



70 CARMINE DRIVE  
BURGUNDY ESTATE  
TEL: 021 948 2224  
info@dtbbusinessrescue.co.za  
www.dtbbusinessrescue.co.za

**Our Reference:** J. Du Toit/2018/Ortho\_Zephan  
**Direct Line:** 082 882 4941  
**E-mail:** Jacques@dtbbusinessrescue.co.za

**Your Reference:**

**Date:** 11 February 2021

To Investors / Creditors

**ORTHOTOUCH AND ZEPHAN PROPERTIES (PTY) LTD (IN BUSINESS RESCUE) DECEMBER 2020 / JANUARY 2021 REPORT**

Dear Sir/Madam

**BUSINESS RESCUE PROCEEDINGS**

1. Commencement of Business Rescue: 7 November 2019.
2. Appointment of Business Rescue Practitioner (BRP) – J du Toit: 14 November 2019.
3. First Meeting of Employees: 27 November 2019
4. First Meeting of Creditors: 28 November 2019
5. Business Rescue Plan filing date: 31 March 2020
6. Second creditors meeting: to be held once a suitable mechanism is established to conform with prevailing COVID – 19 restrictions.

**BUSINESS PROGRESS**

7. The BRP has drafted amendments to the business rescue plan in collaboration with Orthotouch and Zephan's legal team. The amended plan however has not yet been published for the reasons set out hereunder.
8. The amended business rescue plan is subject to a court application instituted by the Business Rescue Practitioner in order to obtain clarity on certain legal issues, by way of a Declaratory Order. This Declaratory Order once pronounced upon by the court at a date to be advised, will in part provide the BRP certainty as to investors rights and guide the voting process, having given regard to the effects of the Section 115 Scheme of Arrangement as well as the so called "buy back agreements".
9. Subject to the outcome of the Declaratory Order, final revisions will be made to the amended plan which will then be published for purposes of arranging a "hybrid voting meeting" as previously advised and as more fully set out in paragraphs 13-15 below.
10. This final plan will then after presentation to the Creditors Committee for their final input, be distributed to all creditors.

## LITIGATION

11. As advised in previous reports, certain attorneys still persist with litigation in flagrant disregard of the applicability of Chapter 6 of the Companies Act, and moratorium against legal action as regulated by Section 133 of the Companies Act. This is being vigorously defended by the Companies' legal team.

### Class Action Litigation

12. The companies legal team, compelled Theron Attorneys in terms of High Court rule 35 to disclose class action participants. This disclosure, in the form of a list purporting to be Theron's clients, in support of the class action, has been received and is being scrutinized and investigated since there is good cause to suspect that disclosed list is inaccurate. The result of this investigation will be advised to creditors in due course.
13. The Litigation status report, in terms of the Companies Act, pertaining to all litigation matters will be available in due course.

## COVID-19

14. During the prevailing Level 3, meetings and gatherings remain prohibited, preventing the holding of a second creditors meeting regarding the some 13 000 affected persons.
15. Until or unless a physical meeting can be held pursuant to a relaxation of the current rules, the Business Rescue Practitioner has investigated a process whereby affected persons will attend a virtual meeting and vote remotely in terms of a legally compliant voting mechanism.
16. The rollout of the foregoing will be provided to all affected persons together with the final business rescue plan.
17. Please be advised accordingly and feel free to address any written queries to the writer.

Yours faithfully



Du Toit Business Rescue Practice  
Per: Jacques Du Toit (Senior Business Rescue Practitioner)