

3 September 2019

Attention: Mr Ryk Van Niekerk
Moneyweb

Per email: ryk@moneyweb.co.za

Your Ref:

Our Ref: GM/14001-0098/20190903

Direct Tel: +27 11 286 3756

Direct email: bfrank@glynmarais.co.za

Dear Sir

RE: QUESTIONS TO ACCELERATE PROPERTY FUND LIMITED

- 1 We refer to your letter dated 26 July 2019, addressed to our client.
- 2 We are instructed by our client to reply to your letter as follows –
 - 2.1 The contents of the unnumbered paragraphs on the first page of your letter are noted.
 - 2.2 **Ad paragraph 1**
 - 2.2.1 There are casting errors in paragraph 2.3.3, the second column of line item 21 of Appendix 1 and the last column of our letter dated 16 November 2018:¹
 - 2.2.1.1 the last sentence in paragraph 2.3.3 must read as follows:

*“This resulted in the Orthotouch Properties being purchased by our client for an amount of **R165,259,460** less than the total valuation of the Orthotouch Properties submitted by the Valuers.”*

¹ Words and phrases defined in our letter dated 16 November 2018 bear the same meaning when referred to in this letter.

(our emphasis);

- 2.2.1.2 the valuation amount for Mill House in the second column of line item 21 of Appendix 1 is erroneously stated as “R22,700,000” instead of “R24,700,000”, as per line item 24 on page 155 of the pre-listing statement; and
- 2.2.1.3 the amount in the last column of must reflect as “R30,000,000” and not “R29,304,690.
- 2.2.2 The shortfall of R165,259,460 was more than fully compensated for by means of the conditional deferred payments made in respect of the Orthotouch Properties and Eshowe Mall, in the amount of R177,698,297, which is dealt with in paragraphs 2.3.2 and 2.3.5.2 of this letter²:-
 - 2.2.2.1 the independent valuations of the Orthotouch Properties of R1,488,700,000 plus the valuation amount of R52,200,000 in respect of Eshowe Mall is R1,540,900,000;
 - 2.2.2.2 the total acquisition price, inclusive of deferred payments, for the Orthotouch Properties and Eshowe Mall is R1,551,725,431; and
 - 2.2.2.3 an amount of R10,825,431 was paid (under the conditional deferred payments) in excess of the independent valuation amounts for the Orthotouch Properties and Eshowe Mall.

2.3 **Ad paragraphs 2, 3, 4, 8 and 9**

- 2.3.1 The difference between the cash payment amount and the acquisition price represents the payments that were made to settle the amounts owing to the financiers in respect of mortgage bonds that were registered over the Orthotouch Properties and other land and letting enterprises within the Orthotouch portfolio of properties. However, what is relevant is the acquisition price and the cash payments.
- 2.3.2 The Pre-Listing Statement made provision for a conditional deferred payment that was payable to Orthotouch, calculated in terms of a pre-determined formula.
- 2.3.3 Our client purchased the Orthotouch Properties for a purchase consideration of R1,323,440,540. We repeat that the conditional deferred payment was the amount of R177,698,297.
- 2.3.4 Our client purchased the Eshowe Mall letting enterprise and land from Orthotouch for a purchase consideration of R47,258,149.00. The

² In terms of the Pre-Listing Statement, the further purchase price in respect of letting enterprises with excess vacant space would only be paid upon those letting enterprises meeting certain requirements. Payment of the conditional deferred payment amounts was made in respect of the Orthotouch Properties and Eshowe Mall to facilitate that those properties were transferred to our client.

conditional deferred payment paid to Orthotouch for the Eshowe Mall was in the amount of R3,328,594.

- 2.3.5 Orthotouch's indebtedness owed to FirstRand Bank Limited ("RMB") and Investec Bank Limited ("Investec"), that our client settled in respect of the Orthotouch Properties and Eshowe Mall, in the sum of R1,551,725,431, comprised of:
 - 2.3.5.1 R1,323,440,540.00 in respect of the Orthotouch Properties;
 - 2.3.5.2 R177,698,297.00 in respect of the conditional deferred payment in respect of the Orthotouch Properties;
 - 2.3.5.3 R47,258,149.00 in respect of the Eshowe Mall transaction; and
 - 2.3.5.4 R3,328,445.00 in respect of the conditional deferred payment in respect of the Eshowe Mall transaction.
- 2.3.6 Orthotouch's indebtedness to RMB and Investec of R1,551,725,431.00 was extinguished in the following manner:
 - 2.3.6.1 our client paid R1,317,482,422.66 to RMB and Investec and thereby discharging in full the loans secured by mortgage bond in respect of the Orthotouch portfolio of properties acquired by our client. Each property did not necessarily have a separate mortgage loan account covering the particular property bought. There were nine loan accounts covering the Orthotouch portfolio of properties that were bought by our client from Orthotouch. The amount of R1,317,482,422.66 is comprised of the following payments:
 - 2.3.6.1.1 R147,121,010.00 to RMB, being the full purchase consideration of the Leaping Frog Shopping Centre;
 - 2.3.6.1.2 R48,832,608.00 to Investec bond account 223068/011 in respect of the Tyger Manor Shopping Centre;
 - 2.3.6.1.3 R22,979,381.00 to Investec bond account 223431/015 in respect of the Mill House property;
 - 2.3.6.1.4 R489,571,830.66 to Investec bond account 210705/005;
 - 2.3.6.1.5 a further R608,977,493.00 payment to RMB;
 - 2.3.6.2 an amount of R30,000,000 was paid to Orthotouch in lieu of the renounced shares, calculated at the share price of our client at the date of listing; and
 - 2.3.6.3 our client paid an amount of R28,500,000 to Investec.

- 2.3.7 In the premise, a total amount of R1,375,982,322.66 was paid to, or on behalf of, Orthotouch in full discharge of the purchase consideration for the acquisition of the Orthotouch Properties and Eshowe Mall.
- 2.3.8 In so far as the conditional deferred payments in the sum of R181,026742 are concerned, the following payments were made into the undermentioned bank accounts, in respect of properties owned by Orthotouch, but which were not purchased by our client:
- 2.3.8.1 R68,805,742.54 to Investec bond account 090096/026.
- 2.3.8.2 R68,273,366.17 to Investec bond account 090062/034.
- 2.3.8.3 R32,872,956.76 to Investec bond account 218370/007.
- 2.3.8.4 R161,611,172.63 to Investec bond account 218369/038.
- 2.3.9 These payments enabled Orthotouch, in terms of the Business Rescue Plan, to take unencumbered ownership of properties over which mortgage bonds were previously registered.
- 2.3.10 The Pre-Listing Statement provided for Orthotouch to renounce shares in our client in favour of the Michael Family Trust. This renunciation did not happen as Orthotouch was not issued with any shares as our client was advised that Orthotouch should not be a shareholder of our client. As previously mentioned, Orthotouch received payment in *lieu* of the issue of the shares.

2.4 Ad paragraphs 5 and 6

No shares were issued to the Michael Family Trust for the R157 million payment.

2.5 Ad paragraph 7

The amount of R30,000,000 was paid in *lieu* of the issue of Consideration Shares.

2.6 Ad paragraph 10

Our client does not have the names of the properties nor the amounts which were apportioned to each of the properties, other than the information set out in paragraph 2.3.8 of this letter.

2.7 Ad paragraphs 11 and 12

Our client is not at liberty to disclose this information to you as it infringes its corporate governance policy of protecting the personal information of third parties, which it is obliged to protect under the Protection of Personal Information Act, No 4 of 2013. Kindly direct your request for information to the respective entities.

2.8 Ad paragraph 13

The information of the adjustment in the values of the Orthotouch Properties is not readily available to our client. As soon as the information comes to hand, we will send it to you.

2.9 Ad paragraphs 14 and 15

2.9.1 The board of directors of our client (the “**Board**”) took advice and received legal opinion that the properties syndicated by the Highveld Syndication Companies must not be purchased directly from these companies and that all transactions relating to the Highveld Syndication properties must only be transacted through Orthotouch, as the Business Rescue vehicle.

2.9.2 In accordance with the legal advice that the Board received, it dealt with the court approved Business Rescue Practitioner, who had the requisite legal authority and responsibility of implementing the Business Rescue Plan, in respect of the Orthotouch Properties.

2.9.3 Our client purchased the Orthotouch Properties at fair market value in terms of arm’s length transactions, which were viable and lawful business opportunities for our client to pursue.

2.9.4 For reasons previously stated,³ neither our client nor its financiers considered the independent valuations of the Orthotouch Properties as being a true reflection of the value of the underlying assets that were being sold.

2.10 Ad paragraph 16

- **Ad first bullet point**

2.10.1 The statement was not made as the Board had been advised that valid and binding sale agreements had been entered into between the various parties, agreeing the sale of these properties to Orthotouch and that Orthotouch was lawfully entitled to sell and transfer these properties to our client.

2.10.2 Your attention is also drawn to the notes on page 156 of Pre-Listing Statement, which states that:

“(i) The Vendors are the Registered Owners of the Land on which the Letting Enterprises are conducted, save in respect of the Orthotouch Land and the Georgiou Land, which whilst registered in the name of the Registered Owners, the Orthotouch Letting Enterprises and Georgiou Letting Enterprises have already transferred

³ See in this regard paragraphs 2.3.1 to 2.3.3 of our letter dated 16 November 2018, with necessary changes thereto in terms of this letter.

into the name of Orthotouch and the George Nicolas Trust respectively, who will continue to conduct such Orthotouch Letting Enterprises and Georgiou Letting Enterprises until the transfer into the name of Accelerate.

(ii) Simultaneously, the transfer of the Orthotouch Letting Enterprises and Georgiou Letting Enterprises into the name of Accelerate, the Registered Owners will transfer the Orthotouch Land and Georgiou Land into the name of Accelerate, which is expected prior to the date of Listing.”

- **Ad second bullet point**

Yes.

- **Ad third bullet point**

Yes.

- **Ad fourth bullet point**

Yes. The Board had been advised that valid and binding sale agreements had been entered into between the various parties, agreeing the sale of these properties to Orthotouch and that Orthotouch was lawfully entitled to sell and transfer these properties to our client.

2.11 Ad paragraph 17

Our client has no knowledge of what the investors in the Highveld Syndication Schemes were informed.

2.12 Ad paragraph 18

2.12.1 Our client disagrees with your statement that Orthotouch suffered a loss of R782 million from these transactions.

2.12.2 Our client purchased the Orthotouch Properties at fair value and fully paid for the Orthotouch Properties in full, pursuant to the provisions of the court approved Business Rescue Plan.

2.12.3 The costs of syndicating the properties through the Highveld Syndication Companies resulted in the values of these properties being inflated far above their market value, bearing in mind the independent valuations received.

2.12.4 As stated in paragraph 2.3 of our letter dated 16 November 2018, at the time that our client and its financiers inspected the Orthotouch Properties, they were worth less than the valuations placed on them by the valuers referred to in that letter. Factors such as the lease profiles, the vacancies and the cost

of capital expenditure and repairs and maintenance required resulted in a lower valuation of the Orthotouch Properties.

2.13 Ad paragraph 19

- **Ad first and second bullet points**

2.13.1 These properties (in respect of which mortgage bonds were paid) were part of the Orthotouch portfolio of properties but were not purchased by our client.

2.13.2 As stated in paragraph 2.3 of this letter, Orthotouch benefited in that:-

2.13.2.1 Orthotouch received payment of fair value for the properties concerned;

2.13.2.2 Properties bonded by mortgage bonds in favour of Investec and RMB, which were not part of the Orthotouch portfolio of properties acquired by our client were discharged in full; and

2.14 Ad paragraph 20

The property was acquired at fair market value.

Yours faithfully

GLYN MARAIS INCORPORATED

Per:



BRIAN FRANK/
ROBERT JANUARY