



Du Toit Business  
**RESCUE PRACTICE**

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**Your Reference:** All  
**Date:** 30 October 2020

To Investors / Creditors

**ORTHOTOUCH AND ZEPHAN PROPERTIES (PTY) LTD (IN BUSINESS RESCUE) SEPTEMBER & OCTOBER 2020 REPORT**

Dear Sirs

**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. 2<sup>ND</sup> Creditors meeting: In the process of finalising a way forward in Lockdown under Level 2

**Business Progress**

1. The Business Rescue Practitioner refers to items arising from the report of July and August 2020.
2. The additional investigation has been completed with the exception of a few queries in regard to loan accounts, and financial queries.
3. The Business Rescue Plan has been amended and will be finally updated with the few outstanding updates.
4. The Business Rescue Plan amendments have been affected in collaboration with the Attorneys and Advocate of record for Zephan and Orthotouch.
5. It is the intention to finalise all outstanding items as aforesaid as soon as practicable so as to be able to distribute the amended plan to all Creditors.
6. Prior to distribution of the Business Rescue Plan to creditors it shall be presented to the Creditors Committee for their final comments and inputs.
7. Prior to the final distribution and convening a voting meeting in terms of the Companies Act, the Business Rescue Practitioner needs to clarify certain legal aspect with regards to the Buyback agreements, the HS Business Rescue and the sanctioned Scheme of Arrangement regarding the rights of creditors to ensure a valid voting process. The creditors / investors shall be advised on the progress in this regard.

**Litigation**

1. There are still certain attorneys who endeavored upon litigation during Business Rescue with the Companies disregarding and contravening the applicability of Chapter 6 of the Companies

Act, regulating the Business Rescue Process and the moratorium against legal action as regulated by Section 133 of the Companies Act.

2. The attorney acting on behalf of the Companies, continues to vigorously intervene and protect creditors accordingly.
3. Class Action Litigation
  - a. The Company's attorney requested, from Theron Attorneys, disclosure of the class action participants in terms of High Court rule 35, which disclosure was to be made by 3 November 2020.  
Theron Attorneys failed to disclose same and the Business Rescue Practitioner has no other alternative but to apply to court to compel Theron to comply, which is crucial to the voting procedure and the acceptance of claims of the participants.
  - b. All class action participants are compelled to confirm their identity to the Business Rescue Practitioner by furnishing the Business Rescue Practitioner with the opt-in documentation as required by the class action rules and furthermore to furnish the Business Rescue Practitioner with their individual claim form for the Business Rescue Practitioner to accept / approve such claim.

### COVID-19

1. During Level 1, meetings and gatherings remain prohibited in regard to the approximate 13 000 affected persons which is to attend a 2<sup>nd</sup> creditors voting meeting.
2. The Business Rescue Practitioner is investigating a hybrid process whereby a limited amount of people can attend in Person and the remainder of the affected persons being able to part take and attend the meeting virtually.
3. The virtual attendees will be able to vote in terms of a valid voting basis in law, to which procedure the Business Rescue Practitioner will advise in due course.
4. The Business Rescue Practitioner will advise of the way forward in due course.

Yours faithfully



Du Toit Business Rescue Practice

Per: Jacques Du Toit (Senior Business Rescue Practitioner)