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Strategy in Action

Fair value on trial

In a litigation, having an experienced subject-matter expert by the side of your lawyers can often turn complex issues into trump cards

IN THE cut and thrust of courtroom duels, the grasp of complex issues and the command of information are often critical in putting across a convincing case. This is even more so in litigations that turn on technical valuation issues, where valuation experts play an important role in helping the courts understand the contesting viewpoints to arrive at the values of assets under dispute.

Lie Kok Keong, Valuation Leader at PwC Singapore and Council Member of the Institute of Valuers and Appraisers of Singapore, has over the past decade personally supported many litigation cases in sectors ranging from retail, real estate, hospitality, food & beverage, to engineering & construction, and resources.

"When lawyers pick a valuation expert to support them, they look for someone who is not just technically sound and comes from a firm of good repute, but also one who has battle scars from being cross examined on the witness stand. Someone with quick wits and resilience, someone who will not wither on the stand!" he says with a chuckle.

He still remembers his first litigation support case – a valuation dispute involving a hospitality business. Despite being forewarned about how scary the cross examination experience could be, he walked away from that maiden case unscathed. "Strangely, I discovered that I actually enjoyed the challenge of being cross examined, and to defend my position even as the opposing lawyers try to tear it apart by picking on every minor detail and my choice of words," he reveals.

Since then, he has provided litigation support as a valuation expert to some of Singapore's leading litigation lawyers in a variety of cases; such as when joint-venture partners split because of differences in views or as a result of a change in control of one of the parties, when family members squabble over a commonly owned business, or when spouses decide to call it a day and enter into divorce proceedings.

Some of these have required him to communicate complex ideas in layman terms while being challenged under cross examination. This often is the difference between an effective expert witness and a technical guru.

"I feel a sense of gratification when the judgement is close to the position I have taken as an expert, or when the parties settle out of court and my client gets an amount close to my assessed value."

Singapore's arbitration ecosystem

The push for Singapore to be a global dispute resolution hub went up a notch last year with the setting up of the Singapore International Commercial Court (SICC), in addition to the Singapore International Arbitration Centre (SIAC) which opened in 1991.

"The presence of the SICC and SIAC together with recent amendments to legislation have enhanced Singapore's position as an international hub for commercial dispute resolution. We have seen a gradual increase in arbitration cases heard in Singapore



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over the years. Many foreign parties choose Singapore because of our reputation as a transparent and efficient place for dispute resolution, and our high regard for rule of law," says Mr Lie.

He adds: "This growth has in turn spun the development of an arbitration ecosystem of professional services. Besides lawyers and arbitrators, an international dispute resolution centre also needs technical experts in areas like valuation, financial instruments, engineering, construction, accounting, and even new areas like digital technology and digital forensics. Technical experts play a valuable role in providing unbiased objective views to assist the judges and arbitrators understand the technical complexities and intricacies embedded in dispute cases."

PwC's litigation support team

Mr Lie is one of five partners within PwC Singapore that form its litig-

ation support team. Each partner covers different areas of expertise – valuation, financial instruments, forensic investigations, sales and purchase agreements, accounting, infrastructure projects and damage quantification.

"The track record of the team has really grown over the years. In fact, a PwC Singapore litigation support team was recently involved in an arbitration case heard in the International Court of Arbitration in Zurich," says Mr Lie.

A blindfold and a set of scales

One of the toughest aspects of Mr Lie's role is gathering the information he needs from the litigating parties in order to do his job.

"Valuation is a science but also an art. The final outcome is often judgmental, partly depending on the value assessment of future events as of the date of valuation," says Mr Lie.

The 4 'C's

PwC partner and head of its valuation team, Lie Kok Keong, shares his tips on working well with lawyers.

- ◆ **Credibility** – The expert witness's duty of care is to the court. You have to be good in your work, sound in your logic and also independent both in form and substance. Otherwise you could be accused of being partisan, which could affect your credibility and the case.
- ◆ **Clarity** – Valuations can be quite technical, and if you cannot explain yourself clearly and make yourself understood, it will impact your ability to put your views across.
- ◆ **Conciseness** – You must be able to get straight to the point. In the midst of a cross examination it is crucial to be concise so that the salient points do not get lost in your words.
- ◆ **Chemistry** – You must be able to work collaboratively with the lawyers to help them understand complex issues quickly in order to navigate the intricacies of the relevant cases. It requires mutual trust, understanding and respect between lawyer and expert witness, and the same level of determination to do the utmost for the cases. This is where chemistry comes in.

He continued: "In a proceeding involving opposing interests, it is expected that parties will present very conflicting views of future events and business prospects. Being able to stay independent and sift through the biases within the information submitted to objectively arrive at a fair conclusion will be most helpful to the court."

Dealing with the emotions of the opposing parties is another challenge. Indeed, he occasionally gets phone calls from agitated parties who do not agree with his assessments.

He adds: "We have to draw a line and stand by our professional opinion once we have completed the due process and work. At the end of the day, our job is to help parties move on."

■ This is the first instalment of a second five-part series 'Strategy in Action', which is brought to you by PwC

