

THE STORY BEHIND BANKRUPTCY: WHEN BUSINESS GETS PERSONAL

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The number of bankruptcies in a specific period, and levels of debt, are well documented but little is known about the consequences of bankruptcies beyond the numbers. In this study, Dutch entrepreneurs who went through debt rescheduling after personal bankruptcy, were interviewed in order to gain an understanding of the private, personal and social implications of bankruptcy. Recently, systematic investigations of the implications of bankruptcy have been published. However, research has not yet taken the phenomenological experience of the bankrupt entrepreneur into account. Insights into these experiences are of critical importance for obtaining a comprehensive understanding of the impact of the bankruptcy process, and for engaging in a meaningful reform of bankruptcy law. During the interviews in this study, the entrepreneurs reflected on the early days of their business venture, the moment of first detecting the prospect of business failure, their personal experiences during business failure, and the aftermath of bankruptcy and debt rescheduling. The findings indicate that a bankruptcy experience can be compared to losing a loved one: a psychological process similar to mourning. The findings show that a lack of empathy, respect and transparency by formal institutional representatives such as judges, trustees and administrators is seen by the entrepreneurs as 'emotional punishment', and can be considered as a major source of their grief. Because of this grief, the bankruptcy and debt rescheduling experience can be extremely stressful causing severe psychological and physical distress. Implications for theory and practice are discussed.

I INTRODUCTION

In a study of 137 bankruptcies, Couwenberg and De Jong present evidence on the efficiency of the resolution of small and medium-sized firms in financial distress.¹ In the Dutch liquidation-based bankruptcy system, they found that, on average, total payouts to all creditors are 37 per cent of the total debt outstanding before bankruptcy. Other studies of defaulting firms in a liquidation procedure show similar results.² Although empirical work on the efficiency of reorganisation procedures report higher recovery rates, ranging from 43 per cent

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¹ Oscar Couwenberg and Abe de Jong, 'Costs and Recovery Rates in the Dutch Liquidation-based Bankruptcy System' (2008) 26 *European Journal of Law and Economics* 105.

² See eg Karin S Thorburn, 'Bankruptcy Auctions: Costs, Debt Recovery, and Firm Survival' (2000) 58 *Journal of Financial Economics* 337; Julian R Franks, Kjell G Nyborg and Walter N Torous, 'A Comparison of US, UK, and German Insolvency Codes' (1996) 25 *Financial Management* 86; and Arturo Bris, Ivo Welch and Ning Zhu, 'The Costs of Bankruptcy: Chapter 7 Liquidation Versus Chapter 11 Reorganization' (2006) 59 *Journal of Finance* 1253.



in Finland³ to 73 per cent in the United States,⁴ it can be concluded that bankruptcies have considerable financial impact on creditors and on the economy as a whole. The prediction of business failure has, therefore, received wide research attention, for example in finance and accounting.⁵ As Aziz and Humayon argue, ‘the early detection of financial distress and the use of corrective measures (such as changes in corporate governance) are preferable to protection under bankruptcy law’.⁶ Indeed, a parallel stream of business research can be observed focusing on corrective measures and prevention, such as studies on early warning signals, turnaround management, or other forms of informal reorganisation.⁷

While business failure has occurred throughout history, the recent economic climate has proven to be a driving force for the reform of insolvency regimes around the world. For example, through public consultations and intense legislative efforts, the European Commission has recommended a new approach to business failure and insolvency across the Union, which aims to rescue viable enterprises in financial difficulties, and to give honest bankrupt entrepreneurs a second chance.⁸ Also, to encourage innovation, the Australian federal government has proposed improvements to its insolvency law, such as reducing the current default period for personal bankruptcy as a means of encouraging entrepreneurial development and reducing the stigma associated with personal bankruptcy.⁹

Peng, Yamakawa and Lee show that debtor-friendly bankruptcy laws have a pronounced effect on the development of entrepreneurship.¹⁰ With ample attention for the consequences of bankruptcy law for innovation, entrepreneurship and economic growth from a societal perspective, there is, however, little focus, in research and policymaking, on the psychological, physical and social-psychological consequences of bankruptcy law, with one notable exception. Lee, Peng and Barney postulated that, ‘in a society with a high level of stigma associated with bankruptcy, there will be less impact of an entrepreneur-friendly bankruptcy law on entrepreneurship development’.¹¹

Therefore, in this article we aim to gain an understanding of the private, individual and social implications of bankruptcy by exploring how an entrepreneur experiences the bankruptcy and debt rescheduling process. Insights into these experiences are of critical importance for a comprehensive understanding of the impact of bankruptcy procedures, and for engaging in a

³ Stefan Sundgren, ‘Does a Reorganization Law Improve the Efficiency of the Insolvency Law? The Finnish Experience’ (1998) 6 *European Journal of Law and Economics* 177.

⁴ Elizabeth Tashijan, Ronald C Lease and John J McConnell, ‘Prepacks: An Empirical Analysis of Prepackaged Bankruptcies’ (1996) 40 *Journal of Financial Economics* 135.

⁵ Nico Dewaelheyns, Sofie De Prijcker and Karen Van Den Heuvel, ‘Predicting Business Failure’ in Jan A A Adriaanse and Jean-Pierre I van der Rest (eds), *Turnaround Management and Bankruptcy* (Routledge, 2017) 66.

⁶ M Adnan Aziz and Humayon A Dar, ‘Predicting Corporate Bankruptcy: Where We Stand?’ 2006 6 *Corporate Governance* 29.

⁷ See eg Jan A A Adriaanse and Hans J Kuijl, ‘Resolving Financial Distress: Informal Reorganization in The Netherlands as a Beacon for Policy Makers in the CIS and CEE/SEE Regions?’ (2006) 31(2) *Review of Central and East European Law* 135.

⁸ European Commission, *Commission Recommendation on a New Approach to Business Failure and Insolvency*, C (2014) 1500 final (12 March 2014) <http://ec.europa.eu/justice/civil/files/c_2014_1500_en.pdf>.

⁹ National Innovation and Science Agenda (Aust), *Improving Bankruptcy and Insolvency Laws: Proposals paper* (The Treasury, 2016) <<https://www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/Improving-bankruptcy-and-insolvency-laws>>.

¹⁰ Mike W Peng, Yasuhiro Yamakawa and Seung-Hyun Lee, ‘Bankruptcy Laws and Entrepreneur-friendliness’ (2009) 34 *Entrepreneurship Theory and Practice* 517.

¹¹ Seung-Hyun Lee, Mike W Peng and Jay B Barney, ‘Bankruptcy Law and Entrepreneurship Development: A Real Options Perspective’ (2007) 32 *Academy of Management Journal* 266.

meaningful reform of bankruptcy law. In this way, the article contributes to the literature by exploring empirically, at the individual level, how adverse consequences of insolvency law can be elevated as a means to foster and promote entrepreneurship.¹² The article is structured as follows: in the next section, the literature is reviewed to establish a framework for data analysis. The methodology is explained and justified in the following section. This is followed by the findings, and the final section provides the main conclusion and discusses implications for theory and practice.

II THEORETICAL FRAMEWORK

What makes people successful entrepreneurs has attracted considerable interest in entrepreneurship and psychology.¹³ Successful entrepreneurs often are higher in need for achievement, more innovative, have a higher risk-taking propensity and stronger internal locus of control.¹⁴ How entrepreneurs deal with failure has also attracted considerable research attention. Ucbasaran, Shepherd, Lockett and Lyon have synthesised and structured this literature, focusing on the individual response to business failure. They conceptualise life after failure ‘as a journey in which making sense of and recovery from failure is a process that unfolds over time’. We have reviewed this journey and have selected it as a framework for the analysis of the qualitative interviews. The journey consists of three stages including ‘the aftermath’ of failure, sensemaking and learning processes, and ‘re-emergence’.¹⁵

The first stage involves three aspects of the ‘aftermath’: financial, social and psychological. Ucbasaran et al outline a number of findings relevant to our study.¹⁶ First, Arora and Nankumar find that entrepreneurs with significant outside opportunities are likely to be more impatient for success, even if this also implies failing more quickly.¹⁷ Moreover, DeTienne, Shepherd and DeCastro find that environmental munificence, personal investment, significant outside opportunities, prior business success, and perceived collective efficacy of the business, are factors that make entrepreneurs decide to persist despite poor performance.¹⁸ They also find a negative relationship between entrepreneurs’ extrinsic motivation and the factors that

¹² See eg, Alan Schwartz, Barry Adler and Ben Polak, ‘Regulating Consumer Bankruptcy: A Theoretical Inquiry’ (2000) 29 *Journal of Legal Studies* 585.

¹³ See Robert Hisrich, Janice Langan-Fox and Sharon Grant, ‘Entrepreneurship Research and Practice: A Call to Action for Psychology’ (2007) 62 *American Psychologist* 575.

¹⁴ Christopher J Collins, Paul J Hanges and Edwin A Locke, ‘The Relationship of Achievement Motivation to Entrepreneurial Behavior: A Meta-analysis’ (2004) 17 *Human Performance* 95; W H Stewart and P L Roth, ‘Data-quality Affects Meta-analytic Conclusions: A Response to Miner and Raju (2004) Concerning Entrepreneurial Risk Propensity’ (2004) 89 *Journal of Applied Psychology* 14; Andreas Rauch and Michael Frese, ‘Let’s Put the Person Back into Entrepreneurship Research: A Meta-analysis on the Relationship Between Business Owners’ Personality Traits, Business Creation, and Success’ (2007) 16 *European Journal of Work and Organizational Psychology* 353.

¹⁵ Deniz Ucbasaran et al, ‘Life after Business Failure: The Process and Consequences of Business Failure for Entrepreneurs’ (2013) 39 *Journal of Management* 166. See also Melissa S Cardon and Rita Gunther McGrath, ‘When the Going Gets Tough ... Toward a Psychology of Entrepreneurial Failure and Re-motivation’ (Paper presented at the Frontiers of Entrepreneurship Research Conference, Babson College, 1999) <https://fusionmx.babson.edu/entrep/fer/papers99/I/I_B/I_B.html>.

¹⁶ Ucbasaran et al, above n 15.

¹⁷ Ashish Arora and Anand Nandkumar, ‘Cash-Out or Flame-Out! Opportunity Cost and Entrepreneurial Strategy: Theory and Evidence from the Information Security Industry’ (2011) 57 *Management Science* 1844.

¹⁸ Dawn R DeTienne, Dean A Shepherd and Julio O De Castro, ‘The Fallacy of “Only the Strong Survive”: The Effects of Extrinsic Motivation on the Persistence Decisions for Under-Performing Firms’ (2008) 23 *Journal of Business Venturing* 528.

contribute to this escalated commitment.¹⁹ Second, Cope finds that the inability to repay debt generates feelings of guilt, which can lead to social distancing and withdrawal ‘due to an inability to share concerns with others’.²⁰ Third, Ucbasaran et al argue that ‘business failure has parallels with the loss of something (or someone) important’.²¹ In addition, failure generates a sense of ‘helplessness’ and, beyond a certain point, loss of faith. The second stage comprises responses to failure, which Ucbasaran et al classify as learning and sensemaking. First, Shepherd argues that only when entrepreneurs understand why they lost their business, can they start learning how to run a business differently in the future.²² Cope argues that such learning is unlikely to occur immediately as entrepreneurs need time to recover from the grief associated with the failure. Moreover, Cassar and Graig find that hindsight bias affects this process of critical reflection.²³ Second, Shepherd argues that being drawn too much to grief emotions may adversely affect the sensemaking process. Schwand notes that if these emotions induce the protection of self-esteem, sensemaking may be hindered as well. Finally, the third stage relates to the long-term outcomes of failure: recovery, cognition, and future behaviour. First, there is a positive relationship between the processing of grief and the speed of recovery. Cope concludes that this relationship is mediated by three interrelated phases: (a) entrepreneurs psychologically distance themselves so as to heal from the failure; (b) critical reflection to make sense; (c) reflective action in order to move on. Second, Hayward et al find that entrepreneurs’ widespread overconfidence in their capabilities makes them also more equipped to recover from the grief over a lost business.²⁴ Third, while there is literature that relates business failure to the intention to restart subsequent business, Ucbasaran et al argue that there is no research actually testing this relationship. Instead, Ucbasaran, Westhead and Wright find that failed entrepreneurs identify new business opportunities, but are not capable of exploiting opportunities that are more innovative.²⁵

III METHOD

A Research Design

The exploratory nature of the research topic required a qualitative research design, as intricate details about the phenomenological experiences of bankrupt entrepreneurs were to be explored, such as feelings, thought processes, and emotions. These would have been more difficult to obtain using a quantitative design.²⁶ In addition, the qualitative design was valuable when gaining an understanding of the personal context within which the bankrupt entrepreneurs acted.²⁷ Semi-structured open-ended interviews were held with 11 Dutch entrepreneurs: nine

¹⁹ Escalation of commitment refers to a tendency to escalate commitment to a previous course of action even when this is unwise, see for example, Dustin J Sleesman et al, ‘Cleaning Up the Big Muddy: A Meta-Analytic Review of the Determinants of Escalation of Commitment’ (2012) 55 *Academy of Management Journal* 541.

²⁰ Jason Cope, ‘Entrepreneurial Learning from Failure: An Interpretative Phenomenological Analysis’ (2011) 26 *Journal of Business Venturing* 611.

²¹ Ucbasaran et al, above n 15.

²² See Dean A Shepherd, ‘Learning from Business Failure: Propositions of Grief Recovery for the Self-employed’ (2003) 28 *Academy of Management Review* 318.

²³ Gavin Cassar and Justin Craig, ‘An Investigation of Hindsight Bias in Nascent Venture Activity’ (2009) 23(2) *Journal of Business Venturing* 149.

²⁴ Mathew L A Hayward et al, ‘Beyond Hubris: How Highly Confident Entrepreneurs Rebound to Venture Again’ (2010) 25 *Journal of Business Venturing* 569.

²⁵ Deniz Ucbasaran, Paul Westhead and Mike Wright, ‘The Extent and Nature of Opportunity Identification by Experienced Entrepreneurs’ (2009) 24 *Journal of Business Venturing* 99.

²⁶ See Juliet Corbin and Anselm Strauss (eds), *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (SAGE, 1998).

²⁷ See Joseph A Maxwell (ed), *Qualitative Research Design: An Interactive Approach* (SAGE, 1996).

with a sole proprietorship, who had been declared personally bankrupt because of business insolvency; and two with a limited company, who had experienced corporate bankruptcy.²⁸ All entrepreneurs had subsequently considered, filed for or gone through debt rescheduling. Face-to-face interviews were conducted to find out how the entrepreneurs coped with the bankruptcy experience. Informed consent, confidentiality, and rules of conduct were discussed prior to each interview. All interviews were recorded and transcribed (edited verbatim) with consent. The interviewees were encouraged to be completely open about their experiences in their own way. The interviewer returned the interview to its anticipated course (ie, research protocol) when necessary, ‘but not so rigid as to preclude his or her obtaining some unexpected information’.²⁹ Given the sensitive nature of the interview topic, as it intruded into the private sphere and delved into the deeply personal experience of the entrepreneur,³⁰ it was anticipated that some interviewees could express particularly strong emotions during the interviews (eg, intense crying). The interviewer, therefore, prepared herself when it came to emotional labour,³¹ which involved handling her emotions while ‘managing the outward displays of emotions according to the situation’.³² The interviews were conducted in the final quarter of 2015 and each lasted approximately two hours.

B Sample

Data collection was facilitated by one of the largest debt counselling firms in the Netherlands. The firm agreed to provide access to its clients providing that confidentiality and anonymity were guaranteed. Access was particularly useful as it was anticipated that it would be relatively difficult to find entrepreneurs (mostly with a proprietorship) whose businesses were bankrupt and who had subsequently filed for or gone through personal bankruptcy (debt rescheduling). Clients were invited by e-mail to voluntarily agree to participate in the study.

Table 1: Overview of Bankruptcy Cases

Case	Sector	Legal Form	Size	Years in Business	Bankruptcy Declared After	Warning Signs	Year of Bankruptcy
A	Café/diner	Sole proprietorship	16	28	Decrease in turnover and introduction of smoking ban (debt accumulation)	2010	2014
B	Day-care	Sole proprietorship	23	23	Turnover decreased significantly due to the financial crisis (debt accumulation)	2008	2014
C	Cable Installation	Sole proprietorship	11	7	A major client could not pay the labour	2010	2011

²⁸ At the design stage, focusing on debt rescheduling, the appropriateness of lumping together insolvent sole proprietors with owners of insolvent limited companies was considered. Given how little guidance is available in the literature, and the exploratory nature of the study, we proceeded. A post hoc examination of the findings revealed no indications of meaningful differences (see also Table 3, cases D and H).

²⁹ John M Johnson and Timothy Rowland, ‘The Interpersonal Dynamics of In-depth Interviewing’ in Jaber F Gubrium et al (eds), *The SAGE Handbook of Interview Research* (SAGE, 2012) 107.

³⁰ See Claire M Renzetti and Raymond M Lee (eds), *Researching Sensitive Topics* (SAGE, 1993).

³¹ Emotional labour refers to the management of feelings to create a facial and bodily display needed to fulfill the emotional requirements of a job. See Arlie Russell Hochschild (ed), *The Managed Heart: Commercialization of Human Feelings* (University of California Press, 1983).

³² Annika Lillrank, ‘Managing the Interviewer Self’ in Jaber F Gubrium et al (eds), *The SAGE Handbook of Interview Research* (SAGE, 2012) 287.

Case	Sector	Legal Form	Size	Years in Business	Bankruptcy Declared After	Warning Signs	Year of Bankruptcy
					performed (debt accumulation)		
D	Landscaping	Private company*	9	3	Employee absence due to illness causing financial problems (debt accumulation)	2014	2015
E	Desktop publishing	Sole proprietorship	20	21	Market changed (digitisation) and interests of the owner changed (debt accumulation)	2010	2012
F	Electric installation	Sole proprietorship	6	5	Turnover significantly reduced due to the financial crisis (debt accumulation)	2010	2012
G	Day-care	Sole proprietorship	3**	10	A creditor did not agree to the suggested payment plan (debt accumulation).	2011	2015
H	Construction	Private company*	40	6	Banks could or would not finance growth (debt accumulation)	—	2009
I	Taxi	Sole proprietorship	18	5	Turnover significantly reduced due to the financial crisis and the lack of bad weather in the harvest months (debt accumulation)	2009	2014
J	Restaurant	General partnership	n/a	10	Disappointing revenue after re-opening as city imposed 9 month compulsory closure due to construction of underground subway (debt accumulation).	2011	2013
K	Retail	Sole proprietorship	7	11	Turnover significantly reduced due to the financial crisis and moving to a larger location without enough equity (debt accumulation)	2009	2012

* = filed for debt rescheduling after corporate bankruptcy. Size = number of employees. ** = number of locations.

Using a purposive heterogeneous sampling technique, 11 clients were selected from those who responded to the e-mail invitation. Cases vary in markets served, size, age, cause and date of bankruptcy (see Table 1). The logic and power of purposive sampling lay in selecting information-rich cases for in-depth study.³³ The heterogeneous approach was used to enable identification of the key themes that could be observed.³⁴

³³ See Michael Quinn Patton (ed), *Qualitative Research and Evaluation Methods* (SAGE, 2014).

³⁴ See Mark Saunders, Philip Lewis and Adrian Thornhill (eds) *Research Methods for Business Students* (Pearson Education, 2013).

As the number of interviewees in similar studies³⁵ ranged between six and eight, following Francis et al, eight interviews were initially planned and three more interviews were conducted to achieve data saturation.³⁶ Interviewees were predominantly male, aged between 35 and 69 years, with secondary or vocational education and no prior businesses experience, and whose personal bankruptcy had been converted into a debt rescheduling scheme for natural persons (see Table 2).³⁷

Table 2: Interviewee Sample

Case	Age	Gender	Civil Status	Education	Entrepreneurial Experience	Personal Bankruptcy*	Work Status
A	57	Male	Divorced	Higher Education	None, first business	Since 12 months	Jobless
B	64	Female	Married	Higher Education	None, first business	Since 8 months	Self-employed
C	69	Male	Married	Vocational Education	Since 1971, one prior bankruptcy	Completed	Retired
D	Mid-30s	Male	Married	Vocational Education	None, first business	Not applicable	Self-employed
E	54	Female	Cohabiting	Higher Education	None, first business	Since 31 months	Self-employed
F	61	Male	Married	—	Since 1992, one prior bankruptcy	Since 18 months	Sickness Benefit
G	64	Male	Married	—	None, first business	Since 3 months	Jobless
H	Early-40s	Male	Divorced	—	Yes, sold multiple businesses before	Inadmissible	Self-employed
I	60	Male	Married	Secondary Education	None, first business	Since 6 months	Self-employed
J	45	Male	Single	—	None, first business	Since 9 months	Employed
K	45	Male	Married	Secondary Education	None, first business	Since 16 months	Employed

* Wet Schuldsanering Natuurlijke Personen [Natural Persons Debt Rescheduling Act]: maximum three years.

C Data Analysis

To rearrange and analyse the collected data systematically, the interviews were disaggregated into meaningful and related parts in the original Dutch language.³⁸ These parts or categories were taken from Ucbasaran et al's 'scheme for research on entrepreneurial business failure', including 'aftermath' (financial, social, psychological costs), social psychological processes (learning, sensemaking), and outcomes (recovery, cognitive, behavioural), and guided by the

³⁵ See eg, Jason Cope, Frank Cave and Sue Eccles, 'Attitudes of Venture Capital Investors to Entrepreneurs with Previous Business Failure' (2004) 6 *Venture Capital: An International Journal of Entrepreneurial Finance* 147; Smita Singh, Patricia Corner and Kathryn Pavlovich, 'Coping with Entrepreneurial Failure' (2007) 13 *Journal of Management and Organization* 331; and Cope, above n 20.

³⁶ See Jill J Francis et al, 'What is an Adequate Sample Size? Operationalizing Data Saturation for Theory-based Studies' (2010) 25 *Psychology and Health* 1229.

³⁷ The Dutch Bankruptcy Act provides for the following insolvency procedures: (1) bankruptcy; (2) suspension of payments (in Dutch: Surseance); and (3) debt restructuring for private individuals (in Dutch: Wet Schuldsanering Natuurlijke Personen (WSNP) [Natural Persons Debt Rescheduling Act]). The bankruptcy procedure (1) includes both personal bankruptcy (ie, natural person) and corporate bankruptcy (ie, private legal entity). Personal bankruptcy and WSNP are two separate judicial rulings that cannot coexist (in the Netherlands). As such, 'when a conversion of the personal bankruptcy into natural persons debt rescheduling has occurred, the personal bankruptcy ends': Reinout D Vriesendorp, *Insolventierecht* (Kluwer, 2013) 325 [translated].

³⁸ See Saunders, Lewis and Thornhill, above n 34.

exploratory purpose of the research.³⁹ Textual parts of the interview data were subsequently labelled and placed in categories. To enhance the credibility of the findings, investigator triangulation⁴⁰ was applied to verify the initial categories and to rectify potential miscategorisation of the interview data. The data analysis was carried out manually as it was felt that by keeping close to the data a certain degree of proficiency could be gained.⁴¹ The report of findings (see below) was completed fully in Dutch, before it was translated by a licensed academic translator and independently cross-validated by the three authors.⁴²

IV FINDINGS

A *Bankruptcy Experience*

The bankruptcy experiences of entrepreneurs illustrate that business failure is a phenomenon with profound personal and social consequences. The findings reveal multiple interlinked psychological, physical and social effects. The legal bankruptcy and debt rescheduling procedures, and their key representatives, such as the judge and bankruptcy trustee [*In Dutch: curator*], play a surprising role in the processing of these consequences. To describe and explain this role, the bankruptcy / debt rescheduling experience will first be analysed.

Ex-ante: in the run-up to a bankruptcy, entrepreneurs can lose their motivation; they don't answer their emails, get behind on their administration, and generally just let things go. They are worried about what is going to happen, both for themselves and their families. There is a lot to think about. This results in sleepless nights, making them emotionally unstable, tense and unpredictable, while at the same time, they are unable to rest:

You don't start up a company to go bankrupt, so you're constantly trying not to go bankrupt [Case A].

Entrepreneurship is no longer any fun. The entrepreneur only works to keep those who want money (staff, suppliers) off his or her back. The entrepreneur's moral obligation to want to pay debts should not be underestimated:

I really suffered from the fact that I was unable to pay those who had placed their faith in me. I've had many sleepless nights about them, my staff and suppliers. [Case G]

We had everything properly completed before we filed for bankruptcy, so we weren't in debt to anyone in [name of city]. The [name of bank], the tax authorities and [name of other bank] were all we owed money, but I didn't lose any sleep over them. We made sure we paid off anyone who would have really suffered. [Case I]

There is a continuous search for solutions, time and money. For example, attempts are made to arrive at amicable settlements, money is found from every possible source, savings are made on staff costs, or an external manager is appointed who can turn the situation around. There are even indications regarding an escalation of commitment:

³⁹ See Ucbasaran et al, above n 15.

⁴⁰ See Patton, above n 33.

⁴¹ See Eben A Weitzman, 'Software and Qualitative Research' in Norman K Denzin and Yvonna S Lincoln (eds), *The SAGE Handbook of Qualitative Research* (SAGE, 2000) 803.

⁴² See Bugusia Temple and Alys Young, 'Qualitative Research and Translation Dilemmas' (2004) 4 *Qualitative Research* 161, for a discussion of the epistemological implications of translation and the methodological consequences of involving a translator in research.

I'd agreed a plan with [debt counselling firm] in which I would have been able to repay all my creditors within three years, however one didn't agree. That's really hard — you're completely powerless at that moment; you're forced to close down your business while it still had a chance of survival. [Case G]

And, as the entrepreneur's stress levels increase, the staff become increasingly demotivated, resulting in a downward spiral.

In Media Res: when personal bankruptcy is imposed by court order, a wide range of emotions can be observed. For one person, this can be resignation or relief, for another it is a truly bitter pill, and for yet another, bankruptcy can come totally out of the blue. For all the entrepreneurs, however, it can be associated with a deep sense of humiliation:

What I found most painful was that I had to fight to get into the WSNP [Natural Persons Debt Rescheduling Act]. The judge doubted whether I had acted in good faith and that means your honesty is in question: that really hurts and I really hated that. After bankruptcy, you become a sort of public property. [Case E]

Well, you know, this type of occurrence is, for those like the judges and lawyers involved, apparently the most natural thing in the world. When I went bankrupt, the lawyer of the pension fund involved was there, and he was completely uninterested, and even though I know that the judge is just doing his job, it could be done differently. Look, in my [name of sector] respect was one of our most important values, and I completely missed that in the courtroom, during the bankruptcy, and from the trustee and everything that went with it. You're just a number and you're considered to be a villain, 'because they all are'. [Case G]

The worst thing I experienced, apart from the effect on my private life, was that in a public sitting, with students and everyone watching, that the judge declared me to be personally bankrupt. And then, on the same evening, the trustee shows up. You feel totally screwed, and then this turns to anger. [Case H]

It is a phase in which entrepreneurs become emotionally exhausted, and they and their partners suffer from psychological and physical problems:

My innate kindness completely disappeared, I became a fiend. Every night my wife woke up screaming. Terrible dreams; it wasn't a good period. [Case I]

A frequently mentioned and related problem is that the settlement of the bankruptcy in the eyes of entrepreneurs takes far too long (for example, two and a half years). For a number of entrepreneurs, the demands of the debt rescheduling scheme at that time are also often too much.

Ex-post: a few months after their debt rescheduling ruling, the entrepreneurs settle down in somewhat quieter waters. In addition to frustration, fear and uncertainty about the future, there is an overriding sense of helplessness. There are several ways in which this can be dealt with:

A great sense of anger, and more than just a little irritation about the trustee and his actions. [Case D]

Very grateful that the [debt rescheduling scheme] was in place, but it's a financial prison. You do get used to it, because resistance is futile, but it's no fun. [Case E]

I was really down, because the company was more about ideology than about making a profit. When I heard I'd spend three years in debt restructuring, I thought, oh well, we'll be fine. But the idealism had gone, and that's what was worst. [Case G]

There are situations where the future looks more positive and opportunities arise, for example in those cases where good guidance was provided, such as in the taxi case:

You just asked me about what it does to a person's self-esteem. Well, at the time I actually got my own life back again, at least that's what it felt like. I now get into the car every morning with just as much pleasure; it's my hobby. [Case H]

B *Effects of the Bankruptcy Experience*

The findings uncover multiple interlinked psychological, physical and social effects (summarised in Table 3). It is striking to see how severe the suffering — which included heart attack, alcohol abuse, suicidal tendencies and divorce — was in each of these cases.

Table 3: Effects of Bankruptcy Experience on Life

Case	Psychological	Physical	Private	Social
A	Diagnosed burn-out. Has been suicidal after bankruptcy	Stress-induced heart attack after bankruptcy	Divorced during final years of the business. Currently no contact with ex-wife and daughter. Ties with siblings have improved	Loss of many friends and contacts
B	Grief, loss of self-esteem, fear of being dependant again, feeling worthless	Exhaustion	Husband and daughter very supportive	Two ex-employees / friends refuse contact, other friendships have remained strong
C	Some anxiety, feeling in control	No change	Wife and children very supportive. No blame	Social network remains supportive
D	Grief, near burn-out, anxiety over incoming mail, depressed, apathetic	Weight loss, sleeplessness	Wife and children very supportive. Feels guilty for the increased tension in household	Social network remains supportive
E	Memory loss, anxiety over incoming mail, loss of self-esteem	Physical discomfort, feeling disassociated from self	Divorced before business strain and bankruptcy. Feeling guilty towards daughters for not being able to financially support them now that there are growing up	Bankruptcy brought her closer together with friends
F	Feeling helpless, frustrated, anger, rumination, feeling lonely	Sleeplessness	High marital strain. Redirecting anger and frustration on wife and vice versa. Good relations with children. Family bonds damaged	Relations with friends superficial. Anxiety to reach out to / be seen by familiar people
G	Grief, depressed feeling, losing ideals		Wife and children very supportive. No blame. Increased family bonds	Strengthening effect on relationships with friends
H	Grief, feelings of disappointment towards family	Weight loss, abscess in foot, stress-induced heart attack after bankruptcy	Divorced during venture failure. Now single parent (two children). Family bonds damaged and lost.	Loss of many friends, but other relationships strengthened.

Case	Psychological	Physical	Private	Social
I	Grief, loss of self-esteem, fear of facing people	Alcohol abuse	High marriage strain. Wife's health decreased significantly. Sleeplessness, depression and psychoses. No family bonds. Relationship with daughter is good.	Loss of friends. Superficial contacts remain
J	Anxiety, frustration		Relationship with girlfriend ended during venture failure. Family is supportive	Loss of some friends, strengthening relationships with others
K	Grief, frustration, feeling insecure, anxiety	Sleeplessness, nausea, exhaustion	Divorced during last years of business	Relationships turned superficial. Feels judged on how he lives after bankruptcy

As a first key theme, and given that the psychological consequences are far-reaching — such as burn-out, anxiety, loss of self-esteem, depression, and not least, grief — the findings indicate that family and friends play an important role in how the bankruptcy experience and the mourning are processed emotionally. In this context, the exploratory findings indicate that the formal legal bankruptcy proceeding can contribute negatively to the psychological and physical distress of business failure, as is explained in the following section.

C Bankruptcy Procedure

The findings indicate that entrepreneurs feel insecure and anxious about the legal procedure because they often have no idea what their rights and obligations are:⁴³

The process is opaque and literally and figuratively completely incomprehensible. As an entrepreneur, you no longer seem to have any rights, and you are at the mercy of the whims of the trustee and your lawyer. You have to pay for help, but you're bankrupt: So where do you get the money? [Case D]

Because a personal bankruptcy and a debt rescheduling scheme for entrepreneurs are unknown and complex processes, they are highly dependent on the resources in their immediate vicinity (ie, legal aid or lawyers, bankers, accountants). If they cannot communicate well with these resources, they can easily fall into an 'emotional pit'.

Everyone wants to feel seen and heard. How you do something is a much greater determinant than what you do. So when people are 'rolling over you' like you're a small, naughty child ... you react to this emotionally. You actually need someone who says, 'I believe in you and I'll do my best to help you when needed'. You have to manoeuvre between what you need to do to take care of yourself, and not kicking the shins of the administrator [in Dutch: bewindvoerder] or trustee. [Case E]

When entrepreneurs gain more insights into their rights and obligations, or as one interviewee put it 'if you have already been bankrupt once', then they seem to know more of what to expect,

⁴³ A lack of comprehensibility of court hearings (in general) for the general public has been a subject of recent scholarly debate in the Netherlands; eg, see Michiel Glas and Paul Verweijen, 'Op Gelijke Voet: Een Verkenning van de Mogelijkheid van een Heroriëntatie van de Positie van de Officier van Justitie in de Rechtszaal' ['On an Equal Footing: An Exploration of the Possibility of a Reorientation of the Position of the Prosecutor in Court'] (2014) 24(1175) *Nederlands Juristenblad* 1612.

and are no longer driven so much by these feelings of anxiety. The following comments illustrate how good coaching can contribute to this:

I had guidance from an SME consultant, a friend of ours. This was a particularly pleasant experience. Something as dramatic as this is something you can't deal with alone; not before nor after. It interferes with your sense of security and your self-image. You may have debt rescheduling, but you miss an emotional safety net. [Case B]

We had a really good trustee to whom we could talk, as well as my accountant. They were a great company and became personally involved. We had discussions about how it was going and about what had happened. They tried to see things from our point of view; they were really nice people. You still have to find the solutions yourself. There's still a lot of bad feeling, but we hope that at the end of the debt rescheduling, the judge will provide safeguards. [Case I]

However, communication is often far from perfect, and there is little or no direct contact. In some cases, entrepreneurs may have to deal with four or five different trustees, and contact often only occurs via email or the secretary.

Contact with our first trustee was terrible. It was very confrontational and business-like, while I was terribly emotional. I was pretty much treated like a criminal. They really don't look at who you are and what you did to make sure everything would be resolved. However, the second trustee, a woman, was someone I could get along with. [Case B]

I feel totally screwed by the trustee. He spares nothing and no one, he has absolutely no feelings, he's a hard case and he's really out to get you. Your business is bankrupt, your dream has gone, and the trustee seems only to be interested in sticking a knife in your back. [Case D]

If I was the trustee, I'd always keep in mind that indeed, some people do try to get away with murder, but others happen to go bankrupt through sheer bad luck, so don't start off with a prejudice. First of all ask, 'how are things, and how's it affecting you'. No, in most cases it seems to be all about getting what you can, because then their billable hours are safe. That's really what happens; they're only interested in making money, and that's clear from the arrogant way they talk down to you. They walk all over you, emotionlessly, they walk through your home and 'suck it empty', only asking you about your kid's savings accounts. That's how far they go — how sad is that? It's all negative energy, the whole system. These people seem to think they're sitting on a throne. [Case H]

A second key theme that emerges from the interview data is that entrepreneurs often have a need to be heard, and they do not understand why the legal process should be as devoid of emotion as it is. It feels like an 'emotional punishment', often because they are unable to let go of their business:

It was May, and we could have kept the shop open for another six months, because then we could have earned about 3–4 times the amount that the trustee raised. This gives you the feeling that this guy is only working for himself instead of for me or the creditors on the other side. [Case K]

These entrepreneurs need emotional and psychological support. Their bankruptcy experience is comparable to losing a loved one; it is a psychological process similar to mourning. A lack of empathy, respect and transparency by the formal institutional representatives, such as judges, trustees and administrators, is an additional source of their grievance. In their eyes, it is unfair and incomprehensible that the legal system only works for the creditors and not for them. Because of this perceived non-cooperative, emotion-free treatment, the bankruptcy proceeding

can be an extremely stressful grieving process, beside the emotions associated with business failure itself, contributing to the psychological and physical distress.

D *Stigma, Learning, Second Chance Experience and Current Situation*

Those entrepreneurs whose failure has not been made public usually experience less social stigma, even within their own business network. Some find the ‘business stigma’ the worst thing of all; they expected that their business contacts would treat them with as much compassion as they themselves did when one of their contacts went insolvent. What is really striking is that in the view of the entrepreneurs it is the judicial system itself that brands them with this stigma:

You’re bankrupt, so then you’re treated like a criminal. That’s especially what I felt when I met the first trustee and the administrator. No one looks at who you are and what you’ve done; you miss any form of personal recognition. They don’t see you for who you are and what you’ve done, you miss that recognition. Socially, stigma was only experienced from two former employees. [Case B]

Furthermore, the findings indicate that entrepreneurs certainly learn from their bankruptcy experience. Common pitfalls that they identified are managing costs (mainly staff costs), poor cash flow management, excessive external financing, or an over-reliance on a few major customers. In addition, some entrepreneurs have learnt to be aware more quickly of the things they are weak at, and get others involved in time. They also may no longer consider starting a sole proprietorship, instead they will set up a limited company, and will no longer co-sign for the debt of that company. So, many entrepreneurs emerge stronger from their bankruptcy. Moreover, all entrepreneurs indicate that after the debt rescheduling, they really want to continue being an entrepreneur:

I’m not allowed to start up anything new thanks to the WSNP [Natural Persons Debt Rescheduling Act], but I’m constantly thinking about it. Despite the bankruptcy, my mind-set hasn’t changed. It’s a bit difficult to explain, but that’s what I think about, 24 hours a day. [Case A]

I’d love to start another business again. Nothing big, but a small company where I can share my experiences, for example in the form of courses and workshops. You don’t need to invest that much, there’s no need for an office, equipment and/or staff, nothing like that. To do this, you have to send in a request to the magistrate involved, and I did that months ago, but I’ve heard nothing since. I think that’s stupid. You’re made to feel incredibly small and terribly mistrusted, and that really gets to me. Your whole life is characterised by other people’s distrust and disdain; that’s something I have trouble dealing with, because there’s no reason for it. [Case G]

While waiting for the completion of their three-year debt rescheduling scheme, the reality is that none of these entrepreneurs have actually started up a business.

V DISCUSSION AND IMPLICATIONS

The interview data reveal two interrelated key themes. First, entrepreneurs who are in a debt rescheduling scheme after being declared bankrupt generally cannot personally let go of their demised business. They have a need to be heard, and cannot understand why the legal process is so devoid of emotion and so hostile to their personal interests. They feel this as ‘emotional

punishment’, which hinders the way they cope with their loss. The lack of empathy, respect and transparency of the legal system and its representatives is an additional source of grief, contributing negatively to the already existing psychological and physical distress of the business failure. Secondly, support — in the form of family, friends, and business contacts — plays an important role in how a bankruptcy experience, debt rescheduling scheme and the mourning over the lost business are processed emotionally. In this context, it seems counter-productive that the legal system itself is perceived to impose a stigma on these entrepreneurs. Whether this perception results from the legal system imposing the stigma itself, or from entrepreneurs projecting onto this system their own sense of stigma — for example by projecting their own emotions onto the formal actors in the legal system — needs to be examined further.

A *Implications for Theory*

A review of the literature shows that after a bankruptcy, entrepreneurs bear personal financial costs,⁴⁴ a breakdown of their personal and professional social network,⁴⁵ and negative emotional and psychological effects,⁴⁶ which in turn affect how entrepreneurs continue their lives and undertake future tasks. While bankruptcy systems can have a pronounced effect on entrepreneurship in general,⁴⁷ including personal financial,⁴⁸ health-related,⁴⁹ and social costs of failure, such as suicide,⁵⁰ little research attention has been paid to the ‘entrepreneurial-friendliness’ of the bankruptcy procedure and the incurrence of psychological costs. This study found that the manner in which a trustee, judge or administrator treats an entrepreneur in a bankruptcy debt rescheduling scheme, can have severe negative emotional and motivational effects. In this way, the study connects insolvency law to the discussion of the role of emotion in law, particularly empathy.⁵¹ This area of research aims to shed light on the role of empathy in judging.⁵² The study thereby contributes to strengthening the ties between law and psychology in three ways. First, it is relevant to the theory of grief and recovery. We note that prior research primarily considers the informal social network in order to explain how entrepreneurs manage grief. For example, Shepherd finds that the emotional intelligence of an entrepreneur and the emotional capabilities of family members help to use a grief recovery

⁴⁴ See Cope, above n 20.

⁴⁵ See Dean A Shepherd and J Michael Haynie, ‘Venture Failure, Stigma, and Impression Management: A Self-verification, Self-determination View’ (2011) 5 *Strategic Entrepreneurship Journal* 178.

⁴⁶ See Shepherd, above n 22.

⁴⁷ See John Armour and Douglas Cumming, ‘Bankruptcy Law and Entrepreneurship’ (2008) 10 *American Law and Economics Review* 303; or John Armour, ‘Personal Insolvency Law and the Demand for Venture Capital’ (2004) 5 *European Business Organization Law Review* 87.

⁴⁸ See Howard Van Auken, Jeffrey Kaufmann and Pol Herrmann, ‘An Empirical Analysis of the Relationship Between Capital Acquisition and Bankruptcy Laws’ (2009) 47 *Journal of Small Business Management* 23.

⁴⁹ See David U Himmelstein et al, ‘Medical Bankruptcy in the United States, 2007: Results of a National Study’ (2009) 122 *American Journal of Medicine* 741; and David U Himmelstein, Deborah Thorne and Steffie Woolhandler, ‘Medical Bankruptcy in Massachusetts: Has Health Reform Made a Difference?’ (2011) 124 *American Journal of Medicine* 224.

⁵⁰ Rafael Efrat, ‘Bankruptcy Stigma: Plausible Cases for Shifting Norms’ (2006) 22 *Emory Bankruptcy Developments Journal* 481.

⁵¹ See eg, T A Maroney, ‘Law and Emotion: A Proposed Taxonomy of an Emerging Field’ (2006) 30 *Law and Human Behavior* 119; T A Maroney, ‘The Persistent Cultural Script of Judicial Dispassion’ (2011) 99 *California Law Review* 629; Heather Conway and John Steward (eds), *Emotional Dynamics of Law and Legal Discourse* (Hart Publishing, 2016).

⁵² See for example Richard A Posner, *How Judges Think* (Harvard University Press, 2008); Mona Lynch and Craig Haney, ‘Mapping the Racial Bias of the White Male Capital Juror: Jury Composition and the “Empathic Divide”’ (2011) 45 *Law and Society Review* 69; or Scott E Sundby, ‘The Capital Jury and Empathy: The Problem of Worthy and Unworthy Victims’ (2003) 88 *Cornell Law Review* 343.

strategy appropriately (ie, loss, restoration, oscillation or transition).⁵³ The findings in this study suggest that, in a bankruptcy or debt rescheduling context, the role of a formal representative, in particular the trustee and administrator, may affect (ie moderate) the relationship between business failure and psychological symptoms, and thereby affect the speed of recovery. Second, drawing on the psychoanalytic view of coping, Singh et al distinguish between problem focused and emotion focused coping when managing the demands of a business failure.⁵⁴ The findings indicate that the formal role of a bankruptcy trustee (or judge), as well as (uncertainties about) the formal bankruptcy procedure, may affect emotional coping, and, subsequently, recovery. Third, the findings suggest that empathy — that is, responding with sensitivity and care to the suffering of an entrepreneur without breaching impartiality — deserves much greater research attention in bankruptcy law, as it may, for example, play a much greater role in the acceptance of a personal bankruptcy ruling, the mourning over the lost business and the subsequent second chance for entrepreneurs than is commonly acknowledged.

B *Implications for Practice*

Discussions about the purpose of bankruptcy procedures have been (re-)opened in recent years, with much attention being paid to the early and cost-effective rescue of business. In an attempt ‘to avoid debt enforcement mechanisms that involve detailed and extensive court oversight’,⁵⁵ preventive insolvency and out-of-court procedures are now considered a key European policy area to limit the economic and social effects of bankruptcy for entrepreneurs. If out-of-court re-organisation is not an option, simple and predictable in-court procedures are recommended. Moreover, it has been argued that ‘a system must be put in place that does not exacerbate pressure by creditors to declare an entrepreneur as dishonest’.⁵⁶ That is, bankruptcy law should reduce the stigma of bankruptcy and foster a solid and realistic second chance.⁵⁷ The European Commission therefore, has recommended specialist judges and specialised training courses for formal representatives adjudicating in or administering the bankruptcy proceedings. Court-appointed trustees, whose salary is dependent on the estate’s funds, generally have multiple duties, including tracing fraudulent acts (eg, *actio pauliana*), for which there are not always enough funds in the estate to cover for the time required. In this context, trustees tend to behave in a formalistic, efficient and distrustful, maybe even sceptical way. As a result, bankrupt entrepreneurs may feel like suspected criminals which exacerbates their problems. In light of a worldwide legal reform towards (more) ‘debtor-friendly’ procedures (as opposed to ‘creditor-friendly’ systems) this appears to be contradictory. Although the current wave of bankruptcy reform seems to focus on a second chance (to restart following bankruptcy), or to turn struggling businesses around via workouts, this study suggests that debate is necessary on how to deal with the entrepreneur’s emotions throughout the legal procedure. That is, it should be discussed whether trustees, administrators and judges should respond with care and sensitivity

⁵³ See Shepherd, above n 22.

⁵⁴ See Singh, Corner and Pavlovich, above n 35.

⁵⁵ See Simeon Djankov et al, ‘Debt Enforcement around the World’ (2008) 116 *Journal of Political Economy* 1105.

⁵⁶ European Commission, *Report of the Expert Group: A Second Chance for Entrepreneurs: Prevention of Bankruptcy, Simplification of Bankruptcy Procedures and Support for a Fresh Start* (Enterprise and Industry Directorate General, European Commission, 2011) 10

<<http://ec.europa.eu/DocsRoom/documents/10451/attachments/1/translations/en/renditions/native>>.

⁵⁷ See European Commission, *Proposal for a Directive of the European Parliament and of the Council on Preventive Restructuring Frameworks, Second Chance and Measures to Increase the Efficiency of Restructuring, Insolvency and Discharge Procedures, and Amending Directive 2012/30/EU*, COM (2016) 723 final, 2016/0359 COD <http://ec.europa.eu/information_society/newsroom/image/document/2016-48/proposal_40046.pdf>.

to the suffering of entrepreneurs in a bankruptcy or debt rescheduling procedure, and if so, in what way and to what purpose. In general, it should be discussed whether society as a whole needs to pay attention to the psychological and social impact of distressed entrepreneurs. For example, it is known that debt troubles seriously affect health.⁵⁸ Also, which measures can be taken to remove the stigma of failure? Is there a role for trustees, administrators and judges themselves — for example via a soft-law solution such as ‘general principles and best practices on how to be sensitive to the sufferers in a bankruptcy’ — initiated by their professional bodies, or is there a role for governmental bodies with a focus on social healthcare, or both? As showing empathy is trainable,⁵⁹ should there be a training programme or perhaps a professional register (to meet standards for professional conduct)? We argue that a legal discussion on a ‘second chance’ cannot ignore how the legal process and its key representatives affect the psychological stress of failed entrepreneurs.

VI LIMITATIONS

We draw attention to some limitations of our study. First, purposive sampling means that the interview study cannot be considered to be statistically representative of the total population. This technique was chosen merely to explore the key themes that could be observed, hence, the effects that were found may only be applicable to a specific group of entrepreneurs with a debt rescheduling scheme, namely those who responded to the invitation to participate in the interview study. Second, the study focused on entrepreneurs with sole proprietorships who experienced debt rescheduling after a personal bankruptcy. Therefore, the findings may not correspond to the experiences of entrepreneurs who have gone through a corporate bankruptcy. Moreover, more research is needed to determine whether the findings, given the specific Dutch legal context, including the WSNP, correspond to the experiences of entrepreneurs in other legal systems and countries.⁶⁰ Third, the cases described do not entail case studies, but were instead in-depth interviews focusing on the bankruptcy experiences of individual entrepreneurs. Thus, the interview data were not corroborated with other data (eg, records) or methods (eg, observation). However, as a direction for future research the scope of personal bankruptcy and debt rescheduling experiences could be expanded to include the interactions with and social realities of other stakeholders, such as the judge, bankruptcy trustee, administrator, and the governing bodies with a public task related to or dealing with personal bankruptcy. Finally, by focusing on debt rescheduling the study’s exploratory findings do not shed light onto how business failure would be different for entrepreneurs who failed (ie, went through personal bankruptcy) but never entered the formal natural persons debt rescheduling

⁵⁸ Eg, see Anamaria Savu et al, ‘The Intersection of Health and Wealth: Association Between Personal Bankruptcy and Myocardial Infarction Rates in Canada’ (2016) 16(31) *BMC Public Health* 1; and Melissa B Jacoby, ‘Does Indebtedness Influence Health? A Preliminary Inquiry’ (2002) 30 *Journal of Law, Medicine and Ethics* 560.

⁵⁹ See eg, Daniel Goleman, *Social Intelligence: The New Science of Human Relationships* (Bantam, 2007).

⁶⁰ There are some particular aspects of the Dutch bankruptcy system, such as harsher bankruptcy rules in comparison with for example the UK and US: eg, see Oscar Couwenberg and Abe de Jong, ‘It Takes Two to Tango: An Empirical Tale of Distressed Firms and Assisting Banks’ (2006) 26 *International Review of Law and Economics* 429. Also, while the entrepreneurial culture in the Netherlands is similar to other countries in Europe, specifically the Central European and North European countries (see Francisco Liñán and José Fernandez-Serrano, ‘National Culture, Entrepreneurship and Economic Development: Different Patterns Across the European Union’ (2014) 42 *Small Business Economics* 685), there are some specific aspects of entrepreneurship in the Netherlands, eg, the rate of Dutch entrepreneurial activity is high compared to other developed countries: see Pekka Stenholm, Zoltan Acs and Robert Wuebker, ‘Exploring Country-level Institutional Arrangements on the Rate and Type of Entrepreneurial Activity’ (2013) 28 *Journal of Business Venturing* 176. Moreover, there are differences between the Netherlands and other countries regarding the stigma of failure attached to entrepreneurs, even though these are not very large; eg, see Sharon Simmons, Johan Wiklund and Jonathan Levie, ‘Stigma and Business Failure: Implications for Entrepreneurs’ Career Choices’ (2014) 42 *Small Business Economics* 485.

procedure. By distinguishing more explicitly between the consequences of the business failure and the formal legal bankruptcy proceedings, it is our hope that future research will examine how the formal legal system itself hinders the way small business entrepreneurs cope with their loss.