

ABSTRAK

Perseroan Terbatas dalam menjalankan pengurusan perseroan, tentunya melalui organ-organnya, salah satunya yaitu direksi. Direksi dalam menjalankan pengurusan perseroan sesuai dengan maksud dan tujuan perseroan yang tertuang dalam Anggaran Dasar Perseroan Terbatas tersebut serta tidak bertentangan dengan Undang-Undang yang berlaku. Dalam hal tindakan direksi yang menyebabkan Perseroan Terbatas pailit, ada beberapa hal yang harus dicermati, antara lain bagaimana tanggung jawab direksi dalam kepailitan Perseroan Terbatas dan apakah direksi dapat dipailitkan bersamaan pailitnya Perseroan Terbatas dalam Putusan No. 04/Pdt.Sus-PKPU.PAILIT/2018/PN.Niaga Mks.

Metode penelitian yang penulis gunakan dalam penulisan ini adalah pendekatan yuridis normative. Spesifikasi penelitian yang digunakan dalam penelitian ini adalah deskriptif analitis. Metode pengumpulan data yang penulis gunakan dengan cara meneliti bahan pustaka atau data sekunder.

Berdasarkan hasil penelitian yang diperoleh dapat diketahui bahwa tanggung jawab direksi menurut Undang-Undang No. 40 Tahun 2007 yaitu tanggung jawab direksi secara pribadi apabila direksi melakukan kesalahan atau kelalaian dalam menjalankan Perseroan Terbatas. Direksi dapat dipailitkan bersamaan dengan pailitnya Perseroan Terbatas apabila ia dalam penanggung pribadi terhadap utang-utang Perseroan Terbatas melepaskan hak istimewanya sebagai penanggung dalam Pasal 1831 KUHPerdara dan jika dapat membuktiksn secara sumir unsur-unsur kepailitan sebagaimana diatur dalam Undang-Undang Nomor 37 tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang.

Kata Kunci: Tanggung Jawab, Direksi, Perseroan Terbatas, Kepailitan

ABSTRACT

Limited Liability Company in managing the company, through its organs, one of them is the by the directors. The Board of Directors in carrying out the management of the company, in accordance with the intention and the purpose of the company contained in the Articles of Association of the Limited Liability Company, must also does not conflict with the applicable law. In the terms of the directors' actions that caused the bankruptcy of the Limited Liability Company, there are number of things that must be observed, including how the directors' responsibility in the Limited Liability Company bankruptcy and whether the directors can be bankrupted together with the bankruptcy of the Limited Liability Company according to court decision No. 04/Pdt.Sus-PKPU.PAILIT/2018/PN.Niaga Mks.

The research method that used in this research is by normative juridical approach. The research specifications used in this research is by descriptive analytical. Data collection methods that used is by researching library materials or secondary data.

Based on the results of the research, it can be seen that the directors' responsibilities according to court decision No. 40 of 2007 has two possibilities, namely the responsibility of the board of directors not personally or personally responsible if the directors make mistakes or negligence in running the Limited Liability Company. The Board of Directors can be bankrupt along with the bankruptcy of the Limited Liability Company if they are the personal guarantor of the debts of the Limited Liability Company, releasing his privileges in Article 1831 KUHPerdata and if it can be proven concisely the elements of bankruptcy as regulated in Act No. 37 of 2004 concerning Bankruptcy and Postponement of Obligations to Pay Debt.

Keywords: Liability, Directors, Limited Liability Company, Bankruptcy