference was also made to the ad hominem attacks by Smith on the various respondents in his application. One such example is a false allegation that the BRP, together with other parties, was “*central in soliciting funds*” from the HS Investors. This is of course outrageous and an outright lie and an attempt to mislead the court in those proceedings. The BRP never “*solicited*” any funds from investors and only came on the scene in September 2011 long after the HS Investors had made their investments into the companies.

8. The link below contains the opposing affidavit filed in relation to the application to set the Orthotouch scheme of arrangement aside. HS Investors are reminded that the applicants in the setting application, have to date, almost two years after service thereof upon their attorneys, not as yet delivered either their replying affidavit nor their opposing affidavit to the counter application.

9. HS Investors are reminded that Orthotouch's opposing affidavit includes a conditional counter application which will, if successful, have devastating consequences for HS Investors as it will then result in the Court ordering for restitution and for all payments received by HS Investors pursuant to the sanctioned scheme of arrangement since November 2014 to be returned to Orthotouch.

https://restructuring.bdo.co.za/sites/default/files/filefield_paths/20190902%20answering%20affidavit%20Nic%20Georgiou-signed.pdf

10. HS Investors are again reminded that the link below provides access to the court papers in the various pending matters in the High Court of South Africa and HS Investors are again urged to familiarise themselves with what is contained therein.

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



JF KLOPPER

BUSINESS RESCUE PRACTITIONER

Date: 31 July 2021