

ABSTRACT

“LEGAL ANALYSIS OF THE AUTHORITY OF INVESTMENT MANAGER IN THE APPLICATION OF SUSPENSION OF PAYMENT AGAINST PUBLIC COMPANY (CASE STUDY OF DECISION NUMBER 286/PDT.SUS-PKPU/2021/PN NIAGA.JKT.PST)”

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A Public company that issues Medium Term Notes unable to fulfil the debt payments. Thus, the Investment Manager submit the application for suspension of payment representing bond holders to the commercial court. Regarding to the case number 286/Pdt.Sus-PKPU/2021/PN Niaga.Jkt.Pst, this application has been rejected by the court. The court states that Investment Manager has no legal standing to represent the bond holders. The type of legal research carried out by the author is empirical normative with a judicial case study approach. According to the Bond Agreement, the resolution to appoint representation of bond holders must occur in the general meeting of bond holders. Besides that, Investment Manager has the authority to represent the bond holders based on collective investment contract (KIK). The conclusion of this research is the Investment Manager has the authority to represent the bond holder based on the contract. The contract regulates the authority of Investment Manager to represent the bond holders in the court. Referring to the principle of the contract, a contract is based on the agreement of the parties, which obliges the parties to fulfil their own duties. Therefore, the application for suspension of payment has been fulfilled under the Article 222 Paragraph (3) Law No.37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations. Additionally, collective investment contract is a legal basis for the parties, which also has many principles under it, such as pacta sunt servanda, bona fide, and consensualism. Investment Manager has a fiduciary duty to protect bond holders' rights and also has immediate connectivity with bond holders.

Keyword: Investment Manager, KIK, Suspension of Payment, Medium Term Notes, Akkord

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