

## THE ROLE OF CURATORS AND LIQUIDATORS IN SOLVING PROBLEMS INSOLVENT LIMITED LIABILITY COMPANY

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### ABSTRACT

*This study aims to review and analyze the role of curators in insolvency in limited liability companies, as well to review and analyze the role of liquidators in the settlement of assets bankrupt limited liability companies. By using normative legal research methods, which use secondary data based on primary legal sources, secondary legal materials and tertiary legal materials, data collection through literature studies or document studies, as well qualitative analysis. The results showed that the curator's decision in bankruptcy in limited liability company begins in the process of managing and settling bankruptcy assets, starting from the stage management, appointment and appointment qualified curators, settlement bankruptcy assets by the curator, so that from the date bankruptcy statement decision, all executors of the management and settlement of bankruptcy assets are handed over to the curator. After Limited Liability is declared bankrupt, the task of the curator in clearing the assets in Limited Liability is to block assets of a Limited Liability Company. That the role of the liquidator in the settlement assets of a bankrupt limited liability company is that the liquidator has a position in the settlement of the assets of the dissolved company, so that it has the rights, obligations and responsibilities of the liquidator in the settlement of the assets the dissolved limited liability company, the liquidator has responsibility if the liquidation has not ended. The liquidator has a great responsibility from the time dissolution Limited Liability Company to Limited Liability Company legal entity status Limited Liability Company ends*

**KEYWORDS** Role, Curator, Liquidator, Limited Liability Company, Bankruptcy



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## INTRODUCTION

The emergence of the COVID-19 pandemic outbreak which originally appeared locally in Wuhan, China, then spread throughout the world, including Indonesia, and became a global health crisis. This health crisis has had a major impact on the world community, especially Indonesia. Health is a basic human need that has been constitutionally guaranteed. Protection of the right to health of every citizen is formulated in the 1945 Constitution, namely in Article 28H paragraph (1) it is stated, that: "Everyone has the right to live a prosperous life born and mentally, to live, and to have a good and healthy living environment and the right to obtain health services. However, due to the health crisis, it has an impact on various people's lives and nations, including the economic life of the nation and its people (Dewinagara, 2022).

The health crisis that has occurred since 2019 has had a huge impact on people's lives to date. The business world is the world that has suffered the most and felt the impact of the crisis. Not a few businesses have gone out of business, while those who are still able to survive are experiencing financial difficulties. Economic activities in Indonesia can be organized through various fields of business, which can be carried out by yourself, private individuals, or through a form of business entity or company (Sjawie, 2013).

In the past few years, from various forms of business entities or existing companies, doing business by forming a limited liability company (hereinafter referred to as a PT) or commonly called a company, has become the most popular and common model for parties who run businesses. Nowadays, the number of universities in Indonesia can even be said to far exceed other forms of business such as firms, companies, cooperatives and others (Thurston, 2012).

Economic development has an impact on the development of the business world which makes business actors more interested in establishing a legal entity in this case a PT, because the government also issued a more comprehensive provision on PT, namely Law Number 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as UUPT). Business forms such as PT have their own charm, one of which is because the company's wealth is separated from the personal wealth of the company owner. The company's assets include capital paid up by shareholders into the PT, *fixed assets* and other assets recorded in the company's name (Iskandar, 2013).

The Company is a legal entity, this means that the company is a subject that can be burdened with rights and obligations just as humans, in general, have their own wealth that is separate from the wealth of its management. In carrying out its activities, what is seen is the company, because the person responsible is the company as a *legal entity* in this case represented by the board of directors (Mukharom & Muryati, 2015).

What entrepreneurs really hope for is a pt that has been established continuously, as it is known that ideally one of the main characteristics of a company is its activities that are carried out continuously. However, in reality that often happens between expectations and reality is different on the ground. Likewise, for a PT, there is almost nothing in the mind of the founders of PT, who intends to dissolve the PT that he has established. But it can happen (Sembiring & SH, 2011).

Based on the provisions of Article 142 paragraph (1) of the UUPT, it states that an LLC can be dissolved due to the following:

- a) Based on the Decision of the GMS;
- b) Because the period of establishment stipulated in the articles of association has expired;
- c) Based on the court's determination;
- d) With the revocation of insolvency based on a commercial court decision having permanent legal force, the company's insolvency assets are not sufficient to pay the costs of insolvency;
- e) Because the company's bankruptcy assets that have been declared bankrupt are in an insolvent state as stipulated in the Law on Insolvency and Postponement of Debt Payment Obligations; or
- f) Because of the revocation of the Company's business license, it requires the company to liquidate in accordance with the provisions of the laws and regulations.

A dissolved company will follow the dissolution process in accordance with the provisions of the law. The Company cannot be dissolved at the same time, the company's debts must be repaid, and the company's bills must be collected, so that the assets of riel are in cash. The company's assets in the form of fixed assets and other company assets must be sold, until they become cash. So all the rights of the company must be in the form of cash (cash), must be liquid (liquid) to be distributed to shareholders in proportion to the amount of share value owned by each shareholder (Prasetya, 2011).

In addition, the company also disbanded due to insolvency, due to the economic crisis. Infact, there is a tendency for the business world to go bankrupt, an effort can be made. The efforts made by the government are through economic recovery (*economic recovery*), by means of improving the economic order, including updating the legal rules that regulate it. Among them is the renewal of insolvency law whose main function is to become a signpost for the settlement of accounts receivable which has been an important problem, especially to overcome bad debts carried out by private entrepreneurs (Handayani, 2020).

The government's initiative to revise the Insolvency Act, as the Insolvency Act is necessary to:(Maxon, 2002)

0. Avoid conflicts if there are several creditors at the same time requesting payment of receivables from the debtor.
1. To avoid any creditor who wants to get privileges, who demand their rights by selling the debtor's property or controlling it themselves without paying attention to the interests of other debtors/creditors.
2. To avoid any frauds committed by the debtor himself, for example, the debtor seeks to benefit one or several certain creditors, which is detrimental to other creditors.

The Law on Insolvency has undergone various changes because most of the material is no longer in accordance with the development and legal needs of the community, so on November 18, 2004, Law Number 37 of 2004 concerning Insolvency and Postponement of Debt Payment Obligations (hereinafter referred to as UUK and PKPU) was passed (Aditya, 2012).

The existence of the Insolvency Act gives great hope to creditors or debtors to be able to save their wealth. In fact, what happens in bankruptcy cases, both

creditors and debtors often experience losses suffered by debtors.

In the insolvency Act it is said that the duty of the curator is to carry out the management and or settlement of insolvent property (vereffening) (Raihanna & Atalim, 2021). In carrying out his duties the curator is not required to obtain the consent of or give advance notice to the insolvent debtor or one of the organs of the debtor, even in circumstances outside of insolvency such consent or notice is required.

The Insolvency Act defines insolvency as the general confiscation of all the assets of the insolvent debtor whose management is carried out by the Curator under the supervision of the supervising Judge. Based on Article 1 number 1 of the Insolvency Law (UUK) and Postponement of Debt Payment Obligations (PKPU) the Curator is one of the important elements in an Insolvency. According to UUK and PKPU which states that, "The curator is the Balai Harta or an individual person appointed by the Court to manage and clean up the property of the bankrupt debtor under the supervision of the Supervisory Judge"

The curator is a party who plays an important role in an insolvency case. Because the curator is in charge of carrying out the settlement of bankruptcy property. As soon as the debtor is declared bankrupt by the Commercial Court, the bankrupt by law is no longer authorized to manage or transfer his property which has become bankruptcy property. Therefore, it is the Curator who carries out all legal actions both management and transfer of bankruptcy property under the supervision of the Supervisory Judge (Marpaung et al., 2022).

It is generally said that the main task of the curator is to carry out the management and settlement of bankruptcy property. Based on this statement, it can be seen that the Curator who has a very decisive position for the completion of the settlement of bankruptcy assets. According to Article 67 paragraph 2 of the Insolvency Law, it is emphasized that in carrying out his duties the curator does not require approval from the debtor/insolvent company's organs, although outside the insolvency the approval is required. However, it is necessary to know that in its management the curator has obstacles in carrying out his duties.

In addition, in the event that the dissolution of the PT begins at the time specified in the decision of the GMS, which then requires "settlement" actions that require time to carry out the settlement. This grace period to undergo settlement is called the company's "liquidation" grace period. The company's settlement process is usually closely related to the company's assets or assets contained in the company. The company's assets can be in the form of movable or immovable goods. Company settlement is an action taken in a company's liquidation process to record and sell or disburse the company's assets in liquidation to be distributed to entitled parties, such as creditors or shareholders (Prasetya, 2011)(Fuady, 2003).

Liquidation (vereffening, winding-up) means the settlement and termination of the company's affairs after the decision of the GMS to terminate or dissolve the company. And as long as the settlement of the dissolution or settlement is ongoing, its existence and validity are "The Company in liquidation" or "the Company in dissolution" (vereffening, liquidation or settlement) (Harahap, 2021). In the liquidation process, a liquidator will be appointed who is entitled to distribute the company's assets to creditors and all other entitled persons according to the order

stipulated by various laws and regulations.

As for what is meant by liquidator (liquidateur, liquidator) is a person who appoints or is appointed as the liquidation organizer. He assumed the obligation to regulate and settle the company's property or bundles. In addition, the liquidator also has responsibility for losses arising from errors or omissions in carrying out liquidation.

A liquidator can be taken from the Board of Directors, because the Board of Directors knows the situation of the company best. However, it is not always the case that shareholders appoint the Board of Directors as the liquidator, because the possibility of dissolution occurs precisely because of mismanagement. Therefore, those who become liquidators other than the Board of Directors can also be other parties, depending on the decision of the GMS at the time of declaring the company to start in the liquidation period.

There is a possibility that a company does not require a grace period for liquidation. By the time the dissolution was taken, the wealth had been completely exhausted to the degree of "zero". So in this situation, there is no need for a grace period for liquidation, but at the same time the company can be completely disbanded.

In the process of dissolution of a PT, the process of termination of business is also taken, notification of dissolution to business partners, if the bank, notification to the customer for example, or if the dissolution, the business will be transferred to another party such as dissolution due to a merger, then the process of transferring assets, transferring business, and transferring customers to other parties is also taken.

The dissolution of the PT had a result, namely that the company became in liquidation. As for the holding of the liquidation period, to give the liquidator the opportunity to carry out the settlement. Article 143 paragraph (1) of the UUPT emphasizes that the dissolution of the company does not result in the company losing its legal entity status until the completion of the liquidation and the liquidator's liability is accepted by the GMS or the Court (in the case of dissolution due to the court's determination).

Based on the descriptions mentioned above, it is necessary to further research the role of curators and liquidators in resolving the problem of bankrupt limited liability companies.

Based on the formulation of the problem mentioned above, the purpose of the study is to review and analyze the role of the curator in bankruptcy in a limited liability company. Meanwhile, the benefits in this study are expected to add to the treasures of civil law, especially Company Law and Insolvency Law.

## **RESEARCH METHOD**

The type of research used is normative juridical legal research or doctrinal legal research, namely legal research that uses secondary data sources or data obtained through library materials by examining reading sources relevant to the research theme, including research on legal principles, legal sources, legal theory, books, laws and regulations that are scientific theoretical and can analyze the problems discussed, The approach used in this study is a conceptual approach and

a statutory approach.

The data source used in this study is secondary data. Secondary Data is data extracted from library reviews sourced from textbooks, journals, research reports and other written document materials related to the problem under study. Secondary data can be divided into 3 (three) parts, namely:

- a. Primary legal material is binding legal material in the form of legislation governing Limited Liability Companies and Insolvency.
- b. Secondary legal materials are materials that provide explanations or materials that describe primary legal materials in the form of scientific papers about Limited Liability Companies and Insolvency.
- c. Tertiary legal materials are legal materials that provide instructions and explanations to primary legal materials and secondary legal materials such as legal dictionaries, English dictionaries and Indonesian dictionaries.

Based on the type and source of data, the techniques used by researchers use Document studies or literature studies. Document Study is a data collection technique through library information or literature materials, namely collecting secondary data related to the problem posed by studying books, research results and related statutory documents.

This research will use qualitative data analysis techniques, namely by describing data from the results of statements, views. Then the collected data is analyzed with stages of editing, coding, reduction, description. The data obtained will be attempted to edit the research results with the editing stage then classify the data with research problems with coding stages, then if there is biased data it will be removed with reduction stages and describe, decipher, explain the data according to the problem and elaborate along with secondary data through the description stage.

## **RESULT AND DISCUSSION**

### **The Role of Curators in Insolvency in Limited Liability Companies**

Process of Managing and Clearing Bankruptcy Assets of Limited Liability Companies

Management Phase

Management is to announce bankruptcy efforts, seal bankruptcy assets, record / register bankruptcy assets, continue the debtor's business, open telegram letters of bankrupt debtors, transfer bankruptcy assets. depositing bankruptcy property, entering into peace to guarantee an ongoing case or prevent a case from arising.

As of the date of the fall of the bankruptcy declaration judgment, the insolvent debtor is no longer allowed to manage his assets that have been declared bankrupt. Furthermore, the implementation of the management and settlement of the bankruptcy property is handed over to the curator appointed by the court supervised by a supervisory judge appointed by the trial judge.

If it turns out that later the bankruptcy declaration award is overturned either by a judgment of cassation or review, then any act that has been done by the curator before or on the date of the curator before receiving notice of the cancellation award, remains valid and binding for the insolvent debtor to make a summons to

the creditors, register the bills of the creditors, attend the receivables matching meeting and notify the results of the receivables matching meeting to the creditors.

Settlement regarding bankruptcy assets, is the main task of the curator as the authorized party to manage and settle bankruptcy assets, as mandated in Law Number 37 of 2004 concerning Insolvency and Postponement of Debt Payment Obligations.

An insolvency against the debtor who is insolvent, among others, can be in the form of compensation, a reciprocal contract that can be continued, the enactment of a suspension of execution, the enactment of *actio pauliana*, the enactment of a general confiscation of the entire property of the debtor, a lawsuit must be by or against the curator, the *forward* transaction is terminated, termination of employment of the employee, the right of retention is not lost.

With the continuation of the business continuity of the bankrupt debtor (PT), it is possible that there are benefits that will be obtained including:

1. Can supplement the bankruptcy's estate with the benefits that may be obtained from the company.
2. There is a possibility that gradually the bankrupt will be able to pay his debts in full.
3. The possibility of achieving a peace.

This action is carried out by the curator if there is a possibility to increase the value of the bankruptcy property. To continue the business of a bankrupt PT, it must be done based on the approval of the committee of creditors, or if in the bankruptcy statement decision not appointed by the committee of creditors, then this is done based on the decision of the Supervisory Judge. The curator also has the right to open all letters and telegrams addressed to the bankrupt PT. Furthermore, all letters of complaint and objection relating to the assets of the bankrupt PT must be shown to the curator.

To continue the business of a bankrupt PT, the curator must also consider continuing the whole or part of the bankrupt PT's business for a certain period of time and appoint a person or several people to carry out the business of the bankrupt PT.

The announcement of the end of insolvency is announced by the curator through State news and newspapers after the end of the insolvency, then the curator must give the calculation of responsibility about the management he has done to the supervising judge.

### **Curator**

The curator is one of the parties who is quite instrumental in a legal process, and because of its large role and heavy duty, it is not arbitrary that people can become the curator's party.

According to Article 1 number 5, what is meant by curator is a heritage hall or an individual person appointed by the court to deal with the law.

The duties of the curator in carrying out the management and settlement of bankruptcy assets include:

1. Contains announcements in newspapers and State News of the Republic of Indonesia.
2. Securing bankruptcy property.

3. Holding creditor meetings
4. Facing all claims against bankruptcy property.
5. Receive registration of bills from creditors.
6. Drawing up a list of creditors.
7. Conduct a dispute hearing if there is a dispute regarding the status and amount of the creditor's bill.
8. Drawing up an inventory list of bankruptcy estates.

With the declaration of bankruptcy from the date the judgment of the bankruptcy declaration was pronounced by the judge, the debtor by law loses the right to control and manage his property including in the bankruptcy property.

Since the bankruptcy judgment is handed down, the curator acts as the custodian of the declared bankrupt and his main task is to manage or settle the bankruptcy estate. Since it is decided that a debtor is bankrupt by a commercial court, it brings a legal consequence that the debtor is imposed a general confiscation of all the assets of the bankrupt debtor and loses his authority to control and manage his bankruptcy property.

Meanwhile, creditors experience uncertainty about the legal relationship that exists between creditors and bankrupt debtors. The curator is one of the parties who plays an important role in the insolvency process. Because of its large role and heavy assertiveness, not just anyone can become a curator.

The actions that must be in the management of bankruptcy assets are:

- a. record, verify the obligations of the bankrupt debtor. Verification of the debtor's obligations requires the thoroughness of the curator. Both the insolvent debtor and the creditor must be equally heard to be able to determine the status.
- b. The data conducts research on the assets of the bankrupt debtor including the bills owned by the bankrupt debtor so that steps can be taken by the curator to cash out the bills.

In this case, the curator must protect the existence of the PT's wealth and try to maintain the value of the wealth. Any action taken beyond its authority at this stage must first obtain a judicial proceeding from the supervising judge. In the process of managing and settling bankruptcy assets by the curator requires maximum cooperation that is expected to be directly involved outside the curator and in the spotlight.

The responsibility imposed on the curator in managing and or clearing bankruptcy assets is quite heavy, but on the one hand it also does not rule out the possibility of abuse of these duties and authorities. Therefore clear regulatory signs are needed about the responsibilities of the curator.

### **Curator Appointment**

According to Article 15 paragraph (1) of UUK-PKPU, it can be seen that the appointment of a curator is the authority of a commercial court judge, creditors, debtors or authorized parties (Bapepam, Minister of Finance, prosecutors, Bank Indonesia) only have the right to submit a proposal for the appointment of a curator to the commercial court. The Insolvency Law determines the party who will take care of the debtor's problem, the creditor is the curator who will carry out the settlement of the bankruptcy property and the settlement of the legal relationship between the bankrupt debtor and his creditors.



According to Article 13 paragraph (1) of the UUK specifies that in the judgment of the bankruptcy declaration must be appointed:

1. A supervising judge appointed from a trial judge
2. Curator

Normatively, the legal rules regarding curators that direct the appointment of the curator profession can be carried out selectively as well as other rules that direct the maintenance of the quality of curators so that their implementation is ideal and realistic.

For the moral integrity of the curator to remain consistent with his duties and functions, the function of the supervisory judge on the implementation of the duties and authority of the curator is something that is important for his control. Provided that it does not exceed what is required by the Act.

If an application for insolvency is granted by the commercial court, the administrative and liquidation arrangements will be forwarded by the curator. The authority to carry out the management and settlement of bankruptcy estate lies with the curator. It is the curator who will take care of and clean up the bankruptcy property.

Curators are individuals or civil partnerships who have special expertise as necessary to manage and settle bankruptcy assets and have been registered with the Ministry of Law and Human Rights. A curator is a party appointed by the court to take care of the property of the bankrupt debtor. As referred to in UUK-PKPU Article 67 and its implementing regulations. In the old bankruptcy regulation (*faillissement verordening*) there is only one curator in insolvency established by the court, namely Balai Harta Warisan (BHP)

Balai Harta Warisan (BHP) is an institution originating from the Dutch government that is closely related to the history of the Dutch entry into Indonesia in 1596. With very broad power in Indonesia raises the need for its members to take care of the property left by those whose interests are the heirs.

In 1976 by the Minister of Justice it was deemed necessary to reshape the BHP which existed throughout Indonesia, namely: Semarang, Surabaya, Medan for its seat and work wilaya by the Minister of Justice in accordance with Article 40 of the BHP instruction in Indonesia Stb 1872 No 166.

### **Curator Requirements**

Not everyone can be a curator. According to the old UUK the obligation was specifically carried out by the BHP who was in charge and responsible for matters regarding the supervision of custody. Therefore, the requirements and procedures to be able to become a curator of this by the Insolvency Act are regulated relatively and strictly. BHP, which is the curator of the government, is a special agency of the Ministry of Law and Human Rights that acts directly or through its representative office located in the jurisdiction of the court that has declared the debtor (PT) bankrupt.

Bertindak as curator as stipulated in Article 67 of UUK is:

- a. Balai Harta Warisan (BHP)
- b. Other curators or private curators

In the article, it is explained about what other curators mean:

- a. an individual or civil partnership who is domiciled in Indonesia and has the special skills needed in order to manage and or settle bankruptcy assets.
- b. Has been registered with the Ministry of Law and Human Rights

Article 70 paragraph (1) above if connected with Article 15 paragraph (2) which reads: in the event that a debtor, creditor or authorized party submits an application for a bankruptcy statement as referred to in Article 2 paragraph (2), paragraph (3), paragraph (4) or paragraph (5) does not submit a proposal for the appointment of a curator to the Court, then Balai Harta Warisan is appointed as the Curator.

Private curators are the offices of lawyers/ legal consultants who are generally in the form of civil partnerships, can be curators and have been registered. This provision is based on the Regulation of the Minister of Justice of the Republic of Indonesia No M.08.10.05.10 of 1998 concerning procedures and requirements for registration of curators and administrators. Requirements to be registered as a curator and administrator

1. Individual
  - a. Domiciled in Indonesia
  - b. Have a certificate of passing the exam organized by the Association of Indonesian Curators and Administrators.
2. Civil Partnership

One of the partners in the fellowship must be domiciled in Indonesia and have a mark of passing the exam held by the Indonesian Curators and Administrators Association

Submit an application for registration in writing as a curator and administrator to the Director General of Law and Legislation by filling out the form provided with attached:

- a. Photocopy of valid identity card or passport for individual domicile for civil partnerships
- b. Photocopy of NPWP
- c. Photocopy of letter of passing the curator and administrator exam
- d. Photocopy of membership certificate of the Indonesian Curators and Administrators Association (AKPI)
- e. Statement letter stating:
  - 1) Willing to open an account at the Bank for every bankruptcy case
  - 2) Never declared bankrupt
  - 3) Never been a member of the board of directors or commissioners who was found guilty of causing a company to be declared bankrupt.
  - 4) Never served a sentence for committing a criminal offence for which the penalty was more than 5 years.

Applicants who have met the requirements for registration as a curator and their management no later than 3 days from the time all requirements are met. The certificate of registration as curator and administrator is valid as long as the curator and administrator are still registered as members as specified in the articles of association and bylaws of the association of curators and administrators.

### **Appointment of Curator**

In insolvency the debtor and creditor may propose to the commercial court to appoint a particular curator who is independent and has no conflict of interest or is independent. UUK-PKPU does not specify the conflict of interest. Where this is an implementation of the principle of *debt pooling* from insolvency. The fairness of the insolvency proceedings lies in the interests of both parties of both the insolvent creditor and the insolvent debtor.

From the date of the bankruptcy declaration judgment, the insolvent debtor loses his right to manage and manage the property that includes the *bankruptcy boedel*. This affair is carried out by the curator. It is the curator who carries out the management and settlement of the insolvency property. Therefore in the judgment of the declaration of insolvency it is established in advance the curator to be used. According to the previous law, the curator was Balai Harta Warisan (BHP), now the curator is not only BHP, but also other curators, in this case private curators (Ramadhani, 2009).

The curator makes a statement of acceptance of the assignment stating and affirming that the curator has no conflict of interest and includes it in the working paper or submits it to the Panel of Judges if requested.

Before accepting the appointment, the proposed curator must honestly consider and ensure :

- a. Have the necessary skills
- b. Have sufficient resources and capacity to carry out appointments effectively, efficiently, and professionally.

If the curator feels unable to meet the above requirements, the curator must reject the proposal. If the curator was not proposed beforehand, but was directly appointed in the bankruptcy statement, the curator must immediately check whether there is a conflict of interest or not. The curator makes a statement of the assignee stating and affirming that he has no conflict of interest and puts it in a working paper or submits it to the Panel of Judges.

As professionals, curators and administrators bear the responsibility of maintaining the level of public trust in the quality of professional services provided by the curatorial and administrator professions. For this reason, curators and administrators are required to carefully and carefully articulate their professional expertise by paying full attention to the Insolvency Law and its implementing regulations and professional standards.

During carrying out his duties the curator must have accuracy and equality regarding everything that is done and in carrying out assignments in the field and in providing reports on the results of his assignments. Curators and administrators should critically note that every step taken in the course of carrying out their assignments has a solid basis in accordance with the Insolvency Law and its implementing regulations and has taken the precedent of this Professional Standard, as well as in terms of the presentation of its reports.

### **Curator Replacement**

According to the provisions of Article 71 paragraph 1 UUK-PKPU allows the court to when granting proposals for the replacement of curators, appointing other curators and or appointing additional curators or replacing curators, it can be

done by:

- 1) At the request of the curator himself
- 2) At the request of another curator, if any
- 3) On the proposal of the supervising judge
- 4) At the request of the bankrupt debtor
- 5) After listening to and hearing the curator.

one of the curators to appoint one of the curators to perform a specific task. Furthermore, in the formulation of Article 71 paragraph 2 of the UUK-PKPU, it is said that the court must dismiss or appoint a curator at the request of the concurrent creditor proposal based on the decision taken on the basis of an affirmative vote of more than 1/2 (one-second) of the number of concurrent creditors or proxies present at the meeting and who represent more than 1/2 (one second) of the amount of receivables of concurrent creditors or their proxies present at the meeting. This means that the judge cannot reject the application to the extent of the prescribed conditions.

### **Temporary Curator**

In protecting the interests of creditors as long as the declaration of insolvency has not been established, a curator may be appointed as an interim curator. It is possible to prevent the possibility for the debtor to take action against the debtor's wealth, thereby harming the interests of the creditor.

The curator appointed as the interim curator to supervise the management of the debtor's business and supervise payments to creditors. The transfer or collateralization of the debtor's wealth in the framework of insolvency is carried out by the curator. An assignment as an interim curator should note that a temporary assignment that has a different scope than an assignment as a full curator.

In carrying out their duties, the temporary curator immediately liaises with the debtor or his management to request data or in the form of information needed, including:

- a. General information in relation to the place, type and scale of business activities of the debtor.
- b. General information of the financial state of the debtor.
- c. Information about the debtor's property, which at least matches the identity of the entire bank account and other important or material assets owned or controlled by the debtor.
- d. Other information necessary in carrying out his duties as a temporary curator.

To facilitate his assignment, the temporary curator can work or place his assistant in the office or business location of the debtor. If the application for bankruptcy is rejected by the court, the duties of the interim curator end and he can account for it to the debtor.

### **Actions by curators**

The curator must immediately take the necessary preliminary measures as soon as the debtor is declared bankrupt. Immediately after being appointed as curator, the curator contacts the Supervising Judge and prepares the concept of the bankruptcy announcement to be determined by the Supervising Judge and proposes the newspaper in which the announcement will be published.

The curator requests a copy of the bankruptcy declaration and establishes

preliminary communication with the debtor with the aim of securing the insolvent estate and ensuring the cooperation of the insolvent debtor in insolvency. If the curator encounters a problem in this regard, then the curator notifies and asks the Supervising Judge for help.

Some of the actions that the curator must perform in the preliminary examination are as follows:

1. Identify all bank accounts and other important or material assets owned by the insolvent debtor;
2. Collect general information in relation to the place, type and scale of business activities of the debtor;
3. Collect general information in relation to the financial state of the debtor;
4. Opening a new bank account on behalf of the depositor intends to hold all funds from the account of the insolvent debtor as intended.
5. Announcing insolvency in the State Gazette of the Republic of Indonesia and 2 (two) newspapers appointed by the Supervisory Judge.

## CONCLUSION

The role of the curator in insolvency in a limited liability company is to begin in the process of managing and settling bankruptcy assets, starting from the stage of management, appointment and appointment of qualified curators, settlement of bankruptcy assets by the curator, so from the date of the bankruptcy statement decision is pronounced all executors of the management and settlement of bankruptcy assets are handed over to the curator. After the Limited Company is declared bankrupt, the curator's task in clearing assets in the Limited Company is to block the assets of the Limited Company.

The role of the liquidator in the settlement of assets of a bankrupt limited liability company is that the liquidator has a position in the settlement of the assets of the dissolved company, so that it has the rights, obligations and responsibilities of the liquidator in the settlement of the assets of the dissolved limited liability company, the liquidator has responsibility if the liquidation has not ended. The liquidator has a large responsibility from the time of the dissolution of the Limited Perseroan until the Limited Perseroan limited legal entity status ends

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