

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 THE 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. The BRP, over the years, in previous reports and in numerous court proceedings, gave a fairly extensive background that goes back to before his involvement September 2011 onwards which sets out the progression of the HS Companies from:
 - 3.1. property syndication companies to their financially distressed position in September 2011;
 - 3.2. the HS Companies voluntarily being placed in business rescue in accordance with Section 129 of the Act;
 - 3.3. the BR Plan being adopted in terms of which a company known as Orthotouch (Pty) Limited (“Orthotouch”) would become the “rescue vehicle”;
 - 3.4. a scheme of arrangement proposed and sanctioned in relation to Orthotouch under Section 155 of the Act on 26 November 2014; and
 - 3.5. the eventual filing of business rescue by Orthotouch and Zephan in late 2019.
4. The abovementioned reports and the affidavits filed in court proceedings contain the detailed background as to how, ultimately, by July/August 2014, Orthotouch was no longer able to make any interest payments in terms of the BR Plan. It could not secure external funding and was not in a financial position to sustain funding the interest payments to HS investors itself.
5. The proposed scheme of arrangement was the only conceivable way to avoid the consequences of a liquidation not only of Orthotouch, but by necessary consequence also of the HS Companies. The primary objective was at all times, to ensure that HS investors were repaid their historical investment or received a benefit equivalent thereto. A liquidation at that stage would have had the same disastrous consequences for HS investors as would have resulted if the HS Companies been wound up at the end of 2011 rather than having been placed in business rescue.
6. This could only be achieved if the obligations of Orthotouch under the BR Plan were fundamentally restructured. During September 2014, the scheme of arrangement was drafted and signed on 7 October 2014 and after being adopted by the necessary majority on 12 Mnovember

2014 the scheme of arrangement was sanctioned in terms of an order of the High Court of South Africa issued on 26 November 2014.

7. It was also during October 2014 that a group of HS Investors that formed the Highveld Syndication Action Group (“HSAG”), represented by Theron and Partners, initiated an application for leave to register a class action. In March 2015 they also launched an application for the setting aside of the Orthotouch scheme of arrangement which has to date not progressed any further and which has not been finalised.
8. In December 2019 one HA Smith and others, also members of the HSAG and represented by the same attorneys, launched an application (“the Smith application”), also referred to as “the DECA Case” by the applicants’ legal team in their various communications. This is an acronym for what they refer to as a “Derivative Class Action” but which is an application for leave to institute legal proceedings against inter alia the BRP and others in terms of section 164 of the Act.
9. Over the years the actions of the HSAG and their attorneys have caused the wastage of millions of rands in legal fees through their actions which are clearly aimed at “milking” HS Investors by persistent pleas for contributions towards their legal fees and their March 2022 newsletter contains a further plea for contributions towards legal fees.
10. It is once again recorded that at no time since October 2014 have the attorneys representing the HSAG attempted to engage with the BRP other than to resort to expensive litigation.
11. In the meantime, insofar as the Smith application/the DECA Case is concerned, there were no further developments in relation to this case during March 2022. The BRP was informed that correspondence was however addressed to the case manager, Judge Janse van Nieuwenhuizen.


JF KLOPPER
BUSINESS RESCUE PRACTITIONER

Date: 31 March 2022