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Saving Honest Entrepreneurs through the Second Chance Policy in Ghana

Francis Kofi Korankye-Sakyi
Faculty of Law, University of Cape Coast, Ghana

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Corresponding author: francis.korankye-sakyi@ucc.edu.gh

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Abstract
This paper analyses the existing legal frameworks on insolvency in Ghana and how they sufficiently provide to save honest entrepreneurs during financial reforms. Financial sector reforms are a welcomed mechanism to foster financial sector efficiency for sustainable growth. During the period of decision-making in financial sector reforms, it is expected that some business concerns would have their lifespan terminated. Notwithstanding, recent episodes of financial deregulation have revealed unintended consequences of demobilising the sector which has affected innocent entrepreneurs. The aftermath of the financial sector reforms has passed the Corporate Restructuring and Insolvency Act, 2020 (Act 1015). This paper aims to address the issue of whether or not the existing legal framework benchmarked against the Capital Adequacy, Asset quality, Management, Earnings, Liquidity (CAMEL) framework absolves honest entrepreneurs in such a period as against fraudulent entrepreneurs. The paper adopted the doctrinal legal research approach using distinct research tools including data from primary sources, statutes, journal articles, online resources and other obligatory tools. It finds that recent financial sector reforms did not segregate the fraudulent entrepreneur from honest entrepreneurs to make room for the CAMEL to save the latter. It concludes on how a second chance policy can be developed along with existing statutes to settle and save honest businesses in periods of economic volatility.

Introduction
Entrepreneurship is a key factor in national economic development towards goal nine of the Sustainable Development Goals (SDGs). SDG nine partly seeks to promote inclusive and sustainable industrialisation by 2030 and to significantly raise the industry's share of employment and gross domestic product (GDP) in line with national circumstances in the least developed countries (LDCs). However, the recent financial and economic volatility in Ghana exposes a contrived legal environment for entrepreneurs. The financial trajectory through the period of banking reforms since 2006 in Ghana has impacted all forms of enterprises (Korankye-Sakyi, Abe & Yin, 2023). For entrepreneurs, failure is an honest contemplation that requires legislative interventions. However, there is a dearth of studies on the Ghanaian policy and legal environment to highlight this phenomenon and how challenged entrepreneurs can be rescued in times of formal insolvency.

The theory of second chance is based on ideation that encourages calculated risk by companies and requires a framework to minimise the challenges of insolvency; and rescue for affected companies (Wood, 2013). Various commentators posit that failure is a part of taking risks ((Lattacher & Wdowiak, 2020; Anderson & Morrison, 2015; Cope, 2011; Fletcher, 2009; Goode, 2011, 2). However, it has been suggested that the failure of many businesses is the result of incalculable risk (Jensen, 2000). According to Anderson and Morrison (ibid), the concept of "rescue" or Second Chance Policy as an objective corporate insolvency legal regime has surfaced strongly in the last 40 years in many jurisdictions. In many jurisdictions, the idea of company rescue is a unique alternative to insolvency. According to Wood (ibid), "Company survival is difficult enough to achieve in flourishing times when the economy is strong." In other words, there is an incentive to offer support to "all" ailing businesses and individuals in various stages of insolvency when necessary[1]. In a developing country like Ghana with recent financial and economic challenges, it would be incongruent to argue the same on this premise in a recession.[2] Drawing on the position of Wood (2013) that the fast-moving legal environment of corporate and commercial law impacts the financial climate, I argue that the role of entrepreneurs needs to be safeguarded through a robust legal environment that anticipates future risks in protecting honest entrepreneurs during corporate insolvency regimes. This is regular with the position that corporate rescue theory in many jurisdictions is a medium to advancing knowledge in the area of insolvency, in theory and practice (Wood, ibid). Various jurisdictions perceive the Second Chance Policy differently (Qi, 2008, 131). For instance, in the United States (US) the Second Chance Policy is encouraged while in the United Kingdom (UK), it is looked at with suspicion. In Ghana, there is no empirical data to determine how the public reacts to this phenomenon due to the lack of sunshine on it. One reason for any country to shy away from embracing a second chance policy is because of the stigma of failure. This must not be encouraged. Financial sector reform is generally considered natural and good for an economy as it engenders financial innovation and promotes efficiency in the financial system, potentially leading to higher economic growth (Korankye-Sakyi, Abe & Yin, ibid). The case has been made for "most" insolvent companies to be given the "chance" to be rescued either by reorganisation or liquidation. In the case of *Solomons and Defty v Cheal, Huggins and Coster* (2011, para 14), Justice Norris argued that rescuing the company in times of insolvency is a going concern (See Keay, 2010, 129). Drawing on this, it is argued that a forward-looking legal fortitude should guarantee a second chance ideology within the existing legislative framework through appropriate amendments or insertions as the need be.

The Second Chance Policy in insolvency aims to provide individuals or businesses facing financial distress with an opportunity to recover and rebuild their businesses. The policy recognises that bankruptcy or insolvency does not necessarily equate to a permanent failure but may arise from a combination of unforeseen circumstances including but not limited to financial mismanagement, bad corporate governance practices, externalities or other factors. Under this policy, distressed entrepreneurs are given a chance to restructure their debts, negotiate with creditors, and propose sustainable repayment plans, even with governments.

[1] See Goode, R. (2011). Principles of corporate insolvency law. (4th ed.), (London: Sweet & Maxwell), 111 on forms of insolvency.

[2] A recession is usually defined as a period of general economic decline; specifically two consecutive quarters of negative GDP growth.

This approach encourages financial institutions and creditors to work collaboratively with debtors to find mutually beneficial solutions that maximise recovery and minimise the negative impact on both parties. The Second Chance Policy aims to strike a balance between protecting the interests of creditors and providing debtors with a fair opportunity to regain financial stability.

By integrating the second chance policy into the legal regimes of insolvency, a country can create a system that promotes entrepreneurship, innovation, and economic growth while minimising the long-term consequences of insolvency for individuals and businesses. It encourages a supportive environment where viable businesses can overcome temporary setbacks and contribute to the country's economic development.

Given this background, this paper analyses the existing legal frameworks on insolvency in Ghana and how they sufficiently provide to save honest entrepreneurs during financial reforms. SDG Nine requires sustainable policy interventions that keep enterprises surviving in any form of economic, financial or ecological restructuring to help realise its objective. In any modern economy, financial sector reforms are welcomed as long as they meet standards and engender financial sector performance, as stated earlier. Financial sector reforms, thus, are a welcomed mechanism to foster financial sector efficiency for sustainable growth. During the period of decision-making in financial sector reforms, it is expected that some business concerns would have their lifespan terminated. Notwithstanding, recent episodes of financial deregulation have revealed unintended consequences of demobilising the sector by affecting innocent entrepreneurs in such events. In the recent banking sector reforms beginning in 2016 in Ghana, over 400 financial institutions were liquidated without any effort to disaggregate the so-called fraudulent entrepreneurs from honest enterprises. In the aftermath of the financial sector reforms, the Corporate Restructuring and Insolvency Act, 2020 (Act 1015) was passed. The objective of this paper is to address the issue of whether or not the existing legal framework benchmarked against the CAMEL framework absolves honest entrepreneurs in such a period as against fraudulent entrepreneurs. It finds that recent financial sector reforms did not segregate fraudulent and honest entrepreneurs to make room for the CAMEL to save the latter. It concludes on how a second chance policy can be developed along with existing statutes to settle and save honest businesses in such periods.

Objectives

This paper aims to address the issue of whether or not the existing legal framework in Ghana benchmarked against the CAMEL model absolves honest entrepreneurs against fraudulent entrepreneurs in insolvency situations. To achieve this aim, the following objectives will be pursued:

i. To assess the effectiveness of the Second Chance Policy in supporting honest entrepreneurs in Ghana.
ii. Identify key challenges and barriers faced by honest entrepreneurs in Ghana.
iii. Propose strategies to enhance the effectiveness of the Second Chance Policy in Ghana.

Research Questions

i. How is the effectiveness of the Second Chance Policy in supporting honest entrepreneurs in Ghana?
ii. What are the challenges faced by honest entrepreneurs in Ghana?
iii. What are the appropriate strategies for enhancing the effectiveness of the Second Chance Policy in Ghana?

Methods

The paper as a qualitative overview adopted the doctrinal legal research approach using distinct research tools including data from secondary sources; books, statutes, journal articles, online resources and other obligatory tools. The doctrinal desktop methodology refers to a research approach that primarily relies on analysing existing legal documents and literature without conducting fieldwork or gathering empirical data (Ali, et al., 2017; Hutchinson, 2015; Hutchinson & Duncan, 2012; Kilcommins, 1973). The several justifications for using this methodology in this paper include the fact that, first; the doctrinal desktop methodology allowed the researcher to extensively analyse legal documents, such as legislation, case law, and policy frameworks, to gain a thorough understanding of the existing legal framework surrounding the second chance policy in Ghana.

Second, by focusing on existing literature and policy documents, the methodology allowed the researcher to evaluate the rationales behind the Second Chance Policy in Ghana. The researcher relied on the assumption that conducting research through the doctrinal desktop methodology is often more accessible and feasible than other approaches, particularly when fieldwork, data collection, or direct engagement with stakeholders may be challenging in terms of time and funding (McConville & Chui, 2017; Sanjari, et al., 2014; Genn, Partington & Wheeler, 2006). It is acknowledged that while the doctrinal desktop methodology is a valuable tool for certain types of research, such as in this instance, it has limitations in terms of capturing real-world experiences or the perspectives of stakeholders (Petropoulos et al., 2022; Robson & McCartan, 2011).

Combining this methodology with other research approaches, such as interviews or surveys, could have provided a more holistic understanding of the subject and its impact on honest entrepreneurs in Ghana. Some inclusion and exclusion criteria were considered for selecting the literature for the doctrinal review (Patino & Ferreira, 2018). For the inclusion criteria, literature specifically addressing the topic was considered. This included legal texts, academic articles, and reports specifically focusing on insolvency laws, CAMEL framework, entrepreneurship, and economic development in Ghana. Again, the methodology used recent papers to ensure up-to-date information that reflects the current state of affairs regarding insolvency laws and entrepreneurship in Ghana. However, studies and historical works that provide basic knowledge were included. On exclusion criteria, literature that does not directly relate to the topic or does not provide substantive insights into insolvency laws and entrepreneurship in Ghana were excluded. Again, it excluded source materials that are overly legalistic or technical in nature and may not be easily comprehended by non-expert readers.

Results and Discussions

Theoretical framework

The Second Chance Policy is underpinned by various economic and sociological theories; the fresh start theory argues that individuals or businesses should be given a complete discharge of their debts and a fresh start after going through insolvency proceedings (Hershfield, et al., 2018; Veronika Job, et al., 2017; Hershfield, et al., 2015; Dai, Milkman & Riis, 2015; Dai, Milkman & Riis, 2014; Alter & Hershfield, 2014). The idea is to remove the burden of past debt and enable individuals to regain financial stability and contribute to the economy; the rehabilitation theory focuses on rehabilitating the debtor and helping him to rebuild his financial situation (Leplege, et al., 2000; Gendreau & Ross, 1987). It emphasises providing support, guidance, and resources to help debtors regain financial independence and become

productive members of society; according to the economic efficiency theory on the other hand, a Second Chance Policy promotes economic efficiency by allowing failed entrepreneurs or businesses to re-enter the market (Murillo-Zamorano, 2004; Beckert, 2003; Camerer & Ari, 1988). The reasoning is that individuals with valuable skills or ideas may learn from their past mistakes and contribute to economic growth if given the opportunity; the social justice theory stresses the importance of reducing the social stigma associated with financial failure (Tyler, et al.; 2019; Jost & Kay, 2010; Rizvi, 1998). It argues that providing a second chance enables debtors to regain their dignity and reduces the negative societal impacts of insolvency.

Conceptual framework

Understanding the Second Chance Policy

The Second Chance Policy, also known as the Fresh Start Policy or the Rescue Policy is normally entailed in a legal provision that aims to provide individuals or businesses with a fresh start following insolvency (Efrat, 1999). This policy recognises that facing bankruptcy or insolvency is often a challenging situation, and it allows debtors to rebuild their lives or businesses without the burden of crippling debt. Under this policy, certain debts may be discharged or restructured, depending on the laws of the specific jurisdiction. This allows individuals or businesses to eliminate or reduce their outstanding debts, allowing them to regain financial stability. In many regimes, the policy is not offered across the board but prescribes some eligibility criteria for a distressed company to be a beneficiary. These criteria may vary from country to country, as well as within different legal systems. One such criterion is the application of the CAMEL model.

In addition to assisting with the discharge or restructuring of debts, the Second Chance Policy might also provide support in terms of financial counselling, rehabilitation programmes, or education on financial management. The goal is to help individuals or businesses learn from their financial struggles and make informed decisions in the future to maintain financial stability.

Principles of the Second Chance Policy

The second chance policy under entrepreneurship aims to provide individuals who have experienced business failure an opportunity to try again. The policy aligns with Cope's (ibid) theory that failure does not automatically lead to long-term negative professional effects. He argues that failure must be accepted as a "fact of life" (Cope, ibid, 3). This assurance is key to motivating honest entrepreneurs to take risks and receive support for their innovations in case of failure. The key principles of the second chance policy revolve around promoting entrepreneurship, fostering economic growth, and supporting individuals in overcoming past failures.

First, the policy on second chance contemplates promoting risk-taking among entrepreneurs. As encouraged by Wood (ibid), Fletcher (ibid) and Goode (ibid), every entrepreneur is a conscious risk taker. Other commentators argue that entrepreneurs are not wild risk-takers but instead calculated risk-takers. Entrepreneurs are not "high-rolling, riverboat" gamblers (Kurtz, 2004). According to researcher and former Inc. 500 Chief Executive Officer, Keith McFarland, "the belief that entrepreneurs are big risk takers just isn't true" (Kurtz, ibid, 120). This principle encourages individuals to take risks and start new businesses by providing them with a safety net after a previous business failure (Lattacher & Wdowiak, ibid; Cannon & Edmondson, 2005). This helps to promote a dynamic entrepreneurial environment where individuals feel more confident to innovate and create new ventures. Another principle of this policy is to encourage entrepreneurs to learn from their

mistakes (Cope, ibid; Cannon & Edmondson, ibid; Baumard & Starbuck, 2005). Cope (ibid) conceptualised venture failure as a learning process. He argued that "recovery and re-emergence from failure is a function of distinctive learning processes that foster a range of higher-level learning outcomes." According to Lattacher and Wdowiak (ibid, 1093), "[F]ailure plays a pivotal role in entrepreneurial learning." The history of the study of failure in entrepreneurship dates back to two decades ago (Walsh & Cunningham, 2017; Cope, 2005; Shepherd, 2003). Since McGrath (1999) and Zahra and Dess (2001) work on the nuances of entrepreneurship and failure, the phenomenon has become a critical area of academic inquisition drawn on various perspectives (He et al., 2018; Jenkins & McKelvie, 2016; Wennberg & DeTienne, 2014). Minniti and Bygrave (2001) states that "[E]ntrepreneurship is a process of learning." The policy recognises that business failure can often be a valuable learning experience and yields opportunities (Shepherd, ibid; Minniti & Bygrave, ibid). Giving entrepreneurs a second chance acknowledges that failure is a part of the entrepreneurial journey and provides them with an opportunity to learn from their mistakes and apply those lessons to new ventures (See Amankwah-Amoah et al., 2018; Cope, ibid; Frota Vasconcellos Dias & Martens, 2019). Drawing from the theory of Lattacher and Wdowiak (ibid) that failure may foster learning and successful entrepreneurial rescue, this paper argues that a policy on second chance in an insolvency regime presents the best assurance for saving honest entrepreneurs in times of financial distress.

Again, a fundamental principle underlying the policy is to offer financial support in the form of access to capital, loans, or grants to individuals who face business failure. This support aims to reduce the financial barriers that might prevent entrepreneurs from trying again and helps them rebuild their businesses. Mentoring and guidance programme is another principle upon which resources and guidance are given to entrepreneurs to gain insights, in their second attempt to help them make better-informed decisions and mitigate risks. There is theorisation that there is a "growing awareness that entrepreneurial skills, knowledge and attitudes can be learned and in turn lead to the widespread development of entrepreneurial mindsets and culture, which benefit individuals and society as a whole" (Bacigalupo, Kampylis, Punie & Van den Brande, 2016). Such learning processes for honest entrepreneurs include mentoring provided to help them reorganise.

Finally, the stigma of failure is one factor that drives some jurisdictions from advancing the legal regimes of second chance policy (Shepherd, Williams, Wolfe, & Patzelt, 2016; Jia, 2015; Simmons, Wiklund & Levie, 2014; Qi, ibid; Landier, 2005). Entrepreneurship can be a challenging journey, and failure is a common occurrence (Khelil, 2016; Artinger & Powell, 2016). The second chance policy helps reduce the stigma associated with business failure and encourages society to view it as a stepping stone rather than a career-ending setback (Hwang & Choi, 2021).

In a nutshell, the second chance policy under entrepreneurship seeks to create a supportive ecosystem that acknowledges the lessons learned from failure, provides resources and support, and encourages individuals' entrepreneurial spirit, ultimately leading to economic growth and prosperity.

Key components of the second chance policy

The second chance policy, often referred to as the "fresh start" (Efrat, ibid) or "rescue relief" policy (Bridge, 2013), is a framework that aims to provide individuals or businesses facing insolvency with an opportunity for a new financial beginning. The specific aspects of the policy can vary depending on the jurisdiction and legal framework. Some common elements

usually expected to yield to beneficiary entrepreneurs are identified below. One of the primary aspects of the Second Chance Policy is debt relief or discharge (Spooner, 2019). This means that eligible debts are either partially or completely forgiven, allowing individuals or businesses to start afresh. However, it is important to note that not all debts may be discharged, particularly those related to certain legal obligations like child support or taxes. To protect individuals or businesses from aggressive debt collection actions, the Second Chance Policy often includes an automatic stay provision (Zinn, 2020; Ayer, Bernstein & Friedland, 2004; *Westinghouse Credit Corp. v. D'Urso,* 2002*; Reiter v. Cooper,* 1993). This provision halts all collection efforts, including lawsuits, wage garnishment, or foreclosure, giving the debtor some breathing room to reorganise their finances (Zinn, ibid). Another aspect typically tied to this policy is financial rehabilitation. This often involves creating a plan to repay creditors, either in full or through restructuring (Suman, 1994; Flint, 1991). The goal is to ensure that those who benefit from the policy can regain their financial stability over time. While the Second Chance Policy grants a fresh start, it usually comes with credit consequences (Chang, 2018; Yuille, 2015). Filing for insolvency can impact one's credit score and make it challenging to secure loans or credit in the future (Acton, 2018; Irby, 2018; Chang, ibid). However, with diligent financial management, it is possible to rebuild credit over time. Different jurisdictions have varying eligibility criteria for the Second Chance Policy. Factors such as income, debt levels, previous bankruptcy filings, and the type of debt owed may be taken into account to determine eligibility. It is important to underscore the role of the specific laws and regulations in a jurisdiction for a comprehensive understanding of the Second Chance Policy under insolvency, hence the position of the paper to reinforce the policy by integrating relevant provisions in the existing legal framework or make a policy a necessary to save honest entrepreneurs.

Honest entrepreneurs versus fraudulent entrepreneurs

The objective criteria to distinguish between an honest entrepreneur and a fraudulent entrepreneur can be based on the actions and intentions of the entrepreneurs. First, honest entrepreneurs operate with a strong sense of integrity, emphasising honesty, transparency, and ethical behaviour in all their business dealings. They adhere to legal and moral standards, ensuring fairness and accountability. Second, honest entrepreneurs genuinely believe in their products or services and aim to create value for their customers and society. They focus on building long-term relationships, understanding customer needs, and developing innovative solutions. Third, honest entrepreneurs comply with all applicable laws, regulations, and industry standards. They understand the importance of following legal requirements, obtaining necessary permits or licenses, paying taxes, and protecting intellectual property rights. Fourth, honest entrepreneurs maintain accurate financial records, report income truthfully, and operate within their means. They prioritise ethical financial practices and avoid fraudulent activities like embezzlement, money laundering, or misusing investors' funds (Pizzi, et al. 2020; Huddleston Jr, 2019; Kocher, 2014).

On the other hand, fraudulent entrepreneurs engage in deceptive practices and exploit others and/or customers for parochial aggrandizement. First, fraudulent entrepreneurs commonly engage in deception, misrepresenting their products, services, or business operations. They may provide false information about their qualifications, financial status, or performance to attract investors or customers (Scheaf & Wood, 2021; Andoh, Quaye, & Akomea-Frimpong, 2018; Aidis, van Praag, 2007). Again, fraudulent entrepreneurs often resort to unethical practices to gain an advantage. This can include promising unrealistic

results, engaging in price fixing or cartel behaviour, or using unfair tactics to eliminate competition (*Twellium Industrial Co. Ltd v Nutrifood Ghana Ltd*, 2023). In addition, fraudulent entrepreneurs evade legal requirements, such as evading taxes, operating without necessary licenses, or ignoring safety regulations. Their actions indicate disregard for the law and potential harm to stakeholders. Also, fraudulent entrepreneurs intentionally set out to deceive others, seeking personal gains at the expense of investors, partners, or customers. Their primary focus is often on making quick profits or carrying out illegal activities. To save honest entrepreneurs in insolvency proceedings, it will be beneficial to have a clear policy framework alongside Act 1015 that identifies and addresses fraudulent entrepreneurs to protect consumers, investors, and the overall business ecosystem. An enduring legal framework, due diligence, and increased awareness are recommended as this paper seeks to argue for preventing and penalising fraudulent behaviour in entrepreneurship (Scheaf & Wood, ibid; Andoh, Quaye, & Akomea-Frimpong, ibid; Aidis, van Praag, ibid).

The CAMEL framework

The CAMEL is a popular model for assessing distressed companies during insolvency proceedings for rescue interventions. It is the model which measures the financial performance of financial institutions in terms of five features or factors: Capital adequacy, Assets quality, Management, Earning quality, and Liquidity (Kagan, 2023). The CAMEL rating system is a useful model for rating financial institutions internationally (Kagan, ibid). This model helps to identify financial institutions, for instance, that are weaker and potentially problematic for assessment and rescue or reorganisation. In determining the "Capital Adequacy" authorities assess the capital trend of the company. This involves examining the company's regulatory compliance with risk-based net worth or capital requirements[3] (Glazman, 2022). This requires compliance with interest and dividend rules and practices to stay within the requirement.

Additionally, the analysis of capital adequacy considers the company's growth plans, economic environment, and ability to control risk, and loan and investment portfolios. Data shows that many defunct Ghanaian banks affected by recent banking reforms defaulted in this domain (See Korankye-Sakyi, Abe & Yin, ibid; Sandow, Duodu & Oteng-Abayie, 2021; Gadagbui & Amoah, 2016). In terms of "asset quality", examiners are concerned with an institutional loan's quality, which covers the earnings of the institution. Assessing asset quality is done by comparing the financial institution's balances with its capital earnings to ascertain its investment risk factors. A positive rating determines the institution's stability during crises. It shows the efficiency of an institution's investment policies and practices (Kagan, ibid; Xidonas, *et al.*, 2007; Hsu, 2002). "Management assessment" looks into an institution's ability during financial crises (Singh & LaBrosse, 2012; Coffee, 2006). This factor assesses management's ability to show measures in place to confront risks in the institution's daily activities. It entails internal and external regulatory compliance by the management (Hopt, Kumpin & Steffek 2009). A financial institution's ability to produce earnings to be able to sustain its activities, expand, and remain competitive is a key factor in rating its continued viability. This is done by assessing the institution's earnings, earnings growth, stability, valuation allowances, net margins, net worth level, and the quality of the bank's existing assets. A bank earns money both through interest on loans and non-interest sources like fees, charges and commissions (Bank for International Settlements Press and

[3] Risk-based capital requirement refers to a rule that establishes minimum regulatory capital for financial institutions.

Communications, 2008; Kagan, ibid). To determine the institution's liquidity, the model examines interest rate risk sensitivity, availability of assets that can easily be converted to cash, dependence on short-term volatile financial resources, and asset and liability management technical competence of the institution (Bank for International Settlements Press and Communications, ibid; Kagan, ibid).

Challenges faced by honest entrepreneurs

To make a case for a policy to save honest entrepreneurs, I will not hesitate to explore some common challenges faced by honest entrepreneurs in the entrepreneurial ecosystem in Ghana. As in many developing countries, entrepreneurs in Ghana are confronted with diverse challenges in their management and operational stages (Silva, Beirão & Torres, 2023).

Cash is considered the life of every entrepreneur (Korankye-Sakyi, 2019; Lawal, Iyiola & Adegbuyi, 2018; Greene & Storey, 2004). Limited access to capital is a common feature of the challenges to most entrepreneurs in Ghana (Korankye-Sakyi & Oluyeju, 2022; Hwang, Desai & Baird, 2019; Korankye-Sakyi, ibid). Studies have shown that a critical challenge faced by entrepreneurs is the difficulty in accessing sufficient funding for startups or scale businesses (Korankye-Sakyi & Oluyeju, ibid; Hwang, Desai & Baird, ibid; Korankye-Sakyi, ibid; Bellavitis, Filatotchev, Kamuriwo & Vanacker, 2017; Barry & Mihov, 2015; Bates & Robb, 2013; Alsos, Isaksen & Ljunggren, 2006). Again, additional financial resources are often required to cater for inadequate infrastructure such as intermittent power supply, limited access to technology and digital infrastructure, and inadequate transportation networks that hinder efficient business output, especially in developing countries.

Honest entrepreneurs may face bureaucratic hurdles when starting or running a business in an unsupportive business environment. This environment is characterised by lengthy processes involved in business registration, licensing, and taxation. A more streamlined and efficient system would greatly benefit entrepreneurs. Another challenge for entrepreneurship in Ghana is competition and market access (Aidoo, 2020). Ghana has a vibrant marketplace, but it can also be highly competitive. Entrepreneurs often struggle to differentiate their products or services amidst intense competition. Additionally, accessing wider markets, both domestically and internationally, can pose challenges due to trade barriers and limited resources. To appreciate the theory of second chance policy for honest entrepreneurs, I argue that the understanding of the problem dynamics as stated above would influence the depth of stakeholders' understanding.

Unpacking the legal framework on second chance policy in Ghana

The Companies Act, 2019 (Act 992)

The Companies Act, 2019 (Act 992) of Ghana does not specifically address the Second Chance policy. Act 992 mainly focuses on the regulation and governance of companies in Ghana. It provides guidelines on the formation, operation, and dissolution of companies, as well as rules regarding receivership, directors, shareholders, and other key aspects of corporate governance.

The Second Chance Policy, on the other hand, pertains to the legal provisions and mechanisms that allow individuals who have faced business failure or insolvency to have a fresh start and an opportunity to rehabilitate themselves. While Act 992 does not directly address this policy, Ghana's legal framework does have provisions related to business rehabilitation, insolvency, and bankruptcy. These laws provide for mechanisms such as company reorganisations, voluntary arrangements, debt restructuring, and liquidation procedures. The implementation of specific aspects of the Second Chance Policy, including

provisions for debt forgiveness, discharge, and rehabilitation, are addressed fairly in separate legislation beyond the scope of Act 992.

The Corporate Restructuring and Insolvency Act, 2020 (Act 1015)

The Corporate Restructuring and Insolvency Act, 2020 (Act 1015) is the main legislation regulating corporate insolvency in Ghana. In the wake of the recent Ghanaian financial sector reforms, the then law, the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180) was called into question as to its efficiency in dealing with the dynamics of the times. Its inefficiencies were considered detrimental to the well-being of businesses in the country. The passage of Act 1015 was welcomed as the responsive legal regime for administering the corporate ecosystem of insolvency. Act 1015 effectively repealed Act 180 by introducing far-reaching amendments to engender timely, efficient and impartial insolvency administration. Act 1015 was introduced to provide individuals and businesses with an opportunity to rehabilitate their financial situation and recover from insolvency. A key object of Act 1015 is for "the administration of the business, property and affairs of a distressed company in a manner that provides an opportunity for the company to as much as possible continue in existence as a going concern" among others (Act 1015. s.1). This provision is a clear intent to manifest the Second Chance Policy in the Ghanaian insolvency jurisprudence. It strikes a balance between protecting the rights of debenture holders and affording failed businesses a fresh start. Per ss. 1(2) of Act 1015: "A company shall be placed in administration or restructuring if (a) the company is unable to pay the debts or current obligations of the company as the debts or obligations fall due even if the total assets of the company exceed the total liabilities of the company; or (b) the company has a negative net worth."

As indicated earlier, experiences from recent insolvency and banking reforms under the defunct Act 180 did not provide safeguards for rescuing distressed entrepreneurs; hence Act 1015 provides a safe schedule. The second chance regime under Act 1015 is elaborate with a corporate restructuring and administration process (Act 1015, ss. 2-78). The purpose of this insolvency regime is to place a temporary freeze on the rights of creditors and other claimants against a distressed company and develop and implement a restructuring plan which results in a better return for the creditors and shareholders of the company that would result from the immediate winding-up of a distressed company (Act 105, s. 1(1) (c and d)).

First, entrepreneurs under the insolvency process may propose a repayment plan to their creditors (Act 1015, s.1 (2)). It includes debt restructuring, rescheduling and reduction of debts. The distressed business must show that it is incapable of fulfilling its financial obligations and has made reasonable efforts to resolve the situation before seeking relief under such a policy. I posit that, for many financial institutions that were liquidated and placed under receivership recently, this provision would have served a greater purpose for a second chance if this law was in force at the time. This demands a petition to the High Court from the debtor company by filing documents on company assets, liabilities and debenture holders. A determination by the court on the petition to accept or reject the request is crucial for the appointment of a licensed administrator for the process who shall act as the restructuring officer, unless the creditors at the watershed meeting by resolution appoint an individual to be the restructuring officer or insolvency practitioner (Act 1015, s.39). An administrator may be appointed by (a) the company; (b) the liquidator, where the company is in liquidation; (c) a person holding a charge over the whole or substantially the whole of the property of the company or the receiver appointed by that person; or (d) the Court (See Act 1015, s. 3(5)).

Second, the insolvency practitioner by law works with the parties to develop a reasonable

repayment plan. This plan is voted upon by the debenture holders to accept or otherwise. If the majority of the creditors agree to the proposal, it becomes binding on all parties involved. If the plan is successfully implemented, the debtor can obtain a discharge from their debts and receive a second chance to rebuild their financial situation. Per section 49 of Act 1015,
Where the creditors at a watershed meeting pass an ordinary resolution that the company executes a restructuring agreement, and the company fails to do so within the deadline for execution, the restructuring officer shall apply to the Court for leave to convert the administration of the company into official liquidation.

In sum, the second chance provisions under Act 1015 are for the administration of the business, the property and affairs of a failing company to provide a chance for the company to revitalise as a going concern; and offer temporary management interventions for the business and assets of a distressed company through receivership (Act 1015, s. 1(1), a & b).
This law provides a structured framework to address insolvency issues and facilitate efficient debt restructuring but fails to provide clear parameters for enabling distressed businesses to benefit from the provisions based on factors such as Capital adequacy, Assets quality, Management, Earning quality, and Liquidity offered by the CAMEL model.

Conclusion and Recommendations

Conclusions

Entrepreneurship is a major driver of national economic development in achieving goal nine of the SDGs which partly seek to promote inclusive and sustainable economies. Risk is an inherent feature of entrepreneurship. Every progressive society endeavours to resolve this mischief through a deliberate legal mechanism to absolve honest entrepreneurs in times of crisis. In this paper, I argued that many of the over 400 financial institutions that were liquidated and collapsed in the recent financial sector reforms in Ghana could have been saved if there were clear legal regimes that provided for saving honest entrepreneurs. It is established that the absence of clear provisions in Act 180 and other mercantile laws at the time was unhelpful. The second chance policy works effectively in supporting entrepreneurs to regroup and reorganise after insolvency by giving a safety portfolio.

It is argued that the hiatus in the Act 180 regime informed a progressive position in the current law under Act 1015. However, a further amendment to Act 1015 for clear provisions to segregate honest entrepreneurs from fraudulent counterparts in future crises is required. Along with a substantive legislative instrument, a Second Chance Policy framework focusing on the CAMEL model can give a compass around the process.

Again, to strengthen the policy, comprehensive flexible debt repayment plans, alternative dispute resolution mechanisms, sector collaboration, and robust data collection and analysis are proposed.

Recommendations

Expanding the scope and reach of the second chance policy under insolvency law in Ghana can provide a wider safety net for individuals and businesses facing financial distress. On this score, the following proposals are recommended.

First, there should be an expansion in the scope of saving businesses under the law to include individual honest entrepreneurs as the current regime fails to address such concerns. This will enable individual entrepreneurs to reorganise their financial portfolios and apply for a fresh start. Second, this paper proposes a sector-specific approach to the Second Chance Policy, recognising that certain sectors and specialised individuals may require tailored support

and regulations. This can include provisions for sectors such as banking, manufacturing, and Micro, Small and Medium-sized Enterprises (MSMEs) which may face peculiar problems in times of economic volatility. Third, it is also important to suggest a regular review of the laws to meet the legal exigencies and requirements of the specific sectors in times of financial crises. This would help prevent the exclusion of deserving individuals and businesses due to rigid requirements.

By implementing these ideas, the Second Chance Policy under insolvency law in Ghana can be broadened to offer a more embracing framework based on the CAMEL for individuals and businesses in need of recovery and rescue.

The doctrinal desktop methodology is a valuable tool for certain types of research but has limitations in capturing the lived experiences and perspectives of stakeholders. I recommend that combining the methodology of this paper with other research tools such as interviews or surveys in other studies in future may offer a more empirical appreciation of the topic and its impact on honest entrepreneurs in Ghana for an effective advocacy on this subject.

References

Acton, B. (2018). *7 Myths about bankruptcy and your credit debunked*. Retrieved from https://blog.credit.com/2018/03/7-bankruptcy-myths-debunked-64540/

Andoh, C., Quaye, D., & Akomea-Frimpong, I. (2018). Impact of fraud on Ghanaian SMEs and coping mechanisms. *Journal of Financial Crime*, 25(2), 400–418.doi:10.1108/JFC- 05-2017-0050

Aidis, R., van Praag, M. (2007). Illegal entrepreneurship experience: Does it make a difference for business performance and motivation? *Journal of Business Venturing*, 22(2), 283–310.doi:10.1016/j.jbusvent.2006.02.002

Aidoo, S. (2020). *An assessment of entrepreneurial finance opportunities for SMEs in Ghana: Financing mechanisms, market access constraints and improvement strategies*. Retrieved from http://dx.doi.org/10.2139/ssrn.4414338

Ali, S.I.,Yusoff, Z. M. & Ayub, Z. A. (2017). Research of doctrinal and non-doctrinal. *International Journal of Trend in Research and Development*, 4(1).

Alsos, G., Isaksen, E. & Ljunggren, E. (2006). New venture financing and subsequent business growth in men- and women-led businesses," *Entrepreneurship Theory and Practice*, 30(5), 667-686.

Alter, A. L., & Hershfield, H. E. (2014). People search for meaning when they approach a new decade in chronological age. *Proceedings of the National Academy of Sciences, USA,* 111, 17066–17070.

Amankwah-Amoah, J., Boso, N. & Antwi-Agyei, I. (2018). The effects of business failure experience on successive entrepreneurial engagements: An evolutionary phase model. *Group and Organization Management*, 43(4), 648-682.

Anderson, C. & Morrison, D. (2015). Is corporate rescue a realistic ideal? Business as usual in Australia and the United Kingdom, *Nottingham Insolvency and Business Law e-Journal,* 3.

Artinger, S. & Powell, T.C. (2016). Entrepreneurial failure: Statistical and psychological explanations. *Strategic Management Journal*, 37(1), 1047–1064.

Ayer, J.D., Bernstein, M. & Friedland, J. (2004). Issues and information for the insolvency professional: An overview of the automatic stay.*The American Bankruptcy Institute*, 1

1-101.

Bacigalupo, M., Kampylis, P., Punie, Y., & Van den Brande, G. (2016). *EntreComp: The entrepreneurship competence framework*. Luxembourg: Publication Office of the European Union. doi:10.2791/593884.

Barry, C. & Mihov, V. (2015). Debt financing, venture capital, and the performance of initial public offerings. *Journal of Banking & Finance*, *58*, 144-165.

Bank for International Settlements Press & Communications. (2008). Basel Committee on Banking Supervision: Principles for sound liquidity risk management and supervision, 1-38.

Bates, T. & Robb, A. (2013). Greater access to capital is needed to unleash the local economic development potential of minority-owned businesses. *Economic Development Quarterly*, *27*, 250–259.

Baumard, P. & Starbuck, W. H. (2005). Learning from failures: Why it may not happen. *Long Range Planning*, *38*(3), 281-298.

Beckert, J. (2003). *Beyond the market: The social foundations of economic efficiency. Princeton: Princeton University Press.* https://doi.org/10.1515/9781400825448

Bellavitis, C., Filatotchev, I., Kamuriwo, D. & Vanacker, T. (2017). Entrepreneurial finance: New frontiers of research and practice. *Venture Capital*, *19*(1-2), 1-16.

Boldureanu , G. et al. (2020). Entrepreneurship education through successful entrepreneurial models in higher education. *Institutions Sustainability*, *12*. doi:10.3390/su12031267.

Bridge, C. (2013). Insolvency–a second chance? Why modern insolvency laws seek to promote business rescue. *Law in Transition.*

Camerer, C. & Ari, V. (1988). The economic efficiency of corporate culture, *Strategic Management Journal, 9*(1), 115-126.

Chang, E. (2018). *How long does a bankruptcy stay on your credit report?* Retrieved from https://www.experian.com/blogs/ask-experian/how-long-does-a-bankruptcy-stay-on-your-credit-report/

Chen, J. (2020). *Risk-based capital requirement: Definition, calculation, tiers*. Retrieved from https://www.investopedia.com/terms/r/risk-based-capital-requirement.asp#:~:text=Under%20the%20Dodd%2DFrank%20rules,based%20capital%20ratio%20of%204.5%25

Coffee, J.C. Jr. (2006). *Gatekeepers: The profession and corporate governance*. Oxford University Press.

Robson, C. & McCartan, K. (2011). *Real-world research: A resource for users of social research methods in applied settings*, (4th ed.). John Wiley & Sons Ltd.

Cope, J. (2011). Entrepreneurial learning from failure: An interpretative phenomenological analysis. *Journal of Business Venturing*, *26* (6), 604-623.

Cope, J. (2005). Toward a dynamic learning perspective of entrepreneurship. *Entrepreneurship Theory and Practice*, *29*(4), 373-397.

Cullen, F. T., & Gendreau, P. (2000). Assessing correctional rehabilitation: Policy, practice and prospects. Policies, processes and decisions of the criminal justice system. *Criminal Justice*, *3*, 109–175.

Dai, H., Milkman, K. L., & Riis, J. (2015). Put your imperfections behind you: Temporal landmarks spur goal initiation when they signal new beginnings. *Psychological Science, 26*(12),1927–1936.

Dai, H., Milkman, K. L., & Riis, J. (2014). The fresh start effect: Temporal landmarks

motivate aspirational behaviour. *Management Science*, *10*, 2563–2582.

Efrat, R. (1999). The Fresh−Start Policy in bankruptcy in modern day Israel. *American Bankruptcy Institute Law Review*, 7 (2).

Fletcher, I. (2009). *The law of insolvency* (4th ed.). London: Sweet & Maxwell,

Flint, R.E. (1991). Bankruptcy policy: Toward a moral justification for financial rehabilitation for the consumer debtor. *Washington & Lee Law Review*, *4*.

Frota Vasconcellos Dias, T.R. & Martens, C.D.P. (2019). Business failure and the dimension of entrepreneurial learning: Study with entrepreneurs of micro and small-sized enterprises. *Brazilian Journal of Management/Revista de Administraç~ao da UFSM*, *12* (1), 107-124.

Gadagbui, H. & Amoah, B. (2016). *Bank capital and profitability: A Study of selected banks in Ghana.* http://dx.doi.org/10.2139/ssrn.2875810

Gendreau, P., & Ross, R. (1987). Revivification of rehabilitation: Evidence from the 1980s. *Justice Quarterly*, *4*(3), 349–407.

Genn, H., Partington, M. & Wheeler, S. (2006). *Law in the real world: Improving our understanding of how law works. Final report and recommendations. The Nuffield inquiry on empirical legal research.* British Library Cataloguing in Publication.

Glazman, J. (2022). *Understanding Risk-Based Capital and Complex Credit Union Leverage Ratio Rules.* Retrieved from https://doeren.com/understanding-risk-based-capital-and-complex-credit-union-leverage-ratio-rules/

Greene, F. J. & Storey, D. J. (2004) An assessment of a venture creation programme: The case of Shell *Live*WIRE. *Entrepreneurship & Regional Development*, *16*(2), 145-159. doi: 10.1080/0898562041000167785

Goode, R. (2011). *Principles of corporate insolvency law* (4th ed.). London: Sweet & Maxwell.

He, V.F. et al. (2018). Keep calm and carry on: Emotion regulation in entrepreneurs' learning from failure. *Entrepreneurship Theory and Practice*, *42*(4), 605-630.

Hengchen D., Milkman, K.L. & Riis, J. (2014). The fresh start effect: Temporal landmarks motivate aspirational behavior. *Management Science*, 1-22. https://doi.org/10.1287/mnsc.2014.1901.

Hershfield, H.E. et al., (2015). *The fresh start effect: How necessary transgressions facilitate goal pursuit.*

Hopt, K.J., Kumpin, C. & Steffek, F. (2009). Preventing bank insolvencies in the financial crisis: The German financial market stabilisation Acts. *European Business Organization Law Review, 10*(4).

Hsu, B. F. C. (2001-2002). Asset quality in hksar's real estate markets: A public policy and legal analysis. *UCLA Pacific Basin* Law Journal, *19.*

Huddleston Jr, T. (2019). Mark Cuban: This is the one lie all successful entrepreneurs tell. Retrieved from https://www.cnbc.com/2019/04/05/mark-cuban-the-lie-successful-entrepreneurs-tell-themselves.html

Hutchinson, T. C.& Duncan, N. (2012). Defining and describing what we do: Doctrinal legal research.*Deakin Law Review*,*17*(1), 83-119.

Hutchinson, T. (2015). The doctrinal method: Incorporating interdisciplinary methods in reforming the law. *Erasmus Law Review*, *3*, 130-138.

Hwang, V., Desai, S., and Baird, R. (2019). *Access to capital for entrepreneurs: Removing barriers*. Kansas City: Ewing Marion Kauffman Foundation.

Hwang K. & Choi J. (2021). How do failed entrepreneurs cope with their prior failure when they seek subsequent re-entry into serial entrepreneurship? Failed Entrepreneurs' optimism and defensive pessimism and coping humor as a moderator. *International Journal of Environmental Research and Public Health, 18*(13). doi: 10.3390/ijerph18137021

Irby, L. (2018). *How will bankruptcy affect your credit score?* Retrieved from https://www.thebalance.com/how-much-will-bankruptcy-hurt-your-credit-score-960061

Jenkins, A., & McKelvie, A. (2016). What is entrepreneurial failure? Implications for future research. *International Small Business Journal*, *34*(2), 176-188.

Jensen, M. (2000). *A theory of the firm: Governance, residual claims and organisational forms* (Chapter 4). Harvard MA: Harvard University Press.

Jia, J. (2015). The impact of personal bankruptcy law on entrepreneurship. *Canadian Journal of Economics / Revue canadienne d'economique, 48*(2).

Job, V. et al. (2017). The fresh start effect: New beginnings increase motivation to change.

Jost, J. T., & Kay, A. C. (2010). Social justice: History, theory, and research. In Fiske, S. T., Gilbert, D.T. & Lindzey, G (Eds.). *Handbook of social psychology* (pp. 1122–1165). John Wiley & Sons, Inc.. https://doi.org/10.1002/9780470561119.socpsy002030

Kagan, J. (2023). CAMELS rating system: What it is, how it is calculated. Retrieved from https://www.investopedia.com/terms/c/camelrating.asp

Keay, A. (2010). Office-holders and the duty of directors to promote the success of the company. *Insolvency Intelligence.* Retrieved from https://www.guildhallchambers.co.uk/files/2Directors_Duties_ProfKeay.pdf

Khelil, N. (2016). The many faces of entrepreneurial failure: Insights from an empirical taxonomy. *Journal of Business Venturing*, *31*(1), 72–94.

Kilcommins, S. (1973). *Doctrinal legal method (Black-Letterism): Assumptions, commitments and shortcomings*. The Paper Chase (Clarus Press).

Klimas, P., Czakon, W., Kraus, S. & Kailer, N. (2021). And adnane maalaoui5, entrepreneurial failure: A synthesis and conceptual framework of its effects. *European Management Review*, *18*, 167–182.

Kocher, C. (2014). Does an entrepreneur need to be honest? Retrieved from https://thetransformation.company/does-an-entrepreneur-need-to-be-honest/

Korankye-Sakyi, F.K., Abe, O.O., Yin, E.T. (2023). Revisiting MSMEs financing through banking reform processes: Assessing the Ghanaian legal experiences. In Peprah, J.A., Derera, E., Ngalawa, H., Arun, T. (Eds.). *Financial Sector Development in Ghana: Palgrave Macmillan Studies in Banking and Financial Institutions* (pp.207-229). Palgrave Macmillan, Cham.). 10.1007/978-3-031-09345-6_9

Korankye-Sakyi, F. K. & Oluyeju, O. (2022). Leveraging regulatory interventions in the receivables financing industry to stimulate the growth of small businesses in Ghana. *Speculum Juris*. *36*(1), 184-200.

Korankye-Sakyi, F. K. (2019). *Factoring as a means of promoting small and medium scale enterprises: The case for a legal framework for credit factoring in Ghana*. LL.M Thesis: Faculty of Law, University of Pretoria.

Kurtz, R. (2004). "What It Takes" Inc 500, Fall.

Landier, A. (2005). Entrepreneurship and the stigma of failure. Retrieved from https://ssrn.com/abstract=850446 or http://dx.doi.org/10.2139/ssrn.850446

Lattacher, W. & Wdowiak, M. A. (2020). Entrepreneurial learning from failure. A systematic review. *International Journal of Entrepreneurial Behavior & Research*, *26*(5), 1093-1131. DOI 10.1108/IJEBR-02-2019-0085.

Lawal, F. A., Iyiola, O.O. & Adegbuyi, O.A. (2018). Exploring alternative financing for entrepreneurship development in Nigeria: Surmounting challenges. *Journal of Entrepreneurship Education*, *21*(1), 1-11.

Leplege, A., Gibson, B.E. & McPherson, K. (Eds.) (2015). *Rethinking rehabilitation: Theory and practice.* United States: CRC Press.

Cannon, M.D. & Edmondson, A. C. (2005). Failing to learn and learning to fail (Intelligently): How great organizations put failure to work to innovate and improve. *Long Range Planning*, *38*(3), 299-319.

McConville, M. & Chui, W. H. (Eds). (2017). *Research methods for law* (2nd ed). (pp.1-16). Edinburgh University Press Ltd.

McGrath, R.G. (1999). Falling forward: Real options reasoning and entrepreneurial failure. *Academy of Management Review*, *24*(1), 13-30.

Minniti, M. & Bygrave, W. (2001). A dynamic model of entrepreneurial learning. *Entrepreneurship Theory and Practice*, *25*(3), 5-16.

Murillo-Zamorano, L. R. (2004). Economic efficiency and frontier techniques. *Journal of Economic Survey*. https://doi.org/10.1111/j.1467-6419.2004.00215.x

NAIC. (2023). *Risk-based capital*. Retrieved from https://content.naic.org/cipr-topics/risk-based-capital

Patino, C.M. & Ferreira, J.C. (2018). Inclusion and exclusion criteria in research studies: Definitions and why they matter. *The Brazilian Journal of Pulmonology and International Databases.* 44(2), 84. doi: 10.1590/s1806-37562018000000088

Petropoulos, F. et al. (2022). Forecasting: Theory and practice. *International Journal of Forecasting, 38*, 705-871.

Pizzi, S., Caputo, F. & Venturelli, A. (2020). Does it pay to be an honest entrepreneur? Addressing the relationship between sustainable development and bankruptcy risk. *Corporate Social Responsibility and Environmental Management*, 27(3), 1478-1486

Qi, L. (2008). Managerial models during the corporate reorganisation period and their governance effects: The UK and US perspective. *Company Lawyer*, *131*.

Rizvi, F. (1998). Some thoughts on contemporary theories of social justice. In Atweh,B., Kemmis,S. & Weeks, P. (Eds.). *Action Research in Practice: Partnership for Social Justice in Education*. London: Routledge. https://doi.org/10.4324/9780203024478

Sandow, J.N., Duodu, E. & Oteng-Abayie, E. F. (2021). Regulatory capital requirements and bank performance in Ghana: Evidence from panel corrected standard error. *Cogent Economics & Finance*, *9*(1). DOI: 10.1080/23322039.2021.2003503

Sanjari, M. et al. (2015). Ethical challenges of researchers in qualitative studies: The necessity to develop a specific guideline. *Journal of Medical Ethics and History of Medicine*, *4*(7).

Scheaf, D. J., & Wood, M. S. (2022). Entrepreneurial fraud: A multidisciplinary review and synthesised framework. *Entrepreneurship Theory and Practice*, *46*(3), 607-642. https://doi.org/10.1177/10422587211001818

Shepherd, D., Williams, T., Wolfe, M., & Patzelt, H. (2016). Stigma over failure and impression management. In *Learning from Entrepreneurial Failure: Emotions,*

Cognitions, and Actions (pp. 194-230). Cambridge University Press. doi:10.1017/CBO9781316416242.007.

Shepherd, D.A. (2003). Learning from business failure: Propositions of grief recovery for the self-employed. *Academy of Management Review*, *28* (2), 318-328.

Silva, E., Beirão, G., & Torres, A. (2023). How startups and entrepreneurs survived in times of pandemic crisis: Implications and challenges for managing uncertainty. *Journal of Small Business Strategy*, *33*(1), 84–97. https://doi.org/10.53703/001c.72084

Simmons, S. A., Wiklund, J., & Levie, J. (2014). Stigma and business failure: Implications for entrepreneurs' career choices. *Small Business Economics*, *42*(3), 485-505. https://doi.org/10.1007/ s11187-013-9519-.

Singh, D. & LaBrosse, J. R. (2012). Developing a framework for effective financial crisis management. *OECD Journal: Financial Market Trends*, *2011*(2), 1-30.

Smith, R. (2015). How much money do entrepreneurs need to get their businesses up and running? Retrieved from https://businessadvice.co.uk/finance/debt/how-much-money-do-entrepreneurs-need-to-get-their-businesses-up-and-running/

Spooner, J. (2019). Bankruptcy: The case for relief in an economy of debt. In Ferran, E., Moloney, N.& Jackson, H. E. (Eds.). *International corporate law and financial market regulation.* Cambridge University Press.

Suman, K.B. (1994). Financial rehabilitation of public sector banks: Conceptual and policy aspects. *Economic and Political Weekly*, *29*(5), 251–255. http://www.jstor.org/stable/4400728

Tyler, T., Boeckmann, R. J., Smith, H. J., & Huo, Y. J. (2019). *Social justice in a diverse society*. Routledge.

Walsh, G. S. & Cunningham, J.A. (2017). Regenerative failure and attribution: Examining the underlying processes affecting entrepreneurial learning. *International Journal of Entrepreneurial Behavior & Research*, *23*(4), 688–707.

Wennberg, K. & DeTienne, D.R. (2014). What do we mean when we talk about 'exit?' A critical review of research on entrepreneurial exit. *International Small Business Journal*, *32*(1), 4-16.

Wood, J.M. (2013). *Corporate rescue: A critical analysis of its fundamentals and existence*. PhD Thesis: The University of Leeds School of Law, Centre for Business Law and Practice.

Xidonas, P. et al. (2007). On the appraisal of consumer credit banking products within the asset quality frame: A multiple criteria application. *Operational Research: An International Journal*, *7*, 255–283. https://doi.org/10.1007/BF02942390

Yuille, B. (2015). Bankruptcy timeline: Rebuilding credit. Retrieved from https://www.bankrate.com/finance/debt/bankruptcy-timeline-rebuilding-credit-1.aspx

Zahra, S. & Dess, G.G. (2001). Entrepreneurship as a field of research: Encouraging dialogue and debate. *The Academy of Management Review*, *26*(1), 8–10.

Zinn, D. (2020). What is an automatic stay in bankruptcy? Retrieved from https://www.bankrate.com/personal-finance/debt/what-is-an-automatic-stay/

Statutes and Case Law

1. *The Corporate Restructuring and Insolvency Act, 2020* (Act 1015).
2. *The Companies Act, 2019* (Act 992).
3. *The Bodies Corporate (Official Liquidations) Act, 1963* (Act 180).

4. *Twellium Industrial Co. Ltd v Nutrifood Ghana Ltd* [2023]. Unreported, Suit No: CM/RPC/0356/2017.
5. *Solomons and Defty v Cheal, Huggins and Coster* [2011] EWHC 2543 (Ch).
6. *Westinghouse Credit Corp. v. D'Urso*[2002] 278 F.3d 138, 147 (2d Cir.).
7. *Reiter v. Cooper*[1993] 507 U.S. 258, 265 n.2.

Internet Sources

8. Retrieved from https://thebusinessprofessor.com/en_US/banking-lending-credit-industry/camels-rating-systemdefinition
9. Retrieved from https://content.naic.org/cipr-topics/risk-based-capital

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