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Chartered Business Valuators Working Together With Lawyers

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Chartered Business Valuators (CBVs) are a group of accounting and finance professionals who provide expertise in financial quantification and business valuation.

More than the acronym

As their name implies, Chartered Business Valuators are often hired to assess the value of financial aspects of companies, determine the value of something, or ensure that transactions comply with necessary regulations.

However, moving beyond the acronym, these experts are often called on to provide related financial expertise—all sorts of valuations in the area of financial quantification and determining the effects of actions that have been criticized. Mr. Denys Goulet, Chair of the Board of the Canadian Institute of Chartered Business Valuators, explains: “Using the example of a contract that has been breached, the role of the Chartered Business Valuators is not to determine the events that caused the breach, but rather to assess how things would have gone if the contract had never been breached. The same would apply in the case of legal action over financial damages. In this case, what interests the Chartered Business Valuators is not what happened before the damage, but what would have happened if the disputed action had not taken place.”

A broad mandate

Chartered Business Valuators often work with lawyers from two particular disciplines, and in cases where the question is financial in nature.

For lawyers in commercial and tax law, CBVs are in high demand in transactions involving transfers between family members. For example, they could be hired to assess the actions of each party in completing a transaction. CBVs are also often asked to provide judgments on the fairness of a variety of operations from a financial point of view.

For commercial litigation lawyers, CBVs can also be called on to quantify the impact of an action that has been criticized in the event of someone suing for financial damages. In this case, in addition to preparing an expert report, the valuator can assist the prosecutors in their preparations, as well as potentially serving as an expert witness during the trial. Therefore, CBVs must possess very specific technical expertise. Mr.

Goulet explains, “If, for example, the valuator has to quantify damages in the steel industry, he needs to have very good knowledge of the activities that are involved as well as concrete experience in the market to be in a position to justify his expertise in this field.”

Working as a team with lawyers

Over the course of a court case, the right time to engage the services of a Chartered Business Valuator is an important element that prosecutors should consider. On this note, Mr. Goulet advises that experts should be hired on as early as possible. As he explains, “In suing for damages, we suggest retaining the services of a valuator as soon as the proceedings are under way, because he or she will be able to more quickly determine what elements to consider in quantifying the amount to claim, and thus assist the lawyer in preparing the examination for discovery. Often, this is the stage when the financial evidence is required to put together the expert opinion on the damages. However, in practice experts are too often hired only after the examination has been done and the exhibits have already been requested and submitted. At that point, it is sometimes too late for the valuator to have access to other information that would have allowed for a more accurate quantification of the damages.”

Hiring the valuator at the beginning of the process can provide many other advantages during the case. First of all, the valuator is the person in the best position to understand the testimony of the other party’s valuator and therefore be able to translate it for the prosecutor. This can mean that flaws can be identified, which can be used to plan the cross-examination and prepare the witnesses.

As well, when valuers are permitted to be present during all the hearings, they can ensure that the facts on which they have based their expert reports are the facts that are proven in court, or to determine whether this has a different impact on their initial opinion. In this case, Mr. Goulet maintains that “CBVs will undertake to amend their position as soon as new facts are revealed at the hearing that affect their opinion.”

A rapidly-growing designation

Chartered Business Valuators are a group of professionals in the fields of accounting and finance who are part of the Canadian Institute of Chartered Business Valuators (CICBV). In this association, which was founded in 1971 following the creation of a new tax regime on capital gains, the members chose to adhere to additional standards of knowledge and competencies that must be respected in performing their work. As Mr. Goulet explains, “Our members are financial experts who work on complex technical issues, and they require particular knowledge that few individuals possess. However,

this is necessary in order to comply with the current Standards of Practice and ensure that the public is protected.”

In addition, he predicts that with the current state of the market, more and more situations will present themselves where lawyers will need the services of Chartered Business Valuators. In order to respond to this growing need, the members of the Institute have implemented a demanding continuing education program, soon to be available in both official languages, to ensure that all Members of the Institute possess not only the necessary qualifications to fulfil the mandates conferred upon them, but also the skills needed to work with other professionals, such as the ability to speak in public and explain complex concepts in a simple manner.