

Immigrant Entrepreneurs in Bankruptcy

by

*Rafael Efrat**

I. INTRODUCTION

Entrepreneurship is a vital and promising venue for immigrants trying to integrate into the labor market. Immigrants make up a growing portion of the self-employed and are overrepresented in the small business sector in the United States. Nonetheless, immigrant entrepreneurs face disadvantages compared to their native-born counterparts. In addition to language and networking barriers, immigrant entrepreneurs face difficulties accessing reasonably priced-credit, tend to over-concentrate in retail and other low-growth industries, and largely operate small enterprises.

This article reports the results of a study of 1,500 bankruptcy petitioners in the United States Bankruptcy Court for the Central District of California to determine the extent to which immigrant entrepreneurs are over or under-represented among entrepreneurs in bankruptcy. The study also sought to distinguish financial and non-financial characteristics of immigrant entrepreneurs in bankruptcy compared to their native-born counterparts.

We begin with a review of the literature relating to immigrants entrepreneurs and the reasons for their overrepresentation among small business owners in the United States. We then detail our hypothesis relating to immigrant entrepreneurs in bankruptcy. Next, we describe the methodology used in the study and provide a summary of the study's results. Finally, we explore the reasons for the immigrant entrepreneurs' underrepresentation in our bankruptcy sample.

*Associate Professor, College of Business & Economics, California State University, Northridge. J.S.D., 2002, J.S.M., 1998, Stanford Law School; J.D., 1992, University of Southern California. I would like to acknowledge the cooperation I received from the Executive Office of the United States Trustee, the Clerk of the Court for the United States Bankruptcy Court, Central District of California, as well as the Assistant United States Trustee for the San Fernando Valley Division of the United States Trustee's Office, Jennifer L. Braun. I would also like to express my appreciation for the data-gathering efforts of my research assistants: Joseph W. Berriman, Scott Cohn, Ryan McNicholas, Edward Morales, Collette Y. Schmidt, Cheryl R. Teague, and Tanya Vannoy. I am particularly grateful for the invaluable contribution of my lead research assistant and project manager, Carlos Gallardo.

II. IMMIGRANT ENTREPRENEURS IN THE UNITED STATES

Small business owners in the United States contribute significantly to its economy. They make up 6% of the adult population and approximately 11% of working Americans.¹ The small businesses they run make up the vast majority of businesses in the United States.² Indeed, small businesses, rather than large companies, have been the dominant source of innovation and net job growth in the American economy.³ With an average of over half a million newly created each month,⁴ small businesses employ more than half the American work force and generate two-thirds of the net new jobs in America.⁵

Widespread small business ownership in the United States not only benefits the economy as a whole, it also supplies important advantages to the small business owners themselves. Studies have shown that the self-employed have significantly higher income than salaried workers.⁶ Small business owners also have significantly higher net worth compared to non-small business owners.⁷ And small business ownership has provided members of disadvantaged groups, including immigrants, access to critical career opportunities.⁸

Immigrants continue to provide a growing portion of entrepreneurs in the

¹See WILLIAM J. DENNIS, JR., NFIB RESEARCH FDN., THE PUBLIC REVIEWS SMALL BUSINESS 6 (2004), available at www.nfib.com/object/publicReview.html; ROBERT W. FAIRLIE, EWING MARION KAUFFMAN FDN. KAUFFMAN INDEX OF ENTREPRENEURIAL ACTIVITY 1996-2004 13 (2005), available at http://www.kauffman.org/uploadedFiles/KIEA_2004_R0506.pdf (estimating that 6.3% of the adult population in the United States is self-employed, including those who own incorporated or unincorporated businesses and those who are employers and non-employers).

²See OFFICE OF ADVOCACY, SMALL BUSINESS ADMIN., ANNUAL REP. ON SMALL BUS. AND COMPETITION 17 (2001), available at http://www.sba.gov/advo/research/stateofsb99_00.pdf ("Small businesses represent 99 percent of businesses.").

³See generally DAVID L. BIRCH, JOB CREATION IN AMERICA: HOW OUR SMALLEST COMPANIES PUT THE MOST PEOPLE TO WORK (1987); Bruce A. Kirchoff, Entrepreneurship and Dynamic Capitalism: The Economics of Business Firm Formation and Growth (1994).

⁴See Fairlie, *supra* note 1, at 2 (finding that between 1996 and 2004, "an average of 0.36 percent of the adult population created a new business each month. This represents approximately 550,000 new businesses per month over the period.").

⁵See ANNUAL REP. ON SMALL BUS., *supra* note 2, at 17.

⁶See George J. Borjas, *The Self Employment Experience of Immigrants*, 21 J. HUM. RESOURCES 485, 487 (1986) ("These statistics indicate that self-employed workers have higher annual incomes than salaries workers . . .").

⁷See George W. Haynes & Charles Ou, A Profile of Owners and Investors of Privately Held Businesses in the United States, 1989-1998 8 (April 25-26, 2002) (unpublished manuscript), available at <http://www.sba.gov/advo/stats/wkp02co.pdf> (finding that in 1998 households of business owners had higher income and higher net worth compared to non-business owner households).

⁸See ANNUAL REP. ON SMALL BUS., *supra* note 2, at 17 ("Small business continued to be an important means by which women, minorities, and immigrants entered the American economic mainstream and managed to increase their share in the economy."); OFFICE OF ECON. RESEARCH, SMALL BUSINESS ADMIN., THE NEW AMERICAN EVOLUTION: THE ROLE AND IMPACT OF SMALL FIRMS 4 (1998), available at http://www.sba.gov/stats/evol_pap.html ("Small businesses enables millions, including women, minorities, and immigrants, to access the American Dream.").

United States. In the early 1990s, immigrants made up less than 10% of the total entrepreneurial population, but within a decade foreign-born entrepreneurs constituted almost 15% of self-employed workers in the United States.⁹ Moreover, foreign-born entrepreneurs have consistently displayed a higher rate of self-employment than native-born entrepreneurs.¹⁰ In fact, foreign-born entrepreneurs have been overrepresented in American small business since the 1880s.¹¹ Foreign-born entrepreneurs have also largely contributed to the resurgence of entrepreneurship in America that started in the 1970s.¹²

That said, not all immigrant groups display the same inclination towards entrepreneurship. Some display higher self-employment rates than others.¹³ Researchers have attributed these disparities to structural and cultural differences among the various immigrant groups.¹⁴

The overrepresentation of immigrants among the self-employed is particularly prevalent in Los Angeles.¹⁵ Apparently, prospective immigrants view

⁹See ROBERT W. FAIRLIE, SELF-EMPLOYED BUSINESS OWNERSHIP RATES IN THE UNITED STATES: 1979-2003 6 (2004), available at <http://www.sba.gov/advo/research/rs243tot.pdf> (reporting that in 2003, 14.7% of business owners in the United States were foreign-born); OFFICE OF ADVOCACY, SMALL BUS. ADMIN., CHARACTERISTICS OF SMALL BUSINESS EMPLOYEES AND OWNERS 1997 15 (1998), available at http://www.sbaonline.sba.gov/advo/stats/ch_em97.pdf (indicating that in 1992, 9.4% of business owners in the United States were foreign-born).

¹⁰See IVAN LIGHT & CAROLYN ROSENSTEIN, RACE, ETHNICITY, AND ENTREPRENEURSHIP IN URBAN AMERICA 183 (1995) (finding that in the 272 metropolitan areas of the United States in 1980, the self-employment rate among all foreign-born was 9.1% compared to 7.2% of the native-born entrepreneurs); Borjas, *supra* note 6, at 487 (finding that immigrants in several racial groups are more likely to be self-employed than the native-born).

¹¹See LIGHT & ROSENSTEIN, *supra* note 10, at 181 (“[I]n every decennial census between 1880 and 1980, the foreign born evidenced persistently higher rates of self employment than did native born.”); Ivan Light, *Immigrant and Ethnic Enterprise in North America*, 7 ETHNIC AND RACIAL STUD. 195, 198 (1984) (“In actual fact, the foreign born have been overrepresented in American small business since 1880 and probably earlier.”).

¹²See IVAN LIGHT & EDNA BONACICH, IMMIGRANT ENTREPRENEURS: KOREANS IN LOS ANGELES 1965-1982 (1988) (suggesting that renewed immigration between 1972 and 1984 contributed to the resurgence of the self-employment rate in the United States in those years).

¹³See LIGHT & ROSENSTEIN, *supra* note 10, at 183 (“[S]ome immigrant and ethnic minorities displayed higher rates of self employment than others.”); Eran Razin, *Entrepreneurship among Foreign Immigrants in the Los Angeles and San Francisco Metropolitan Regions*, 9 URBAN GEOGRAPHY 283, 288 (1988) (“Great variations in the rates of self-employment existed among various ethnic groups. While certain Middle Easterners and Southeast Asians . . . showed high rates of self employment, Latin Americans and Filipinos had extremely low rates.”).

¹⁴See JAMES P. ALLEN & EUGENE TURNER, THE ETHNIC QUILT: POPULATION DIVERSITY IN SOUTHERN CALIFORNIA 207 (1997) (“Ethnic differences in self-employment are sometimes the result of cultural backgrounds which predispose some groups more than others to entrepreneurship.”).

¹⁵See JOEL KOTKIN & ERIKA OZUNA, ECONOMIC ALLIANCE OF THE SAN FERNANDO VALLEY, THE CHANGING FACE OF THE SAN FERNANDO VALLEY 18 (2002), available at http://www.valleyofthestars.net/public_html/Library/Changing%20Face%20of%20the%20SFV%202002/The%20Changing%20Face%20of%20the%20San%20Fernando%20Valley%20Rev%203.pdf (“Several of the fastest growing ethnic groups in the Valley - notably Russian Jews, Koreans, Iranians and Armenians - boast among the highest

the Southern California region as a particularly desirable place to live and work.¹⁶ Increased immigration to Southern California between 1960 and 1990 contributed to the tripling of the entrepreneurship rate there.¹⁷ According to one survey, over 40% of all entrepreneurs in the Los Angeles area are first-generation immigrants.¹⁸

Immigrants are overrepresented among the self-employed because many of them view self-employment as an effective strategy for economic integration.¹⁹ The “disadvantage” theory, which holds that people who face difficulties obtaining work as wage earners tend to become self-employed, suggests that many immigrants pursue entrepreneurship as a way to counter the disadvantages they face in the labor market, disadvantages that include language, age, and racial differences.²⁰ Even immigrants who are highly educated and experienced often find that their work experiences, as well as their educational and licensing credentials, are not recognized by United States employers.²¹ These disadvantages motivate immigrants toward self-employment.²²

An additional motivating force for immigrants to become self-employed is

rates of entrepreneurship in Southern California.”); Pyong Gap Min & Mehdi Bozorgmehr, *Immigrant Entrepreneurship and Business Patterns: A Comparison of Koreans and Iranians in Los Angeles*, 34 INT’L MIGRATION REV. 707, 722-23 (2000) (finding that the self-employment rates of foreign-born Koreans, Iranians and Chinese are significantly higher than the self-employment rate of native-born whites); Eran Razin, *Immigrant Entrepreneurs and the Urban Milieu: Evidence from the U.S., Canada and Israel* Table 3 (Vancouver Centre of Excellence, Working Paper No. 99-01, 1999), available at <http://www.riim.metropolis.net/Virtual%20Library/1999/wp9901.pdf> (finding that the self-employment rates of various self-employed immigrant groups in Los Angeles exceed 23%).

¹⁶See ALLEN & TURNER, *supra* note 14, at 207.

¹⁷See *id.* at 204 (“Over the past thirty years the self-employment in Los Angeles and Orange Counties has more than tripled. This trend is linked to entrepreneurship among immigrants.”).

¹⁸See Roper Center, Los Angeles Times Poll #427: Los Angeles County Small Businesses 50 (1999) (reporting that 44% of the self-employed respondents surveyed said they were born outside the United States).

¹⁹See Gustavo Mesch & Daniel Czamanski, *Occupational Closure and Immigrant Entrepreneurship: Russian Jews in Israel*, 26 J. SOCIO-ECON. 597 (1997); OFFICE OF ADVOCACY, SMALL BUS. ADMIN., MINORITIES IN BUSINESS 2001 4 (Nov. 2001), available at <http://www.sba.gov/advo/stats/min01.pdf> (“For many immigrants, the ‘American Dream’ has included the ownership of a small business that will serve as a gateway to America’s economic mainstream.”).

²⁰See Robert W. Fairlie & Bruce D. Meyer, *Ethnic and Racial Self-Employment Differences and Possible Explanations* 31 J. HUMAN RESOURCES 757, 775 (1996) (“[T]he [disadvantage] theory argues that disadvantages such as a difficulty speaking English, poverty, unemployment, and discrimination cause certain groups to favor self-employment.”); Ivan Light, *Disadvantaged Minorities in Self Employment*, 20 INT’L J. COMPARATIVE SOC. 31 (1979) (arguing that obstacles in the labor market, including age, low education, and lack of language proficiency, prompt many immigrants to become entrepreneurs).

²¹See Steven J. Gold, *Refugees in Small Business: The Case of Soviet Jews and Vietnamese*, 11 ETHNIC & RACIAL STUD. 411 (1988) (asserting that immigrants find their occupations do not land them good jobs in their new country because of distinctive training and licensing requirements); Kwang Kim et al., *Intra-group Differences in Business Participation: Three Asian Immigrant Groups*, 23 INT’L MIGRATION REV. 73 (1989) (arguing that American employers often do not recognize the work experience and education that immigrants have acquired in their home countries); Janet W. Salaff, et al., *Ethnic Entrepreneurship, Social Networks, and the Enclave*, in APPROACHING TRANSNATIONALISM: TRANSNATIONAL SOCIETIES, MUL-

articulated under what sociologists call the “cultural” theory, holding that certain immigrant groups enjoy cultural traits and traditions that incline them toward business enterprises.²³ Some immigrants are more likely to become self-employed because in their country of origin entrepreneurship is held in high regard and is a highly sought-after undertaking.²⁴ Some immigrant groups also have cultural or religious values that reinforce optimism, risk-taking, and frugality, all of which promote entrepreneurial activities.²⁵

Strong social networks in certain immigrant communities provide an additional incentive for many immigrants to pursue entrepreneurship.²⁶ Well-established networks in these communities offer immigrant entrepreneurs assistance in accessing vital financing and information.²⁷ These social networks also provide inexpensive and reliable labor, as well as potential suppliers and distributors.²⁸ Similarly, labor and financing assistance from extended family supplement more formal support systems.²⁹

Finally, cohesive networks within immigrant communities provide a criti-

TICULTURAL CONTACTS, AND IMAGININGS HOME 61, 61 (Brenda Yeoh et al. eds., 2002) (“Canadian employers do not recognize the credentials of immigrant professional and technical workers.”).

²²See Fairlie & Meyer, *supra* note 20, at 775; Light, *supra* note 11, at 198 (concluding that the greater the disadvantage immigrants face in the labor market, the greater the incentive they have to become self-employed). *But see* Alejandro Portes & Min Zhou, *Self Employment and the Earnings of Immigrants*, 61 AM. SOC. REV. 219, 219 (1996) (suggesting that rather than being pushed into self-employment, immigrants choose to become self-employed as a way of pursuing economic progress).

²³See STEVEN J. GOLD, *REFUGEE COMMUNITIES: A COMPARATIVE FIELD STUDY* 171 (1992); Fairlie & Meyer, *supra* note 20, at 775 (arguing that a reason for overrepresentation of certain immigrants among entrepreneurs is the embedded tradition of buying and selling); Miri Lerner & Yeoshua Hendeles, *New Entrepreneurs and Entrepreneurial Aspirations among Immigrants from the Former U.S.S.R. in Israel*, 36 J. BUS. RES. 59, 59-60 (1996); Light, *supra* note 11, at 199 (suggesting that cultural heritages may explain the anomalous and persistent overrepresentation of selected cultural minorities in self employment).

²⁴See GOLD, *supra* note 23, at 172; Shailla Srinivasan, *The Class Position of the Asian Petty Bourgeoisie*, 19 NEW COMMUNITY 61 (1992).

²⁵See GOLD, *supra* note 24, at 171-72.

²⁶See Miri Lerner & Yeoshua Hendeles, *New Entrepreneurs and Entrepreneurial Aspirations among Immigrants from the Former U.S.S.R. in Israel*, 36 J. BUS. RES. 59, 60 (1996) (contending that the accumulation of ethnic assets, including social networks, explains the overrepresentation of immigrants among entrepreneurs); Light, *supra* note 11, at 199-200 (stating that studies have documented the impact social networks have had on the propensity of immigrants to become entrepreneurs).

²⁷See Fairlie & Meyer, *supra* note 20, at 775.

²⁸See Anuradha Basu & Eser Altinay, *The Interaction Between Culture and Entrepreneurship in London's Immigrant Businesses*, 20 INT'L SMALL BUS. J. 371, 373-4 (2002) (suggesting that ethnic resources such as “cheap co-ethnic labour and cheap finance from the extended family” stimulate entrepreneurship among certain immigrant groups); Arlene Dallalfar, *Iranian Women as Immigrant Entrepreneurs*, 8 GENDER & SOC. 541, 542 (1994) (“The appropriation of unpaid women’s labor is frequent in immigrant family businesses where this act is justified through domestic bonds of kinship and patriarchy.”); Fairlie & Meyer, *supra* note 20, at 775-76 (“Another ethnic resource is the access of some groups to co-ethnics and family members that may provide an edge in hiring low-paid and trusted workers An ethnic group’s access to rotating credit associations provides another advantage.”).

²⁹See ALLEN & TURNER, *supra* note 14, at 206 (“Many ethnic groups which have high rates of self-employment share special ethnic resources not available to outsiders”).

cal base of clientele. The “enclave” theory holds that immigrants are attracted to self-employment in their own ethnic enclave to capitalize on advantages they have over native entrepreneurs in the particular line of business. Catering to their own ethnic enclave, immigrant entrepreneurs benefit from their awareness of local consumer preferences and their ability to offer local consumers the comfort of conducting business in their own culture and language.³⁰

III. HYPOTHESIS: IMMIGRANT ENTREPRENEURS ARE UNDERREPRESENTED IN BANKRUPTCY

Although immigrants are overrepresented in the entrepreneurial sector, there are a number of reasons to expect that immigrant entrepreneurs would be underrepresented in bankruptcy. As discussed earlier, immigrant entrepreneurs have social resources not available to native-born entrepreneurs.³¹ These resources, provided by kinship and cohesive peer and community members, assist immigrant entrepreneurs by serving as vital sources of customers, suppliers, finance, distributors, and low-cost and loyal employees. They also reduce the risk of a business failure and hence result in underrepresentation of immigrant entrepreneurs in bankruptcy.³²

In addition to valuable social resources, immigrant entrepreneurs enjoy significant class resources. A number of immigrant entrepreneur groups invest substantial equity capital in their businesses and rely less on debt financing compared to native-born entrepreneurs.³³ Furthermore, as a group, immigrant entrepreneurs are better educated than their native counterparts.³⁴

³⁰See IVAN LIGHT, *ETHNIC ENTERPRISE IN AMERICA* (1972); Borjas, *supra* note 6, at 487 (arguing that immigrants have higher self-employment rates because of their ability to supply unique goods to co-ethnics residing in geographic enclave). However, these ethnic markets can be limiting. See Howard E. Aldrich & Roger Waldinger, *Ethnicity and Entrepreneurship*, 16 *ANNUAL REV. SOC.* 111 (1990).

³¹See *supra* notes 26-30 and accompanying text.

³²See Henk Flap, et al., *The Social Capital of Ethnic Entrepreneurs and their Business Success*, in *IMMIGRANT BUSINESSES: THE ECONOMIC, POLITICAL AND SOCIAL ENVIRONMENT* 142, 145 (Jan Rath ed., 2000) (“Social networks as a resource explain why a new business is started, its chance of survival and why some ethnic groups are particularly successful in small businesses.”).

³³See Timothy Bates, *Financing Small Business Creation: The Case of Chinese and Korean Immigrant Entrepreneurs*, 12 *J. BUS. VENTURING* 109, 111 (1997) (finding that Korean and Chinese immigrant entrepreneurs rely more heavily on equity capital to finance their businesses than non-minority firms and rely less heavily on debt financing compared to their non-minority counterparts); Timothy Bates, *Social Resources Generated by Group Support Networks May Not Be Beneficial to Asian Immigrant-Owned Small Businesses*, 72 *SOC. FORCES* 671, 672 (1994) [hereinafter *Social Resources*] (“The success and survival patterns of Asian owned firms, this study concludes, are shaped by the very substantial investments of financial capital . . . of the business owner.”); Timothy Bates, *An Analysis of Korean-Immigrant-Owned Small-Business Start-Ups with Comparisons to African-American and Nonminority-Owned Firms*, 30 *URB. AFF. Q.* 227, 231 (1994) (finding that Korean immigrant entrepreneurs rely much less upon debt as a source of financing compared to African-American and non-minority male entrepreneurs).

³⁴See CMTY. DEV. TECH. CTR., *THE S. CAL., MINORITY BUS. ATLAS* 13 (2000), available at <http://>

Greater financial equity, limited debt financing, and higher educational attainment make immigrant entrepreneurs less vulnerable to business failure and hence less likely to seek bankruptcy protection.³⁵

Lastly, immigrant entrepreneurs may be underrepresented in the bankruptcy population because, as outsiders to the legal system, they have less access to legal counsel than native-born entrepreneurs.³⁶ With limited access to counsel, immigrant entrepreneurs are probably less aware of the bankruptcy option.

IV. METHODOLOGY

To test this hypothesis, we obtained data from surveys completed by bankruptcy petitioners in the Central District of California, San Fernando Valley Division. The San Fernando Valley has several urban areas, including a large portion of the City of Los Angeles. Approximately 1.7 million people live in the area. Forty percent are foreign-born and fewer than half are white, with Hispanics making up almost 38% of the population and Asians almost 10%.³⁷

The survey consisted of twenty-one questions, with an additional ten question supplement for petitioners who owned a business before bankruptcy. Most of the questions simply required petitioners to check boxes.

volunteer.ml.com/ipo/resources/pdf/minoritybusinessatlas.pdf (finding that minority entrepreneurs in Southern California, 75% of whom are immigrants, are generally well educated with a college and graduate school education); Pyong Gap Min & Mehdi Bozorgmehr, *United States: The Entrepreneurial Cutting Edge*, in IMMIGRANT ENTREPRENEURS VENTURING ABROAD IN THE AGE OF GLOBALIZATION 17, 24 (Robert Koosterman & Jan Rath eds., 2003) (finding that the majority of Taiwanese, Indian, and Iranian immigrant entrepreneurs have college education, and nearly half the male adults have masters degrees); Eran Razin, *The Income Consequences of Ethnic Entrepreneurial Concentrations*, 19 URB. GEOGRAPHY 554, 570 (1998) ("Korean immigrants in New York and Los Angeles, particularly the self-employed, were characterized by high levels of education. About 70% of the self-employed in both metropolitan regions . . . had at least some college education."); Yen-Fen Tseng, *Chinese Ethnic Economy: San Gabriel Valley, Los Angeles County*, 16 J. URB. AFF. 169, 175 (1994)(finding that 86% of Chinese entrepreneurs had four years or more of college education).

³⁵See Timothy Bates, *Exiting Self-Employment: An Analysis of Asian Immigrant-Owned Small Business*, 13 SMALL BUS. ECON. 171, 171 (1999) ("Particularly successful entrepreneurs tend to be highly educated, their firms are well capitalized . . ."); *Social Resources*, *supra* note 33, at 672 ("The success and survival patterns of Asian owned firms, this study concludes, are shaped by the very substantial investments of financial capital and the impressive educational credentials of the business owners."); Brian Headd, *Redefining Business Success: Distinguishing Between Closure and Failure*, 21 SMALL BUS. ECON. 51, 55 (2003) (finding that factors that best explain the likelihood of survival include having starting capital greater than \$50,000 and having a college degree).

³⁶See TERESA A. SULLIVAN, ELIZABETH WARREN & JAY L. WESTBROOK, *THE FRAGILE MIDDLE CLASS: AMERICANS IN DEBT* 42 (2000).

³⁷See KOTKIN & OZUNA, *supra* note 15, at 3; U.S. BUREAU OF THE CENSUS, *PROFILE OF SELECTED ECONOMIC CHARACTERISTICS: LOS ANGELES CITY 2* (2000) (reporting that 40.9% of the residents of Los Angeles City were foreign-born in 2000).

However, the questions concerning the cause of the bankruptcy filing or business distress were open-ended.

The survey included questions concerning age, gender, educational background, marital status, country of origin, racial/ethnic background, religious affiliation, number of dependents, occupation, household income, home ownership, value of assets, amount and type of debts, cause of bankruptcy, and entrepreneurship background. Former business owners were also asked about their business operation. Among other things, they were asked to identify the problems, if any, their business faced, the number of years they had engaged in the business, the type of business they owned, the type of business financing they had, the number of people they employed, the number of family members they employed, the industry to which the business belonged, the number of business ventures they owned, and their plans for future business ownership.

We selected the Central District Court of California primarily because the court has several locations in Los Angeles County and because the Los Angeles area has one of the greatest concentrations of small businesses in the United States.³⁸ Los Angeles County is also quite ethnically diverse, with one-third of its population consisting of immigrants.³⁹ Importantly, over 40% of all small business owners in the Los Angeles area are first-generation immigrants.⁴⁰ This diversity makes the bankruptcy court in the Central District an excellent setting for an empirical investigation of immigrant entrepreneurs in bankruptcy.

In response to our efforts, we received 1,500 completed surveys. The average response yield rate was approximately 21%.⁴¹ The total number of surveys completed constituted 12% of all petitioners who filed bankruptcy during the period of the study.⁴² The sample size reflected the approximate composition of bankruptcy filings in the Central District of California under chapter 7, chapter 13, and chapter 11.⁴³ The goal was to obtain at least 150

³⁸See Karen B. Leonard & Chandra S. Tibrewal, *Asian Indians in Southern California: Occupations and Ethnicity*, in IMMIGRATION AND ENTREPRENEURSHIP: CULTURE, CAPITAL AND ETHNIC NETWORKS 141 (Ivan Light & Parminder Bhachu eds., 2004); Min & Bozorgmehr, *supra* note 15, at 708 (indicating that Los Angeles is one of the top metropolitan areas in the United States in self-employment rate).

³⁹See KOTKIN & OZUNA, *supra* note 15, at 3; U.S. CENSUS BUREAU, AMERICAN FACTFINDER-FACT SHEET LOS ANGELES COUNTY, CALIFORNIA (2000) (reporting that 36.2% of the population in Los Angeles County in 2000 were foreign-born).

⁴⁰See Roper Center, *supra* note 18, at 50 (In the survey, 44% of the self-employed respondents indicated that they was born outside the United States).

⁴¹The yield rate was calculated by dividing the number of surveys collected by the total number of petitioners present at the hearings that the research assistants for this study attended.

⁴²During the period of this study (January 2005 through January 2006), 12,049 bankruptcy petitions were filed. The 1,500 surveys collected represent a yield of 12.45%.

⁴³During the period of this study (January 2005 through January 2006), a total of 11,929 bankruptcy petitions were filed in the San Fernando Valley Division of the United States Bankruptcy Court for the

completed surveys from former small business owners. The final number of small business entrepreneurs in the sample was 208. This sample size is approximately the same as, or larger than, the sample size in similar studies of economic and financial issues.⁴⁴

V. THE RESULTS

A. IMMIGRANTS IN BANKRUPTCY

Before examining the data relating to immigrant entrepreneurs, we considered whether foreign-born bankruptcy petitioners in general were over-represented in the bankruptcy sample.⁴⁵ As of 2000, there were 6,851,362 people over eighteen years old in Los Angeles County.⁴⁶ Sixty-four percent of the total population was native-born and 36% foreign-born.⁴⁷ Assuming this ratio holds for the segment of the population over eighteen years old, there were 4,348,189 native-born and 2,467,154 foreign-born over eighteen. The following table shows the data on nativity in the bankruptcy sample:

Table 1: Nativity of petitioners in the bankruptcy sample

	Actual Data from Bankruptcy Sample	Expected Data from the General Population
U.S. Born	1000	936
Foreign-Born	467	531
Not Available	19	N/A
Total	1486	1467

We implemented the chi-square test of independence to test the hypothesis that filing for bankruptcy is independent of place of birth. Since the test statistics were greater than the critical value, the null hypothesis was re-

Central District of California. Approximately 94% were filed under chapter 7 (N=11,162), approximately 5.5% were filed under chapter 13 (N=696), and .5% were filed under chapter 11 (N=71). See United States Bankruptcy Courts Central District of California, 2005 and 2006 Statistics, available at <http://www.cacb.uscourts.gov>. In the bankruptcy sample, a total of 1,500 surveys were completed. Similar to the chapter composition, over 97% of the surveys were submitted by chapter 7 debtors (N=1,465), .5% were submitted by chapter 11 debtors (N=8) and the balance were submitted by chapter 13 debtors (N=27).

⁴⁴See TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, AS WE FORGIVE OUR DEBTORS: BANKRUPTCY AND CONSUMER CREDIT IN AMERICA 345 (1989).

⁴⁵The characteristics of the general population in our bankruptcy sample were reported elsewhere. See Rafael Efrat, *Minority Entrepreneurs in Bankruptcy*, 15 GEO. J. ON POVERTY L. & POL'Y 95, 106-08 (2008).

⁴⁶See U.S. CENSUS BUREAU, AMERICAN FACTFINDER-FACT SHEET- LOS ANGELES COUNTY (2000).

⁴⁷See *id.* (reporting that in 2000 36.2% of the population in Los Angeles County was foreign-born).

jected.⁴⁸ Hence, we concluded that filing for bankruptcy is not independent of place of birth.

To check whether the foreign-born petitioners were over or under-represented in the bankruptcy sample, we conducted the following one tail test of proportion:

H0: Proportion of foreign-born petitioners filing for bankruptcy \geq Proportion of foreign-born in the general population

H1: Proportion of foreign-born petitioners filing for bankruptcy $<$ Proportion of foreign-born in the general population

We found that foreign-born petitioners were underrepresented in the bankruptcy sample at 95% confidence level.⁴⁹ That is, people born in the United States are more likely to file bankruptcy than people born outside the United States.⁵⁰

The native-born and foreign-born petitioners in our sample were similar in several ways. The average petitioner in both groups was in his or her early 40s.⁵¹ Native- and foreign-born petitioners in the bankruptcy sample exhibited a similar preference for chapter 7, with 98% of both native- and foreign-born petitioners filing under chapter 7.⁵² Also, equal proportions of native- and foreign-born petitioners were represented by an attorney, with just under half retaining counsel.⁵³

⁴⁸We first computed the observed frequencies and expected frequencies of native- and foreign-born filing for bankruptcy in our sample. We found that the test statistics for our observed and expected frequencies was 12.1, whereas the critical value for 95% confidence level at the right hand tail of chi-square distribution with one degree of freedom was 3.841.

⁴⁹Using the table of areas for the standard normal distribution, we found that the Z value for 95% confidence level was 1.64. The test statistic was 3.4. Since the test statistic was greater than the critical value of 1.64, the null hypothesis was rejected. That is, foreign-born petitioners were not equally represented or overrepresented in the bankruptcy sample. Instead, the alternative hypothesis may be adopted.

⁵⁰A previous study found that immigrants are as likely to file for bankruptcy protection as native-born. See SULLIVAN, WARREN & WESTBROOK, *supra* note 36, at 51.

⁵¹The average age of immigrants in the bankruptcy sample was 42.79 (N=461), with a standard deviation of 12.3 and a median of 42 years old. Among native-born in the bankruptcy sample, the average age was 41.06 (N=997), with a standard deviation of 13.69 and a median of 39 years old. The difference was statistically significant at $p=.021$. Although the immigrants in the bankruptcy sample were older than the native-born, the relationship is reversed outside of bankruptcy. Among foreign-born adults residing in California, the median age in 2005 was 38, compared to 44 among California's native-born. See Public Policy Institute of California, *Immigrants in California 1 (2007)* (unpublished report, on file with author)

⁵²Among immigrant petitioners in our sample, 98.7% filed under chapter 7 (N=465), and 1.3% filed under chapter 13 (N=6). Among native-born petitioners, 97.9% filed under chapter 7 (N=989), and 2.1% filed under chapter 13 (N=21). The differences were not statistically significant.

⁵³Among immigrants in the bankruptcy sample, 47.8% (N=225) were represented by an attorney, compared to 47.9% (N=484) among the native-born petitioners. The difference was not statistically significant. Other studies have documented a similar ratio of pro se debtors to debtors with counsel in the Central District of California. See Geraldine Mund, *A Report From the Central District of California on Pro Se and Paralegal-Assisted Filings*, in 67th Ann. Meeting of the Nat'l Conf. of Bankr. Judges 7-9 (Oct. 1993) (unpublished manuscript, on file with author) (finding that in the Central District of California, 50%

However, native-born petitioners were demographically different from the foreign-born petitioners in our sample in several important ways. First, the racial make-up of the two groups was significantly different. Two-thirds of native-born petitioners were white, but only 16% of foreign-born petitioners were. Conversely, almost two-thirds of the immigrant petitioners were Hispanic, but only 16% of the native-born were.⁵⁴ Second, the native-born petitioners reported higher educational attainment. Eighty percent of the native-born petitioners reported having completed at least some college, compared to fewer than 60% of immigrant petitioners.⁵⁵ Members of these two groups also reported different marital status. Native-born petitioners were significantly more likely to be single or divorced; foreign-born petitioners were significantly more likely to be married.⁵⁶ And native-born and immigrant petitioners reported different religious affiliations. The vast majority of immigrants were Christians, whereas a significantly lower percentage of native-born petitioners identified themselves as such.⁵⁷

of the chapter 7 and 13 cases filed in 1991 and 1992 were commenced without the assistance of an attorney).

⁵⁴Among the native-born petitioners in our sample, 65% were identified as white (N=657), 11.5% as black (N=116), 2.8% as Asian (N=28), 16.6% as Hispanic (N=168), .7% as Native American (N=7), and 2.7% as other races. In contrast, among the immigrant petitioners in our sample, 16.6% were identified as white (N=78), 1.3% as black (N=6), 14.6% as Asian (N=69), 63.5% as Hispanic (N=299), and 4% as other races. These differences were statistically significant at $p=.000$.

⁵⁵Among immigrants in the bankruptcy sample, the educational attainment was as follows: no schooling: 2.1% (N=10); 6th grade or less: 3% (N=14); 7th to 12th grade with no diploma: 18.5% (N=87); high school graduate: 24.6% (N=116); some college work: 18.9% (N=89); associate degree: 9.1% (N=43); bachelors degree: 15.1% (N=71); advanced degree: 4.2% (N=20); not available: 4.5% (N=21). In contrast, among the native-born petitioners in our bankruptcy sample, the educational attainment was as follows: no schooling: .1% (N=1); 6th grade or less: .4% (N=4); 7th to 12th grade with no diploma: 4.6% (N=46); high school graduate: 23.1% (N=233); some college work: 37.5% (N=379); associate degree: 8.4% (N=125); bachelors degree: 14.3% (N=144); advanced degree: 6.7% (N=68); not available: .9% (N=9). These differences were statistically significant at $p=.000$. A similar disparity in educational attainment exists outside of bankruptcy. See Public Policy Institute of California, *supra* note 51, at 2 ("Overall, 24 percent of immigrants ages 25 and older have graduated from college (compared to 28 percent of California natives in the state), and 38 percent have not completed high school (compared to 10 percent of California natives.")).

⁵⁶The marital status of the native-born petitioners in our sample was as follows: single: 40.8% (N=412); married: 27.3% (N=276); divorced or separated: 26.3% (N=266); widowed: 3.8% (N=38); not available: 1.8% (N=18). In contrast, among the foreign-born petitioners in our sample the marital status was as follows: single: 31.8% (N=150); married: 42.5% (N=200); divorced or separated: 20.8% (N=98); widowed: 3.0% (N=14); not available: 1.9% (N=9). These differences were statistically significant at $p=.000$. A similar pattern exists outside of bankruptcy. See U.S. CENSUS BUREAU, AMERICAN COMMUNITY SURVEY, MARITAL STATUS OF THE POPULATION 15 YEARS AND OVER BY SEX AND U.S. CITIZENSHIP STATUS, Table 1.2a (2003) (Among the native-born, 52.7% were married, 12.7% were divorced or separated, 6.4% were widowed, and 28.1% were single; among the foreign-born, in contrast, 62.1% were married, 9.4% were divorced or separated, 5% were widowed, and 23.5% were single).

⁵⁷Among the native-born petitioners, 77.8% (N=452) identified affiliation with the Christian faith compared to 89.6% (N=276) among the foreign-born in the sample. Among the Christians in our sample, there was a large disparity among those who belong to the Catholic denomination. Although only 19.3%

The two groups were financially different as well. Native-born petitioners reported higher household income, lower household size, and higher assets.⁵⁸ Nonetheless, while the results were not statistically significant, the native-born petitioners appear to experience greater financial distress compared to their immigrant counterparts. The native-born petitioners reported higher debt, lower net-worth, and higher debt-to-income ratio.⁵⁹

Lastly, the two groups filed bankruptcy for somewhat different reasons. The native-born petitioners cited medical problems, credit card debt, and personal calamities as the primary causes of bankruptcy. In contrast, one-third of all the foreign-born petitioners identified loss of employment as the primary reason for bankruptcy filing, followed by credit card debt and medical problems.⁶⁰

(N=195) of native-born petitioners were identified as Catholic, 40.3% (N=190) of the immigrants in our sample were Catholic. A similar disparity in religious affiliation between immigrants and native-born exists outside of bankruptcy. See PEW FORUM ON RELIGION & PUBLIC LIFE, U.S. RELIGIOUS LANDSCAPE SURVEY 47 (2008), available at <http://religions.pewforum.org/pdf/report-religious-landscape-study-full.pdf> (finding that nearly half of all immigrants in the United States (46%) are Catholic, compared with 21% of the native-born).

⁵⁸Among the immigrants in our bankruptcy sample, the average monthly household income was \$3,304 (N=154), with a standard deviation of 4,416 and a median of \$2,300. In contrast, among the native-born in our sample, the average monthly household income was \$4,002 (N=226), with a standard deviation of 6,341 and a median of \$3,200. This difference is not statistically significant. The average number of dependents reported by immigrants in our sample was 1.83 (N=448), with a standard deviation of 1.5 and a median of 2. In contrast, among native-born in our sample, the average number of dependents was 1.24 (N=900), with a standard deviation of 1.3 and a median of 1. The difference was statistically significant at $p=.000$. Finally, immigrants in our bankruptcy sample reported an average value of their assets at \$25,414 (N=247), with a standard deviation of 114,959, and a median of \$3,000. In contrast, the native-born in our sample reported an average value of their assets at \$31,031 (N=711), with a standard deviation of 120,493 and a median of \$4,500. The difference was not statistically significant.

⁵⁹The native-born petitioners in our sample reported average outstanding debt of \$86,133 (N=859), with a standard deviation of 350,526 and a median of \$38,000. In contrast, the foreign-born petitioners in our sample reported an average of outstanding debt of \$61,283 (N=353), with a standard deviation of 121,136 and a median of \$30,000. The difference was not statistically significant. Also, the native-born petitioners reported an average net worth of negative \$67,116 (N=668), with a standard deviation of 394,629, and a median of negative \$30,000. In contrast, the foreign-born petitioners reported an average net worth of negative \$49,636 (N=226), with a median of negative \$27,611. The difference was not statistically significant. Lastly, the native-born petitioners reported an average debt-to-household-income ratio of 2.45 (N=207), with a standard deviation of 4.6 and a median of 1.2. In contrast, foreign-born petitioners in our sample reported an average debt to household income ratio of 2.07, with a standard deviation of 2.6 and a median of 1.1. The difference was not statistically significant.

⁶⁰The native-born petitioners attributed their bankruptcy filings to the following causes: failed business: 10% (N=54); personal or family calamities: 22.5% (N=122); medical condition: 23.6% (N=128); employment-related problems: 19.6% (N=106); credit card debt: 22.7% (N=123); housing-related problems: 1.7% (N=9). In contrast, the foreign-born petitioners attributed their bankruptcy filings to the following causes: failed business: 7.6% (N=18); personal or family calamities: 15.6% (N=36); medical condition: 18.6% (N=44); employment-related problems: 33.3% (N=79); credit card debt: 24.1% (N=57); housing-related problems: .8% (N=2). The differences were statistically significant at $p=.001$.

B. IMMIGRANT ENTREPRENEURS IN BANKRUPTCY

Just as immigrants generally were underrepresented in the bankruptcy sample, immigrant entrepreneurs were similarly underrepresented. As of 2000, there were 341,295 self-employed people in Los Angeles County.⁶¹ Fifty-six percent were born in the United States, and the rest were foreign-born.⁶² The following table shows the data on nativity of small business owners in the sample:

Table 2: Nativity of Small Business Owners in the bankruptcy sample

	Actual Data from Bankruptcy Sample	Expected Data from the General Population
U.S. Born	145	108
Foreign-Born	48	85
Not Available	5	N/A
Total	198	193

We implemented the chi-square test of independence to test the hypothesis that filing for bankruptcy was independent of place of birth among the entrepreneurs in our sample. Since the test statistics were greater than the critical value, the null hypothesis was rejected. Hence, we concluded that filing for bankruptcy among entrepreneurs was related to place of birth.⁶³

To determine whether the foreign-born entrepreneurs were over or underrepresented in the bankruptcy sample, we conducted the following one tail test of proportion:

H0: Proportion of foreign-born entrepreneurs filing for bankruptcy \geq Proportion of foreign-born entrepreneurs in the general population

H1: Proportion of foreign-born entrepreneurs filing for bankruptcy $<$ Proportion of foreign-born entrepreneurs in the general population

We found that foreign-born entrepreneurs were underrepresented in the bankruptcy sample at 95% confidence level.⁶⁴ That is, small business owners

⁶¹See U.S. CENSUS BUREAU, AMERICAN FACTFINDER-PROFILE OF ECONOMIC CHARACTERISTICS: 2000-LOS ANGELES COUNTY (2000) (reporting that 8.6% of the labor force was self-employed).

⁶²See Roper Center, *supra* note 18, at 50 (In the survey, 44% of the self-employed respondents indicated that they were born outside the United States).

⁶³We first computed the observed and expected frequencies of native- and foreign-born entrepreneurs in our sample filing for bankruptcy. We found that the test statistics for our observed and expected frequencies was 28.7, while the critical value for 95% confidence level at the right hand tail of chi-square distribution with one degree of freedom was 3.841.

⁶⁴Using the table of areas for the standard normal distribution, we found that the Z value for 95% confidence level was 1.64. The test statistic was 5.4. Since the test statistic was greater than the critical value of 1.64, the null hypothesis was rejected. That is, foreign-born entrepreneurs were not equally

born outside the United States are less likely to file bankruptcy, and small business owners born in the United States are more likely to do so.

The data also provided information about the immigrant entrepreneurs' place of birth. The table below lists the percentages of each country of origin in the general self-employed population in Los Angeles and also in the bankruptcy sample.

Table 3: Distribution of Immigrant Entrepreneurs in Los Angeles County in and outside of Bankruptcy:

Country of Origin	Percentage & Number of Self-Employed Immigrants in the Bankruptcy Sample	Proportion in the General Population ⁶⁵
Korea	0% (N=0)	25%
Mexico	20.8% (N=10)	13%
China	0% (N=0)	9%
Taiwan	0% (N=0)	7%
Japan	0% (N=0)	6%
Iran	10.4% (N=5)	3%
Philippines	4.1% (N=2)	3%
India	2.1% (N=1)	3%
Vietnam	0% (N=0)	2%
Guatemala	12.5% (N=6)	1%
El Salvador	8.3% (N=2)	1%
Argentina	4.1% (N=2)	1%
Cuba	2.1% (N=1)	1%
Hungary, Germany, Israel	4.1% (N=2)	Less than 1%
France, Afghanistan, Australia, Bolivia, Colombia, Costa Rica, Ecuador, Egypt, Pakistan, Canada, Thailand	2.1% (N=1)	Less than 1%
Not Available	29% (N=14)	
Total	48	

Immigrant entrepreneurs share certain demographic characteristics when compared to their native-born counterparts. In their mid-40s, both the native- and foreign-born self-employed in the bankruptcy sample were some-

represented or overrepresented in the bankruptcy sample. Instead, the alternative hypothesis could be adopted.

⁶⁵The proportion of the country of origin relative to the total immigrant entrepreneurs in the population of Los Angeles County was estimated based on a survey done of a sample of small business owners in 1999. See Roper Center, *supra* note 18, at 50-51.

what older than the immigrant and native-born wage earners.⁶⁶ Immigrants and native-born entrepreneurs manifested a clear preference for chapter 7.⁶⁷ Just under half of the foreign- and native-born self-employed retained counsel.⁶⁸ In addition, both immigrant and native-born small business owners were predominantly male.⁶⁹ The predominance of men among the immigrant and native-born entrepreneurs in our sample mirrors the high prevalence of men among entrepreneurs outside of bankruptcy.⁷⁰

Although we were able to identify some similarities between native- and foreign-born entrepreneurs in our sample, we observed numerous important demographic and financial differences. Demographically, native-born entrepreneurs were more likely to be single or divorced white males.⁷¹ In contrast, foreign-born entrepreneurs were more likely to be married, Hispanic, Christian, and male.⁷²

Both immigrant and native-born entrepreneurs in our sample reported

⁶⁶Native-born self-employed in our bankruptcy sample had a mean age of 46.5 (N=153), with a standard deviation of 13.4 and a median age of 45. In contrast, native-born wage earners had a mean age of 40.7 (N=844), with a standard deviation of 13.5 and a median age of 38. Foreign-born wage earners had a mean age of 42.6 (N=411), with a standard deviation of 12 and a median age of 42. The age difference between the native-born wage earners and the native-born self-employed was statistically significant at $p=.000$. Similarly, foreign-born self-employed in our bankruptcy sample had a mean age of 44.1 (N=50) with a standard deviation of 11.9 and a median age of 43. In contrast, foreign-born wage earners had a mean age of 42.6 (N=411), with a standard deviation of 12.4 and a median age of 42. The difference in age between the foreign-born wage earners and the self-employed was not statistically significant.

⁶⁷Among native-born self-employed petitioners in our sample, 99.3% (N=151) filed under chapter 7, while one petitioner filed under chapter 13. Similarly, all of the foreign-born self-employed petitioners filed under chapter 7 (N=51).

⁶⁸Of the native-born self-employed petitioners in our sample, 49.3% (N=75) were represented by counsel, whereas 43.1% (N=22) of the foreign-born self-employed were represented by counsel. The difference was not statistically significant.

⁶⁹Among the native-born self-employed petitioners in our sample, 66.4% (N=101) were male, and among the foreign-born self-employed petitioners, 62.7% (N=32) were male.

⁷⁰See FAIRLIE, *supra* note 9, at 26 (reporting that in 2003, 68% of the self employed in the United States were male); see also Ying Lowrey, U.S. Sole Proprietorships: A Gender Comparison, 1985-2000 5 (2005), available at <http://www.sba.gov/advo/research/rs263tot.pdf> ("The proportion of female sole proprietors increased, from less than 31 percent in 1985 to more than 37 percent in 2000.").

⁷¹The marital status of the native-born entrepreneurs in our sample was as follows: single: 36.2% (N=55); married: 36.2% (N=55); divorced or separated: 18.4% (N=28); widower: 4.6% (N=7); not available: 4.6% (N=7). The racial background of the native-born entrepreneurs was as follows: white: 83.6% (N=127); black 3.9% (N=6); Asian: 3.3% (N=5); Hispanic: 5.9% (N=9); Native American: .7% (N=1).

⁷²The marital status of the foreign-born entrepreneurs in our sample was as follows: single: 23.5% (N=12); married: 51% (N=26); divorced or separated: 19.6% (N=10); widower: 0% (N=0); not available: 5.9% (N=3). The racial background of the foreign-born entrepreneurs was as follows: white: 23.5% (N=12); black: 0% (N=0); Asian: 11.8% (N=6); Hispanic: 54.9% (N=28); Native American: 0% (N=0). Among the native-born entrepreneurs, 58.1% (N=50) were Christian; 19.8% (N=17) were Jewish; and 22.1% (N=19) were affiliated with other religions. In contrast, among the foreign-born entrepreneurs, 68.75% (N=22) were Christian; 6.25% (N=2) were Jewish; and 25% (N=8) were affiliated with other religions. These differences in religious affiliation were statistically significant at $p=.009$.

more higher education than the non-entrepreneurs.⁷³ Of the entrepreneurs, however, the immigrants in the sample exhibited inferior educational and other human capital characteristics. Specifically, compared to the native-born entrepreneurs, fewer immigrant entrepreneurs had completed at least some college or held associate degrees, bachelor degrees, or advanced university degrees.⁷⁴ This finding contrasts with findings of previous studies suggesting that immigrant small business owners in Los Angeles are relatively better educated than native-born small business owners in the city.⁷⁵ The disparity may be the result of overrepresentation of Hispanic small business owners in our sample. Hispanic small business owners reportedly have less education than other immigrant entrepreneurs.⁷⁶

Aside from inferior educational attainment, the immigrant entrepreneurs' inferior human capital was manifested in fewer years of business ownership. Compared to native-born entrepreneurs, foreign-born entrepreneurs reported almost half the number of years of business ownership experience.⁷⁷ Also, immigrant entrepreneurs in our sample reported owning their failed business significantly fewer years than the native-born entrepreneurs.⁷⁸ Lastly, the

⁷³The educational attainment of native-born wage earners in the bankruptcy sample was as follows: no schooling: .1% (N=1); 6th grade or less: .5% (N=4); 7th through 12th grade with no diploma: 5% (N=43); high school graduate: 24.5% (N=210); some college: 38.9% (N=333); associate degree: 12.6% (N=108); bachelors degree: 13.1% (n=112); advanced degree: 4.7% (N=40); not available: .7% (N=6). In contrast, the educational attainment of native-born entrepreneurs in the bankruptcy sample was as follows: no schooling: 0% (N=0); 6th grade or less: 0% (N=0); 7th through 12th grade with no diploma: 2% (N=3); high school graduate: 15% (N=23); some college: 30.1% (N=46); associate degree: 11.1% (N=17); bachelors degree: 20.9% (n=32); advanced degree: 18.3% (N=28); not available: 2.7% (N=4). The differences were significant at p=.000. The disparity between the educational attainment of wage earners and entrepreneurs among the foreign-born was similar but not as robust. The educational attainment of foreign-born wage earners in the bankruptcy sample was as follows: no schooling: 2.1% (N=9); 6th grade or less: 3.3% (N=14); 7th through 12th grade with no diploma: 19.3% (N=81); high school graduate: 25% (N=105); some college: 19% (N=80); associate degree: 9% (N=38); bachelors degree: 13.8% (n=58); advanced degree: 4% (N=17); not available: 4.3% (N=18). In contrast, the educational attainment of foreign-born entrepreneurs in the bankruptcy sample was as follows: no schooling: 2% (N=1); 6th grade or less: 0% (N=0); 7th through 12th grade with no diploma: 11.8% (N=6); high school graduate: 21.6% (N=11); some college: 17.6% (N=9); associate degree: 9.8% (N=5); bachelors degree: 25.5% (n=13); advanced degree: 5.9% (N=3); not available: 5.9% (N=3). The differences between foreign-born entrepreneurs and wage earners were not statistically significant.

⁷⁴See *supra* note 73.

⁷⁵See *supra* note 34 and accompanying text.

⁷⁶See Magnus Lofstrom & Chunbei Wang, Mexican-American Self-Employment: A Dynamic Analysis of Business Ownership 15 (2007), available at <http://www.utdallas.edu/~lofstrom/MexAmSEOct07.pdf> (reporting that "educational attainment among Mexicans is considerably lower than among whites").

⁷⁷On average, the native-born entrepreneur in our bankruptcy sample reported 11.7 (N=134) years of prior business ownership experience, with a standard deviation of 9.9 and a median of 9.5 years. In contrast, the foreign-born entrepreneur reported 6.38 (N=39) years of prior business ownership experience, with a standard deviation of 6 and a median of 5 years. The difference was statistically significant at p=.001.

⁷⁸On average the native-born entrepreneur in our bankruptcy sample reported owning his failed business for 8.5 years (N=102), with a standard deviation of 8 and a median of 6. In contrast, the foreign-born

foreign-born small business owners reported owning fewer prior ventures.⁷⁹

In addition to reporting lower human capital, foreign-born small business owners in our sample appear to have confronted significant financial challenges. Compared to the native-born small business owners, immigrant small business owners reported lower household income and a higher number of dependents.⁸⁰ Immigrant entrepreneurs in our bankruptcy sample owned smaller businesses with fewer employees.⁸¹ Moreover, the immigrant small business owners in our sample reported greater difficulties accessing credit to operate their business, with many more of them relying on high cost credit card cards.⁸² This finding is consistent with findings of previous studies demonstrating the difficulties immigrant entrepreneurs face in accessing credit⁸³

entrepreneur reported owning his business for 5.5 (N=38), with a standard deviation of 5 and a median of 4. The difference was statistically significant at p=.038.

⁷⁹On average, the native-born entrepreneur in our bankruptcy sample reported previously owning .94 business ventures (N=135), with a standard deviation of 1.6 and a median of 0. In contrast, the foreign-born entrepreneur in the bankruptcy sample reported previously owning an average of .65 business ventures (N=40), with a standard deviation of 1 and a median of 0. The differences were not statistically significant.

⁸⁰Among native-born entrepreneurs in our bankruptcy sample, the monthly household income was \$5,855 (N=46), with a standard deviation of 13,245 and a median of \$3,550 per month. In contrast, among the foreign-born entrepreneurs in our bankruptcy sample, the monthly household income was \$4,039 (N=20), with a standard deviation of 4,228 and a median of \$2,585 per month. The difference in household income was not statistically significant. Similarly, the native-born entrepreneurs in our bankruptcy sample had an average of 1.17 dependents (N=143), with a standard deviation of 1.3 and a median of 1. In contrast, the foreign-born entrepreneurs in our bankruptcy sample had an average of 1.64 dependents (N=45), with a standard deviation of 1.4 and a median of 1. The difference in the number of dependents was statistically significant at p=.045.

⁸¹The native-born entrepreneurs in our bankruptcy sample had on average 6.96 employees (N=133), with a standard deviation of 21 and a median of 1. In contrast, the foreign-born entrepreneurs in our bankruptcy sample had on average 2.71 employees (N=38), with a standard deviation of 5 and a median of 1. The difference in the number of employees was not statistically significant.

⁸²The native-born entrepreneurs in our bankruptcy sample reported that 39.07% (N=99) of their business financing was based on credit card debt, with a standard deviation of 42 and a median of 20%. In contrast, the foreign-born entrepreneurs in the bankruptcy sample reportedly that 45.63% (N=32) of their business financing was based on credit card debt, with a standard deviation of 44 and a median of 50%. The difference was not statistically significant. The high rate of reliance by foreign-born entrepreneurs on credit card debt is also reflected in the total amount of outstanding credit card debt they reported. The native-born entrepreneurs in our bankruptcy sample reported owing \$48,165 (N=114) in credit card debt, with a standard deviation of 49,013 and a median of \$35,000. In contrast, the foreign-born entrepreneurs in the sample reported owing \$63,427 (N=36) in credit card debt, with a standard deviation of 64,138 and a median of \$51,500. The difference was not statistically significant.

⁸³See Ivan Light, et al., *Korean Rotating Credit Association in Los Angeles*, in *IMMIGRANT AND MINORITY ENTREPRENEURSHIP: THE CONTINUOUS REBIRTH OF AMERICAN COMMUNITIES*, 171, 171 (John S. Butler and George Kozmetsky eds., 2004) ("Obtaining loan capital poses an obstacle for all small business ventures, but the problem is especially severe for immigrant or ethnic minority entrepreneurs, who lack credit ratings, collateral, or are the victims of ethno-racial discrimination."); Yen-Fen Tseng, *Ethnic Resources as Forms of Social Capital: A Study on Chinese Immigrant Entrepreneurship in Los Angeles*, 8 (unpublished manuscript, on file with author) ("Typically, immigrant entrepreneurs have difficulty in borrowing from banks because they lack a formal credit history.").

and their excessive reliance on credit card debt to operate their businesses.⁸⁴

Nonetheless, native-born entrepreneurs in our bankruptcy sample appear to face greater financial fragility than their foreign-born counterparts. The native-born entrepreneurs' elevated financial distress is manifested in higher outstanding debt and lower net worth.⁸⁵ The foreign-born entrepreneurs' lower overall indebtedness in our bankruptcy sample is consistent with their lower reliance on debt financing outside of bankruptcy.⁸⁶

Finally, whereas native-born self-employed petitioners were primarily engaged in the service sector, the foreign-born self-employed petitioners were primarily engaged in retail businesses.⁸⁷

VI. FINDINGS

Small business ownership is an important source of employment opportunity for immigrants.⁸⁸ Immigrants account for a growing portion of the self-employed and are overrepresented among the self-employed in the United States.⁸⁹ Nevertheless, self-employed immigrants have several disadvantages compared to native-born self-employed. They face language and networking barriers, experience limited access to affordable credit, tend to over-concentrate in low-growth industries, and operate smaller businesses.⁹⁰

These same detrimental characteristics were also manifested among the

⁸⁴See CMTY. DEV. TECH. CTR., *supra* note 34, at 11 (reporting that many minority entrepreneurs (75% of whom are immigrants) in southern California rely on high cost capital to finance their business, including credit cards).

⁸⁵Among the native-born entrepreneurs, the average outstanding debt obligation was \$247,115 (N=127), with a standard deviation of \$858,951 and a median of \$72,000. In contrast, the foreign-born entrepreneurs owed an average of \$163,939 (N=40), with a standard deviation of 272,600 and a median of \$63,250. The net worth of the native-born entrepreneurs was also less than the net worth of the foreign-born entrepreneurs in our sample. The average net worth of the native-born entrepreneurs was negative \$240,555 (N=105), with a standard deviation of 927,567 and a median of negative \$62,000. In contrast, the foreign-born entrepreneurs' average net worth was negative \$132,757 (N=32), with a standard deviation of 318,229 and a median of negative \$57,500. The differences were not statistically significant.

⁸⁶See *supra* note 33 and accompanying text.

⁸⁷The native-born entrepreneurs in our sample were engaged in the following industries: 29.8% (N=24) retail; 3.3% (N=4) manufacturing; 1.7% (N=2) wholesale; and 75% (N=90) service sector. In comparison, foreign-born entrepreneurs were engaged in the following industries: 42% (N=14) retail; and 57.6% (N=19) service sector. The differences were statistically significant at p=.046.

⁸⁸See *supra* note 8 and accompanying text.

⁸⁹See *supra* notes 9-11 and accompanying text.

⁹⁰See *supra* note 83 and accompanying text. See also Borjas, *supra* note 6, at 487 (finding that over 27% of self-employed immigrants are in the retail industry compared to 17% of the native-born self-employed); CMTY. DEV. TECH. CTR., *supra* note 34, at 14 (finding that 27% of minority-owned small businesses in the Southern California (most of which are owned by immigrants) are engaged in the retail industry and 53% in the service industry); Marla Dickerson & Don Lee, *Business is 'Robust' for Small L.A. County Firms*, LOS ANGELES TIMES, Sept. 15, 1999, at A1 (reporting that immigrant and ethnic minority entrepreneurs in Los Angeles County tend to concentrate in low-margin retail businesses that are generally smaller than the businesses of non-minority native-born entrepreneurs).

immigrant entrepreneurs in our bankruptcy sample. The foreign-born entrepreneurs were largely engaged in the low-growth retail industry, were operating smaller businesses, and were relying largely on high-cost credit card debt to finance their businesses.⁹¹ Immigrant entrepreneurs reported lower income, large household size, and more restricted access to credit.⁹² Immigrant entrepreneurs in our sample had lower human capital compared to the native-born entrepreneurs. Their lower human capital was manifested in fewer years of education, fewer years of business experience, fewer years operating their last business, and fewer prior ventures.⁹³

But despite all of these challenges, immigrant entrepreneurs were underrepresented in the bankruptcy sample. Our original hypothesis that immigrant entrepreneurs would be underrepresented in our bankruptcy sample was validated.⁹⁴

Although the availability of class resources may have contributed in part to their underrepresentation,⁹⁵ it appears that their limited use of, or limited access to, debt to finance their business operations may have resulted in fewer needing to resort to bankruptcy to address their financial fragility. With lower outstanding debt and higher net worth, immigrant entrepreneurs in our bankruptcy sample were overall in a better financial state.⁹⁶

This finding is consistent with studies outside of bankruptcy that have demonstrated the generally lower propensity of immigrants to assume debt. These studies show that compared to the native-born, immigrants are significantly less likely to use banks. Some immigrants enter the country with negative perceptions about financial institutions; others simply shy away from lending institutions due to their limited proficiency in English.⁹⁷ Immigrants are also significantly more likely to have low credit scores than their native-born counterparts, partly because they avoid credit cards and so lack conventional credit histories.⁹⁸ Finally, some have contended that immigrants tend to lack critical information about the requirements for getting a loan; as a result, many immigrants simply do not apply for credit because they assume they are not eligible to receive it.⁹⁹

⁹¹See *supra* notes 81-82 and 87 and accompanying text.

⁹²See *supra* note 80 and accompanying text.

⁹³See *supra* notes 74, 77-79 and accompanying text.

⁹⁴See *supra* Table 2 and accompanying text.

⁹⁵See *supra* notes 31-32 and accompanying text.

⁹⁶See *supra* note 85 and accompanying text.

⁹⁷See ANNA PAULSON, AUDREY SINGER, ROBIN NEWBERGER & JEREMY SMITH, THE BROOKINGS INSTITUTION, FINANCIAL ACCESS FOR IMMIGRANTS: LESSONS FROM DIVERSE PERSPECTIVES 26, 33 (May 2006), available at http://www.chicagofed.org/community_development/files/fai-lessons_from_diverse_perspectives.pdf.

⁹⁸See *supra* note 83 and accompanying text.

⁹⁹See Andrew I. Schoenholtz & Kristin Stanton, Reaching the Immigrant Market: Creating Homeown-

Perhaps more fundamentally, the underrepresentation of immigrants and immigrant entrepreneurs in our bankruptcy sample was a manifestation of their limited access to courts in general and bankruptcy courts in particular. Over the past few years, studies have documented the increased inaccessibility of our courts to many, including immigrants.¹⁰⁰ Some have attributed the decline of access among immigrants to cultural and language barriers they face.¹⁰¹ Immigrants also avoid the judicial system because of perceptions brought from their countries of origin that courts are inherently dysfunctional and untrustworthy.¹⁰² Further, immigrants, particularly those with limited English, are unaware of available no-cost or low-cost legal representation in their community.¹⁰³ California has the highest percentage of immigrant residents with limited English in the United States, perhaps contributing to their underrepresentation in our bankruptcy sample.¹⁰⁴

Although immigrant entrepreneurs were underrepresented in our sample, immigrant entrepreneurs from Latin America appeared to be significantly overrepresented compared to immigrant entrepreneurs from East Asia. Korean, Chinese, Taiwanese, and Japanese entrepreneurs, who make up approximately half of the foreign-born small business owners in Los Angeles County, did not appear in the bankruptcy sample at all.¹⁰⁵ On the other hand, immigrant entrepreneurs from Latin American countries, such as Mexico, Guatemala, El Salvador, and Argentina, who make up approximately 16% of the foreign-born small business owners in Los Angeles County, constituted 46% of the immigrant entrepreneur population in bankruptcy and hence were overrepresented in the bankruptcy sample.¹⁰⁶ The immigrant entrepreneurs population in this study is small (N=48), but it is still striking that no immigrant entrepreneurs from East Asian countries filed bankruptcy, while immigrant Hispanic entrepreneurs were disproportionately present in the bankruptcy sample.

The significant underrepresentation of Asian entrepreneurs in our bank-

ership Opportunities for New Americans, 4 (2001), available at www.fanniemaefoundation.org/programs/pdf/rep_immigrant.pdf.

¹⁰⁰See SULLIVAN, WARREN & WESTBROOK, *supra* note 41 at 42 (immigrants have lower access to legal counsel compared to the native-born entrepreneurs); See also NATIONAL ASIAN PACIFIC AMERICAN LEGAL CONSORTIUM, EQUAL JUSTICE, UNEQUAL ACCESS: IMMIGRANTS AND AMERICA'S LEGAL SYSTEM 1 (2005), available at <http://www.advancingequality.org/files/equaljustice.pdf>.

¹⁰¹See NATIONAL ASIAN PACIFIC AMERICAN LEGAL CONSORTIUM, *supra* note 101, at 3.

¹⁰²See *id.*; see also JOANNE I. MOORE & MARGARET FISHER, IMMIGRANTS IN COURTS 20 (1999) (describing the culturally imbedded beliefs of immigrants that affect their perceptions about the court system in the United States).

¹⁰³See NATIONAL ASIAN PACIFIC AMERICAN LEGAL CONSORTIUM, *supra* note 101, at 3.

¹⁰⁴See *id.* at 34, 36 (reporting that 20% of the population in California are immigrants with limited English proficiency, and 38.2% of the foreign-born reportedly have limited English proficiency).

¹⁰⁵See *supra* Table 3 and accompanying text.

¹⁰⁶See *id.*

ruptcy sample may be due in part to their higher success rate in business. Asian business owners in the United States do appear to succeed at higher rates than non-Asian business owners. Asian entrepreneurs have reported significantly higher human capital.¹⁰⁷ Further, Asian entrepreneurs tend to invest a higher equity capital in their businesses.¹⁰⁸ These characteristics of Asian business owners have contributed to their significantly higher reported business income.¹⁰⁹

Asian entrepreneurs may also have been underrepresented in our bankruptcy sample because those who do face financial trouble tend not to file bankruptcy. As mentioned earlier,¹¹⁰ Asian business owners tend to rely primarily on equity financing rather than debt financing to operate their businesses. Since they rely less heavily on debt financing, even the unsuccessful business owners do not have the same need to resort to bankruptcy to resolve excess debt problem. Moreover, Asian business owners may resort to bankruptcy at a lower rate partly because they can capitalize on an inexpensive labor force to ride out difficult financial times. A number of studies have documented the reliance of Asian small businesses on unpaid family labor.¹¹¹ Finally, Asian small business owners may be underrepresented in bankruptcy because of the stigma in their communities associated with bankruptcy.¹¹²

Hispanic entrepreneurs have recently experienced a dramatic growth in the U.S. small business sector. Between 1997 and 2002, Hispanic-owned small business owners increased 31% in the United States and 27% in California.¹¹³ Indeed, California is the state with the largest number of Hispanic-owned firms.¹¹⁴ Although the growth rate of Hispanic-owned small businesses has outpaced the overall growth rate in entrepreneurial sector, Hispanic small business owners have not performed as well as their white

¹⁰⁷See Bates, *supra* note 35 and accompanying text.

¹⁰⁸See *supra* note 33 and accompanying text.

¹⁰⁹See Borjas, *supra* note 6 (noting that self-employed Asian immigrants reported higher mean annual incomes than any other racial group).

¹¹⁰See *supra* notes 33 and accompanying text.

¹¹¹See *supra* note 29 and accompanying text.

¹¹²See Nathalie Martin, *The Role of History and Culture in Developing Bankruptcy and Insolvency Systems: The Perils of Legal Transplantation*, 28 B.C. INT'L & COMP. L. REV. 1, 52-3 (2005) (noting that Japan has strong cultural attitudes against bankruptcy); Charles J. Tabb, *Lessons from the Globalization of Consumer Bankruptcy*, 30 LAW & SOC. INQUIRY 763, 769 (2005) (referring to studies finding that East Asian cultures, which emphasize the importance of harmony, reputation, and cooperation, discourage the use of bankruptcy to resolve financial problems).

¹¹³See OFFICE OF ADVOCACY, SMALL BUS. ADMIN., SMALL BUSINESS PROFILE: CALIFORNIA 1 (2005), available at <http://www.sba.gov/advo/research/profiles/05ca.pdf>; OFFICE OF ADVOCACY, SMALL BUS. ADMIN., SMALL BUSINESS PROFILE: UNITED STATES 1 (2005), available at <http://www.sba.gov/advo/research/profiles/05us.pdf>.

¹¹⁴See OFFICE OF ADVOCACY SMALL BUS. ADMIN., SMALL BUSINESS PROFILE: CALIFORNIA 1 (2007), available at <http://www.sba.gov/advo/research/profiles/07ca.pdf> (finding that in 2007, California had 427,700 Hispanic-owned small business owners, which was more than any other state).

counterparts. The average size of the Hispanic-owned business is substantially smaller than the white-owned business.¹¹⁵ The survival rate for Hispanic firms is also lower than the norm for business in general.¹¹⁶ Past studies have found that the probability of a Hispanic-owned small business closes is higher by as much as 12% than the probability for their white-owned counterparts.¹¹⁷

The higher closure rate among Hispanic small businesses outside of bankruptcy is reflected in the dramatic overrepresentation of Hispanic entrepreneurs in our bankruptcy sample. Though entrepreneurship presents a promising way for Hispanic immigrants to integrate into the labor market, many of them appear to face significant challenges.

VII. CONCLUSION

Immigrants make up a disproportionately large number of small business owners and entrepreneurs in the United States. They also face obstacles, financial and otherwise, that native-born small business owners and entrepreneurs do not face. Nonetheless, we hypothesized that immigrants would be less likely to seek bankruptcy protection, and our study bore this out. Immigrants are less likely to file bankruptcy because they have less access to financing and a greater reluctance to take on debt, because they often do not know bankruptcy is an option and have limited access to counsel, and because they are hostile to the concept of bankruptcy and suspicious of courts. But immigrants are also less likely to file bankruptcy because they are less likely to need it in the first place. With greater class resources and less debt, immigrant entrepreneurs are inclined to confront financial distress themselves, without the assistance of the bankruptcy system.

¹¹⁵See MINORITY BUS. DEV. AGENCY, DEP'T OF COMMERCE, THE STATE OF HISPANIC BUSINESS 1 (Dec. 3, 2001) (unpublished manuscript, on file with the author) ("The average size of Hispanic-owned businesses is substantially lower than nonminority firms.").

¹¹⁶See David L. Torres, *Success and the Mexican American Businessperson*, 6 RES. SOC. ORG. 313, 314 (1988) ("The survival rate for Hispanic firms is lower than the norm for business in general.")

¹¹⁷See Aparna Mathur, *A Spatial Model of the Impact of State Bankruptcy Exemptions on Entrepreneurship* 31 (2005) ("The probability of small business closures is significantly . . . higher for Blacks and Hispanics."); Alicia Robb, *The Role of Race, Gender, and Discrimination in Business Survival* 72 (2000) (unpublished Ph.D. dissertation, University of North Carolina at Chapel Hill) (on file with author) ("Black-owned and Hispanic-owned businesses were still more likely to close than their white-owned counterparts.").