

Tinjauan yuridis terhadap kewajiban direksi dalam pengelolaan perseroan terbatas berdasarkan undang-undang No 40 Tahun 2007 tentang perseroan terbatas : Studi kasus PT Binangun Intiaditya Grafisindo) = Legal analysis on the obligations of directors In managing the limited liability company based on law number 40 year 2007 (case study Pt Binangun Intiaditya Grafisindo)

Asri Anindita, author

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Abstrak

Perseroan Terbatas sebagai badan hukum dalam melakukan perbuatan hukum harus melalui pengurusnya. Ketergantungan antara badan hukum dan pengurus lahir hubungan fidusia (fiduciary duties) di mana Direksi selalu menjadi pihak yang dipercaya bertindak dan menggunakan wewenang hanya untuk kepentingan Perseroan Terbatas semata. Tesis ini membahas permasalahan mengenai kewajiban-kewajiban Direksi dalam pengelolaan Perseroan Terbatas berdasarkan Undang-Undang Nomor 40 tahun 2007 tentang Perseroan Terbatas dan pelaksanaan kewajiban-kewajiban. Metode penelitian yang digunakan adalah metode penelitian kepustakaan yang bersifat yuridis normatif, yaitu dengan mempergunakan data sekunder yang berupa bahan pustaka. Dalam Undang- Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas diatur mengenai kewajiban-kewajiban Direksi Perseroan Terbatas.

Kepengurusan Perseroan Terbatas sehari-hari dilakukan oleh Direksi. Keberadaan Direksi dalam Perseroan Terbatas merupakan suatu keharusan, dengan kata lain Perseroan Terbatas wajib memiliki Direksi. Hal ini dikarenakan Perseroan Terbatas sebagai artificial person, di mana Perseroan Terbatas tidak dapat berbuat apa-apa tanpa adanya bantuan anggota Direksi sebagai natural person. Berdasarkan prinsip fiduciary duty, yang diatur di dalam Pasal 97 ayat (2) UUP, Direksi suatu Perseroan Terbatas harus melakukan pengelolaan dengan itikad baik dan penuh tanggung jawab. Dalam Putusan Pengadilan Negeri Depok Nomor 03/Pdt.G/2007/PN.Dpk, Direktur Utama dan Direktur Perseroan Terbatas telah melaksanakan pengelolaan dengan itikad tidak baik sehingga merugikan Perseroan, oleh sebab itu kedua anggota Direksi tersebut harus mempertanggungjawabkan secara pribadi segala kerugian Perseroan yang disebabkan oleh pengurusannya tersebut.

.....Limited Liability Company as a legal entity in performing a legal act has to go through managers. Dependence between the legal and fiduciary relationships born caretaker (fiduciary duties) in which the Board of Directors has always been a trusted party to act and use its authority only for the sake of mere Limited Company. This thesis discusses the issues concerning the obligations of Directors in the management of limited-liability company under Law Number 40 year 2007 regarding the implementation of obligations. The research method used is the method of research literature that is juridical normative, ie using secondary data in the form of library materials. In the Law Number 40 year 2007 on Limited Liability Company organized on the obligations of the Board of Directors of Limited Liability Company.

The Leadership Company Limited carried out daily by the Board of Directors. The existence of Directors of the Limited Company is a must, in other words Limited Liability Company shall have Directors. This is because the Limited Company as an artificial person, in which the Limited Liability Company can not do anything without the help of members of the Board of Directors as a natural person. Based on the principle

of fiduciary duty, set out in Article 97 paragraph (2) of Law Number 40 year 2007 regarding the Limited Liability Company, the Board of Directors of a Limited Liability Company must make arrangements in good faith and responsibly. In Depok District Court Decision No. 03/Pdt.G/2007/PN.Dpk, President Director and Director of Limited Liability Company has been carrying out maintenance in bad faith to the detriment of the Company, therefore, both of the member of the Board of Directors shall be personally accountable for any such losses caused by the Company by its management.