

## LEGAL PROTECTION OF THE AUTHORITY OF THE CURATOR IN THE MANAGEMENT AND SETTLEMENT OF BANKRUPT ASSETS

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### Abstract

*This writing aims to determine the legal protection for the curator in exercising the authority to manage and settle bankrupt assets as well as the duties and authority of the curator in managing and controlling the bankrupt debtor's assets. This paper uses the normative juridical law research method by conducting a study and analysing laws and regulations related to the problem under study so that the results of the research above in the provisions of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt do not guarantee legal protection for curators in carrying out their duties of managing and dealing with bankruptcy assets. Article 50 of the Criminal Code provides protection for curators who carry out their duties based on statutory regulations.*

**Keywords:** legal protection, curator, bankrupt assets

### INTRODUCTION

The curator has a major role in managing and settling bankrupt assets for the benefit of the creditors and debtors themselves. In Article 1 point 5 of Law Number 37 concerning Bankruptcy and Suspension of Debt Repayment Obligation, the definition is "Curator is a Treasure Hall or an individual appointed by the Court to manage and settle the bankrupt debtor's assets under the supervision of a supervisory judge following the Law". In the bankruptcy process, after the bankruptcy verdict is rendered, two organs play an active role in its implementation, namely the supervisory judge, who is in charge of overseeing the management and settlement, and then the curator, who is in charge of managing and sorting out the bankrupt assets. It is because, after being declared bankrupt, according to law, the bankrupt debtor cannot manage, administer, and carry out the settlement of the bankruptcy assets. (Sentosa Sembiring, 2006: 12)

In general, bankruptcy recognizes the entire debt of the debtor in the amount of a person who is considered to be indebted during bankruptcy is in general encumbrances during the time of payment of the debt is pronounced; it is important to give us a certain debt to the debtor in the payment of the debt, the payment of the debt by debt. (Anisah, Siti, 2008: 256).

In Indonesia, it has been regulated that those entitled to administer and distribute a bankrupt debtor's assets are the hall of inheritance and the curator. Dividing the bankrupt debtor's assets is the final part of the bankruptcy process. This stage of reaching the distribution of assets will take much work for a curator. In carrying out his duties and authorities, the curator needs to sort out the powers he has based on the law, namely: powers that can be exercised after obtaining approval from other parties, in this case, the supervising

judge. In further review, to carry out the duties and powers of a curator based on the Bankruptcy Law, a curator must at least have the following abilities:

1. Adequate mastery of civil law,
2. Mastery of bankruptcy law,
3. Mastery of management (if the bankrupt debtor is a company whose business activities can still be saved),
4. Basic mastery of finance (Rahayu Hartini, 2003; 37)

As stipulated in bankruptcy law, the curator's duties can sometimes run smoothly. Problems faced by curators may arise; for example, some debtors are not cooperative by not providing access to data and information on their assets that are declared bankrupt; this causes the curator's work process to be hampered. Law Number 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt has regulated the powers, duties, and responsibilities of the curator, but in reality, carrying out duties as curator is more complex than described in the law. Article 69 Paragraph (1) of Law no. 37 of 2004 regulates the curator's duties to manage and settle bankrupt assets. In carrying out their duties, the curator is not required to obtain approval from or provide prior notification to the debtor or one of the debtor's organs, even though such approval or notification is required in circumstances outside of bankruptcy (Ricardo Simanjuntak, 2003; 14).

Becoming a recalcitrant debtor is one of the solutions to escape bankruptcy. Theoretically, this statement is far from the truth. However, in practice, this statement has proven to be true. Until now, the commercial court has been unable to enforce corporal punishment on debtors who do not comply with the court's decision. In practice, a curator often faces difficulties implementing a bankruptcy decision, where the bankrupt debtor ignores the court's decision and continues transacting. However, in carrying out their duties, many obstacles are often encountered in the field, namely, when a debtor is declared bankrupt, his assets must be in a general confiscation. However, even after being declared bankrupt by the court, many debtors are uncooperative with the existence of a curator for the management of their company's assets. Another problem faced by the curator in carrying out his duties was reporting the curator by the bankrupt debtor to the police. A bankruptcy declaration causes the debtor by law to lose the right to control and manage his assets entered into bankruptcy. By legally eliminating the debtor's rights to manage his wealth, then by the Bankruptcy Law (UUK). From the date the bankruptcy declaration decision is stipulated, the curator is entitled to divide the bankrupt debtor's assets and manage and settle the debtor's assets. Many problems hamper the performance of less cooperative curators, while the bankruptcy law (UUK) provisions must completely regulate curators' legal protection. (Ahmad Yani and Gunawan Widjaja, 2004; 11). Based on the description above, the problem is formulated as follows:

- a. What is the legal protection for the curator in carrying out the authority to manage and settle bankrupt assets?
- b. What are the duties and powers of the curator in managing and controlling the bankrupt debtor's assets?

## **METHODS**

This research uses the research method of normative juridical law by conducting a study and analysis of laws and regulations related to the problem. The sources of legal materials used in this research are primary legal materials, namely laws and books. The analysis technique carried out on the legal material uses descriptive and argumentative analysis (Amiruddin, and H. Zainal Asikin, 2003; 118).

## **RESULT AND DISCUSSION**

### **Legal Protection of Curators In Implementing Authorities To Manage And Settle Up Bankrupt Assets**

The curator, someone appointed by the court to manage and settle the debtor's bankruptcy assets, must carry out his duties following the applicable laws and regulations. (Aditya Pratama and Parulian Paidi Aritonang, 2014:11) A curator, in carrying out his duties, there are so many things that must be done, and the responsibilities are also so great; this can, Of course, be even more complicated because it is not uncommon for a curator to face several obstacles imposed by parties who do not want a bankruptcy. These obstacles can be in the form of non-cooperative attitudes from creditors and bankrupt debtors. Then they can be in the form of physical or psychological violence that can affect the independence of a curator, where the curator will be burdensome to one of the parties in carrying out their duties, which should be in carrying out their duties as contained in the curator's professional code of ethics, curator's professional standards and the KPKPU Law, the curator must be free in carrying out his duties and remain obedient to applicable regulations, then be impartial to anyone and not influenced by anyone. (Aditya Pratama and Parulian Paidi Aritonang, 2014; 13) Implementing the curator's duties, which then experiences obstacles, will certainly burden the curator personally, so legal protection for the curator in managing or settling bankrupt assets is very necessary. Legal protection is an effort to protect a person's interests by allocating a human right of power to that person to act in the context of his interests (Satjipto Rahardjo, 2003; 121).

Article 50 of the Criminal Code contains provisions that provide legal protection for actions taken by the curator, namely that anyone who commits an act in order to carry out the provisions of the laws and regulations will not be punished. This article certainly provides legal protection to the curator from all obstacles that may be carried out by bankrupt debtors and creditors as long as the curator's actions are carried out based on the provisions of the law.

However, it is related to the Corruption Eradication Commission Law, which regulates the existence of a curator and the duties of a curator. In that case, this law does not implicitly contain legal protection for curators in carrying out their duties in managing and settling bankrupt assets. Legal protection for a curator is, of course, very much needed; aside from the very heavy workload with various obstacles as mentioned above, in the KPKPU Law, there are also inconsistencies in several articles, namely between articles 9 and 16 which can lead to disputes in the future regarding the form of cassation legal action. Moreover, review during the management and settlement of bankruptcy assets and the functions of supervisory

judges. Article 65, which supervises the management and settlement of bankrupt assets, also does not provide a specific definition regarding legal protection for curators. It will cause anxiety and fear for the curator in carrying out his duties because the curator may be subject to a criminal threat, and this will affect the independence of the curator himself so that the regulation regarding legal protection in the UUKPKPU for the quarter is deemed necessary to ensure legal certainty for the curator.

As of the bankruptcy declaration decision date, the bankrupt debtor loses his right to administer and manage the property, which is included in the bankruptcy estate. This matter must be submitted to the curator; the curator manages and settles the bankruptcy estate. (Rachmadi Usman, 2004; 75-76)

In law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, Article 1 point 5 states: a curator is a hall of inheritance or an individual appointed by a court to manage and settle the assets of a bankrupt debtor under the supervision of a supervisory judge following this law.

In Article 69, paragraph (1), law No. 37 of 2004 concerning Bankruptcy (UUK) states that the Curator's job is to manage and or settle bankrupt assets. According to Jerry Hoft, bankruptcy is to pay creditors what they owe. Obtain according to the level of the order of their demands. (Jerry Hoft, 2000; 66)

The curator must ensure that all actions taken are in the interest of the bankruptcy estate. Many obstacles encountered by the curator, among others, related to legal certainty for this profession, namely the absence of clear legal guarantees to protect the curator's duties which complicates the implementation of his duties; among other things, a curator often faces problems in the process of implementing a bankruptcy decision, where the bankrupt debtor is not subject to in court decisions, and even continue to carry out transactions when the curator comes, the curator is even expelled, and there are no consequences or sanctions against this debtor from the court (Imran Nating, 2004:11).

Reported by the bankrupt debtor or his attorney that the curator has committed the crime of embezzlement by selling bankrupt assets without prior approval from the bankrupt debtor and by the bankrupt debtor or his attorney that the curator has committed a criminal act of defamation, where the curator has made an announcement in daily mass media regarding the bankruptcy of the debtor. Bearing in mind the heavy duty of a curator, which is demanded carefully, where the surrounding environment greatly influences the task, what is also very important is the guarantee of legal protection for a curator from things that could interfere with the implementation of his duties.

From that, it is necessary to have a simple form of legal protection for curators, both with the existence of a special regulation regarding the protection of curators who are carrying out their duties and also the active role of the legal apparatus to protect curators and facing the actions of a bankrupt debtor with bad faith in carrying out the curator's duties, including reporting to the authorities.

The bankruptcy law has yet to regulate a provision that gives room for manoeuvre to the curator. So that in current practice, curators are powerless against uncooperative debtors. Article 50 of the Criminal Code (KUHP) states that committing an act to carry out statutory

provisions relating to the duties of a curator based on the provisions described in Article 50 of the Criminal Code (KUHP) as stated above is the basis for ensuring the implementation the duties of the curator, where the curator as an official who is appointed and assigned by the court to carry out the provisions of the law and insofar as carrying out the duties and authorities ordered by law in this case, namely the bankruptcy law, then there is no reason to be classified as committing a criminal act.

Suppose you look at Article 69 paragraph (1) of law No. 37 of 2004 concerning Bankruptcy (UUK), which contains the assignment of tasks to the curator for the management and settlement of bankrupt assets. In that case, it proves that the bankruptcy law (UUK) has given authority to the curator to carry out a certain act that has been further described in the article's contents in the said law.

The curator is a professional appointed by the commercial court to carry out management and settlement. The purpose of management here is to record, find, maintain value, secure, and settle assets by selling them through auctions. The curator ensures that the confiscated goods can be identified, managed, maintained, and even developed in value to be sold and distributed to creditors.

The profession of a curator is used for the benefit of the business world in resolving debt problems fairly, quickly, openly and effectively, so the profession of curator and administrator is urgently needed as the party with authority to manage and settle the assets of a debtor who is declared bankrupt or PKPU. Curators and administrators also function as custodians of the debtor's assets against possible arbitrariness by creditors who wish to seize the debtor's assets fraudulently and harm other creditors. Seeing the enormous duties and responsibilities of curators and administrators, Law 37/2004 provides several powers to curators and administrators, including:

1. Performing Security for Bankruptcy Assets;
2. Performing Bankruptcy Assets Registration;
3. Selling Bankruptcy Assets;
4. File a Lawsuit concerning the Interests of Bankruptcy Assets;
5. Continuing the Bankrupt Debtor's Business;
6. Apply to the supervisory judge to place management of legal entities and commissioners of companies declared bankrupt in detention.

However, even though the duties and powers conferred by law are quite broad, in practice, not a few curators and administrators experience obstacles in carrying out their duties and authorities. Obstacles that are often encountered, for example:

1. Not permitted by the bankrupt debtor or prevented from entering his office or residence and threatened by the debtor or his attorney to be criminally reported as having entered the yard unlawfully (article 167 of the Criminal Code);
2. Reported by the debtor to the police based on entering a false statement because he refused a creditor's bill, which, according to the debtor, was the creditor (article 263 of the Criminal Code);



3. Reported by the debtor to the police for defamation of the bankruptcy announcement made by the curator;
4. Reported by the debtor to the police on the grounds of embezzlement because he had sold bankruptcy assets without his consent (Hartini, Rahayu, 2003:37)

### **Duties And Authorities of The Curator In Managing And Controlling The Assets Of “Bankart Debtors**

The duties and powers of the curator are relatively heavy. In principle, the general duty of the curator is to manage and/or settle bankruptcy assets. The curator is independent of the debtors and creditors in its duties. In carrying out these duties, the curator is not required to obtain approval from or provide prior notification to the debtor or one of the debtor's organs, even though in ordinary circumstances (outside of bankruptcy), such approval or notification is required.

The main task of the curator is to manage and/or settle bankrupt assets, as stipulated in Article 69 paragraph (1) of the Bankruptcy Law; namely, the curator's job is to manage and/or settle bankrupt assets. He has been able to carry out this task since the date the bankruptcy declaration decision was made. Even though the decision still needs to be in Kracht, namely, even though the decision is still under appeal and/or review. The curator's authority is a right, in the sense of the power granted by law, to carry out his duties. Authority is always related to the duties (obligations) assigned to someone. The granting of authority must follow the tasks assigned. In general, the curator has the authority to carry out the management and/or settlement of bankrupt assets from the date the bankruptcy decision is pronounced, even though a cassation or judicial review is filed against the said decision. The curator's powers concerning his main duties, among others, are as follows:

1. No required to obtain approval from or provide prior notification to the Debtor or one of the debtor's organs, even though in the circumstances outside of bankruptcy, such approval or notification is required.
2. Can make loans from third parties to increase the value of bankruptcy assets. If, in making a loan, the curator needs to burden the bankrupt assets with a guarantee institution (pledge, mortgage, fiduciary, mortgage or collateral rights over other materials), then the curator must first obtain approval from the supervisory judge. Bankruptcy assets that can be charged with a guarantee institution are bankruptcy assets that have not been used as collateral for the debt.
3. Can transfer bankruptcy assets to the extent necessary to cover bankruptcy costs or if their detention will result in losses to the bankruptcy assets, even though an appeal or review is filed against the bankruptcy decision, after obtaining the approval of the supervisory judge (Article 107 of the Bankruptcy Law).
4. Has the authority to make peace to end an ongoing case or prevent a case from arising, after seeking advice from the temporary creditor committee, if any and with the permission of the supervising judge (Article 109 of the Bankruptcy Law).
5. Can hold a meeting with the creditor committee to ask for advice.

6. File a lawsuit, continue an ongoing case, or refute a lawsuit that has been filed or is in progress. To exercise this authority, the curator is required to seek the opinion of the creditor committee unless:
7. Against disputes regarding the matching of receivables;
8. Regarding continuing or not continuing a company in bankruptcy, in matters as referred to in Articles 36, 38, 39, 59 paragraphs (3), 106, 107, 184 paragraphs (3) and Article 186;
9. Regarding how to settle and sell bankruptcy assets;
10. It is about the time and the amount of distribution that must be done. The obligation to ask for the opinion of the creditor committee is no longer needed if the curator has summoned the creditor committee to hold a meeting to give an opinion, but within 7 days after the summons, the creditor committee still needs to give an opinion.
11. Can request the sealing of bankrupt assets to the court through a judge based on reasons to secure bankrupt assets.
12. The curator may continue the business of a debtor who is declared bankrupt even if an appeal or review is filed against the decision for a declaration of bankruptcy after obtaining the approval of the interim creditor committee. If there is no committee of creditors, the curator will need permission from the supervising judge (Article 104 of the Bankruptcy Law).
13. Authorized to open letters and telegrams addressed to bankrupt debtors (Article 105 paragraph (1) of the Bankruptcy Law).
14. Authorized according to circumstances to provide an amount of money determined by the supervisory judge for the living expenses of the bankrupt debtor and his family (Article 106 of the Bankruptcy Law).
15. To settle bankruptcy assets, the curator can use the services of a Bankrupt Debtor with a wage determined by the supervisory judge (Article 186 of the Bankruptcy Law).
16. Has the authority to hold separatist creditors accountable for exercising their rights over the proceeds from the sale of objects that serve as collateral and handing over the remaining proceeds from the sale after deducting the amount of debt, interest and fees to the curator (Article 60 paragraph (1) of the Bankruptcy Law).
17. The curator may meet with the creditors' committee to seek advice (Article 82 of the Bankruptcy Law).
18. The curator, with the permission of the supervisory judge, can continue to sell objects belonging to the debtor, both movable and immovable objects, in the framework of which the execution has gone so far that the day of sale of the goods has been set (Article 33 of the Bankruptcy Law).
19. The curator, with the approval of the supervisory judge, can transfer the bankruptcy assets to the extent necessary to cover bankruptcy costs or if their detention will result in losses to the bankruptcy assets, even though cassation or review is filed against the bankruptcy decision (Article 107 paragraph (1) of the Bankruptcy Law).

In Article 10, paragraph (1) of the Bankruptcy Law, appointing a temporary curator before pronouncing a bankruptcy statement is possible. A temporary curator is needed because the debtor is considered not yet bankrupt before the bankruptcy declaration decision. Therefore he is still authorized to manage his assets. In order to avoid unwanted things from being done by the debtor who is not yet bankrupt, he needs to be supervised; in this case, the interim curator carries out the supervision. (Munir Fuady, 1999; 63)

As long as the decision on the application for a declaration of bankruptcy has not been pronounced, any creditor, attorney, Bank Indonesia, BAPEPAM or the minister of finance may submit a request to the commercial court to appoint a temporary curator to oversee:

1. Management of the debtor's business; And
2. The curator's authority is to pay creditors and transfer or use debtor assets in bankruptcy.

The request can only be granted if it is necessary to protect the interests of creditors (Article 102 paragraph (2) of the Bankruptcy Law). Previously, in Article 67 paragraph (1) of the Law on Bankruptcy (*Faillissementsverordening*), it was only determined that the Probate Court was assigned as curator. However, after Perpu No. 1 of 1998 was enacted, which changed the *Faillissementsverordening*, those who could become curators were the Treasury Hall and other curators (Article 67A paragraph (1). Likewise, in Article 70, paragraph (1) of the Bankruptcy Law, it was determined that those who can become curators are the Probate Court (BHP) and other curators (individual curators). Other curators are often referred to as "private curators".

Several requirements must be met to become a curator, which includes the following;

1. Special requirements for other curators:
2. Individuals domiciled in Indonesia;
3. Have special expertise needed in order to manage and/or settle bankrupt assets; And
4. Registered with the ministry whose scope of duties and responsibilities is in the field of laws and regulations.
5. Must be independent;
6. Does not have a conflict of interest with the debtor or creditor; and in the Elucidation of Article 15 paragraph (3) of the Bankruptcy Law, it is said that what is meant by "independent and not having a conflict of interest" is that the continued existence of the curator does not depend on the debtor or creditor and the curator does not have the same economic interests as the economic interests of the debtor or creditor.

According to Sutan Remy Sjahdeini, it is considered that there has been a conflict of interest if the following matters occur (Sutan Remy Sjahdeini, 2002; 213):

1. The curator has one creditor;
2. The curator has a family relationship with the controlling shareholder or with the management of the debtor's company;
3. The curator owns more than 10% shares in one of the creditor companies or in the debtor company;



4. A curator is an employee, a member of the Board of Directors or a member of the Board of Commissioners of a creditor company or a debtor company.
5. Not currently handling bankruptcy cases and postponement of debt payment obligations in more than 3 cases (Article 15 paragraph (3) of the Bankruptcy Law). Article 15, paragraph (3) of the Bankruptcy Law reads: "The appointed curator as referred to in paragraph (1) must be independent, not have a conflict of interest with the debtor or creditor and not be handling bankruptcy cases and delays in payment of debt obligations in more than 3 (three) cases".

Article 71 paragraph (1) of the Bankruptcy Law states that the court may at any time grant a request for the replacement of the curator after summoning and hearing the curator and appointing another curator and/or appointing an additional curator for:

1. Curator's request
2. Other curator requests; If there are
3. Proposal of the supervising judge; or
4. Bankrupt debtor requests.

It means that the decision to replace/re-appoint the curator at the request of the curator himself/another curator/supervisory judge/bankrupt debtor is at the discretion of the judge (the judge's authority). The judge has the authority to appoint or not to appoint or replace or not replace the curator. Even though it is the judge's discretion, as a wise judge, you should carefully and precisely and rationally consider the request of the curator/other curators/supervisory judge/bankrupt debtor.

Unlike what is stipulated in Article 71 paragraph (1) of the Bankruptcy Law, Article 71 paragraph (2) of the Bankruptcy Law says that "the court must dismiss or appoint a curator at the request or suggestion of concurrent creditors based on the decision of the creditors meeting held as referred to in Article 90, provided that the decision is taken based on the affirmative vote of more than 1/2 of the number of concurrent creditors or their proxies present at the meeting and representing more than 1/2 of the total receivables of the concurrent creditors or their proxies present at the meeting. That is, the judge has an absolute obligation by law to dismiss or appoint a curator at the request/suggestion of concurrent creditors with a decision of the meeting of creditors with the following requirements:

1. Approved by more than 1/2 of the number of concurrent creditors or their proxies present at the meeting; And
2. Representing more than 1/2 of the total receivables of concurrent creditors or their proxies present at the meeting.

In addition, in carrying out its duties and authorities, the curator has two legal obligations. The first obligation is the obligation as specified in UUPT. In other words, the curator carries out statutory duties, namely obligations determined by law. The second obligation of the curator is in the form of fiduciary duties or fiduciary obligations. The

curator carries out fiduciary duties or fiduciary obligations because the curator has a fiduciary relationship with (ibid:224-225):

1. The Supervisory Judge represents the Court in Indonesian Bankruptcy Law.
2. Debtor.
3. Creditors.
4. Shareholders.

In addition to the parties mentioned above, the curator also has a fiduciary relationship with the shareholders. In other words, the curator trusts the court, debtors, creditors and shareholders to do their best to benefit these parties. In other words, the curator is responsible to the court, debtors, creditors and shareholders.

The main task of the curator is to manage and settle bankrupt assets. The curator should carry out the management and/or settlement of bankrupt assets. The purpose of bankruptcy is to pay creditors the rights they should have obtained according to the order of their demands (Dewi, Ivida and Herowati Poesoko, 2006; 123). Therefore, the curator must act in the best interests of creditors, but the curator must also pay attention to the interests of bankrupt debtors; these interests must not be ignored (Firmansyah, 2013:101), "Based on the Bankruptcy Law, the duties and powers of the most primary curator are as follows:

1. The curator has the authority to act independently to the extent of his duties (Article 73 Paragraph 3);
2. The main task of the curator is to manage and settle bankruptcy assets (Article 69 Paragraph 1);
3. It is permissible to make loans from third parties with terms and objectives to increase the value of bankruptcy assets (Article 69 Paragraph 2);
4. Through the approval of the supervising judge, the curator has the authority to encumber the bankruptcy estate with Mortgage, Pledge and other Collateral Rights (Article 69 Paragraph 3);
5. The authority referred to in Article 36 is a reciprocal agreement unless there is an agreement that gives the debtor the right to carry out his actions;
6. Authority to sell collateral from separatist creditors after 2 (two) months of insolvency (Article 59 Paragraph 1) or curator to sell movable property in a state of stay (Article 56 Paragraph 3);
7. The curator has the authority to continue the business of a debtor who is declared bankrupt (with the approval of the supervisory judge or creditors' committee) even though an appeal or judicial review is filed against the decision for a declaration of bankruptcy (Article 104);
8. The curator has the obligation to make a description or record of bankruptcy assets (Article 100);
9. Authorized to transfer bankrupt assets prior to verification (with the approval of the supervisory judge) (Article 107 Paragraph 1);
10. The curator is obliged to make and match the list of receivables (Article 116 in conjunction with Article 117);

11. The curator is obliged to make payments following the receivables owned by creditors in the settlement process (Article 201);
12. Can make demands based on the Paulina action legal system (Article 41 in conjunction with Article 47 Paragraph 1);
13. The curator can free the object that is used as collateral by paying the creditor concerned the smallest amount of the market price of the collateral item with the amount of money guaranteed by the collateral item (Article 59 Paragraph 3);
14. The curator is entitled to compensation for services/fees in carrying out his duties after the bankruptcy ends, and the provisions regarding the amount of compensation received are through stipulations based on the guidelines of Minister of Law and Human Rights Regulation Number 2 of 2017 concerning Amendments to Minister of Law and Human Rights Regulation Number 11 of 2017. 2016 concerning Guidelines for Service Fees for Curators and Managers. (Article 75 jo Article 76);
15. If negligence and errors occur in carrying out the management and settlement of bankruptcy assets, the curator is responsible for this (Article 72); (Made Bagoes Wiranegara Wesna, Ngakan Ketut Dunia and Ida Ayu Sukihana, 2013; 3)
16. The curator must uphold the attitude of independence and be free from intervention by creditors and debtors (Article 15 Paragraph 3);
17. The curator can carry out auctions for bankrupt assets based on a power of attorney from the supervisory judge according to the auction day that has been determined (Article 33);
18. Termination of workers who work for the debtor can be done by the curator or the will of the worker (Article 39);
19. The authority of the curator to break the lease agreement of the bankrupt debtor (the debtor as the lessor) (Article 38);
20. If, in the management of the bankruptcy estate, there is an inheritance that falls to the bankrupt debtor, the curator can receive the inheritance if its existence benefits the bankruptcy estate (Article 40 Paragraph 1). Then conversely, the curator has the right to refuse the inheritance based on the permission of the supervising judge (Article 40 Paragraph 2);
21. The curator's obligation to sell assets in the event of a settlement task; And
22. The curator must submit a report every 3 (three) months to the supervisory judge regarding the state of the bankrupt assets and performance of duties as a form of accountability (Article 74 Paragraph 1). (Ida Bagus Adi Wiradharma and Ida Ayu Sukihana, 2018; 7)

The position of curator in the KPKPU Law is very important concerning his duties as a party to bankruptcy. As an inventory of the authorities, duties and responsibilities of the curator based on the KPKPU Law, all legal actions of the curator have been justified in carrying out the management and settlement of bankrupt assets. In carrying out his duties, the curator must uphold the independence and be free from all forms of intervention by interested parties (Suci, Ivida Dewi Amrih and Herawati Poesoko, 2011; 6).

## **CLOSING**

### **Conclusion**

Legal protection for curators in carrying out their duties is very important. Even though the duties and authorities granted by law are quite broad, a curator often faces problems and obstacles in implementing a bankruptcy decision, where the bankrupt debtor is not subject to the court's decision. Judging from the provisions of Article 50 of the Criminal Code itself, it has protected curators who carry out their duties based on statutory regulations, but the provisions of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt have not guaranteed legal protection for the curator in carrying out his duties of managing and dealing with bankruptcy assets as a result of which it can affect the performance of the curator in managing and sorting out the debtor's bankrupt assets so that it creates legal uncertainty.

### **Suggestion**

The government should establish a statutory provision relating to legal protection for the curator regarding the duties and powers of the curator so that it can be recognized normatively and provide limits for the curator in acting.

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**LEGAL PROTECTION OF THE AUTHORITY OF THE CURATOR  
IN THE MANAGEMENT AND SETTLEMENT OF BANKRUPT  
ASSETS**

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