13th AUGUST 2012

HIGHVELD SYNDICATION 15 LIMITED
HIGHVELD SYNDICATION 16 LIMITED
HIGHVELD SYNDICATION 17 LIMITED
HIGHVELD SYNDICATION 18 LIMITED
HIGHVELD SYNDICATION 19 LIMITED
HIGHVELD SYNDICATION 20 LIMITED
HIGHVELD SYNDICATION 21 LIMITED
HIGHVELD SYNDICATION 22 LIMITED
(ALL UNDER BUSINESS RESCUE) ("HS 15-22") OR ("THE COMPANIES")

MEMORANDUM TO INVESTORS/AFFECTED PERSONS

1. In a communication from Orthotouch Limited ("Orthotouch") dated 8th August 2012 ('the Orthotouch letter") it was mentioned that there were some queries about the proceeds of the sale of Southdale Shopping Centre ("Southdale"), which was an asset of Highveld Syndication 17 Limited and which formed part of the assets of Orthotouch in terms of the Business Rescue Plan published on 30 November 2011 and adopted on 14 December 2011 ("the plan").
2. This communication is intended to further clarify the matter and it is brought to the attention of investors that the Companies Act 71 of 2008 ("the Act") provides in section 135 for what is known as post-commencement finance ("PCF").
3. PCF is funding that may be obtained by a company if required by the Business Rescue Practitioner ("BRP") for purposes of rescuing the business. Section 135 (3) (b) of the Act furthermore provides that PCF will have preference in the order that it was incurred and therefore ranks ahead of the claims of any unsecured creditors or investors as at the date of the commencement of business rescue proceedings ("commencement date").

4. The commencement date in in respect of HS 15 -18 and 21 -22 was 7th September 2011 and in respect of HS 19 it was 14th September 2011.
5. As Business Rescue Practitioner ("BRP") the writer, upon the commencement date, found that only HS15-18 owned immovable property that produced rental income. This rental income was not however sufficient to cover the monthly interest due to the investors in HS 15 -18. These investors were therefore only partially paid from the proceeds of rental income earned from properties registered in the name of those entities. The balance of the monthly interest due to the investors in HS 15-18 was subsidised by Zephan Properties (Pty) Limited on loan and accrued as PCF a on monthly basis.
6. In respect of HS 19- 22, as at the commencement date, the BRP found that there was an existing dispute between Bosman & Visser ("B & V") and Zephan. This issue was, incidentally, fully dealt with and explained in the plan. It is also by now a well-known fact that, as at the commencement date of proceedings HS 19 - 22 owned no immovable property and had a mere claim against B&V.
7. During the period from September 2011 until 14 December 2011 Zephan however also subsidised the interest payments to due to investors in HS 19-22 as PCF as explained above.
8. The aggregate amount so funded by Zephan as at December 2011 as PCF to investors amounted to some R107.4m as was provided for and disclosed in the plan ("page 56").
9. Had the negotiations between the BRP and Orthotouch broken down at the end of November 2011 and in the absence of any alternative on the table it would not have been possible to publish any business rescue plan and that would have undoubtedly led to the liquidation of the companies.
10. Had the companies been liquidated the BRP or the companies' liquidators would have been liable to repay the full amount of R107,4m from the proceeds of the realisation of the assets of the companies in the same ratio that PCF was advanced to the companies by Zephan.
11. The liquidators in HS 15-18 would, in due course during the liquidation process, have been in a position to realise assets from which to repay their pro rata portions

of the PCF loan but the liquidators in HS 19- 22 would have been unable to realise any assets.

12. In the case of HS 19 -22 where there were no assets this would have led to a contribution being levied upon the investors in HS 19 - 22 or, potentially, to a claim against investors for a refund of all interest that they received between September and December 2011.
13. When it became clear to the BRP during the second or third week of November 2011 that it was likely than offer would be submitted by Orthotouch and which would be substantially acceptable the BRP for inclusion in and forming the basis of the plan, he engaged in negotiations with a bank for post commencement finance in an amount of R230m.
14. Discussions with the bank took place during the week of 13th November 2011 at a time when interest payments for October were overdue. It was understood and made clear to the BRP that the bank, upon agreeing to release the first tranche of R30m on 18th November 2011, would be bound to release the balance of the loan applied for thereafter. This would have ensured a smooth period during the first year of implementation of the Orthotouch transaction during which investors would have been paid on time every month whilst the future of Orthotouch and extension of its portfolio could be considered and worked out.
15. This loan would have been underwritten by Zephan and the bank charged a fee the details of which appears on page 56 of the plan adopted on 14 December 2011 and which amount is included in the PCF loan of R107.4m
16. The bank released payment of some R21,4m on 18th November 2011 to enable the BRP to pay the interest to investors for October 2011 and which created the impression that the balance of the agreed R230m facility would be following in due course.
17. This did not materialize and a week later, on 25th November, the bank had a change of heart and the BRP was telephonically informed by the bank that the balance of R200m would not be forthcoming. The bank stated that they would only advance R30m. On that day the bank released the balance of some R4.6m to the BRP and withheld its fee.

18. The plan was nevertheless published on 30 November 2011 and adopted at a meeting in terms of the Act on 14th December 2011 as is mentioned above.
19. During the ensuing months the BRP and other role players made numerous approaches to most of the major banks on behalf of Orthotouch in South Africa for assistance and for additional funding in order to meet its monthly commitments. Since December 2011 the monthly shortfall was approximately R9m and which Zephan continued to advance as PCF. All approaches to the banks were to no avail as none of the banks approached expressed an interest in assisting Orthotouch and the investors.
20. During this process it became apparent to the BRP that Orthotouch's only source of funding was Zephan. At approximately R9m per month Zephan therefore funded a further amount of approximately R63m as PCF for the next seven months.
21. Having regard to the R107,4m in PCF provided until December 2011 and taking into consideration that a further R63m had been advanced by Zephan since then Zephan also had to provide some comfort to its own financiers.
22. When the opportunity presented itself to sell Southdale for R175m (which would net an amount of some R150m after payment of commission, clearance certificates, VAT and other expenses) and considering that Orthotouch's only source of funding is Zephan something had to be done to secure future funding for Zephan and, as a consequence, for Orthotouch. It was then decided that the proceeds of the Southdale sale had to be utilised reduce the PCF and to secure future funding for the benefit of the investors.
23. Investors are requested to bear in mind that if a bank was providing the funding for the business rescue process and a PCF loan of some R170m had accrued with a bank post the commence date such a bank would already have exerted much more pressure and would also have insisted upon some form of security. The Southdale proceeds would have been the only such immediate security available to a bank for settlement of the PCF and before even considering further funding.
24. As Zephan is effectively the "bank" providing PCF and the only party prepared to assist with PCF and as Zephan needs to secure future funding for purposes of on-lending such funding as PCF it was therefore necessary that the proceeds of the

sale of Southdale be appropriated sensibly and in the utmost best interest of the investors. Hence the agreement that proceeds of the Southdale sale could be utilised to pay related costs and expenses.

25. The balance remaining was made available to Zephan to reduce the PCF and Zephan in made such funding available to financial institutions as was alluded to in the Orthotouch letter. In the Othotouch letter it is also mentioned that:

    25.1. the financial arrangements involve a number of entities including Orthotouch;

    25.2. this will have the effect of introducing more sustainable properties to reinforce the Orthotouch business plan and unlocking further funding and value for the benefit of Orthotouch and the investors.

    25.3. It will assist in enabling Orthotouch to meet its commitments going forward and increase value.

    25.4. this process involves other entities and confidentiality is important

26. It should be realised that Orthotouch in its present format and with its present portfolio of properties is probably not sustainable in the long run and the steps envisaged in 25 above ensure long term sustainability.

27. Investors should take note of recent press reports relating to an investment scheme based in the Cape where the RVAF trust was sequestrated (in essence the same as liquidation) and where investors will receive no further income and where they will wait for quite a while before it is known as to what insolvency dividend, if any, they will receive. Whilst, in respect of the companies, investors have since September 2011 until the end of June 2011 thus far, albeit mostly late, been receiving their monthly interest.

Kind regards,

HANS KLOPPER

(sent electronically and therefore not signed)