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VALUATION ASPECTS OF SHAREHOLDERS' BUY-SELL AGREEMENTS

One of the most important aspects of a shareholders' agreement is often the buy-sell clause, the purpose of which is to provide a market and liquidity for the departing shareholder's shares and a manner or mechanism in which the continuing shareholders[1] may purchase those shares in circumstances where any one of the following "triggering" events applies to that shareholder:

- Death;
- Mental or physical disability or bankruptcy;
- Voluntary cessation of employment (retirement);
- Involuntary cessation of employment (dismissal);
- Dissension or deadlock among the shareholders;
- Criminal conviction;
- Matrimonial property claim; or
- A desire to sell the shares and withdraw from the company in order to form one's own business.[2]

(1) Alternatively, the corporation or other named parties can acquire the terminating shareholder's shares.

(2) In Canada, other types of events might include a shareholder's ceasing to be resident in the country and the company would thereby cease to qualify as a "Canadian-controlled private corporation" for purposes of the favorable "small business deduction under the *Income Tax Act* (Canada).

The funding aspect is intended for the departing shareholder to be protected as to the selling price agreed to in the buy-sell clause, and the continuing shareholder(s) to not be subject to an undue strain on their liquid resources. Such funding is usually by way of life insurance. In summary, the buy-sell provisions of a shareholder's agreement are meant to achieve a number of objectives:

- There will be an assured market as well as a fair selling price to the terminating shareholder for his or her shares as a result of death, a falling-out, or an inability to continue in the business.
- In the case of death, a vehicle exists that will assist in the timely administration of the deceased shareholder's estate.
- There will be increased certainty for estate planning purposes as to both quantum and liquidity with respect to the deceased's shares.
- Control of the corporation by the remaining shareholders is assured, without the involvement and possible interference of outsiders who might otherwise acquire the terminating shareholder's shares.
- A fair purchase price and a mechanism for the interest acquired by the continuing shareholder(s) is obtained.

Sale prices, terms of payment, etc. may vary depending upon the particular specified event or even the relationship among the shareholders. For example, a different purchase price may be offered, upon the death of a shareholder, to the continuing shareholders than would otherwise be the case upon withdrawal or termination. Whether the majority shareholder should be a party to such an agreement may also be questionable and may depend upon whether that shareholder plays an essential role in the company's operations.

The provisions of a buy-sell agreement must be designed to provide liquidity and fairness to a shareholder who withdraws from the business or dies, as well as to permit management and ownership to continue without interference from outside parties. The following are questions that must be addressed in drafting a shareholders' buy-sell agreement:

- Depending on the jurisdiction, is a shareholders' agreement at all possible?
- Should the *controlling* shareholder be party to the agreement?
- What specific events or circumstances should trigger the requirement for particular shareholders to buy or sell shares of the corporation?
- If a shareholder ceases to be employed in the company, should he or she be required to sell his/her shares?
- Must the shares be sold upon death? If so, will any potentially available tax savings be safeguarded?
- How should the buy-sell clause be funded when the specified event is death?
- Should there be a forced buy-sell ("shotgun") arrangement, or should there be a right of first refusal granted to the continuing shareholders? If so, should that right be granted to all or only some (or one) of them?
- If there is a requirement for a shareholder to sell, must the shares be offered to the other shareholders in proportion to their respective shareholdings, or should there be some other order of priority?
- What treatment should be accorded a *minority* shareholder when there is an arm's-length, third-party, *bona fide* offer for 100 percent of the outstanding shares of the company? Should he/she be given the opportunity of acquiring the controlling (majority) shareholder's shares under the same terms and conditions contained in the third-party offer?
- What time limit should be set for the majority shareholder to sell the controlling shares to the third party if the right of first refusal is not exercised by the minority shareholder?
- How will price and value be determined? As of what date? For example, should price and value be computed as of the date of the specified event? As of the end of the immediately preceding month? As of the end of the last completed fiscal year of the company? Or as of the end of the last regular reporting period (such as a quarter) for accounting purposes?
- Should the corporation redeem/acquire the shares or should the remaining shareholders, and what would be the different tax consequences?
- What are the tax implications if the vendor is a non-resident?
- How will any non-compete payments and/or consulting fees be addressed?

VALUATION ASPECTS

The foregoing are only a few of the numerous questions that must be addressed in a shareholders' buy-sell agreement. Equally important are the valuation aspects relating to the shares that are subject to the agreement.

Shareholders' agreements are reduced to writing only after the intentions of the parties have been considered. When the buy-sell clause is triggered, however, problems may still arise because relationships and circumstances may have changed, or because there are inadequate instructions in the agreement for establishing how the terminating shareholder's interest is to be valued. For example, many agreements provide for the buy-sell price to be simply at "book value" — which, for the reasons outlined below, can cause serious inequities and distorted results. Also, as well be seen, even the term "fair market value" can have material shortcomings in the context of a buy-sell. These are discussed below. Buy-sell agreements often share a common failing:

> "Almost by definition the setting of a value for a business to be covered by a buy-sell agreement is an essential feature of that agreement. Too often it is also the most

> neglected feature of the agreement, set in an arbitrary, unprofessional manner almost as an afterthought.[3]"

The practical problems in attempting to establish a fair and reasonable price in a buy-sell clause are the uncertainty as to the type of event (death, dismissal, incapacity) that will occur and thereby trigger the provisions of the clause, and the timing of such an occurrence.

Setting the Price

In any buy-sell clause, the transaction price between the terminating and continuing shareholders must be clear and readily ascertainable. The following are the usual methods for determining price under a buy-sell agreement:

- Fixed price negotiated in advance by the parties and updated periodically (usually annually) and used for a specified event occurring subsequently.
- Price determined by an independent third party, such as an accredited business valuator.
- Price established by formula.
- Price determined pursuant to a shotgun (put-call) clause.
- Price established by right of first refusal.

No single approach to the problem of establishing a price under a buy-sell agreement will be entirely satisfactory to all parties and address all situations. As will be explained below, none of these five alternative price-setting mechanisms is totally satisfactory. Furthermore, regardless of the method agreed upon, difficulties in the interpretation of the price/value term (or standard) employed in the agreement may be encountered. My comments address some of the problems that are often encountered in the various price-setting mechanisms.

(3) Orville B. Lefko, "Buy-Sell Agreements and Appraisals" (February 1976), 55 *Michigan State Bar Journal* 116-26.

Many buy-sell agreements that are prepared (often by attorneys) without having adequate valuation input employ the term "book value", "fair market value", "market value", "fair value", "value", or some other term the implications of which are rarely given much thought. Of course, each of these value terms (standards of value) can lead to different valuation conclusions.

Since "book value" and "fair market value" are the price/value terms most frequently employed in buy-sell clauses, the comments that follow will highlight some of the potential problems that accompany their use.

Use of "Book Value"

"Book value" (which would generally be at historical cost) may be totally inappropriate in determining price in a buy-sell agreement and unfair as a basis for the acquisition of the *terminating* shareholder's shares. Either the continuing shareholder(s) or the terminating shareholder will be unfairly treated if the buy-sell price is book value (except perhaps in portfolio investment-type situations).

"Book value" is defined as "the amount at which an item appears in the books of account and financial statements; in connection with owners' equity in a business, the amount of the net assets of the business shown in a balance sheet."[4] The term "book value per share" is defined as "the portion of the shareholder's equity attributable to a share of issued capital of a corporation, taking into account the participating rights of the various classes of capital stock outstanding."[5] Stated differently, book value is the net amount of assets as shown by the books, or the amount that the shareholders will receive immediately following a no-loss liquidation.

If the buy-sell clause employs the term "book value," payment to the withdrawing or deceased shareholder at such a price may be substantially below a fair and reasonable

(4) *Terminology for Accountants*, 4th Edition (Toronto: The Canadian Institute of Chartered Accountants, ("CICA") 1993).

(5) *Ibid.*

amount because, of course, increases in the values of fixed and certain other assets and the existence of valuable intangibles, including intellectual property, generally will not be recognized in the calculation of book value. This is because tangible assets are generally recorded at original or historical cost, and intangibles, unless they are either purchased or there has been a business combination, will not even be reflected on the face of the balance sheet. Nor are contingent assets and liabilities reflected on the balance sheet; they commented on in the notes accompanying the financial statements.

"Book value" has several other important shortcomings when it is used for purposes of setting the buy-sell price. Consider the result in each of the following unrelated hypothetical situations:

- A business has substantial earning power, and goodwill is not reflected on the balance sheet. Moreover, the terminating shareholder was instrumental in creating and maintaining the goodwill.
- A business is construction-related (a construction company, a firm of architects, etc.) and has long-term construction contracts. The firm recognizes its profits using the completed-contract-method of accounting rather than the percentage-of-completion method. Over 90% of the work has been completed but, adhering to the firm's consistent accounting policies, revenue recognition will not occur until after the shareholder departs.
- Future income taxes payable are reflected on the company's balance sheet. For valuation purposes, depending upon how such tax credits arise, should they be considered a liability or a part of shareholders' equity in computing book value per share?
- The company has large unused loss carryforwards (which have substantial value), but the related losses for accounting purposes have a negative effect on the calculation of the book value of the company's issued shares.
- There are various *potential* liabilities (distinct from *contingent* liabilities) such as letters of credit available but not yet presented to or paid by the bank, environmental considerations, etc.
- During the intervening period there was an issue of common stock from treasury at a price in excess of book value; retirement of preferred stock at a price below the book value of the preferred; conversion of funded debt into common stock; issuance of stock dividends; a stock split; or a reverse stock split.
- At the time of the signing of the agreement, the circumstances were different from those prevailing when the triggering event occurs.
- Accounting policies such as the capitalization of certain repairs or the treatment of depreciation, etc. have not been consistent from year to year since the signing of the buy-sell agreement.
- There have been errors in the preparation of the current year's or the previous year's financial statements.
- The company is on a cash basis of accounting rather than on an accrual basis.
- There are pending lawsuits or substantial claims by or against the company (referred to in the notes to the financial statements), and it is impossible to determine their potential outcome. In addition, the company has just been reassessed for the previous taxation year for a substantial amount, believes that the reassessment is ill-founded and will file an objection.
- The company has consistently excluded overhead from its inventory. Had such normal overhead been included, retained earnings would have been increased (net of income taxes on such overhead).
- There are inventory and other hidden reserves.
- The company's balance sheet reflects purchased goodwill which has lost value since acquisition and has not yet been written down pursuant to the annual impairment test under GAAP.[6]

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(6) SFAS 142 of the Financial Accounting Standards Board in the U.S., and in Canada, Section 3062 of the CICA *Handbook*.

- Transactions between the company and non-arm's-length parties have taken place at other than fair market value.
- There are "special purchasers"[7] in the marketplace.
- The specified event is death, and life insurance proceeds will be payable to the company as beneficiary and owner of the policy.
- The company is the guarantor of bank loans to a third party.
- There are product warranties outstanding which have not been booked (but only noted) on the financial statements.
- There is long-term debt owing to arm's-length creditors, but bearing interest at rates substantially below current market rates on similar obligations.

The pitfalls of using book value for the transaction price can be best summarized in the words of Professor James C. Bonbright in his valuation treatise:

> "Needless to say, an inference that the market value or "fair market value" of a share is equal to its book value must be based on a whole series of assumptions, each of which is more likely than not to be unwarranted in a given case. First, the books may be inaccurate from an accounting standpoint, with the result that the book value is an *improper* book value. Second, good accounting practice itself does not purport to require that *assets* be "valued" at their *value* in any accepted sense of the word. Instance the traditional rules that fixed assets should be valued at depreciated actual cost, that inventories may be valued at $1 unless it was acquired by purchase. Third, the assumption that the stock equity as a whole is worth the difference between the value of the gross assets and the par values of the liabilities is often quite unjustified. And fourth, the further assumption that the value of any given number of shares of stock is worth a prorata portion of the value of the entire stock equity is frequently erroneous."[8]

In summary, although "book value" may be the simplest term to understand — and to calculate — it will often yield unfair results.

To avoid potentially serious inequities, the term "adjusted book value" might be considered, which contemplates that the assets and liabilities are adjusted to their fair market values. But only those that are recorded on the balance sheet? The International Glossary of Business Valuation Terms recognizes this potential problem in its definition of "Adjusted Book Value Method":

> "a method within the asset approach whereby all assets and liabilities (including off-balance sheet, intangible, and contingent) are adjusted to their fair market values (NOTE: In Canada on a going concern basis)."[9]

Fair Market Value

In view of the types of problems and various inequities described above, some practitioners have preferred the use of the term "fair market value" in the buy-sell clause.

Assume that a terminating shareholder holds a minority interest. If the agreement provides that he or she be paid fair market value upon the triggering event, the first question that comes to mind is whether, and to what extent, a discount should be applied in determining the fair market value of the minority shareholding.

In the absence of any other particular instruction or direction, an accredited valuator will follow accepted valuation practices, principles and standards, and, if appropriate, might apply

(7) See. Richard M. Wise, "The Effect of Special Interest Purchasers on Fair Market Value in Canada", *Business Valuation Review*, Vol. 22, No. 4, December 2003, pp. 196-203.

(8) James C. Bonbright, *The Valuation of Property*, 2 vols. (New York: McGraw-Hill, 1937), 1058.

(9) Glossary developed by the American Institute of Certified Public Accountants, American Society of Appraisers, The Canadian Institute of Chartered Business Valuators, National Association of Certified Valuation Analysts, and The Institute of Business Appraisers.

a minority discount to the pro-rata value of the terminating shareholder's interest, as well as a marketability discount to the resulting base (i.e., to the "as-if-freely-traded value").

Other potential problem areas are created by employing the "fair market value" standard without any further direction to the valuator. For example:

- In the absence of specific instructions, does the valuator, take into account the loss to the company of the terminating shareholder's future services?
- How is corporate-owned life insurance to be treated, when the company is the beneficiary?

In valuing the company's issued shares, does the valuator include goodwill that may otherwise be considered as belonging to the continuing shareholder who was the key person? The valuator may be faced with the continuing majority shareholder's argument that the goodwill should not be included because the majority shareholder was responsible for most of the company's business and thus such goodwill belonged to him and was personal. In a U.S. case that addressed this issue, it was held that "the goodwill of a business carried on by a corporation belongs to the corporation alone."[10] In a British Columbia case, the valuator's report was successfully attacked because no consideration was given to goodwill.[11]

Also, the buy-sell clause should instruct the valuator to consider the terminating shareholder's interest, for valuation purposes, as part of the controlling group having 66-2/3% of the votes in all circumstances. If the agreement employs the term, "fair market value", it should specify "without the application of either a minority discount or marketability discount", if that is what is intended.

(10) *Brown v. Allied Corrugated Box Co., Inc.* (1979), 154 Cal. Rptr. 170 (Cal. CA).

(11) *Bexley et al. v. Dunning* (1976), 4 WWR 446 (BCSC).

Date of Calculation

For purposes of discussion, assume that book value is acceptable (because the company is an investment holding company). The shareholders' agreement may, however, fail to indicate the date as of which book value is to be determined. For example, assume that book value is to be determined as of the last completed fiscal year-end for which there are audited financial statements (December 31). If the specified event (say, dismissal) takes place the following November — some 11 months later — is it fair to calculate the book value of the terminating shareholder's interest as of last December 31? Consider the position of a terminating shareholder of a major department store who departs before the Christmas season and who is required to accept book value calculated as of 11 months earlier, or of an automobile or pleasure-boat dealership who departs March 31, just before the high season.

Other questions that must be addressed include whether the interim statement is to be audited, and, if so, who bears the cost?

Advantages and Disadvantages of Price-Fixing Mechanisms

The following comments outline certain advantages and disadvantages of each of the various price-setting alternatives discussed earlier.

Fixed Price Determined Periodically

When a fixed price is determined periodically, the shareholders themselves, who usually have the best idea as to the value of their company, negotiate in advance a price at which the shares of the departing shareholder will transact when a specified event is triggered. That price is updated periodically by the shareholders in order to take current factors into account.

Advantages

In general, a current fair market value is maintained if the periodic setting of the price value is adhered to.

Disadvantages

While there is usually provision for the parties to meet each year to establish a new (up-to-date) price, in practice they rarely seem to find the time to do so. Therefore, by the time the triggering event occurs, the fixed price originally agreed to may no longer be relevant, and may cause significant prejudice to the departing shareholder (or, alternatively, to the purchaser if the future of the business has become bleak).

To the extent that the parties do not have equal negotiating abilities, the price agreed upon and the approach under which the price is determined may not be fair. Thus, the absence of a price-setting mechanism may be better than having one that is outdated.

Finally, it may be costly to maintain this type of mechanism because professional fees will be incurred on an annual or other periodic basis. Nonetheless, allowing this disadvantage to stand in the way may be "penny wise and pound foolish".

Price Determined By an Independent Third Party

There are different ways in which price can be established by a third party, such as a valuator.

Advantages

Determining price/value as of the time that the specified event occurs will provide a current value.

The valuator named to establish price/value must be given full and clear direction as to the principles and methodology to be employed (for example, whether the terminating shareholder's interest is to be discounted if it is a minority holding; whether "special purchaser" considerations are to be included; whether the valuation should recognize the loss of the terminating shareholder's services). This is not to be confused with the so-called formula approach, but rather relates to the basic valuation principles and definitions. Furthermore, from a practical point of view, a valuator who is requested to determine price/value under the buy-sell clause of a shareholder's agreement should consider whether he or she is acting in the capacity of a quasi-arbitrator and thereby possibly immune from legal liability.

Formula Approach

The most common formulae are based upon either assets or earnings. Sometimes an assets-based formula will include a provision that a fixed, predetermined amount be aggregated with book value to recognize goodwill or other intangibles. In addition, the formula may provide for additional adjustments such as the adding back of certain reserves.

Earnings-based formulae include a capitalization of earnings using, for example, an average of a specified number of years' profits so as to avoid distortions resulting from abnormal years. Often the price/earnings multiple is provided as a *fait accompli*. In certain other cases, a combination of an asset-based approach and an income approach may be used. Some formula approaches are based on a percentage of gross revenues rather than net earnings.

Advantages

The main advantage to the formula approach is that it can usually be calculated easily. Also, to the extent that no outside professionals are retained, it is one of the least costly alternatives.

Disadvantages

The formula approach often proves to be the most unrealistic, particularly as time elapses, if there are no updating mechanisms. In fact, what appears to be the ideal valuation approach at the time of the specified event may not coincide with the formula in the buy-sell clause. While, say, the earnings approach may have been the appropriate basis for determining value at the time the buy-sell clause was drafted, when the specified event occurs the assets approach to valuation may be appropriate (e.g., if the company had since ceased business operations and became an investment holding company). Tax practitioners are cognizant of the related jurisprudence in this regard.[12]

Even if the company has not changed its nature or its operations, numerous internal and external factors bearing on value are generally not taken into account using a formula. For example, if the formula establishes a certain capitalization (or discount) factor to be used, it may be totally unrealistic, as changes occur with time and circumstances.

A formula approach does not take into account the parties' wish to have different values or different payment terms, depending upon the specified event. For example, when a shareholder is dismissed, the price to be paid and the terms of payment may be different from what they would be had he or she retired from the company.

Price Determined By Shotgun (Put-Call) Arrangement

In practice, the shotgun approach is employed more widely in situations where the parties may be concerned about a possible falling-out between or among them. It can also be used in the event of death. In effect: "***You*** cut the pie in two, and ***I*** will choose my slice!"

Under the shotgun arrangement, a shareholder can make an offer to the other shareholder(s) either to sell or to buy at a price, and upon terms, designated by him. The other shareholder(s) may either accept or decline. If the offeree declines, the offeror has the right to decide whether to buy or to sell. Therefore, if the offeror ***asks too high a price*** (assuming such offer is to sell), the offeree may respond by requiring the offeror to pay that same price for the offeree's shares. On the other hand, if the offeror ***offers too low a price*** to the offeree, the offeree may respond by buying out the offeror at that low price. The offeror is thus forced to adopt a fair and reasonable price by naming a price at which they must either buy or sell.

Advantages

If the parties have equal financial backing and are equally informed as to the future prospects of the business, the shotgun approach should establish a fair price, since the offeror will be forced to sell if his/her valuation is too low; alternatively, he/she will be forced to buy if his valuation is too high. In effect, the offeror must set a fair price since he or she does not know whether either a purchase or sale will result.

Disadvantages

The shotgun approach necessarily assumes that both parties have equal financial strength and equal information about the company and its prospects. It also assumes (though the opposite actually may be the case) that the respective shareholdings are of similar size. However in the case of, say, two shareholders, one owning 85% and the other 15%, it obviously is simpler for the 85% shareholder to buy, since the 15% shareholder may not have the resources to acquire the large holding. A small shareholder may therefore be forced to ask for a price lower than fair market value to avoid being forced into becoming the purchaser.

A variation of the shotgun approach is an auction, or a restricted auction, whereby upon the triggering of the specified event, all of the shareholders are required to put their shares up for auction among themselves. By this route, the parties are assured that they will be able to acquire the other shares, provided that they pay the price. As with the shotgun arrangement, however, a shareholder can be forced out if the offeror is prepared to pay a high price.

Price Determined By Right of First Refusal

Shareholders' agreements generally contain a provision requiring that any shareholder who desires to sell his shares must first of them to the continuing shareholders. If a *bona fide* offer has been received from an outside third party, the terminating shareholder must offer her shares to the continuing shareholders on terms and conditions that are no less

(12) For example, in the U.S., IRC, Section 2703 and *Lauder* v. *Comm'r*, TCM 1992-936 and TCM 1990-530 and in Canada, IT-140R3, "Buy-Sell Agreements".

favourable. If the remaining shareholders do not exercise their right of first refusal, the departing shareholder may sell to the *bona fide* third party after a specified period. In Canada, when there is a unanimous shareholders' agreement, the purchaser will become a party to the original shareholders' agreement and her shares will become subject to the agreement.

CONCLUSION

As can be appreciated from the foregoing commentary, which addresses only some of the possible problems, a business valuator should be consulted during the drafting of the buy-sell agreement, as should an attorney, accountant and life insurance advisor. This may avoid many problems when ultimately the specified event triggers the buy-sell provisions of the shareholder agreement.

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Upcoming Presentations

September 11 & 12, 2006	"**Valuation and Deal Structures**", *Annual M&A Skills Summit*, Federated Press, Toronto, Ontario
September 20 to 22, 2006	"Business Valuations for Tax Planning: Key Issues in Determining Fair Market Value", *The Fifth Annual National Conference on Income Taxes*, Canadian Institute of Chartered Accountants, Toronto, Ontario
September 27 to 29, 2006	«**Évaluation de leurs projections financières**», Federated Press, Montréal, Québec
October 19 & 20, 2006	"**Critical Valuation Provisions of Buy-Sell Agreements**", The Canadian Institute of Chartered Business Valuators/American Society of Appraisers, Toronto, Ontario.
October 26 & 27, 2006	"**How to Ensure that You're Not Overpaying For the Target Company: Current Valuation Trends**", *Advanced Forum on Mergers & Acquisitions,* Canadian Institute, Calgary, Alberta
November 14, 2006	"**Tax-Purpose Business Valuations: Contentious Issues with the CRA**", The Accountants Study Group, Montreal, Quebec
November 23 & 24, 2006*	"**Current Issues in Financial Accounting and Valuations**" (with Me Dominic Jaar, Bell Canada), *In-House Counsel Congress*, Canadian Institute, Toronto, Ontario

Recent Presentations

Our commitment to the professional community is highlighted not only by our extensive committee involvement, but also by our speaking engagements and presenting technical papers at Canadian and U.S. conferences:

- "**Expert Witness Preparation and Testimony**", Center for Advanced Valuation Studies, American Society of Appraisers (New York, July 29, 2006)
- "**Shareholders' Agreements/Valuation**", *Owner-Manager Conference*, Canadian Tax Foundation (Quebec City, July 15-19, 2006)
- «**Le rôle des experts dans la gestion des litiges fiscaux : les considérations indispensable pour mieux gérer vos dossiers**», L'Institut Canadien (Montréal, June 6, 2006)
- **"Valuation-Related Issues in Estate and Tax Planning"**, STEP Atlantic Branch (Moncton, New Brunswick, May 11, 2006)
- **"Valuation-Related Issues in Estate and Tax Planning"**, STEP Atlantic Branch (Halifax, Nova Scotia, May 10, 2006)
- **"Due Diligence In The Context Of A Multi-Jurisdictional Or Cross-Border M&A Transaction"**, *Cross Border Deals Course*, Federated Press (Toronto, February 1 and 2, 2006)
- **"Rules for the Business Valuator Giving Expert Witness Testimony"**, Financial Consulting Group, L.C. (Las Vegas: November 13, 2005) and Eastern Canada Chapter, American Society of Appraisers (Montreal: November 23, 2005)
- **"Position of the Courts on Admissibility of Hindsight in Canada",** Valuation Study Group (Bretton Woods, New Hampshire: October 6 to 9, 2005)

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