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# STEINHOFF INTERNATIONAL HOLDINGS N.V. LITIGATION REPORT REGARDING DUTCH CLASS ACTION

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**FALL 2018**

## EXECUTIVE SUMMARY

Lieff Cabraser Heimann & Bernstein, LLP and Saxena White P.A. are pleased to present this Litigation Report which discusses and analyzes “opt-in” international litigation in the Netherlands against Steinhoff International Holdings N.V. (“Steinhoff” or the “Company”). Steinhoff is one of the largest sellers of furniture and household goods in the world, with more than 12,000 stores and 40 local retail brands in more than 30 countries. Steinhoff maintains its “business” office in South Africa, but it is registered as a Dutch corporation. Steinhoff’s common shares trade on both the German and South African stock exchanges. Notably, Steinhoff has no shares that are traded in the United States—not even American Depositary Receipts.

Since late 2017, Steinhoff has been embroiled in a massive accounting scandal described by some as “the Enron of South Africa.” On December 5, 2017, the Company announced

the immediate resignation of its Chief Executive Officer and the discovery of significant accounting irregularities. The Company’s shares plummeted 80% over the course of two trading days. As additional information regarding the accounting fraud has come to light—including restated financial statements, additional resignations of Steinhoff’s most senior officers and directors, and various regulatory and criminal investigations—the Company’s share price has continued to plunge, wiping out billions in shareholder value. Investors have thus suffered tremendous losses as a result of investing in Steinhoff securities.

This Litigation Report analyzes the benefits of joining the Stichting Steinhoff Investor Losses (the “Foundation”), a Netherlands-based claim foundation established to actively protect the interests of investors who purchased and/or traded Steinhoff securities, and who suffered losses as a result of the fraudulent and misleading information in Steinhoff’s public filings and other unlawful acts perpetrated by Steinhoff and its high-ranking officers.

# OVERVIEW OF THE STEINHOFF FRAUD

## BACKGROUND OF THE COMPANY

Steinhoff has been involved in household goods trading since 1963, ultimately evolving into a global retailer with more than 12,000 stores and 40 local retail brands in more than 30 countries. With 26 manufacturing facilities and approximately 130,000 employees, Steinhoff is Europe's second-largest furniture group. Steinhoff is a Dutch holding company with its corporate seat in Amsterdam. Dubbed "Africa's Ikea", the Company's business offices are located in South Africa. Steinhoff's shares are dual-listed on the Frankfurt and Johannesburg Stock Exchanges. In recent years, Steinhoff engaged in a long string of acquisitions of stagnating or deteriorating businesses, including the Houston, Texas-based retailer Mattress Firm, which the Company bought in September 2016 for a 115% premium, as reported by Forbes.

## THE STEINHOFF ACCOUNTING FRAUD IS EXPOSED

Allegations of misconduct against Steinhoff commenced in August 2017 when Manager-Magazin, a German business and finance magazine, reported that Markus Jooste, Steinhoff's then-CEO, was among the employees being investigated by German prosecutors in a 2015 case linked to possible accounting fraud. The Company responded that the article was "wrong or misleading," adding that it had appointed legal and external

## STEINHOFF INTERNATIONAL HOLDINGS N.V.

### BLOOMBERG TICKER

SNH:GR (Primary Listing Ordinary Shares)  
SNH:SJ (Secondary Listing Ordinary Shares)  
SNHFF: PFD (Preferred Shares)

### REUTERS TICKER

SNHG.DE (Primary Listing Ordinary Shares)  
SNHJ.J (Secondary Listing Ordinary Shares)  
SHFFP.J (Preferred Shares)

### ISIN:

Ordinary Shares: NL0011375019  
Preferred Shares: ZAE000068367

### STOCK EXCHANGES:

Frankfurt & Johannesburg

### HEADQUARTERS:

South Africa / Netherlands

**RELEVANT PERIOD:** Shares bought or held through 20 December 2017 COB.

audit firms in Germany to investigate the matter and that they had concluded that "no evidence exist[ed]" that the Company broke German commercial law.

In November 2017, Reuters reported that Steinhoff failed to tell investors about \$1 billion in transactions with a related company, despite laws that experts believed required disclosure. Steinhoff responded that it had complied with reporting requirements and did not have to provide detailed information about the transaction because it purportedly did not have a major impact on profitability.



incestuous managerial transactions, lack of transparency and entirely non-independent governance make Steinhoff borderline uninvestable.” Shares of the Company’s stock plunged, Steinhoff’s credit rating was repeatedly slashed to below junk level, and billions in shareholder value was wiped out. Steinhoff went from a blue chip to a penny stock overnight.

A mere month later, on December 5, 2017, the Company announced: (i) that CEO Jooste was stepping down “with immediate effect,” (ii) that new information had come to light relating to “accounting irregularities requiring further investigation,” and (iii) that PricewaterhouseCoopers would be conducting an independent investigation into the Company’s finances. In its announcement, the Company concluded that “[s]hareholders and other investors in Steinhoff are advised to exercise caution when dealing in the securities of the group.”

Concurrently, Viceroy Research published a detailed 37-page report regarding “Steinhoff’s skeletons,” which outlined how Steinhoff management allegedly used “off-balance-sheet entities to obscure losses.” Viceroy’s investigation into Steinhoff “revealed several concerning activities” surrounding “undisclosed related entities.” Specifically, the report found that Steinhoff’s “acquired businesses are struggling but net income has been artificially propped up by a massive web of undisclosed related party transactions.” The report concluded that “Steinhoff’s confusing roll-up structure likely holds numerous other secrets which are yet to uncover [sic]. Viceroy believes

## THE FALLOUT FROM THE FRAUD

On December 13, 2017, the Company announced that “the 2016 consolidated financial statements will need to be restated and can no longer be relied upon,” and that 2017 financial results were also under scrutiny. Steinhoff’s auditor, Deloitte, withdrew its approval to use its audit opinion. The following day, Christo Wiese, Steinhoff’s top shareholder and Chairman, who had stepped in as CEO only the prior week, stepped down to reinforce independent governance and “address any possible conflict of interest.”

On January 4, 2018, as Steinhoff announced that some of its business units required “significant near-term liquidity,” Steinhoff CFO Ben La Grange resigned. Resignations continued as Board member Jayendra Naidoo resigned with immediate effect on January 18, 2018. Mattress Firm’s CEO Ken Murphy resigned on January 27, 2018. On April 18, 2018, days before the Steinhoff Annual General Meeting on April 20, 2018, Johan van Zyl, a member of the Supervisory Board at Steinhoff, decided to withdraw his candidacy for re-election and resigned his position as Supervisory Board member with immediate

effect. In total, nine members of the Steinhoff Supervisory Board left under the cloud caused by the fallout from the accounting scandal.

In addition to multiple resignations, numerous investigations have commenced. In January 2018, South Africa's elite Hawks police unit began investigating former CEO Jooste over suspected corruption, which investigation expanded to encompass three cases of fraud and other charges related to the Steinhoff scandal. The alleged wrongdoing was so pervasive, South African regulators sought Interpol's assistance to coordinate investigations by a host of regulators and law enforcement agencies, including those in Germany and the Netherlands. South Africa's Financial Services Board announced that it was investigating two cases of possible insider trading and one case of false or misleading statements relating to Steinhoff. German prosecutors began investigating accounting irregularities and fraud at the Company. Steinhoff's auditor, Deloitte, is also being investigated by the Dutch Authority for the Financial Markets and South Africa's Independent Regulatory Board for Auditors.

The turmoil at Steinhoff reverberated across the global financial markets. In January 2018, several major U.S. financial institutions reported hundreds of millions of dollars in losses and charge-offs tied to the Steinhoff accounting fraud, including Citigroup (\$130 million), Goldman Sachs (\$130 million), J.P. Morgan (\$143 million), and Bank of America (\$292 million).

On April 20, 2018, the Company held its AGM, where Steinhoff leadership announced that a

forensic investigation by PwC had "confirmed a pattern of transactions undertaken over a number of years across a variety of assets classes that led to the material overstatement of income and asset values of the group." Shares fell an additional 13%. Further, in late June 2018, the Company announced that its total write-downs related to the scandal had ballooned to more than 10 billion euros (about \$12 billion)—about 70% higher than initially estimated.

## LITIGATION AGAINST STEINHOFF

### DUTCH COLLECTIVE LITIGATION

Litigation against Steinhoff is clearly warranted. Claims against Steinhoff have been filed in the Netherlands. Steinhoff is registered as a business in the Netherlands. Dutch courts are experienced in international shareholder litigation and well-equipped to deal with collective securities litigation. It is important to note that under Dutch law and procedural rules, it is beneficial for investors to "opt-in" at an early stage of any collective action, by lending support (*e.g.*, by providing a support letter) to the foundation that will directly or indirectly seek compensation from Steinhoff. In doing so, the foundation's standing is solidified, increasing the odds that the foundation will be able to secure a positive outcome that serves the interests of the investors.

### THE FOUNDATION

The Stichting Steinhoff Investor Losses provides a vehicle to litigate in the interests of Steinhoff

investors and/or to pursue a binding settlement that provides for a global resolution for the benefit of Steinhoff investors. The applicable Dutch “WCAM” legislation provides a proven and tested platform to reach such a global resolution. The Foundation is a Netherlands-based claim foundation that aims to *actively* protect the interests of investors who purchased and/or traded in common shares and/or preferred shares, derivative instruments thereof, and/or bonds and/or other securities issued by Steinhoff and/or one or more of its entities, and who suffered losses as a result of the fraudulent, misleading information in Steinhoff’s financial statements and other unlawful acts perpetrated by Steinhoff entities, subsidiaries, and high-ranking officers. The Stichting was formed to, and will protect these investors by, *inter alia*, seeking an active role in ongoing Dutch litigation.

Investors who (a) purchased common and preferred shares of Steinhoff and/or bonds and/or derivative instruments issued by Steinhoff International Holding N.V. before December 21, 2017 and (b) suffered and/or are in danger of suffering (further) damages as a consequence of the alleged fraud, can contact the Foundation so that it can determine eligibility to pursue claims in the Dutch court system. Eligible damaged investors can join the Foundation with no upfront cost or risk.

## **THE FOUNDATION BOARD OF DIRECTORS AND INTERNATIONAL LEGAL COUNSEL**

The Board of Directors of the Foundation include some of the most prominent members of the Dutch legal community, including Alfred

Hammerstein, a former Justice of the Dutch Supreme Court; Jeroen M.J. Chorus, a former Justice of the Amsterdam Court of Appeals; Inge-Lisa Toxopeus, a lecturer and expert forensic accountant specializing in fraud and financial loss investigations; Jan Paul Franx, a law professor and attorney specializing in corporate and securities issues; Wil Tonkens-Gerkema, a former Judge at the Court of Amsterdam who has decades of legal experience as a lawyer, arbitrator, judge, and chairperson for various legal and claim committees; and Ard van der Steur, a former Minister of Justice and member of the Dutch House of Representatives. A short biography of each Board member is included at the end of this litigation report.

In pursuing its aim, the Foundation’s Board members work closely together with a coalition of international law firms, including Lemstra Van der Korst N.V., Lief Cabraser Heimann & Bernstein LLP, and Saxena White P.A. Lemstra Van der Korst N.V. is a preeminent Dutch law firm specializing in corporate and commercial litigation, including several high profile collective actions. Its lawyers have extensive experience in advising national and international enterprises. Their aim is to prevent new disputes and to resolve existing ones.

Lief Cabraser is committed to achieving justice for its clients through class actions and individual lawsuits. Since its founding in 1972, Lief Cabraser has helped recover more than \$118 billion in verdicts and settlements for its clients. Many of these cases are among the most significant civil cases in the United States in the past quarter century. Lief Cabraser is

among the largest law firms in the United States that only represent plaintiffs. Lief Cabraser attorneys possess the sophisticated legal skills, financial resources, investigative talent, and administrative support to take on the world's most powerful corporations.

The Saxena White team is comprised of experienced attorneys and professionals. Saxena White, its attorneys, and support staff have extensive experience representing both institutional and individual clients in securities class action litigation, derivative actions, and individual federal and state securities actions. Since Saxena White's inception in 2006, the firm and its attorneys have been involved in actively litigating more than 100 such actions, over 75% of which involved public pension fund clients. Saxena White specializes in these types of cases, which has enabled Saxena White's attorneys to master these complex areas of law.

Although operating as an independent vehicle, the Foundation works closely together with Lief Cabraser and Saxena White. Lemstra Van der Korst is the Foundation's attorney of record. Damaged investors can join with no upfront financial risk or commitment. In the Netherlands, Lemstra Van de Korst N.V. is the preeminent Dutch law firm specializing in WCAM settlements as well as corporate and commercial litigation, including several high profile collective actions. Its lawyers have extensive experience in advising national and international enterprises. Their aim is to prevent new disputes and to resolve existing ones.

Lief Cabraser and Saxena White absorb all

costs associated with the litigation, including fixed legal fees, expert fees, court fees, and claims processing fees (if litigation is successful), as well as all other costs associated with plaintiff liability (so-called "Loser Pays" insurance).

## TRANSACTION DATA REQUEST

If this matter is of interest, please provide your firm's transaction data in Steinhoff securities for the period through December 20, 2017. We will review your firm's data and provide an estimate of your losses and potentially recoverable damages free of charge and without any obligation. All data is kept strictly confidential and reviewed solely to assist you in evaluating your loss recovery options.

For more information, please contact Lester Hooker at [lhooker@saxenawhite.com](mailto:lhooker@saxenawhite.com) or (561) 206-6708, Nicholas Diamand at [ndiamand@lchb.com](mailto:ndiamand@lchb.com) or (212) 355-9500, Bruce Leppla at [bleppla@lchb.com](mailto:bleppla@lchb.com) or (415) 309-3535, or Flip Wijers at [f.wijers@lvdk.com](mailto:f.wijers@lvdk.com) or +31 (0) 20-205-0540.



# STICHTING STEINHOFF INVESTOR LOSSES FOUNDATION BOARD MEMBERS

**ALFRED HAMMERSTEIN** – Mr. Hammerstein holds a Master's Degree in Dutch law, as well as a Doctorate. He became a judge in 1977, including as a Justice of the Dutch Supreme Court from 2006-2011. Mr. Hammerstein has extensive experience as a board member or chairman of foundations, advisory committees, and legal associations.

**JEROEN M.J. CHORUS** – Mr. Chorus holds both a Master's and Doctorate degree. After holding lecturer posts at Edinburgh, Leiden, and Amsterdam Universities, he was raised to the bench in 1977, frequently dealing with international collective settlements. Mr. Chorus served on the Amsterdam Court of Appeals as a Justice and Vice-President until 2012. He now engages in advisory work for Dutch Courts of Appeal and Dutch lawyers and academic research.

**INGE-LISA TOXOPEUS** – Ms. Inge-Lisa Toxopeus is a registered accountant with experience at PricewaterhouseCoopers, specializing in the conduct and management of fraud. Since 2012, Ms. Toxopeus has been a partner at Hermes-Advisory, specializing in financial loss calculation and litigation support. She is a lecturer at the Centre for Post-Graduate Legal Training, the Juridische Academie, and the Erasmus School of Accounting & Assurance. Ms. Toxopeus is listed in the National Register of Court Experts as a forensic accountant specializing in fraud and financial loss investigations.

**JAN PAUL FRANX** – Mr. Franx holds a Master's degree in Dutch law. He previously worked at the T.M.C. Asser Institute for International Law in The Hague, as an international trainee at Linklaters, and in a barristers' chambers in London. Mr. Franx worked as a lawyer at NautaDutilh for 25 years, the last 18 years as a partner. Mr. Franx regularly publishes articles in legal magazines on corporate and securities issues, and teaches at the Grotius Institute. He is a professor in securities law at Groningen University.

**WIL TONKENS-GERKEMA** – Mrs. Tonkens-Gerkema has been practicing law in the Netherlands for more than 45 years. She was a lecturer at the Vrije Universiteit (VU) for eight years. She joined the bench in 1980 as a Deputy Judge at the Court of Amsterdam, later becoming a full Judge. From 1988 through 2011, Mrs. Tonkens-Gerkema served as the Vice President of the Court. Since 2011, she has also worked as an arbitrator and mediator. Mrs. Tonkens-Gerkema has decades of experience as a chairperson for various committees, including the Supervisory Committee of the Netherlands Arbitration Institute, the Claims Code Committee, and the Netherlands Association for the Judiciary.

**ARD VAN DER STEUR** – Mr. Van der Steur is a retired politician with more than two decades of legal experience. He began his career at NautaDutilh, where he spent 11 years, including one year as a partner. Mr. Van der Steur also served in the municipal council of Warmond from 2002 until 2006, and Teylingen from 2006 until 2014. He was elected to the House of Representatives from 2011 until 2015 and served as the Minister of Justice from March 2015 through January 2017.