

Dear Sir / Madam

SECTION 145 NOTICE

IN RE:

ORTHOTOUCH (PTY) LTD (IN BUSINESS RESCUE) & ZEPHAN PROPERTIES (PTY) LTD (IN BUSINESS RESCUE)

1. I address this letter to you, in my capacity as the duly appointed business rescue practitioner for Zephan Properties (Pty) Ltd (in business rescue) ("Zephan") and Orthotouch (Pty) Ltd (in business rescue) ("Orthotouch") (collectively referred to as "the companies"), in accordance with the provisions of Regulation **125** of the Companies Act **71 of 2008** ("the Act").
2. This notice is addressed to you in your capacity as an affected person in the business rescue proceedings of Orthotouch and Zephan, as defined in section **128(1)(a)** of the Act, quoted hereunder for ease of reference:

"affected person", in relation to a company, means –

- (i) *a shareholder or creditor of the company;*
- (ii) *any registered trade union representing employees of the company; and*
- (iii) *if any of the employees of the company are not represented by a registered trade union, each of those employees or their respective representatives."*

3. I further draw your attention to the provisions contained in section **145(1)(a)** and **(b)**:

"Each creditor is entitled to –

- (a) *notice of each court proceedings, decision, meeting or other relevant event concerning the business rescue proceedings;*
- (b) *participate in any court proceedings arising during the business rescue proceedings;"*

DIRECTOR:	DIRECTOR:	PROFESSIONAL ASSISTANT:	FINANCIAL CONSULTANT:
JACQUES DU TOIT	DEAN DU TOIT	TAMARIN CRONJE	KOBUS CLOETE
[SENIOR BUSINESS RESCUE PRACTITIONER, B.PROC, DIP. TAX, ATTORNEY, NOTARY, CONVEYANCER]	[BSC IN MOLECULAR BIOLOGY AND BIOTECH. (SU), BSC HONS IN MEDICAL VIROLOGY (UP), CERT. IN SALES AND MARKETING (IMM), ADV. CERT. IN BUSINESS RESCUE PRACTICE (UNISA)]	[BCOM BUS MAN & STATS, ADV. CERT. IN BUSINESS RESCUE PRACTICE (UNISA)]	[BCOM HONS, ADV. CERT. IN BUSINESS RESCUE PRACTICE (UNISA)]

HENRY ARDEN SMITH AND OTHERS // NICOLAS GEORGIU AND OTHERS

CASE NO.: 93417/2019 (PRETORIA HIGH COURT)

4. This matter was set down for hearing on **13 – 17 May 2024**.
5. The main application has been postponed to the week of **3-7 March 2025** (dates still to be confirmed by the Deputy Judge President)

D100 - GELDENHUYS.SETTING ASIDE

CASE NO: 2014/42334 (JOHANNESBURG HIGH COURT)

6. "Setting Aside" / "Transfer" application.
7. In the main application – the relief sought by the applicants includes, *inter alia*, the setting aside of the Scheme of Arrangement.
8. The transfer application was argued on **22 January 2024**.
9. The application to transfer was dismissed. Theron & Partners filed the application for leave to appeal in respect of the application to transfer.
10. A Replying Affidavit in the conditional counter-application (part of the main setting aside application) has been filed on **30 September 2024**.
11. The matter is set down to be heard on **13 and 14 November 2024**.
12. The Applicants filed a Notice of Intention to Amend their Notice of Motion on **12 September 2024**. Objections to this Notice to Amend has been filed on **30 September 2024**. The Applicants must file an application for leave to amend before **14 October 2024**.

THE PLG AFFECTED CREDITORS GROUP & 2 OTHERS // ZEPHAN PROPERTIES (PTY) LTD (IN BUSINESS RESCUE) & 2 OTHERS

CASE NO.: 44345/2023 (PRETORIA HIGH COURT)

13. On **31 May 2023**, an application was brought by three 'affected creditors groups' titled 'THE PLG AFFECTED CREDITORS GROUP', 'THE RT AFFECTED CREDITORS GROUP'; and 'THE IE AFFECTED CREDITORS GROUP', in the Pretoria High Court, under case number **44345/2023**.
14. A link to the application bundle is provided below:

Case 44345 2023 - Set aside BR

15. The relief sought by the Applicants in this matter, as stated in the Notice of Motion, is quoted below for ease of reference

- “1. That leave be granted to the **APPLICANTS** to institute this application in terms of section 133(l)(b) of the Companies Act, 2008 (Act 71 of 2008) (“The Act”) and to proceed therewith;*
- 2. That the purported approval by the requisite majority of the creditors of Zephan (PTY) Ltd, of the revised business rescue plan proposed by Du Toit, at the meeting of creditors of Zephan (PTY) Ltd, held on 31 March 2023, be and is hereby reviewed and set aside.*
- 3. That the result of the votes in favour of adoption of the revised business rescue plan for Zephan (PTY) Ltd at the meeting of Creditors held on 31 March 2023 is set aside in terms of the provisions of Section 157(7) of the Companies Act, 2008 (Act 71 of 2008) on the grounds that it is inappropriate.*
- 4. That it is declared that the business rescue plan proposed in Zephan (PTY) Ltd by the **THIRD RESPONDENT** (“Du Toit”) is not one contemplated by parts A to B of Chapter 6 of the Companies Act, 2008 (Act 71 of 2008) as it unlawfully incorporates a provision that all creditors, including those who opposed the approval of the plan, are obliged to cede their claims to an anonymous third-party offeror.*
- 5. That Du Toit shall file a notice of the termination of the business rescue proceedings as envisaged in Section 153(5) of the Companies Act.*
- 6. That the business rescue proceedings in respect of Zephan (PTY) Ltd be converted to liquidation proceedings in terms of s 132(2)(a)(ii) of the Companies Act.*
- 7. Alternatively, that this Court grant leave to the affected creditors listed in **ANNEXURES “RB1-RB5”** hereto, in terms of section 133 of the Act, to enforce their judgments and execution against Zephan (PTY) Ltd.*
- 8. That the costs of the application be paid by Du Toit de bonis propriis on a scale of attorney and client alternatively, be part of the costs of administration of the Zephan (PTY) Ltd in the said winding up.”*

16. A Rule 30A application was subsequently issued on behalf of the companies in business rescue, in which the applicants and their representatives, were required to comply with Rule 7 and prove their authority to act on behalf of these affected creditor groups.

17. A link to the application bundle is provided below:

[Case 44345-2023 - RULE 30A APPLICATION](#)

18. Our Heads of Argument (“HoA”) was filed during **January 2024** and the applicant has filed their supplementary HoA. Link to this below:

[HOA.PRACTICE NOTES.MISC.zip](#)

19. The matter was argued on **16 May 2024** in regard to the Rule 30A and Rule 7 dispute. We are awaiting the judgment and the next steps are to be determined upon receipt of judgment.

FRANCOIS STRAUSS & ANOTHER // ORTHOTOUCH (PTY) LTD (IN BUSINESS RESCUE) & 16 OTHERS

CASE NOS.: 3201/2023 & 3202/2023 (BLOEMFONTEIN HIGH COURT)

20. On **30 June 2023**, copies of two applications in terms of section **132(2)(a)(ii)** of the Act were served on the business rescue practitioner, in terms of which the Applicants therein seek the conversion of the business rescue proceedings of the companies (respectively) into liquidation proceedings.
21. The applications were issued from the Bloemfontein High Court, on behalf of Messrs Francois Strauss and Mr Henry Arden Smith, under case numbers **3201/2023** (in respect of Zephan) and **3202/2023** (in respect of Orthotouch).
22. Links to both applications are provided below:

ORTHOTOUCH APPLICATION:

[Case 3202_2023 - Liquidation App](#)

ZEPHAN APPLICATION:

[Case 3201_2023 - Liquidation App](#)

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23. The exact relief sought by the Applicants therein can be ascertained from the respective Notices of Motion.
 24. The companies have opposed both applications and are in the process of finalising answering papers, which will be settled by Advocate Joubert SC.
 25. The information as provided by Mr Gert Holtzhauzen is being considered as same may be necessary to incorporate in the Answering Affidavit.
 26. We have alerted the attorneys for the Applicants (Theron & Partners) of the fact that we have received various information from Mr Holtzhauzen and that we are considering same in so far as it needs to be incorporated in the Answering Affidavits.
 27. On **20 June 2024**, a joinder application was delivered in which, *inter alia*, the applicants seek to obtain the directions of the Court as to the manner in which affected persons are to be notified of these proceedings. Our team is in the process of considering this application and will advise on next steps in due course.
 28. An answering affidavit has been filed on **28 August 2024**.
 29. The Applicants demanded that a condonation application for the late filing of the answering affidavit. The condonation application has subsequently been filed on **25 September 2024**.

GERHARDUS THEODORUS DANIEL HOLTZHAUZEN N.O. & ANOTHER // JACQUES DU TOIT N.O. & 2 OTHERS

CASE NO.: 114798/2023

30. The business rescue practitioner for Prinia Asset Management (Pty) Ltd (in business rescue) ("Prinia") issued action proceedings against Zephan & Orthotouch for repayment of the PCF funds.
31. This action was defended by filing a Notice of Intention to Defend on **4 December 2023**. And Plea on **19 February 2024**.
32. Prinia terminated the business rescue proceedings on **27 March 2024**.
33. Cilliers and Reynders Inc were substituted as attorneys of record for the Plaintiffs by Couzyn Hertzog & Horak and requested a stay until approximately **15 May 2024**.
34. The Second Plaintiff filed its Replication on **18 July 2024**.

35. The Advocate is looking at all possible claims and we will advise in this regard in due course.

AMAANAT INVESTMENT HOLDINGS LTD // THERESA GEORGIU N.O., ZEPHAN PROPERTIES (PTY) LTD (in business rescue) & ANOTHER

CASE NO.: 11265/2024 - DURBAN HIGH COURT

36. On **18 September 2024**, Amaanat Investment Holdings Ltd issued an action wherein Zephan is cited as the second defendant.

37. A Notice of Intention to Defend has been filed on **1 October 2024**, and the Plea is due on **29 October 2024**.

38. Counsel is also to consider a possible counterclaim.

My further advices will follow.

Yours faithfully,



Jacques Du Toit

*Director & Senior Business Rescue Practitioner
DTB Du Toit Business Rescue Practice
B.Proc, Dip. Tax, Attorney, Notary, Conveyancer*