

**MONEYWEB HOLDINGS**

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**Mr Nic Georgiou**

Zephan Properties PTY LTD  
96 Raymond Mhlaba Street  
Navalsig  
Bloemfontein  
9301  
7 November 2018

Dear Mr. Nic Georgiou

I trust all is well.

I am writing this letter to you in your capacities as director of both Zephan and Orthotouch.

I have studied the title deeds of virtually all the properties listed in the original Highveld Syndications prospectuses.

I am planning to write a series of articles based on this research. However, this is a complicated undertaking and I have several questions to which I hope you could provide some clear and contextual answers.

**Questions related to the dispute between Zephan and Bosman & Visser:**

1. Did Mr. Georgiou, or a related entity, have direct or indirect control over PIC Investments Holdings (Pty) Ltd?
2. Did Mr. Georgiou, or a related entity, have any direct or indirect control over Bosman & Visser?
3. Did Mr. Georgiou, or a related entity, have any direct or indirect control over the Highveld Syndication Companies 15 to 22?
4. Why has Mr. Georgiou never instituted legal action against Bosman & Visser as a result of the dispute between the parties regarding the short payment of approximately R883 million?
5. Was there ever a settlement between Zephan and Bosman & Visser?

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**Questions related to properties that Accelerate acquired via Orthotouch**

A significant number of properties were sold to Accelerate via Orthotouch when Accelerate listed in 2013. The details of these companies are listed in Annexure 16 of the Accelerate Prelisting Statement and I refer to these properties as the “Orthotouch properties”.

I have researched all the transactions related to these properties. I provide the transaction details of three of these properties below as I refer to them in the questions that follow. These three properties are Glen Gables, Leaping Frog and 1 Charles Crescent. The transactions are summarised as follows:

<b>Glen Gables</b>		
<b>Year</b>	<b>Company</b>	<b>Purchase price</b>
2006	Zelphy 2095/Zephan	R 59 000 000
2013	Orthotouch	R123 304 205
2013	Accelerate	R32 556 543
Loss to Orthotouch		<b>-R90 747 662</b>
<b>Original BRP valuation</b>		R59 613 263

<b>Leaping Frog</b>		
<b>Year</b>	<b>Company</b>	<b>Purchase price</b>
2006	Fourways Precinct	R135 000 000
2013	Orthotouch	R231 888 362
2013	Accelerate	R147 121 010
Loss to Orthotouch		<b>-R84 767 352</b>
<b>Original BRP valuation</b>		R140 330 188

<b>1 Charles Crescent (HS22)</b>		
<b>Year</b>	<b>Company</b>	<b>Purchase price</b>
2006	Zelphy 2095/Zephan	R41 040 000
2013	Orthotouch	R216 434 338
2013	Accelerate	R110 805 516
Loss to Orthotouch		<b>-R105 628 822</b>
<b>Original BRP valuation</b>		R107 044 630

I have the following questions regarding the transactions:

6. Why did Zephan/Zelphy/NGT, or any other entities related to Zephan, sell properties to Accelerate, via Orthotouch? Why were these properties not sold directly to Accelerate?
7. How, and by whom, were the prices Orthotouch paid for the properties it procured from Zephan/Zelphy/NGT calculated?
8. How were these transactions financed through which Orthotouch procured properties from Zephan/Zelphy/NGT?
9. Paragraph 4.10 of the BRP, which was implemented in 2011, states the following:  
*“All the properties referred to in 4.1 to 4.9 above will be transferred at the values reflected in Appendix II being the current value, notwithstanding that the amount to be paid will be the syndication amounts as reflected above.”*  
Why were the properties sold to Orthotouch at prices in excess of the valuations reflected in the BRP?
10. The Accelerate Prelisting Statement shows Accelerate acquired the properties from Orthotouch at a discount to the independent valuations contained in the statement. Why did Orthotouch sell the properties to Accelerate at prices below the independent valuations?
11. Did Orthotouch commission its own independent valuations prior to selling the properties to Accelerate? If so, please provide a copy or a summary of the valuations.
12. I have calculated that the sale of the properties via Orthotouch to Accelerate resulted in Orthotouch suffering losses in excess of R860 million. Taking only Glen Gables, Leaping Frog and 1 Charles Crescent into account, the losses suffered from the transactions amount to R281 million. What was the total loss Orthotouch suffered from these transactions?

## The Orthotouch Sale Agreements

Refer to paragraphs 1.1 to 1.6 of Annexure 12 of the Accelerate Prelisting Statement.

Paragraph 1.2 states the following:

*Orthotouch has sold the Orthotouch Letting Enterprises to Accelerate for the Orthotouch Purchase Prices. The Orthotouch Purchase Prices will be paid by Accelerate to Orthotouch partly in cash and partly in Shares. The portion of the Orthotouch Purchase Price to be paid in cash will equal the amount required to cancel the existing mortgage bonds registered against the title deeds to the Orthotouch Land plus interest to the date of payment. The Share portion of the Orthotouch Purchase Prices will be an amount equal to each Orthotouch Purchase Price less the amount of the Orthotouch Purchase Price paid in cash. The Orthotouch Purchase Prices will be paid in full on the Property Portfolio Transfer Date, subject to the provisions of paragraph 1.6. In respect of those Orthotouch Letting Enterprises where there are no existing mortgage bonds, the Orthotouch Purchase Price will be settled solely in Shares. (My emphasis)*

I have the following questions related to this paragraph:

13. How much cash did Accelerate pay and how many Accelerate shares, and at what price, were issued to Orthotouch as payment for the properties? Please provide this information per individual property.
14. Please provide details of the mortgages that were registered against the title deeds. Please provide this information per individual property.
15. In which entity's names were the mortgage bonds referred to registered, i.e. who were the mortgagors? Please provide information per individual property.
16. In respect of the Orthotouch properties acquired without registered mortgage bonds, how many Accelerate shares were issued as payment, and at what price? Please provide this information per individual property.

In paragraph 1.6.1 of Annexure 12 of the Prelisting Statement, the following is stated:

*“Accelerate will procure that the Shares forming part of the Share portion of the Orthotouch Purchase Price are issued in the name of Orthotouch in unlisted “certificated form”, or its renounee. Orthotouch has renounced the Shares to the Michael Family Trust. Accelerate will deliver the Shares to Ironwood Trustees to hold the unlisted Shares in escrow pending the Orthotouch Transfer. On the date of the Orthotouch Transfer, Ironwood Trustees will release the Shares to the Michael Family Trust.” (My emphasis)*

17. Why were the shares issued as payment for the Orthotouch properties renounced to the Michael Family Trust and not retained by Orthotouch?
18. Who authorised this renouncement of shares to the Michael Family Trust?
19. What are the terms of the renouncement of the shares to the Michael Family Trust?
20. Was this renouncement ever communicated to Orthotouch investors? If so, please provide me with the relevant communication.
21. How many shares were renounced to the Michael Family Trust?
22. Please provide me with the agreement/document through which Orthotouch renounced the shares to the Michael Family Trust.

## **Questions related to properties sold by Zephan prior to the commencement of business rescue proceedings**

The analysis of the property deed documents revealed that Zephan sold a number of properties to third parties prior to the Highveld Syndication companies being placed under business rescue. These properties were initially destined to be transferred into the relevant HS companies.

These properties include:

- Airport Shopping Centre (2010)

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- Centex Close (HS22) (17 February 2011)
- Everite (This property was never owned by Zephan or any related Georgiou entity)
- Mount Royal (30 June 2011)
- Mr Price Vryburg (2010)
- Ormonde Shopping (2010)
- Shoprite Checkers in Graaf Reinet (31 May 2011)
- The Mill House (2008)
- Vaal Sanitary (2006)
- Woolworths Kimberley (2008)

23. Why were these properties sold to third parties whilst there was an ongoing dispute between Zephan and Bosman & Visser, which prevented the transfer of the properties to the HS companies?
24. Were HS Investors informed of these transactions? If so, please provide me with the communication.
25. Did Zephan or Georgiou entities have the authority to sell these properties to third parties?

**Questions related to individual property transactions**

The tables below summarise transactions and valuations related to individual properties. I have a few questions related to these individual properties.

<b>Panorama</b>	HS16	
<b>Valuations</b>	<b>Date</b>	<b>Valuation</b>
Syndication Value as per HS Prospectus	2006	R35 925 000
<b>Property transactions as per the title deed</b>		
<b>Company</b>	<b>Year</b>	<b>Price</b>
Bosman & Visser	2006	R43 000 000
Highveld Syndications 16	2006	R51 877 008
Zephan	2011	R35 989 536
Oaktree INV PTY LTD	2014	R101 000 000

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26. Who authorised the sale of the property from HS16 to Zephan in 2011?
27. How was the selling price of R35 989 536 calculated?
28. Was the property developed further before it was sold to Oaktree in 2014 for R101 million? If so, by whom?
29. Why was the property not sold directly from HS16 to Oaktree?
30. These transactions resulted in a loss of R15.8 million for HS 16, and a profit of R65 010 464 for Zephan. Please explain the business rationale of this transaction and how this benefitted investors?

<b>Rock Cottage</b>	HS16	
<b>Valuations</b>	<b>Date</b>	<b>Valuation</b>
Syndication Value as per HS Prospectus	2006	R48 135 000
Value as per BRP	Dec 2011	R67 908 760
Valuation by Accelerate PLS	Oct 2013	R64 000 000
<b>Property transactions as per the title deed</b>		
<b>Company</b>	<b>Year</b>	<b>Price</b>
Bosman & Visser	2006	R44 270 833
Highveld Syndication 16	2006	R48 086 412
Zephan	2011	R48 086 412
Accelerate	2013	R63 000 000
Vresthena PTY LTD	2015	R65 000 000

31. Who authorised the sale of the property by HS16 to Zephan in 2011 at the price HS 16 originally paid for the property, and at a significant discount to the BRP valuation?
32. Was the property developed further before it was sold to Accelerate in 2013 for R63 million?
33. From this sequence of transactions, Zephan earned a profit of R14 913 588 from these transactions. Please explain the business rationale of this transaction and how the transaction benefitted investors?

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<b>Southdale</b>	HS17	
<b>Valuations</b>	Date	Valuation
Syndication Value as per HS Prospectus	2007	R205 560 000
Value as per BRP	Dec 2011	R164 192 090
<b>Transactions</b>		
<b>Company</b>	<b>Year</b>	<b>Price</b>
Zelphy 2094	2004	R53 700 000
Bosman & Visser	2006	R139 000 000
Highveld Syndication 17	2008	R205 560 000
Orthotouch	2012	R232 200 000
Zephan	2012	R175 000 000
Serica Inv PTY LTD	2012	R208 000 000

34. Who authorised the sale of the property by Orthotouch to Zephan in 2012?
35. Why was the property not sold directly from Orthotouch to Serica?
36. The transactions resulted in a loss of R57.2 million for Orthotouch, and a profit of R33 million for Zephan. Please explain the business rationale of this transaction and how the transaction benefitted investors?

<b>The Piazza</b>	HS16	
<b>Valuations</b>	Date	Valuation
Syndication Value as per HS Prospectus		
Value as per BRP	Dec 2011	R105 000 000
<b>Transactions</b>		
<b>Company</b>	<b>Year</b>	<b>Price</b>
Zephan	2008	R96 456 198
Highveld Syndication 16	2010	R103 000 000
Orthotouch	2013	R160 928 914
Zephan	2013	R105 000 000
Moxicorp (Mr. N Georgiou is director and owns the property.)	2013	R148 000 000



37. Who authorised the sale of the property by Orthotouch to Zephan in 2013?
38. Was this transaction ever disclosed to investors, and the fact that Mr. Georgiou owns Moxicorp?
39. The transactions resulted in a loss of R55 928 914 million for Orthotouch, and a profit of R12 928 914 for companies related to Mr. Georgiou. Please explain the business rationale of this transaction and how the transaction benefitted investors?

### **Questions related to the selloff of properties following the commencement of business rescue proceedings:**

In paragraph 2.3 of Annexure 1 of the Business Rescue Plan the following is stated:

*The objective of Orthotouch is to maximize the investment return of shareholders and all stakeholders in Orthotouch by selling off the non-performing properties and utilizing the proceeds to redevelop primary shopping centres, such as Southdale in Johannesburg South, Piazza in Randburg, Forum in Sasolburg, Saveways in Witbank and Lyttleton Manor in Centurion. In addition Orthotouch will retain certain retail and commercial properties such as those in Charles Crescent in Sandton, Cell C in Sandton and Ethos in Parktown. (My emphasis)*

Despite this undertaking in the BRP, the majority of these “primary” shopping centres were never transferred to Orthotouch or were sold shortly after the adoption of the BRP at the end of 2011. They include:

- Southdale was sold back to Zephan, who in turn sold it to Serica (See table above);
- The Charles Crescent properties were sold in 2012 and 2013;
- Piazza (Sold back to Zephan in 2013, who sold it in turn to Moxicorp, a company Mr. Georgiou owns).
- Lyttleton Manor was sold in 2012 to Rapfund;
- Primemovie Park (Sold in 2013 to Accelerate);
- Cell C (This property was never transferred to Orthotouch);



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- Ethos (This property was never transferred to Orthotouch);
- Forum (This property was never transferred to Orthotouch):
- Saveways Witbank (This property was never transferred to Orthotouch)

40. Given the representations and undertakings regarding these properties, when compared to what actually happened to them, it is arguable that there were significant misrepresentations that were intended to cause scheme participants to act to their prejudice. Please explain the commercial motive of these transactions.

Kind regards

A handwritten signature in black ink that reads "Ryk van Niekerk". The signature is written in a cursive style with a large, prominent initial 'R'.

Ryk van Niekerk  
Editor of Moneyweb  
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