



# **Bankruptcy Settlement: Causes and Consequences for Entrepreneurs According to Liquidators**

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**Abstract.** This study addresses entrepreneurial bankruptcy settlement from an attitudinal perspective by exploring how liquidators perceive their interactions with entrepreneurs during bankruptcy settlement. We explore what personal attitudes influence the settlement process. A survey of 296 liquidators and 11 in-depth interviews show significant variances across liquidators in relation to empathy, learning orientation, cause attribution and stigmatisation of entrepreneurs. These factors appear to be important in the bankruptcy settlement process. Although no direct statistical effects on the extent to which liquidators involve entrepreneurs in the process were observed, and only limited effects on the duration of bankruptcy processes could be established, the interview data painted a balanced picture of how liquidators' attitudes and orientations affect their interaction with the entrepreneurs involved. A key finding was the notion that liquidators only have a limited insight into the actual negative consequence of a bankruptcy for the entrepreneur, particularly in their personal life. This seems to be caused partially by the fact that their empathy is typically directed at other stakeholders rather than at the entrepreneur involved. Also, we show how attribution plays a significant role in the bankruptcy settlement process. However, the effect of attribution is different than previously expected: it is not the liquidators' personal attribution of bankruptcy that influences if they are willing to involve an entrepreneur in the settlement process, but rather the liquidators' perception of the entrepreneur's attribution.

**Keywords:** bankruptcy, liquidators, learning orientation, stigmatisation, empathy, entrepreneurs, mixed method research.

## **1. Introduction**

As a result of the continuing economic crisis, in 2013 an all-time record of 12,306 firms were declared bankrupt in the Netherlands. This number constitutes about 1.5% of all firms in the country (CBS, 2013). Comparable numbers can be found throughout Europe. In the Netherlands, once a bankruptcy is declared, the owner–manager loses all control over the firm and a liquidator is appointed by the court to act as a guardian and to liquidate the firm to settle the debt. A common misconception among owner–managers (hereafter called entrepreneurs) is that the liquidator will collaborate with them, or even work on their behalf, in settling the bankruptcy. In reality, however, the entrepreneur does not have any role in the bankruptcy process; rather, they have only to transfer the firm's administration and other relevant information to the liquidator. The liquidator has no legal

obligation to share any information pertaining to the case with the entrepreneur throughout the bankruptcy settlement process (Willems, 2005). In practice, some liquidators will indeed keep their interaction with the entrepreneur to the bare minimum and apply a very formal mode of communication with them, while others acknowledge the entrepreneurs' concerns and involve them to help settle the bankruptcy swiftly.

These differences in approach appear to have a significant impact on the entrepreneur's future. Few entrepreneurs that have been involved in a bankruptcy will start a new firm (Metzger, 2006). The high dropout rate among this group of entrepreneurs forms a potential threat to the entrepreneurial capital of a country. After all, previous entrepreneurial experience, including both positive and negative experiences, forms an important predictor of future entrepreneurial success (Ekanem & Wyer, 2007; Lee, Miller, Hancock & Rowen, 2005). Indeed, previous studies show that renascent entrepreneurs, as entrepreneurs who start again after a previous failure are called, are typically more successful than novice starters (Stam, Audretsch & Meijaard, 2009).

According to the many entrepreneurs who declare that they have no intention of starting a new venture, one of the reasons given is the lack of respect and even stigmatising attitude of the liquidator towards them during the bankruptcy. These entrepreneurs argue that this approach not only extended their grieving process, but also negatively affected their self-confidence. Alternatively, entrepreneurs who have started a new venture typically state that the liquidator treated them in a decent manner, kept them informed on a regular basis and even asked them for advice on certain aspects of their firm during the bankruptcy case (Wakkee, 2010). According to these entrepreneurs, this constructive approach provided them with the emotional opportunity to reflect on the demise of their firm, and thus to learn from the experience to the extent that they wanted to try again. While their statements are likely biased by their personal emotions, this stark difference raises a number of questions. First, how do liquidators perceive their interactions with the entrepreneur during the course of a bankruptcy process? Second, if there are differences in approach, what factors can explain these differences? Third, what does this mean for the settlement of bankruptcy cases in the Netherlands?

So far, the research on bankruptcy has been mainly undertaken from a legal perspective. Hardly any attention has been devoted to the interpersonal interaction between liquidator and entrepreneur. However, with the rising number of bankruptcies and the extensive emotional impact these can have on the entrepreneurs involved, adopting a legal perspective provides only limited insight into the impact of bankruptcy. Due to their central role in the bankruptcy settlement process, investigating the interaction between liquidator and entrepreneurs from an attitudinal perspective can provide better insight into the impact of bankruptcy on entrepreneurs and their future activities. While interaction involves two parties in this study, we have decided to focus on the perceptions of liquidators as a first step towards developing greater insight. Given

the lack of empirical studies to build on, we decided to conduct an empirical investigation using a mixed method approach. In particular, we sought to address the previously formulated questions using the analysis of data obtained from a survey conducted among 296 liquidators and 11 in-depth interviews with liquidators. In both the survey and the interviews, we focused on the attitudes and perceptions of liquidators regarding the causes and consequences of bankruptcy, their relationship to the entrepreneurs involved and their personal attitudes towards these entrepreneurs.

We will first describe the bankruptcy settlement process in the Netherlands. Next, building on insights from previous studies, we develop a conceptual framework to guide our empirical investigation and formulate a number of hypotheses for testing. Subsequently, the methods underlying our study are presented, followed by an overview of our results. We end with conclusions and recommendations for liquidators and entrepreneurs.

## **2. Bankruptcy Settlement and the Role of the Liquidator**

The task and responsibilities of liquidators are described in the Dutch bankruptcy law of 1893.<sup>1</sup> In short, the liquidator is assigned as a legal guardian by the court with the intent to pay off as much debt as possible from the firm's estate by drastically reorganising or by liquidating the firm and laying off the remaining employees (Kalf, Mulder & de Ranitz, 2007; Willems, 2005). Liquidators operate on behalf of the creditors and report to the court. The order in which creditors are reimbursed is legally determined. First, the liquidator is entitled to an hourly fee from the estate, and then the bank needs to be paid off. After that, the preferred creditors, namely the tax authorities and the Employee Insurances Implementing Agency (in Dutch, the UWV), are entitled to their share. Only if there are still resources left in the estate after these debts have been fully paid will the unsecured creditors, such as suppliers, be compensated. In most cases, and to the frustration of both the creditors and entrepreneurs involved, these unsecured creditors are left typically with most of the debts unpaid as there is not enough value in the estate. Besides being responsible for settling the debt, the liquidator is also required to investigate any potential director's liability from severe mismanagement or fraudulent behaviour. The establishment of director's liability has severe financial consequences for both the estate and the entrepreneur involved. The latter will receive an extensive claim on their personal assets, and are therefore entitled to a rapid procedure to minimise the time they are left in the dark regarding their personal assets and reputation. Furthermore, as stated in the code of conduct of the Dutch professional association of liquidators, entrepreneurs should be given the opportunity to share their views on the causes

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1. [http://wetten.overheid.nl/BWBR0001860/geldigheidsdatum\\_16-12-2013](http://wetten.overheid.nl/BWBR0001860/geldigheidsdatum_16-12-2013)

of the bankruptcy and their own role in this process (Insolad, 2011). In reality, however, there is no legal time limit within which director's liability has to be established, and in which the bankruptcy should be settled. Moreover, an official procedure regarding participation, to which an entrepreneur can refer in case they feel their rights are being disregarded, does not exist.

While, in a technical sense, bankruptcy is a purely legal and financial issue, interpersonal aspects play an extensive role in the bankruptcy settlement process, and both the liquidator and entrepreneur play an important role in this process. From an entrepreneur's perspective, bankruptcy is a personal drama and the end of a significant part of their professional career, but it is also an opportunity to learn. Learning is a vital process for entrepreneurs, as it allows them to improve their ability to recognise new opportunities and to create an organisation that allows them to pursue these opportunities in the marketplace (Rae, 2000). Since entrepreneurs are typically action-oriented, they learn better and faster from experience than from formal training (Deakins & Freel, 1998; Rae & Carswell, 2000; Young & Sexton, 1997). Particularly, situations that deviate from the normal pattern form a basis for a learning experience because such situations enhance the entrepreneurs' awareness regarding habits and routines that have proved to be inadequate. A bankruptcy, due to its extraordinary character, is an excellent opportunity to improve on learning. Important learning issues in relation to bankruptcy pertain to the development of general management skills, financial skills and marketing activities (Stokes & Blackburn, 2002). However, not all entrepreneurs will learn from a bankruptcy. In order to learn, entrepreneurs require access to information about the causes as well as the consequences of the particular bankruptcy case, while also needing to be able to process this information and reflect upon it (Shepherd, 2003; Stam et al., 2009).

The process by which entrepreneurs and various social and economic arbiters explore the causes of a bankruptcy in terms of internal, external, controllable and non-controllable causes is called "attribution" (Weiner, 1985; Wiesenfeld, Wurthmann & Hambrick, 2008). According to Van Dyck, Van Hooft, De Gilder and Liesveld (2010), internal-unstable-controllable attribution provides the best basis for learning because emphasis is placed on factors that the entrepreneur has control over. If an entrepreneur recognises their own role in the bankruptcy, they can adapt their future behaviour accordingly. Entrepreneurs who only point to external causes (e.g. "my customers were always late paying their bills", or "there is too much red tape") or that only consider personal factors they cannot change (such as a chronic illness) will not benefit (Van Unen, 2010).

While attribution is perceived typically as a personal characteristic and attitude, the environment strongly affects the attribution process. Due to the emotional bond that entrepreneurs have with their firm, a bankruptcy often leads to negative emotional reactions, including grieving (Shepherd, Wiklund & Haynie, 2009). Entrepreneurs that receive sufficient emotional space from their network to deal with the loss of their business and feel their support will be more

able to move on from their grieving to a more constructive form of attribution. If the social network only expresses accusations or blames the entrepreneur, and if there is no attention given to (future) recovery, entrepreneurs may become defensive. Furthermore, situations that make entrepreneurs feel as if they have lost all control, as happens when the liquidator assumes guardianship of the firm, may bring the natural and healthy process of grieving to a standstill. The consequence may be that entrepreneurs start to attribute the bankruptcy solely to external causes (excuses). When this happens, the learning process fails before it can even begin. Not only will such entrepreneurs experience more difficulty in moving on and preparing for a new start, but it may also negatively affect the bankruptcy settlement process as the liquidators consciously or unconsciously respond to the negative stance of the entrepreneur. Consequently, the liquidator may not involve the entrepreneur to the extent they normally would, while it may also cause delays in the settlement process.

The liquidator is likely to be influenced by a number of factors when settling bankruptcy cases. To start with, as discussed above, the liquidator's behaviour is guided by formal procedures and guidelines outlined in law, as well as by the code of conduct of the professional association. Second, case-specific characteristics – including the size and complexity of the bankruptcy – affect the way in which liquidators approach different cases. Third, and essential to this study, personal attitudes and orientations are expected to play a role in the bankruptcy settlement process. Attitudes and orientations are seen generally as having a strong impact on the behaviour of professionals (Ajzen, 1985, 2005; Lin & Lee, 2004). In this study, we therefore explore the impact of empathy, attribution, learning orientation and stigmatisation by the liquidator on the way in which they interact with an entrepreneur during bankruptcy settlement processes, and how they approach such cases in general.

Empathy concerns the extent to which an individual is sensitive to the positive and negative emotional experiences of others (Scott, Colquitt, Paddock & Judge, 2010). Significant differences exist with respect to the extent individuals exhibit empathic behaviour or alternatively underestimate other people's social pain (Nordgren, Banas & MacDonald, 2011). In relation to the issue of bankruptcy, lower levels of empathy may consequently lead liquidators to consider only the legal and technical side of a case while neglecting, or even remaining unaware of, the negative effects a bankruptcy may have on the personal life of the entrepreneurs involved. For instance, entrepreneurs have reported health issues, marital problems and negative responses from would-be employers when applying for a salaried job, or even personal bankruptcy (Mason, Carter & Tagg, 2008; Stokes & Blackburn, 2002; Wakkee, 2010). Furthermore, due to their lack of sensitivity to signals, liquidators with lower levels of empathy may also be less aware of the value that entrepreneurs may attach to being involved in the settling of the bankruptcy of their firm, and as a result may apply the formal guidelines set by the law and the professional association rather than

going the extra step and taking time to involve the entrepreneur in the settlement process. Also, when liquidators are less aware of the impact of the bankruptcy due to a lack of empathy, they could possibly take more time to settle a case. This is particularly due to there being no legal timeframe to settle a case; rather than pushing for a rapid closure of the case, liquidators with lower levels of empathy may leave some cases idle for longer periods of time when it suits their schedule.

From the arguments formulated above, we deduce the following hypotheses:

*Hypothesis 1a: Liquidators with higher levels of empathy are more aware of the negative personal consequences of the bankruptcy for the entrepreneur.*

*Hypothesis 1b: Liquidators with lower levels of empathy are less likely to involve entrepreneurs in the process of settling a bankruptcy.*

*Hypothesis 1c: Liquidators with lower levels of empathy typically take more time to settle a bankruptcy case than liquidators with higher levels of empathy.*

There is an abundance of literature to suggest that individuals are different in the extent to which they view errors, mistakes or failures as an opportunity to learn, and that these differences are largely based on factors such as experience, self-confidence and tolerance of failure (Argyris, 1985; Isen & Baron, 1991; Starkey, 1998). In addition, scholars seem to be in agreement that the extent to which a situation is influenced by controllable factors determines at least partially how much individuals will actually learn from the experience (Ucbasaran, Wright, Westhead & Busenitz, 2003; Weiner, 1985). However, while almost all these studies pertain to the extent to which individuals think they can learn from their own failures, it seems plausible that these ideas apply equally to how much individuals expect that others may learn from their mistakes. Hence, if liquidators expect that entrepreneurs are likely to learn from their experiences and failures, then these entrepreneurs may logically be perceived as a source of relevant information about the causes of the bankruptcy. After all, learning will occur only as a result of reflection on the past. As liquidators benefit from relevant information about the case, liquidators who expect that entrepreneurs can learn from the bankruptcy may be more likely to involve them in the bankruptcy settlement process. This leads to the following hypotheses:

*Hypothesis 2a: Liquidators that attribute bankruptcies mainly to controllable causes are more likely to expect that entrepreneurs will learn from the bankruptcy.*

*Hypothesis 2b: Liquidators who have higher expectations regarding the entrepreneur's ability to learn from a bankruptcy are more willing to involve these entrepreneurs in the bankruptcy settlement process.*

Next, the concept of stigma refers to personal characteristics that are strongly disapproved of or rejected in society, and can lead to the exclusion of individuals from the community in which they live (Kasperson, Jhaveri & Kasperson, 2001; Semadeni, Cannella Jr, Fraser & Lee, 2008). Involvement in a bankruptcy is a typical example of a behavioural stigma where the entrepreneurs involved are held accountable for actions that are deemed legally, morally or socially unacceptable (Goffman, 1963). Particularly in the Netherlands, where this study was conducted, many people view bankruptcy as the result of inappropriate behaviour of the entrepreneur without recognising potential external factors contributing to the bankruptcy (Jones, Farina, Hastorf & French, 1984; Sutton & Callahan, 1987). Stigma is often the result of prejudices. This could imply that professionals such as liquidators are less likely to stigmatise individuals compared to the general public, due to the knowledge and insight they accumulate on the topic through their work experience. However, studies about stigmatisation in the medical domain show that this is not necessarily the case. Indeed, among professionals, stigmatisation is common (Jones et al., 1984; Sutton & Callahan, 1987) and may even exceed the level of stigmatisation by the general public, as was shown by a meta-study conducted by Schulze (2007).

The degree to which individuals stigmatise others is largely dependent on how much they believe that they are responsible for their situation and have themselves to blame for this, and/or whether they believe that sensible action might have diverted the situation (Goffman, 1963). This explains why patients suffering from cancer are less likely to be confronted by stigmatisation than HIV positive people. In the context of bankruptcy, this could imply that liquidators who assume that bankruptcies are the result of controllable causes will exhibit higher levels of stigmatisation than those peers who mainly identify non-controllable causes.

Stigmatisation causes individuals to distance themselves from those being stigmatised. Liquidators who exhibit higher levels of stigmatisation are thus expected to be less keen to interact with the entrepreneur during the bankruptcy settlement process compared to those that exhibit lower levels of stigmatisation. Furthermore, until they determine potential director's liability, liquidators can prevent entrepreneurs from setting up a new venture within a certain timeframe. Stigmatisation may therefore cause liquidators to take longer to carry out the bankruptcy settlement process. From this, we hypothesise:

*Hypothesis 3a: Liquidators that mainly attribute bankruptcy to controllable causes will exhibit higher levels of stigmatisation than their peers who attribute bankruptcy to non-controllable causes.*

*Hypothesis 3b: Liquidators who exhibit higher levels of stigmatisation will be less likely to involve entrepreneurs in the bankruptcy settlement process.*

*Hypothesis 3c: Liquidators who exhibit higher levels of stigmatisation will take more time for the bankruptcy settlement process than liquidators with lower levels of stigmatisation.*

### **3. Method**

The empirical study is based on data collected via a survey of 296 liquidators conducted by telephone in 2011, and complemented with 11 in-depth interviews with liquidators in the Amsterdam area in the same year. Respondents were asked about relevant aspects of their attitude towards entrepreneurs involved in bankruptcy, such as empathy, learning orientation, stigmatisation and their expectations, rather than potential negative consequences of the bankruptcy for the entrepreneur involved. Furthermore, they were asked about their experiences as a liquidator, as well as some personal characteristics and attitudes – such as their personal entrepreneurial attitude and their position at their office. The interviews were used to interpret the outcomes of the survey and put them into a broader perspective.

The interviews took one hour on average, and were taped for transcription. As can be seen from Table 1, the interviewed liquidators have different education backgrounds (although all within the legal discipline). About half of them have obtained a qualification from the Grotius Academy, which offers a professional and accredited education for liquidators. While this qualification is not a legal requirement for appointment by the court as a liquidator, the professional association Insolad, which represents about 24% of the occupational group, does require its candidate members to obtain this qualification in order to become a full member. Furthermore, several interviewees indicated that they suspect the courts recognise the value of, and prefer, a Grotius qualification when assigning cases. Looking at experience, considerable differences exist both with respect to the number of years in which interviewees have been active as a liquidator (1.5–29 years) and the number of cases they have handled in their career, which ranges from 15 to more than 150.



Table 1: Overview of interviewees

number	educational background	professional legal experience (in years)	liquidator experience (in years)	cases managed	insolad membership
1	open university	40	10	>150	no
2	dutch law, grotius academy	35	29	>150	yes
3	criminal law	3	3	<50	no
4	intellectual property rights	5	5	50-100	yes (candidate)
5	dutch law, grotius academy	10	7	100-150	yes
6	bankruptcy law	10	6	80	yes (candidate)
7	dutch law, fiscal law, grotius academy	22	20	>150	yes
8	building law (starts grotius academy)	20	3	50	no
9	private law	3	1,5	15	no
10	dutch law, grotius academy	23	20	>150	yes
11	dutch law	10	1,5	8	yes (candidate)

### 3.1. Measures

In order to measure the liquidator's willingness to involve entrepreneurs during the settlement of a bankruptcy case, we asked them to assess their level of agreement (1 = completely agree; 5 = completely disagree) with the following statement: "I prefer to involve the entrepreneur as little as possible during the settlement of a bankruptcy case."

To assess the average duration of a bankruptcy settlement case handled by the liquidators, we asked them whether it takes more or less than two years, on average, from the initial bankruptcy declaration to its closure by the court.

"Empathy" is measured on a five-point scale consisting of nine items (Davis, 1983). This scale included statements such as "I become emotional myself when I witness an emotional event" and "When I see that someone is treated in an unfair manner, this hurts me". The observed Cronbach's alpha is .712, thus indicating a sufficient level of internal consistency across the items. To determine the level of empathy, we calculated the average score of the nine individual items.

"Learning orientation" is measured using five questions pertaining to the extent to which liquidators expect entrepreneurs to be able to learn from their

(bankruptcy) experiences. Following factor analysis, it became clear that two separate dimensions could be distinguished, so it was decided to apply two separate measures. The first consists of two items, and concerns the extent to which liquidators expect entrepreneurs to learn from errors and mistakes in general (“mistakes provide an opportunity for reflection and contemplation” and “errors tend to have positive outcomes in the longer term”). The second measure consists of three items and pertains to the extent to which liquidators expect entrepreneurs to learn from a bankruptcy (“entrepreneurs will learn from all their experiences, including their mistakes”; “a previous bankruptcy is a hard but good school for an entrepreneur” and “an entrepreneur who has been involved in a bankruptcy has learned from his mistakes”).

Next, in order to gain insight in the liquidators’ “attribution”, we asked them to identify their top three most common causes of bankruptcy from a list of 14 potential causes. These 14 potential causes included both internal and external causes, as well as controllable, non-controllable causes and causes with a mixed origin. Depending on the number of causes in each category that they picked, liquidators were classified as having either a controllable, non-controllable or mixed attribution.

As no validated measure of stigmatisation of bankrupt entrepreneurs could be found in the literature, we developed a new measure using items from a variety of previous studies on stigmatisation from other fields – such as mental illness, HIV and unemployment (Brown & Pinel, 2003; Burchell & Hughes, 2006; Link, Yang, Phelan & Collins, 2004) – and translated these into the context of bankruptcies: “entrepreneurs that previously owned a business that went bankrupt typically have themselves to blame”; “entrepreneurs that have been involved in a bankruptcy are typically not suitable as an entrepreneur”; “entrepreneurs who have been involved in a bankruptcy should try to start a new venture”; “entrepreneurs who have been involved in a bankruptcy are just as trustworthy as any other entrepreneur”; and “entrepreneurs who have been involved in a bankruptcy should be treated in the same way as any other entrepreneur”. The last three items have deliberately been formulated in a positive way and were later recoded before calculating the level of stigmatisation by averaging the scores to the individual items. Factor analysis indicated that all items loaded onto a single factor with a sufficient internal reliability (Cronbach’s alpha = .689).

To determine the level at which liquidators are aware of different negative personal consequences of bankruptcy for the entrepreneurs involved, we asked them, on a scale of one to five (1 = always; 5 = never), how often they expect that a bankruptcy will lead to the following seven negative consequences: the entrepreneur involved will: (i) experience a personal bankruptcy; (ii) suffer from mental or physical health problems; (iii) experience marital problems; (iv) experience hindrance when starting a new venture; (v) experience difficulties in finding salaried employment; (vi) receive negative reactions from family and friends; and (vii) receive negative reactions from existing business relations.

Factor analysis showed three distinct dimensions of negative consequences: (i) negative professional consequences; (ii) negative personal consequences; and (iii) negative social consequences. Therefore, it was decided to continue statistical explorations using these subscales rather than one broader scale.

Finally, four control variables were included in the survey. We asked about the “age” and “gender” of the respondent, and also controlled for the “average size” of the cases handled by the liquidator (on the basis of the following question: “On average, is the size of the debt owed in the cases you handle more or less than €500,000?”) and “experience”. Experience was measured in two ways: first, we asked the liquidator to indicate the number of years that they have worked as a liquidator; and, second, as many liquidators combine their role as a liquidator with activities in other field, such as company law, law of rent and lease, or even criminal law, we also asked them what percentage of their time they act as a liquidator.

#### **4. Results**

Our sample consisted mainly of male liquidators (86%). The average age of the respondents is 44 years. Statistical analysis showed few significant differences between male and female respondents, or respondents from different age groups with respect to the key variables of this research, with the exception of a difference in perceived causes of bankruptcy between male and female liquidators. Almost two-thirds of our respondents indicated that they are partners or owners within their practice, the others are employed by their practice. On average, the respondents have about 15 years of experience in the role as liquidators, but most of them do not work full-time in this role. As shown in Table 2, about one third of the respondents indicate that they are involved typically in larger bankruptcy cases (> €500,000 debt); almost 63% of these liquidators need, on average, more than two years to settle their cases. Alternatively, two-thirds of the liquidators who indicate that they mainly handle smaller cases are able to close these cases within two years.

Table 2: Descriptive Statistics

variable	category	n	%	average	st. dev.
age				44,16	11,1
experience in years				17,3	10,5
gender	male	42	14,2		
	female	254	85,8		
percentage of time active as liquidator	<10%	23	7,8		
	10-25%	41	13,9		
	25-50%	84	28,4		
	50-75%	94	31,8		
	75-90%	39	13,2		
	>90%	14	4,7		
role in practice	owner/partner	181	61,1		
	employee	112	37,8		
average duration of settlement	<2 years	153	56,8		
	>2 years	116	43,2		
average amount of debt	<€500.000	162	60,2		
	>€500.000	89	33,0		
	don't know	18	6,8		

#### 4.1. Bankruptcy Settlement

Only 10% of the survey respondents indicated that they (partially) agree with the statement “I prefer to involve the entrepreneur as little as possible during the settlement of a bankruptcy case.” Another 10% neither agreed nor disagreed with this statement. This suggests that, in general, liquidators either perceive the input from the entrepreneur as valuable for settling the case or consider it a (moral) obligation to keep the entrepreneur involved during the process. From the interviews, it is clear that liquidators have various and different reasons for involving entrepreneurs in the bankruptcy process: “As a liquidator, you have a lot of freedom. You can make up your own mind and decide if you want to give preference over the interest of employment, or over the interest of the entrepreneur, or over social interests. At Insolad,<sup>2</sup> we often have discussion about this: Where are the boundaries?” (C10) From these discussions, some liquidators

conclude that their responsibility lies with the creditors rather than the entrepreneur, while others would like more clearance: “You are there for the person as well” (C1).

Besides settling the debt and paying off creditors, an important task for liquidators concerns the assessment of liability. As there are no legal guidelines for when and how to solve this issue, liquidators tend to follow their own agenda based on individual deliberations regarding financial and social concerns of the various stakeholders involved in relation to reaching closure for a case. For instance, one of the interviewees indicated that he gives priority to this aspect “...as the entrepreneur has to be able to continue his life” (C6); another, however, mentioned “Let’s first handle the debt; finding out who is liable can wait” (C10).

According to the interviewees, case-specific characteristics tend to play a large role in how they decide to go about a case. “Every case is unique...you just have to see how things develop”, according to one respondent (C10), while others indicate that “It is all very much dependent on the entrepreneur or board of directors that you are dealing with” (C2). Entrepreneurs managing a micro-business or one without personnel will be treated in a different way than owner-managers of a business with 200 employees. The scale of the case also determines both the extent to which the entrepreneur is involved and the time it will take to settle the case. In addition, according to the interviewees, the attitude of the individual entrepreneur plays a role: “I’ve come across a manager who just radiates delay. In such cases, I really put my foot down” (C9). While stressing case-specific characteristics, the interviewees recognise that they develop their own style based on their personality, attitudes and experiences.

## 4.2. Empathy

From the survey, it appears that liquidators view themselves as (highly) empathic ( $n = 276$ ; mean = 2.95). As hypothesised, we expect that the level of empathy is positively related to an awareness of negative consequences of the bankruptcy for entrepreneurs. As shown in Table 3, liquidators do expect that entrepreneurs will experience negative consequences, with the most severe consequences expected at the social level, followed by the professional level and the least severe consequences expected at the personal level. As formulated in hypothesis 1a, it was expected that liquidators with higher empathy levels were expected to be more aware of particularly personal negative consequences. However, no significant correlations could be observed between empathy and any of the three types of perceived negative consequences, thus causing us to reject hypothesis 1a.

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2. Professional association of liquidators.

Table 3: Comparison of different negative consequences

		mean	n	std. dev	mean diff.	sign. (2 tailed)
pair 1	personal neg. consequences	2.14	194	.42	.109	0.022
	professional neg. consequences	2.25	194	.62		
pair 2	personal neg. consequences	2.14	169	.41	.330	0.00
	social neg. consequences	2.48	169	.57		
pair 3	professional neg. consequences	2.25	190	.61	.213	0.00
	social neg. consequences	2.48	190	.59		

Furthermore, contrary to the expectation formulated in hypothesis 1b, no significant correlation exists between empathy levels and the willingness of liquidators to involve entrepreneurs in the bankruptcy settlement process.

The interviews provided an interesting explanation for the lack of significant correlations between empathy levels, on the one hand, and perceived consequences and willingness to involve entrepreneurs on the other. In general, the liquidator's empathy is directed at the creditors who suffer from the bankruptcy rather than at the entrepreneur who loses their firm. One liquidator was very outspoken about this issue: "Clearly you do not work for the bankrupt. That is an important point. You are there to serve the creditor" (C2). Another mentioned: "You have to take a business-like position, and I am not that person's shrink" (C6). Such statements are very much in line with the official legal role that liquidators perform. These findings provide a strong explanation for why hypotheses 1a and 1b could not be accepted, and offer interesting insight into how and why liquidators act in certain ways during the bankruptcy settlement process (as will be discussed in more detail in the conclusion section). However, this does not mean they do not have an eye for the personal tragedy that a bankruptcy sometimes causes: "Most entrepreneurs have spent weeks, if not months, to save their business and they failed" (C9). Another liquidator recognises two key emotions involved in a bankruptcy: "...the first is sadness and the second is relief. People are often tired of fighting. Now they can say: 'if you want your money go to Liquidator X' it gives them a sense of tranquillity" (C10). Liquidators who indicated in the interviews that their empathy was directed towards the entrepreneur are more inclined to provide the entrepreneur with the opportunity to share their view during an initial meeting to allow for a smoother and more effective communication process during the rest of the trajectory – or, as one put it, "...you can get them started on the right track" (C3). While the survey data offers no information to corroborate this statistically, the qualitative findings are partially in line with the original hypotheses.

Next, a t-test carried out to test hypothesis 1c shows that liquidators who on average take more than two years to settle cases exhibit slightly lower levels of

empathy (mean = 2.87) than those who tend to settle within two years (mean = 3.00). While the difference is only significant at the 10% level, these findings are an indication that empathy might indeed lead to some positive effects for entrepreneurs, in that their cases are settled slightly more quickly. Furthermore, as shown from Table 5, liquidators who usually take longer than two years tend to expect more negative personal and professional consequences for the entrepreneurs involved. This might be explained either from the fact that the extended duration allows them to see the effects in the longer term, or because these cases are often larger and more complex in nature, which in turn contributes to the negative consequences.

### 4.3. Attribution and Learning Orientation

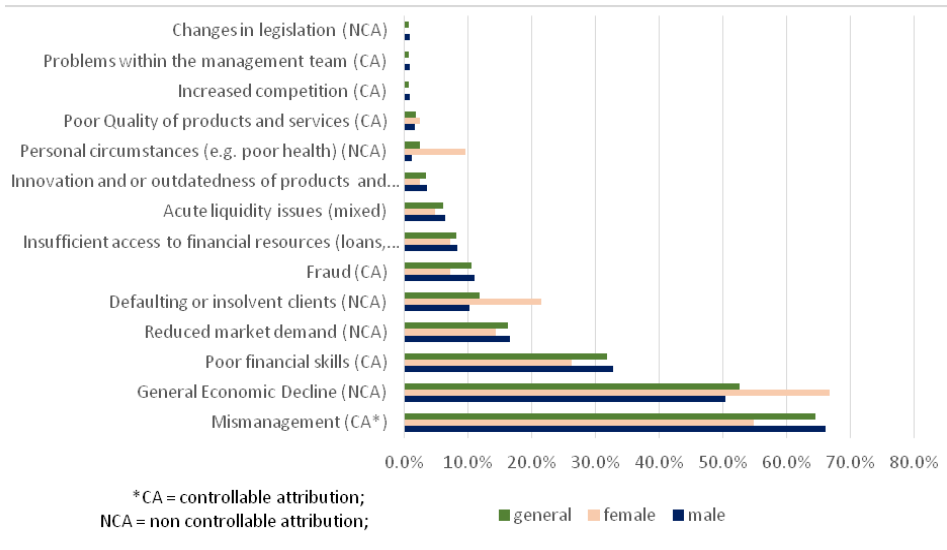
According to hypothesis 2a, liquidators who mainly attribute bankruptcy to controllable causes are more likely to expect that entrepreneurs can learn from the bankruptcy experience – i.e. they will have a higher learning orientation. To test this hypothesis, we first examined what the most common causes of bankruptcy are according to liquidators, before exploring to what extent attribution may be linked to learning orientation.

Asked for their top three causes of bankruptcy, most liquidators refer to mismanagement, economic decline and poor financial skills. Almost all liquidators (95.6%) mention at least one controllable cause or a mixed cause in their top three, but only 10% mention controllable or mixed causes. This shows that most liquidators recognise that entrepreneurs should not solely be blamed for bankruptcies. The analysis reveals that male and female liquidators point to somewhat different causes in their top three. Indeed, female liquidators on average mention significantly more non-controllable causes (mean = 1.1) than their male counterparts (mean = 0.7), who in turn attribute bankruptcy significantly more to controllable courses. Furthermore, about 10% of the respondents suggested that fraud should be included in the top three of common causes of bankruptcy. This rather significant share is remarkable as fraud was not listed as a cause for bankruptcy in our initial set of options, rather the liquidators proposed it as an important factor under “other causes”.

During the interviews, all liquidators indicated that even a slight suspicion of fraudulent behaviour significantly affects how they interact with the entrepreneurs involved, and will typically result in the entrepreneur not being involved in any way in settling the bankruptcy. Few liquidators will even allow the entrepreneur in question to plead their case and to defend themselves in a meeting in order to avoid a possible court case. The interviewed liquidators strongly differ in opinion regarding how often fraud occurs, and how severe these cases are. According to some, it is not such a common issue: “but really it is not as bad as it appears in the media”. However, others paint a much more sombre

picture: “The economic damage of bankruptcies is about 3 to 4 billion, and if you consider that 25% of the cases involve fraud (C5)”.

Figure 1: Causes of bankruptcy according to liquidators



CA = controllable cause, NCA = non controllable cause, mixed = mixed cause

According to the interviewees, liquidators who expect that fraud is common tend to take a more suspicious stance towards entrepreneurs, even at the start of a case. Other liquidators may approach a case from the basis that entrepreneurs have worked very hard for their business, and will be devastated by the loss of their life’s work. This latter group of liquidators indicates that they will often take the time to sit down and discuss the case at length with the entrepreneur at the start of the case when they are taking charge of the business. Liquidators that think that fraud is common are less concerned with this, but will invest time in establishing director’s liability instead.

Furthermore, during the interviews many liquidators stressed that their own perception of the causes of a particular bankruptcy is less important regarding whether and how they involve entrepreneurs during the bankruptcy settlement process than the way in which the entrepreneur approaches this issue. Many liquidators become irritated when entrepreneurs attribute the bankruptcy to non-controllable causes alone, and do not reflect on their own mistakes. Such an attitude has a negative effect on the value that the liquidators attach to the information provided by the entrepreneur during their interactions. According to these liquidators, they will take serious notice of the entrepreneur’s views when they show insight into their own role regardless of what this role has been, and will include this view in their reports to the court and in their investigation into potential director’s liability.



The results from our t-test show that liquidators who typically handle larger cases (> €500,000) are less likely to attribute bankruptcies to controllable cases but more likely to point to mixed causes. This can be explained by the fact that larger cases are generally more complex in nature. No statistical difference could be established in terms of the duration of the average case and controllable versus non-controllable attribution.

Respondents differed extensively in the degree to which they expect that entrepreneurs are able to learn from their experiences. During the interviews, all kinds of statements were made regarding the learning abilities of entrepreneurs, ranging from “My colleague has been practicing for over 40 years and he tells me about people who mess up time and time again” (C9) to “When asking him what contributed to his renewed entrepreneurial success, he said ‘I have seen what went wrong and thought long and hard about how I ended up there and this led to positive thoughts and ideas’” (C3). Interestingly, the liquidators did not make a clear distinction between controllable and non-controllable factors: “even or rather especially in times of economic decline it is about how you as an entrepreneur respond to the changed situation” (C6). Surprisingly, learning was not only viewed as something positive, as several liquidators suggested: “they learn how to get away with it”.

From the survey, it appears that while most liquidators expect that entrepreneurs may learn from mistakes in general (mean = 3.3), they are significantly less likely to believe that bankruptcy provides a good learning curve (mean = 2.7). As can be seen in Table 4, learning from bankruptcy orientation is positively correlated with controllable attribution and negatively to non-controllable attribution, which is in line with the reasoning behind hypothesis 2a that suggested learning is typically associated with attributing failure to controllable causes. Consequently, hypothesis 2a can be accepted.

Neither types of learning orientation correlated significantly with the willingness of liquidators to involve entrepreneurs in the bankruptcy settlement process, thus suggesting that hypothesis 2b has to be rejected. However, the interview data actually indicate that liquidators who recognise that a particular entrepreneur shows insight into their own role in the process will more often and more extensively ask the entrepreneur to provide information about the firm and its demise, and vice versa: “...some really do not have a clue about the actual cause of their bankruptcy and it seems they really do not want to know...asking for their opinion wouldn’t really help the case” (C1). This qualitative data is thus in line with hypothesis 2b. While the lack of correlation observed from the survey data partially contributed to the lack for spreading of the answers, a more compelling explanation could be that rather than the liquidator’s attribution, the entrepreneur’s own expression of attribution towards the liquidator determines the liquidator’s approach in settling a bankruptcy case and their involvement of the entrepreneur in this process. Additional research using a more fine-grained measure is necessary in order to develop a better insight into this matter. However, the data currently leads us to find hypothesis 2b to be inconclusive.

Table 4: Means and correlations

	mean	1	2	3	4	5	6	7	8	9	10	11	
1	empathy	2.9455	1										
2	learning_gen	3.3007	.193***	1									
3	learning_bankruptcy	2.3651	.173***	.263***	1								
4	stigma	2.1964	.110	.039	.308***	1							
5	npersc	2.1435	.053	.085	.011	-.078	1						
6	nprofc	2.2028	.011	.098	.145**	-.097	.241***	1					
7	Nsocc	2.4804	-.006	.045	-.082	-.010	.193***	.210***	1				
8	Ca	1.09	.116	.009	.177***	.271***	-.054	.018	.006	1			
9	Nca	0.84	-.010	-.028	-.174***	-.201***	.020	-.052	-.016	-.279***	1		
10	mixed	0.59	-.059	.023	-.063	-.179****	.026	-.018	.004	-.450***	-.272***	1	
11	willingness	0.75	-.024	.010	.034	-.036	.112	.046	-.105	-.015	-.040	-.021	1

\*\*\*. Correlation is significant at the 0.01 level (2-tailed).

\*\* . Correlation is significant at the 0.05 level (2-tailed).

\*. Correlation is significant at the 0.10 level (2-tailed).

Table 5: T-test duration bankruptcy settlement

Settlement duration		N	Mean	Std. Deviation	Sign.
empathy	>2 years	108	2.1286	.61671	.065
	< 2 years	142	2.0023	.46002	.076
learning_gen	>2 years	114	1.7076	.68001	.679
	< 2 years	149	1.6756	.56942	.686
learning_bankruptcy	>2 years	108	2.4722	.94926	.161
	< 2 years	145	2.6448	.97880	.159
stigma	>2 years	109	2.8991	.77823	.110
	< 2 years	142	2.7521	.67116	.117
npersc	>2 years	80	2.7708	.40598	.028
	< 2 years	120	2.9028	.41762	.027
nprofc	>2 years	100	2.7050	.61993	.060
	< 2 years	130	2.8615	.62262	.059
nsocc	>2 years	78	2.4167	.66164	.128
	< 2 years	111	2.5495	.53067	.143
ca	>2 years	116	1.0259	.71580	.217
	< 2 years	153	1.1373	.74391	.215
nca	>2 years	116	.8966	.67733	.358
	< 2 years	153	.8170	.72036	.354
mixed	>2 years	116	.6207	.55412	.603
	< 2 years	153	.5817	.64496	.595

#### 4.4. Stigmatisation

From the interviews, it is clear that liquidators are keenly aware of the prevailing stigma on bankruptcy in the Netherlands: "It is worse than in surrounding countries" (C4). "Bankruptcy has a foul smell in this country" (C11). That it is not just the general public that stigmatises bankrupt entrepreneurs, but that liquidators also stigmatise them is evidenced by the label that some interviewed liquidators used for bankrupt entrepreneurs. For example, one interviewee stated: "I believe the real crooks need to be caught" (C6). Such strong labels are a sign of generalisation, and clearly separate bankrupt entrepreneurs from general society and from what is considered normal behaviour (Goffman, 1963; Heckert & Best, 1997). Furthermore, several interviewees (C3, C5 and C10) indicate that they believe that the stigma on bankruptcy is diminishing as a result of the financial crisis that hit the country in 2008: "The idea used to be, at least I believe, that bankruptcies were always avoidable...that really has changed" (C5). In addition, the fairly recent introduction of the so-called "Law on Private Debt Restructuring" (in Dutch: "WSNP") is helping to reduce the stigma on bankruptcy according to one liquidator: "...in general it is a good instrument as someone has to pay the piper for three years but after that they are cleared..." (C1). On average, liquidators participating in our survey exhibit mild to moderate levels of stigmatisation (mean = 2.21). Examining the individual items in more detail to explore the nature of the stigmatisation, we found that only about half of the respondents indicate that they agree that entrepreneurs who are involved in a bankruptcy are as equally trustworthy as other entrepreneurs. Moreover, the majority indicates entrepreneurs have themselves to blame for their bankruptcy. While the majority (60%) thinks that entrepreneurs who have been involved in a bankruptcy should be treated just like any other, this leaves a considerable minority who disagrees with this notion. On a positive note, only about one-fifth considers bankruptcy as a sign that an entrepreneur is unfit for this role. This outcome is substantiated by the interview findings: each of the 11 interviewees indicates that entrepreneurs should not be hindered if they want to pursue a restart, and if they seek appropriate support from an accountant, for instance.

As shown in Table 3, a clear connection exists between levels of stigmatisation and attribution. Liquidators with higher levels of stigmatisation tend to attribute bankruptcy more commonly to controllable causes ( $r = .271$ ) and significantly less to non-controllable ( $r = -.201$ ) and mixed causes ( $r = -.179$ ), thus providing evidence for hypothesis 3a.

From the interviews, it appears that liquidators with higher levels of stigmatisation refer more commonly to the legal framework in which entrepreneurs have no official role in the settling of the bankruptcy process, and more often seek to establish director's liability. However, while the interview data suggest stigmatizing liquidators more often investigate director's liability, the survey data show that, on average, liquidators with higher levels of

stigmatisation do not take more time to settle their cases compared to liquidators with lower levels of stigmatisation. Thus, hypothesis 3c has to be rejected. Likewise, no evidence could be found for hypothesis 3b, which states that liquidators with higher levels of stigmatisation will be less willing to involve entrepreneurs in the bankruptcy settlement process.

Looking at the correlations between the other variables in Table 4, no relationship seems to exist between attribution and empathy, while we can observe a significant positive correlation between both types of learning orientation and empathy. Rather surprisingly, a positive correlation is also observed between stigmatisation and learning from bankruptcy orientations, which is in contrast to previous studies indicating that stigma are stronger if attributes are believed to be more stable over time (Link & Phelan, 2001; Weiner, Perry & Magnusson, 1988). However, the level of stigmatisation is not related to empathy, which may be explained by the fact that empathy is typically directed at creditors rather than at the entrepreneurs. Finally, no significant correlation was observed between stigmatisation and expectations regarding negative consequences.

As the level of willingness did not correlate with any of the dependent variables, we did not perform a regression analysis to test the entire model as this would not lead to any significant findings. While differences in terms of empathy levels and expected negative consequences could be observed between liquidators taking longer rather than shorter periods of time to settle cases, a logistical regression including all the dependent variables (empathy, learning, perceived negative consequences and attribution) did not yield a significant model to explain differences in duration.

The findings from both the survey and interviews are presented in Table 6. These findings serve as the basis for our conclusions.

Table 6: Overview of the findings

		Survey results	Interview results
H1a	<i>Liquidators with higher levels of empathy are more aware of the negative personal consequences of the bankruptcy for the entrepreneur</i>	rejected	Empathy is directed at other stakeholders rather than the entrepreneur. Yet, when the liquidator empathizes with entrepreneur this does make them have more eye for the negative consequences and causes them to seek to enable the entrepreneur to make a new start (faster)
H1b	<i>Liquidators with lower levels of empathy are less likely to involve entrepreneurs in the process of settling a bankruptcy</i>	rejected	
H1c	<i>Liquidators with lower levels of empathy typically take more time to settle a bankruptcy case than liquidators with higher levels of empathy</i>	Accepted at the 10% level	
H2a	<i>Liquidators that attribute bankruptcies mainly to controllable causes are more likely to expect that entrepreneurs will learn from the bankruptcy</i>	accepted	While liquidators vary considerably in their attribution of bankruptcy it seems that rather than their own attribution it is the attribution expressed by the entrepreneur that affects how the liquidator approaches a case. In general when entrepreneurs display insight in their own contribution to the bankruptcy liquidators will be more willing to involve these entrepreneurs in the settlement process.
H2b	<i>Liquidators who have higher expectations regarding the entrepreneur's ability to learn from a bankruptcy are more willing to involve these entrepreneurs in the bankruptcy</i>	rejected	
H3a	<i>Liquidators that mainly attribute bankruptcy to controllable causes will exhibit higher levels of stigmatization than their peers who attribute bankruptcy to non-controllable causes.</i>	Accepted	
H3b	<i>Liquidators who exhibit higher levels of stigmatization will be less likely to involve entrepreneurs in the bankruptcy settlement process.</i>	Rejected	
H3c	<i>Liquidators who exhibit higher levels of stigmatization will take more time for the bankruptcy settlement process than peers with lower levels of stigmatization.</i>	Rejected	

## **5. Conclusion**

In this study, we have examined the role of empathy, learning orientation, attribution and stigmatisation in the bankruptcy settlement process. We found no statistically significant correlation between these variables and the speed with which liquidators settle their cases, or the extent to which they are willing to involve entrepreneurs in this process. The interview data, however, suggests that a connection between these variables does exist; not only do significant differences exist on each of these variables, but liquidators also recognise that these variables are in fact connected and influencing each other. After contemplating the lack of consistency between the statistical and qualitative analysis, two complementary explanations were considered. First, based on the lack of spread in willingness, we have to consider that a broader measure might have allowed us to do justice to the complexities involved in the bankruptcy settlement process and the involvement of entrepreneurs therein, compared to the single item measure we have used. While fitting with the exploratory nature of this study, in hindsight the use of a single item measure might have contributed to some level of social desirability in the answers, and hence the lack of spread therein. The limited variation in answering may have resulted in non-significant relationships between willingness and its drivers.

Second, the original hypotheses were based on a combination of limited previous research. As it turned out, some of the expectations proved to do limited justice to the complexities involved in the settlement of the bankruptcy process. While attitudinal factors seem to play a role in the settlement, their effect is different than we had expected. For instance, while empathy seems to play a role, liquidators empathise with other stakeholders rather than the entrepreneur, and while attribution is important, according to the liquidators it is not their attribution that makes the difference but rather the attribution displayed by the entrepreneur. Also, as it turned out, the single itemed measure for willingness yielded a rather limited spreading of the answers, indicating potential measure validity issues. The lack of spreading might partially explain the lack of significant correlations observed between willingness and our independent variables. However, despite these issues, by combining quantitative and qualitative methods such insights have come to light, thus showing the value of a mixed method approach in this exploratory study.

One limitation of this study that should be mentioned is that we have not looked into specific bankruptcy cases, nor did we match the liquidators' perceptions with viewpoints of entrepreneurs whose cases have been handled by these liquidators. As a result, we have to recognise potential self-reporting biases and social desirable answering by the liquidators involved in this study.

Furthermore, because we did not track individual cases, we cannot establish to what extent the liquidators' approach actually affects restart rates by entrepreneurs. Anecdotal evidence from stories told by (ex-) bankrupt

entrepreneurs (Wakkee, 2010) suggests that when liquidators involve them in the settlement more actively, and if the case is settled quickly, the likelihood that an entrepreneur will start a new firm is greater. Given the large number of bankruptcies and the high dropout rate, further research exploring this issue is in order.

Despite these limitations, this study does contribute to our understanding of the bankruptcy settlement process from a social perspective. So far, scholarly studies about bankruptcy settlement have been mainly addressed from a legal perspective (Kaiser, 1996) or from a more macroeconomic perspective, in that they sought to establish the connection between bankruptcy laws and start-up rates (Armour & Cumming, 2008; Lee, Peng & Barney, 2007). Hardly any studies have examined the interaction between liquidator and entrepreneur, and connected these interactions to the attitudes and orientations of the liquidator. Our study has shown that while case-related characteristics are important, so are personal attitudes and orientations. The importance of attitudes in explaining behaviour has been widely established in the organisation and management literature (Ajzen, 2005), but had not yet been applied to the behaviour of liquidators *vis-à-vis* entrepreneurs. First, in relation to empathy it could be established that while liquidators consider themselves empathic and, indeed, seem to recognise the entrepreneur's emotions, their empathy is mainly directed towards other stakeholders in the process (such as creditors), which is at least partially attributable to the legal framework in which liquidators operate.

Pertaining to their insight on the negative consequences that bankruptcy may have for entrepreneurs involved, liquidators expect that negative responses from business associates and obstruction when seeking to establish a new venture occur most often. This focus on more professional consequences may stem from a common conception among liquidators that bankruptcy is not about the entrepreneur *per se*, but is mainly a legal and financial issue. Second, focusing on attribution and learning orientation, we found that, contrary to what entrepreneurs seem to believe (Wakkee, 2010), liquidators tend to take a rather balanced and nuanced position. Most liquidators recognise that bankruptcy is caused typically by a mix of controllable and non-controllable factors; mismanagement, general economic decline and poor financial skills are mentioned most often, followed at a distance by reduced market demand and defaulting customers. According to attribution theory (Ucbasaran et al., 2003; Weiner, 1985), in order to learn from an experience, individuals need to be able to have some control over the causes. This view was corroborated by the interviewed liquidators. In general, liquidators were found to have an optimistic view about the ability of entrepreneurs to learn from experiences in general, including, but to a somewhat lesser extent, bankruptcy. However, when entrepreneurs are unwilling or unable to recognise and reflect on their personal role in the bankruptcy, and only point to external or non-controllable causes, they will not learn from the experience and should not consider a new start-up. Moreover, insufficient self-reflection causes annoyance

among liquidators and makes them keep the entrepreneur at arm's length during the settlement process. These insights are particularly useful to entrepreneurs who find themselves confronted with a bankruptcy situation. By monitoring their behaviour and adjusting it, entrepreneurs can actually exert some control over the situation and turn it to their advantage. Third, our findings show that, on average, the level of stigmatisation is low to moderate. In line with existing theory (Goffman, 1963), the interview results indicated that the level of stigmatisation is shown to be positively related to controllable attribution. Furthermore, liquidators exhibiting higher levels of stigmatisation referred more commonly to their official role, thereby distancing themselves from the entrepreneur. Whereas many liquidators point to the frequent occurrence of mismanagement or even fraudulent behaviour, these observations do not seem to cause them to automatically suspect all entrepreneurs of such behaviour. Overall, liquidators recognise the need to maintain a professional approach and judge entrepreneurs on a case-by-case basis. Also, they indicate that non-fraudulent entrepreneurs should be given a second chance to start a business.

Many entrepreneurs involved in a bankruptcy indicate they feel they were treated unfairly by the liquidator appointed to their case. The perceived neglect, the perception that they are not sufficiently involved in the settlement process and the prolonged duration of the settlement process, lead to diminished self-confidence and lower future entrepreneurial intentions (Wakkee, 2010). Furthermore, liquidators were blamed by entrepreneurs for negatively affecting the entrepreneurs' learning process with a detrimental effect on future entrepreneurial success for those who do start a new venture. Legally, liquidators are not required to take the feelings and expectations of entrepreneurs into account: after all these have no roles in this process. From this research, it has become clear that liquidators approach bankruptcy cases in different ways within the context of the broadly defined framework set by the law and the professional association. Consequently, personal viewpoints, attitudes, experiences and preferences affect the way in which liquidators communicate and interact with entrepreneurs during the settlement of a bankruptcy case.

## **6. Recommendations for Liquidators**

From the interviews, it has become apparent that many liquidators struggle with issues pertaining to how they should fulfill their role in a way that does justice to all parties involved, including the entrepreneur, while at the same time remaining within the boundaries set by law. When comparing the views and perceptions of liquidators to those of entrepreneurs, it is clear that significant differences of opinion exist regarding many relevant issues. From this research, it is clear that many liquidators are not aware of, or concerned with, the negative personal consequences of bankruptcies for the entrepreneur, especially for their personal



lives. Clearly, entrepreneurs are very concerned with these issues: more than 60% of entrepreneurs have reported severe marital problems and 75% reported on mental or physical health problems as a result of the bankruptcy (Wakkee, 2010). Further, liquidators and entrepreneurs differ with respect to the causes of bankruptcy that they believe to be the most common. Liquidators point mainly to internal, controllable causes, while entrepreneurs often refer to external causes that are beyond their own control (Wakkee, 2010). While entrepreneurs may be more biased as a result of their emotions, we may still question whether liquidators are sufficiently objective. By blaming the entrepreneur, it may be easier, emotionally, to keep their distance from the entrepreneur and exclude them during the settlement process (Neuberg, Smith & Asher, 2003). Acknowledging their role in the bankruptcy is an important antecedent for the entrepreneur to learn from this experience. However, it is worth recommending that liquidators moderate their accusations towards entrepreneurs as this could cause these entrepreneurs to adopt a defensive attitude that will negatively affect their ability to learn. Most liquidators do not consider helping entrepreneurs cope as part of their responsibility. Nevertheless, liquidators who are aware of the differences in perception and who adopt an open approach towards all stakeholders, including the entrepreneur, will benefit from this in the performance of their task. By quickly and adequately informing the entrepreneur involved how they are going to handle the case and why, when and how, they might involve the entrepreneur throughout the process, and by letting the entrepreneur share their vision, they can manage expectations. This may reduce the number of disturbances throughout the process. On the one hand, we expect that this will cause entrepreneurs to share relevant information when requested by the liquidator, while on the other hand the entrepreneur will contact the liquidator on their own accord less frequently and at inconvenient times.

## **7. Recommendations for Entrepreneurs**

While this research shows that personal factors and attitudes play a role in how liquidators approach entrepreneurs, these entrepreneurs should not overestimate the significance of these factors. Indeed, entrepreneurs should be more aware that case-specific issues such as the complexity and size are at least as important as the attitudes and personalities involved. Nevertheless, it is of critical importance that entrepreneurs should also be more acutely aware of the considerable effect of their own demeanour: entrepreneurs that show some level of insight and self-reflection will be given more opportunities to share their views and to be involved in the settlement process. Only when the entrepreneur can substantiate their claims with facts and figures will liquidators consider seriously the entrepreneur's input. In particular, having a decent bookkeeping system and maintaining healthy relationships with financial investors and suppliers are

helpful in this respect. In addition, entrepreneurs will benefit from a constructive rather than a defensive stance. They should be aware that, on average, the level of stigmatisation among liquidators is less often suggested by other entrepreneurs than is portrayed in the media – very few liquidators consider entrepreneurs involved in a bankruptcy *a priori* unreliable or incapable. If entrepreneurs recognise this, they will be less likely to adopt a defensive position, which in turn benefits their case. Finally, entrepreneurs have to accept that the liquidator is not appointed to serve their purpose, whether they consider this fair or not. Liquidators are appointed by the court to seek justice for the creditors. Entrepreneurs should educate themselves about the legal and practical implications of a bankruptcy process as part of their exit strategy. It is surprising to note that very few entrepreneurs know that the liquidator does not work on their behalf, but rather operates on behalf of the other stakeholders (involved creditors). This lack of knowledge leads to inaccurate expectations and can cause the bankruptcy settlement process to be negatively affected as a result of miscommunication and poorly managed expectations. By not having unrealistic expectations regarding the way and the speed with which the case is settled, entrepreneurs can avoid additional frustrations.

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