

## **BUSINESS AND EXPERTISE**

**Finance Option/Law & Business Option - March 2010**

### **The point of view of... Frédéric Duponchel and Christophe Schmit, partners of Accuracy**

#### **Accuracy is regularly appointed as a financial and economic expert in litigation. Explain your mission.**

Frédéric Duponchel and Christophe Schmit: In most of our cases, we are appointed as a litigant expert. We are called upon by corporate attorneys or directly by companies. We also work alongside other experts. In construction litigation, for example, technical experts are also appointed, but they do not address the financial aspect of litigation.

When we work alongside a plaintiff, we are very often involved ahead of the dispute, even before litigation is initiated. We then test the case on economic and financial levels, evaluate the strength of the claim, and prepare an initial estimate of the damages. In cases in which we are appointed by the defendant, we are often involved after the other party's delivery of its findings and the resulting estimate of damages. We then provide a report in response to the report by the opposing side's expert.

In any case, our job is to give a clear, independent image of the situation, clarify the respective positions of both parties, and set out the economic consequences of the legal matter.

We work on the basis of documents submitted by the company and its lawyers, possibly supplemented by information research from our financial or sector databases.

***“Law and finance must not remain foreign matters; they are complementary.”***

#### **Is your mission the same in arbitration?**

Our involvement is relatively similar in the case of arbitration procedures, although the amount of work required is often greater than in litigation before State courts. In international arbitration, we work frequently as a litigant's expert witness, more rarely as an expert appointed by the arbitration tribunal.

We play a key role in this type of procedure: our objectivity and impartiality are fundamental, both in our work and research and during the presentation of our findings. They are a guarantee of our professionalism.

In arbitration, the expert must explain to the arbitrator the economics of the dispute, which will be decisive in the adjudication itself, as well as in the justification for this adjudication.

However, arbitrators are often lawyers or law professors with relatively little training in economic and financial issues. The expert must therefore have good teaching skills.

Even if it is the representative of one of the parties, the expert pledges that all of its testimony is true. This point is crucial when it is interrogated by the arbitration tribunal as well as the opposing party as part of a cross examination.

#### **Do you work hand in hand with the legal department of the company and its attorney?**

Absolutely. The secret to successful arbitration is to round out the legal and financial arguments. The arbitration tribunal then has a perspective that should be sufficiently complete regarding the damages. In order to put together this briefing, we organise regular meetings with the company's legal department and its lawyers. Our strength lies in knowing how to dialogue with them in order to understand their legal issues and explain to them the accounting, financial, and economic considerations underlying the case in question. In addition to the technical nature of our expertise, listening and teaching are undoubtedly the hallmarks of our practice!

Our main contact in the company is the legal director or the person in charge of settling disputes, as large companies generally have specific teams dedicated to litigation. When we need accounting or financial information or need to discuss a technical point, the financial director is very often involved. Law and finance must not remain foreign matters; they are complementary of each other. It is by working together that cases are handled better.

■ ■ Ondine Delaunay