

Pertanggungjawaban anggota direksi BUMN (PT Persero) dalam penerapan prinsip kehati hatian di dalam pengambilan keputusan yang dapat berdampak kerugian bagi perseroan (studi Putusan Mahkamah Agung Nomor 2470K/PID/2006) = The responsibility of the board of directors of a state owned company persero company in compliance with duty of care principle in relation to the decision making which will affecting to the company supreme court (case studies 2740K/PID/2006

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Abstrak

Tesis ini berjudul: Pertanggungjawaban Anggota Direksi BUMN (PT Persero) Dalam Penerapan Prinsip Kehati-hatian di dalam Pengambilan Keputusan yang Dapat Berdampak Kerugian Bagi Perseroan (Studi Putusan Mahkamah Agung Nomor 2740k/PID/2006). Adapun rumusan masalah tesis ini adalah: (1) Sejauh mana pertanggungjawaban anggota Direksi BUMN (PT Persero) terhadap Perseroan atas tindakan pengurusan yang telah dilakukannya dan (2) Kapan seorang anggota Direksi BUMN (PT.Persero) dinyatakan tidak menerapkan prinsip kehati-hatian atas tindakan pengurusan yang telah dilakukannya yang berdampak kerugian bagi Perseroan. Penelitian ini dilakukan dengan menggunakan pendekatan yuridis normatif, yang dilakukan dengan cara penelitian kepustakaan guna memperoleh data sekunder.

Dari hasil analisis dapat ditarik kesimpulan bahwa anggota Direksi tidak menerapkan prinsip kehati-hatian dalam mengelola Perseroan terbukti dengan dilanggarnya anggaran dasar Perseroan dan ketentuan-ketentuan lain yang terkait dengan pengelolaan Perseroan. Penilaian terhadap anggota Direksi dalam melaksanakan prinsip kehati-hatian dapat dilakukan secara sederhana dengan mengacu pada pendekatan yuridis formil dan yuridis materiil. Penilaian secara yuridis formil dilakukan dengan batasan pada Undang-undang Perseroan Terbatas, Undang-undang Badan Usaha Milik Negara, dan keputusan Organ Perseroan berupa keputusan Direksi dan RUPS.

<hr>The title of this thesis is: The Responsibility of The Board of Directors of a State Owned Company (Persero Company) in Compliance with Duty of Care Principle in Relation to The Decision Making Which Will Affecting to The Company (Supreme Court Case Studies 27. 40k/PID/2006)This thesis demonstrates: (1) How far the responsibility of the Board of Directors in regard to the implementation of the manajerial duty that has been conducted, and (2) When a member of the Board of Directors declared not comply with duty of care principle in related to the implementation of the manajerial duty that has been conducted which resulted in loss to the Company. To approach the case, the writter use normative juridical type through documents investigation to collect secondary data.

The conclusions of the research are: The Board of Directors did not apply the duty of care principle in managing the Company, which is proven in that the Company articles of association were not complied with assessment of Director?s duty of care principle can be done in simple terms by using the formal and material juridical approach. The formal juridical assessment act in accordance with the Company Law, the State Owned Company Law, the Board of Directors decree, the shareholders general assembly decree.