

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. Previous status reports contain details of the business rescue proceedings of the companies that began in September 2011 and the appointment of Johannes Frederick (Hans) Klopper as Business Rescue Practitioner (“BRP” or “we”, “our” or “the author”) of the companies at that time. These reports can be found on the following link:

<https://restructuring.bdo.co.za/index.php/rescue/1440>

2. This status report is addressed to former affected persons (“HS Investors” or “you”) who invested in the companies prior to 2011.
3. Previous reports submitted and contained on the website which can be found on the abovementioned website must be read in conjunction with this status report.

BUSINESS RESCUE PLAN (“BR Plan” or “plan”)

4. A composite business rescue plan in relation to the companies were adopted on 14 December 2011 and the implementation of that plan was dealt with in previous reports.
5. We have previously reported that the BR Plan introduced Orthotouch Limited (Orthotouch) as a role-player, which was responsible for making full payment to HS Investors by December 2016.

THE NOVEMBER 2014 SCHEME OF ARRANGEMENT

6. A decade ago, in October 2014, Orthotouch's directors decided that the company needed to be restructured and proposed a scheme of arrangement under section 155 of the Act. This scheme was sanctioned by the High Court of South Africa on 26 November 2014, and the reasons for restructuring were discussed in court papers and the scheme of arrangement document
7. In March 2015, almost a decade ago an application to set aside the scheme of arrangement which was sanctioned in relation to Orthotouch on 12 November 2022 by certain applicants represented by Jacques Theron (“Theron”), an attorney from Stellenbosch. (“the setting aside application”).
8. The opposing affidavit in relation to the setting aside application by the late Mr Nic Georgiou was served in September 2019 and included a conditional counter application to the effect that this particular affidavit also served as a founding affidavit for the conditional counter application for repayment and restitution of all payments received by HS Investors pursuant to the sanctioned scheme of arrangement should the Court set the Scheme of Arrangement sanctioned as long ago as 26 November 2014 aside. It took the applicants more than three years, until late 2022 to file their replying affidavit.
9. This matter was set down for hearing by the applicants in the Johannesburg High Court on 13 November 2024 but the applicants also filed a notice of intention to amend the legal relief that they were seeking.

ORTOTOUCH AND ZEPHAN PLACED UNDER BUSINESS RESCUE

10. In November 2019, Orthotouch and Zephan Properties (Pty) Limited were placed under business rescue by its directors, with Jacques du Toit appointed as the Business Rescue Practitioner for both companies. A business rescue plan in relation to these companies was adopted in March 2023.
11. However, ongoing litigation, driven by Theron and Ilzé Eichstädt attorneys (“Eichstädt”) have caused significant delays in the finalisation of the business rescue proceedings of Orthotouch and Zephan. Applications by certain purported HS Investors groupings and purportedly represented by Eichstädt out of the High Court in Pretoria and by Theron’s clients out of the Bloemfontein High Court, to set the adopted business rescue plan aside and to convert the business rescue proceedings to liquidation were launched.

12. On 7 October 2024 the Pretoria High Court handed down a judgement in relation to a dispute raised by Orthotouch and Zephan's business rescue practitioner and held that the applicants represented by Eichstädt failed to establish proper authority for their attorneys to act on behalf of all creditors in the applicant groups. This led to an order requiring the applicants to address these deficiencies within 20 court days. The court furthermore ordered the applicants to comply with the procedural requirements or face potential dismissal of their case.

THE SMITH APPLICATION OR THE SO CALLED "DECA CASE"

13. We remind HS Investors that the Smith Application (the so called "DECA case") which was due to be heard from 13 to 17 May 2024 in the Pretoria High Court before Honourable Madam Justice Janse Van Nieuwenhuizen was postponed to March 2025 and there is nothing new to report in relation to this case at this stage.



JF KLOPPER

BUSINESS RESCUE PRACTITIONER

DATE: 31 OCTOBER 2024