

UNIVERSITAS INTERNASIONAL BATAM

*Thesis
Master of Law
Even Semester 2018/2019*

**LEGAL PROTECTION OF CREDITORS FOR FOREIGN DEBTORS
DECLARED INSOLVENTION BY THE INDONESIAN COURT DECISION
(Case Study: Decree of Medan Commercial Court Number:11/Pdt.Sus-PKPU/2018/PN Niaga Mdn)**

NPM: 16105211
Edwar Kelvin

ABSTRACT

Act Number 37 of 2004 concerning Bankruptcy and PKPU as one of the instruments in settling debts and debts has now become the most popular instrument in Indonesia, one of which is the case of the Insolvency of Penaga Timur (M) SDN, BHD Malaysian Shipping Company due to not submitting a Reconciliation Offer during the Creditors' Meeting, therefore the Curator appointed by the Court immediately ordered, but was constrained because of the position of the assets (boedel pailit) belonging to Penaga Timur (M) SDN.BHD was outside Jurisdiction of the Republic of Indonesia, and of course, the legal firmness envisioned by PT. Wijaya Artha Shiping (PT.WAS) and PT. Ujung Medini Lestari (PT.UML) as the creditor was not reached.

This study aims to clarify the general bankruptcy perspective on Foreign Debtor Insolvency based on the Bankruptcy System in Indonesia which feigns to process the Assets of Bankruptcy (boedel pailit) outside the territory of Republic of Indonesia. To answer the problem, the author conducts a descriptive-exploratory study with a normative juridical approach.

From the results of the conducted research, the writer did not find situation where the Insolvency of Penaga Timur (M) SDN BHD is caused by the cash flow test approach method, the balance sheet test or going concern value concept and also has no relation to the assessment of debtor financial ratios such as liquidity, solvency (solvability), profitability and leverage as appropriate in the Perspectives of Bankruptcy Regime in general, and in this case the lack of regulation on the provisions of International Law relating to the Ordering of Bankruptcy Boards and/or Cross Border Insolvency in general. The curator has not been able to fulfill the rights of creditors for bankruptcy parties outside the territory of the Republic of Indonesia.

Keywords : Cross Border Insolvency, Boedel Pailit, Kreditur, Debitur Asing, Perlindungan Hukum, Keadilan, dan Teori Hukum Pembangunan;