

PRACTICE STANDARD NO. 310

EXPERT REPORTS

REPORT DISCLOSURE STANDARDS AND RECOMMENDATIONS

1. Chartered Business Valuators may be retained as experts to provide their professional opinion as to the quantum of financial gain/loss or any conclusion of a financial nature in the context of litigation or a dispute. Such expert opinion is often requested in respect of claims arising from financial disputes such as corporate commercial matters, shareholder matters, securities litigation, personal injury matters, breach of contract, intellectual property infringement and income determination for family law purposes or other similar claims.
2. An Expert Report is defined as **“any written communication other than a Valuation Report, containing a conclusion as to the quantum of financial gain/loss, or any conclusion of a financial nature in the context of litigation or a dispute, prepared by an Expert acting independently.”** An Expert Report does not include work product that is in the process of being completed that is provided to a client or knowledgeable third party in circumstances where each of the following conditions are met: (i) the work product is clearly marked as being in draft form and subject to change; (ii) the work product is issued for the purpose of obtaining comment, instruction, confirmation or other information required to complete the Expert Report; (iii) the Expert knows, or reasonably ought to know, that the intended reader(s) does not intend to rely on the work product or distribute the work product to a third party who may in turn rely on such work product; and (iv) the Expert has a reasonable expectation at the time the work product is provided that an Expert Report will be completed and issued in due course.
3. A summary of an Expert Report shall be exempt from the following standards and/or recommendations provided that the summary clearly refers to the Expert Report.
4. Where a Valuation Report forms part of an Expert Report that Valuation Report shall conform to Standards 110, 120 and 130.
5. At a minimum, all Expert Reports shall contain the following information, which is set out herein in bold characters. "Recommendations" are not mandatory but encouraged. "Explanatory comments" provide additional guidance in applying the specific provisions of the Standard.
6. **Report Introduction**
 - 6.1 **The Expert Report shall have an introduction that includes the following information:**

- A. **To whom the Expert Report is being provided;** (*Explanatory comment:* if not readily apparent from the addressee, the name of the party(ies) who engaged the Expert should be disclosed)
- B. **A statement of the nature of the mandate;**
- C. **The effective date or time period of the Expert Report calculation(s);**
- D. **The date of the Expert Report;** (*Explanatory comment:* the Expert Report should be dated at the time when pertinent information was last obtained and analyzed, including information obtained from discussions with lawyers, client or other parties)
- E. **The purpose for which the Expert Report is being prepared;** (*Explanatory comment:* the Expert may want to emphasize that the Expert Report is addressed to specific readers in specific circumstances, having specific needs and/or knowledge)
- F. **The name and firm of the Expert responsible for preparing the Expert Report;** (*Explanatory comment:* this information may be disclosed elsewhere in the Expert Report, such as in the letterhead and/or on the signature page)
- G. **A statement that the Expert Report was prepared by the Expert acting independently and objectively;** (*Explanatory comment:* in circumstances where a firm is responsible for preparing the Expert Report, this statement is in respect of the independence and objectivity of the person(s) who prepared the Expert Report and any assistants)
- H. **A statement that the Expert's compensation is not contingent on an action or event resulting from the use of the Expert Report; and**
- I. **A statement that the Expert Report has been prepared in conformity with the Practice Standards of The Canadian Institute of Chartered Business Valuators.**

7. Report Definitions

- 7.1 **The Expert Report shall contain a definition(s) for the quantum of financial gain/loss, or any conclusion of a financial nature in the context of litigation or a dispute.**

8. Report Scope of Review

- 8.1 **The Expert Report shall contain a detailed scope of review that clearly identifies the specific information upon which the Expert relied to arrive at a conclusion.** (*Explanatory comment:* such information might consist of the documents reviewed, the individuals interviewed, the facilities visited, other expert reports (including future-care cost studies, Valuation Reports, management consulting studies, etc.), management representations concerning budgets, projections and interim financial statements)
- 8.2 **Where the conclusion is qualified by a scope limitation, the limitation shall be explained, setting out the reasons for the limitation and disclosure of the potential impact on the Expert's conclusion.** (*Explanatory comment:* to the extent that the scope of review has been significantly restricted, or information provided is substantially incomplete, the Expert shall determine if an unqualified conclusion can be provided. If the Expert Report is qualified because of a scope limitation, the details shall be fully disclosed)

9. Report Disclosure

- 9.1 **The Expert Report should provide sufficient information to allow the reader to understand how the Expert arrived at the conclusion expressed.** (*Explanatory comment:* the amount of information included is a matter of professional judgment, based on the scope of review, the purpose for which the Expert Report is intended)
- 9.2 **At a minimum, all Expert Reports that will (or likely will) be disclosed publicly (e.g. in open court, in a prospectus, etc.) shall include the following information:** (*Explanatory comment:* when the Expert has been assured in writing that the Expert Report is to be restricted to review only by well-informed parties to the dispute or their counsel and the Expert is of the opinion that the omission of one or more of the following would not render the Expert Report misleading, then the following points should be considered as recommendations which should be followed)
- A. **A description of the nature of the dispute and the events giving rise to the claim;** (*Explanatory comment:* this would include a narrative description of the business/employment activities, a brief history of relevant events and a discussion of factors influencing the Expert Report calculation(s))
 - B. Where applicable, **a description of the economic context and industry outlook bearing on the individual(s) and/or business(es) central to the Expert Report calculation(s),** taking account of the past and foreseeable future as well as of the present;
 - C. **A statement of the approach taken and techniques used,** explaining the rationale for selecting a particular analytical technique and summarizing the key areas considered when selecting the analytical approach and determining financial gain/loss or any conclusion of a financial nature; (*Recommendation:* the basic mechanics of the techniques should be outlined and appropriate definitions should be provided)
 - D. **A description of the financial gain/loss, or other calculations relating to any conclusion of a financial nature,** explaining how each of the significant factors in the calculation(s) was developed and the rationale for each;
 - E. **Assumptions used and the procedures followed to determine the reasonableness and appropriateness of key assumptions;** (*Explanatory comments:* the Expert should classify the assumptions used as: (i) those assumptions that the Expert is directed to take, that are not within his/her area of expertise; (ii) those assumptions made by the Expert, within his/her area of expertise and based on scope of work executed by him/her; and (iii) those assumptions that the Expert is directed to take on matters that are within his/her area of expertise, but where the Expert was not provided opportunity to execute a scope of work appropriate to add assurance to the assumption)
 - F. **Financial information.** (*Explanatory comments:* comprising the most current (as close as possible to the effective date of the Expert Report calculation(s)) balance sheets, income/cash-flow statements or a summary thereof, tax returns and/or any other financial information central to the Expert Report calculation(s))

10. Report Restrictions and Qualifications

10.1 The Expert Report shall disclose any restrictions and qualifications that affect the Expert's conclusion as follows:

- A. A statement restricting the use of the Expert Report by the persons for whom the Report was prepared and only for the stated purpose;**
- B. A statement denying responsibility for losses resulting from any unauthorized or improper use of the Expert Report; and**
- C. A statement giving the Expert the right to make revisions and/or further support the conclusion under specified circumstances, such as when facts existing at the effective date become apparent to the Expert after the report is issued.**
(Explanatory comment: to the extent that the scope has been significantly restricted or information provided is incomplete, then the Expert must determine if an unqualified conclusion can be provided)

11. Conclusion

11.1 The Expert Report shall contain a conclusion as to the quantum of financial gain/loss or conclusion of a financial nature. The conclusion shall include a reference to the scope of review, key assumptions, any restrictions and/or qualifications in the Expert Report.

June 17, 2009