

Permohonan pernyataan pailit terhadap perusahaan efek yang telah dicabut izin usahanya oleh Bapepam (analisis putusan Mahkamah Agung Republik Indonesia No. 340K/Pdt.Sus/2010) = Bankruptcy petition for the securities company whose business license is revoked by the Indonesian capital market and financial institution supervisory agency bapepam analysis of decision of supreme court of Republic Indonesia number 340K/Pdt.Sus 2010

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Abstrak

[<b>ABSTRAK</b><br>

Tesis ini membahas mengenai permohonan pailit Perusahaan Efek (PT Antaboga Deltasekuritas Indonesia) yang diajukan oleh salah satu kreditornya karena izin usahanya telah dicabut oleh Bapepam. Dalam ketentuan Pasal 2 ayat (4) UUK-PKPU menjelaskan bahwa permohonan pailit dalam hal debitor adalah Perusahaan Efek, hanya dapat diajukan oleh Bapepam. Penelitian ini bertujuan untuk mengetahui bagaimana penerapan kewenangan Bapepam dalam upaya permohonan pailit Perusahaan Efek yang telah dicabut izin usahanya, serta bagaimanakah perlindungan hukum dan kepastian hukum para kreditor PT Antaboga Deltasekuritas Indonesia akibat putusan MA RI No. 340K/Pdt.Sus/2010. Jenis penelitian yang digunakan dalam penelitian ini adalah yuridis-normatif. Hasil dari penelitian menunjukkan, bahwa permohonan pailit terhadap Perusahaan Efek yang telah dicabut izin usahanya adalah mutlak kewenangan eksklusif Bapepam, akan tetapi seyogianya terbuka kemungkinan dapat juga diajukan oleh kejaksaan dan kreditor. Pemenuhan nilai kepastian hukum dalam putusan MA RI No. 340.K/Pdt.Sus/2010 sudah sesuai dengan ketentuan Pasal 2 ayat (4) UUK-PKPU dan Penjelasannya, tetapi keputusan tersebut relatif hanya memberikan kepastian kepada debitor saja dan Majelis Hakim sama sekali tidak memberikan perlindungan terhadap kepentingan pihak kreditor yang tidak bisa mendapatkan hak pemenuhan tagihan yang seharusnya dibayar oleh pihak debitor.

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<b>ABSTRACT</b><br>

This thesis is to analyze a bankruptcy petition of Securities Company (PT Antaboga Deltasekuritas Indonesia) filed by one of its creditors due to its business license revoked by Bapepam. In accordance with Article 2 paragraph (4) of UUK-PKPU states that a bankruptcy petition may, in the case debtor is a Securities Company, only be filed by Bapepam. This research is aimed at identifying how Bapepam implements its power for the bankruptcy petition of Securities Company whose business license has been revoked, and how is the legal protection and certainty for the creditors of PT Antaboga Deltasekuritas Indonesia in consequence of Decision of Supreme Court of RI No. 340K/Pdt.Sus/2010. Type of research applied in this research is normative juridical approach. The result shows that a bankruptcy petition against the Securities Company whose business license is revoked absolutely is the exclusive power of Bapepam, however this does not rule out the possibility that attorney general and creditor may fill the petition. The fulfillment of legal certainty in the Decision of Supreme Court of RI No. 340.K/Pdt.Sus/2010 has complied with the provisions of Article 2 paragraph (4) of UUK-PKPU and its explanatory notes. However, it is

relative due to gives only to Debtor, and the Panel of Judges by no means provides legal protection to the benefit of creditors fail to obtain right for the right of payment that should be made by the debtor., This thesis is to analyze a bankruptcy petition of Securities Company (PT Antaboga Deltasekuritas Indonesia) filed by one of its creditors due to its business license revoked by Bapepam. In accordance with Article 2 paragraph (4) of UUK-PKPU states that a bankruptcy petition may, in the case debtor is a Securities Company, only be filed by Bapepam. This research is aimed at identifying how Bapepam implements its power for the bankruptcy petition of Securities Company whose business license has been revoked, and how is the legal protection and certainty for the creditors of PT Antaboga Deltasekuritas Indonesia in consequence of Decision of Supreme Court of RI No. 340K/Pdt.Sus/2010. Type of research applied in this research is normative juridical approach. The result shows that a bankruptcy petition against the Securities Company whose business license is revoked absolutely is the exclusive power of Bapepam, however this does not rule out the possibility that attorney general and creditor may fill the petition. The fulfillment of legal certainty in the Decision of Supreme Court of RI No. 340.K/Pdt.Sus/2010 has complied with the provisions of Article 2 paragraph (4) of UUK-PKPU and its explanatory notes. However, it is relative due to gives only to Debtor, and the Panel of Judges by no means provides legal protection to the benefit of creditors fail to obtain right for the right of payment that should be made by the debtor.]