

## ELABORATION OF A JUDICIAL ACCOUNTING EXPERTISE REPORT. AN EXAMPLE

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### **Abstract**

*The accounting expert profession should be a noble one. It should be respected by third parties as well as the accounting professional in question. The work of a professional accountant involves, among other responsibilities, the elaboration of judicial accounting expertise reports. Unfortunately, the content of certain reports filed in court is not entirely professionally written and eloquent for the judge. The elaboration of a report has to be done according to the rules stipulated in professional standard no. 35 Accounting expertise. One sensitive point in the elaboration of expertise reports is the submission of the lists from the local offices to the courts of law. Most of the times these lists only include some of the experts whose reports are incondite. This article presents an expertise reports with two objectives formulated by the court.*

**Key-words:** Accounting expert, expertise, accounting expertise report, free profession

**Codes JEL :** M40, M41

### **1. General remarks regarding the accounting expertise**

In a broad definition, accounting expertise is an organized dogma and practice (we could even state that expertise is a social phenomenon), regulated as a free profession. From a historical perspective, accounting expertise as a free profession has been organized and governed in Romania by the law and regulated through The Body of Expert and Licensed Accountants of Romania (CECCAR), published in Official Journal n. 80 from 15 July 1921 and no. 613 from 22 October 1921, which comprised the following statements:

- A body of certified accountants and accounting experts in Romania, of legal character, is hereby established

- Any kind of expense account, sharing, bankruptcy check, any kind of accounting expertise...will only be entrusted to an accounting expert (art. 15 of the law). [1].

During the centralized state economy the expert accountant profession did not exist. In that period of time only the concept of judicial accounting expertise existed.

After 1990, the free accounting profession was reinstated and regulated in Romania, through Official Journal no. 65/1994 which was subsequently amended and supplemented.

Every accounting student wishes to obtain the „expert” title, even though in many cases the student does not have an in-depth knowledge of the accounting profession. Obtaining the qualification of accounting expert involves more steps: graduating from an economic specialty, passing an access examination, undergoing a 3 year internship, passing a professional competence examination at the end of the internship and registration to the Body. There is also the opportunity of obtaining the expert qualification following an interview for those who hold a PhD in Accounting.

Being an expert does not mean richness, opulence. Being a good accounting expert involves reliability, a lot of work and will. Being an expert means abiding by certain principles and among them the principle of independence holds an important role.

According to the Romanian Dictionary, „independence” is defined as „the situation when a person thinks and acts independently, external to other people’s influence”. The same dictionary defines the concept „independent” – „one who relies on his own strengths, with personal initiative” [2].

To sum up, the types of situations which can help expert accountants in becoming independent are: financial interests, loan and warranties, close business relations with the clients, family and personal relationships, commitment to customers, recent services provided for clients, having a management position or the position of director of the customer board, a long collaboration between management and clients, offering other services apart from the special ones for clients, remuneration and prices, presents and hospitality, actual or potential litigations.

CECCAR has established the professional regulation of this fundamental activity through professional standard no. 35: accounting expertise. This standard contains among others: a judicial accounting expertise report template and an extrajudicial accounting expertise report template.

Professional standard no. 35 mentions that accounting expertises are tools used in solving cases which require special knowledge from a person having the quality of accounting expert [3].

We believe that accounting expertise should be performed by experts appointed by a court, and not by employees of expert offices. The court always appoints the person to perform an accounting expertise report.

## 2. Judicial accounting expertise report - elaboration

The elaboration of a judicial accounting expertise report is based on a meticulous theoretical documentation and a thorough knowledge of the accounting practice. The report has to be carefully written and in excellent graphic condition.

Generally, a report has to include:

- on the first page: the court, file number, trial date, the phrase „copy: court or respondent or complainant etc.”, the phrase „judicial accounting expertise report”.
- list of documents (introduction, expertise process, conclusions).
- the content of the report per-say.
- Annexes (summoning the parties, confirmation of receipt, report annexes, statement justifying the expenditure, fee assessment note, supporting documents for the deduction).

The elements presented above have a general character; but every report can be customized. As such, we recommend that the objectives set by the court be carefully studied and only afterwards should the report be drafted, strictly according to the judge demands. There are experts who answer other objectives, unsolicited by the court.

Below, we have presented a judicial accounting expertise report, with two objectives established by the court of law.

I, the undersigned, Deaconu Sorin-Constantin, owner of accounting expert certificate no. 1 seen to date, as well as identification card no. 2 stating the matriculation to the „Judicial Accounting Experts Record”, according to CECCAR regulation no. 1044/N-3, have been appointed to perform an accounting expertise in file no. 001/002/N, through the conclusion of public hearing in Court X, from 15.05.N.

The Parties involved in the above mentioned file are:

- ***Plaintiff: Plaintiff 1***
- ***Respondents: Respondent 1 And Respondent 2***

### A. INTRODUCTION

Through the conclusion from the public hearing of 15.05.N, Court X has approved the implementation of an accounting expertise with the following objectives:

- 1) to determine the amounts paid as bank instalments for the three bank loans contracts, starting with the month of March N-3 to date and the ones still to be paid, up to the full repayment of the loan;
- 2) to update, by applying the inflation rate, the ½ quota of this rate, starting with March N-3 up to the present.

In order to address these objectives, the following documents have been analyzed:

- Case file;
  - Supporting documents provided by the parties.
- The deadline for filing the accounting expertise report has been set for 19.06.N.  
The court has set a provisional fee of RON 300 for the expert.

The expert called in the case file summoned the parties at the meeting point in place X.

No other accounting expertise has been carried out in this case. A real estate evaluation expertise has been performed so far.

Following the investigation of the documents in the case file and the other documents provided the following have been established:

### B. EXPERTISE PROCESS

#### Objectives set by the court

##### REPLY TO OBJECTIVE NO. 1

The following documents have been examined in order to address this objective:

- Repayment chart;

- Card history;
- Financial statement of the client.

Based on the study of the documents mentioned above, the following calculations were made in order to determine the paid amounts:

Table no. 1 Calculation of the amounts paid to Bank X, between March N-3 – 20.12.N-2

No.	Monthly due date	Instalment	Interest	Administrative fee	Monthly payment
1	20.03.N-3	52,24	15,49	0	67,73
2	20.04.N-3	52,85	14,87	0	67,72
3	20.05.N-3	53,48	14,25	0	67,73
4	20.06.N-3	54,12	13,61	0	67,73
5	20.07.N-3	54,77	12,96	0	67,73
6	20.08.N-3	55,41	12,31	0	67,72
7	20.09.N-3	56,06	11,66	0	67,72
8	20.10.N-3	56,74	10,99	0	67,73
9	20.11.N-3	57,4	10,32	0	67,72
10	20.12.N-3	58,1	9,63	0	67,73
11	20.01.N-2	58,78	8,94	15	82,72
12	20.02.N-2	59,47	8,25	0	67,72
13	20.03.N-2	60,19	7,54	0	67,73
14	20.04.N-2	60,89	6,83	0	67,72
15	20.05.N-2	61,63	6,1	0	67,73
16	20.06.N-2	62,35	5,37	0	67,72
17	20.07.N-2	63,09	4,63	0	67,72
18	20.08.N-2	63,85	3,88	0	67,73
19	20.09.N-2	64,6	3,12	0	67,72
20	20.10.N-2	65,36	2,36	0	67,72
21	20.11.N-2	66,15	1,58	0	67,73
22	20.12.N-2	66,93	0,79	0	67,72
<b>Total</b>					<b>1.504,94</b>

Table no. 2 Calculation of the amounts paid to Bank Y, between March N-3 – May N

No.	Date	Transaction description	Paid amount
1	17.03.N-3	cash payment APS 00140001	55,00
2	26.04.N-3	cash payment APS 00140001	50,00
3	20.05.N-3	cash payment APS 00140001	50,00
4	25.06.N-3	cash payment APS 00140001	50,00
5	27.07.N-3	cash payment APS 00140001	50,00
6	30.08.N-3	cash payment APS 00140001	50,00
7	27.09.N-3	cash payment APS 00140001	50,00
8	26.10.N-3	cash payment APS 00140001	50,00
9	24.11.N-3	cash payment APS 00140001	50,00
10	23.12.N-3	cash payment APS 00140001	50,00
11	19.01.N-2	cash payment APS 00140001	40,00
12	24.02.N-2	cash payment APS 00140001	40,00
13	25.03.N-2	cash payment APS 00140001	40,00
14	26.04.N-2	cash payment APS 00140001	50,00
15	30.05.N-2	cash payment APS 00140001	50,00
16	28.06.N-2	cash payment APS 00140001	50,00
17	22.07.N-2	cash payment APS 00140001	50,00
18	26.08.N-2	cash payment APS 00140001	50,00

No.	Date	Transaction description	Paid amount
19	26.09.N-2	cash payment APS 00140001	50,00
20	26.10.N-2	cash payment APS 00140001	50,00
21	25.11.N-2	cash payment APS 00140001	50,00
22	23.12.N-2	cash payment APS 00140001	50,00
23	27.01.N-1	cash payment APS 00140001	50,00
24	24.02.N-1	cash payment APS 00140001	40,00
25	29.03.N-1	cash payment APS 00140001	40,00
26	27.04.N-1	cash payment APS 00140001	40,00
27	28.05.N-1	cash payment APS 00140001	40,00
28	27.06.N-1	cash payment APS 00140001	40,00
29	26.07.N-1	cash payment APS 00140001	40,00
30	27.08.N-1	cash payment APS 00140001	40,00
31	26.09.N-1	cash payment APS 00140001	40,00
32	30.10.N-1	cash payment APS 00140001	45,00
33	27.11.N-1	cash payment APS 00140001	35,00
34	27.12.N-1	cash payment APS 00140001	40,00
35	28.01.N	cash payment APS 00140001	40,00
36	01.03.N	cash payment APS 00140001	30,00
37	29.03.N	cash payment APS 00140001	30,00
38	29.04.N	cash payment APS 00140001	30,00
39	29.05.N	cash payment APS 00140001	30,00
<b>Total</b>			<b>1.725,00</b>

Table no. 3 Calculation of the amounts paid to Bank Z, between March N-3 – 26.10.N-3

No.	Date	Document type	Paid amount
1	17.03.N-3	OPC - contract 839986	65
2	26.04.N-3	OPC - contract 839987	65
3	20.05.N-3	OPC - contract 839988	65
4	09.07.N-3	OPC - contract 839989	65
5	27.07.N-3	OPC - contract 839990	65
6	30.08.N-3	OPC - contract 839991	65
7	22.09.N-3	OPC - contract 839992	108,12
8	27.09.N-3	OPC - contract 839993	65
9	26.10.N-3	OPC - contract 839994	69
<b>Total</b>			<b>632,12</b>

The sums paid as instalments from March N-3 to present amount to RON 3.862,06 lei, from which:

- To bank X: RON 1.504,94 (table no. 1 - total). This loan is closed;
- To bank Y: RON 1.725 (table no. 2 - total). This loan is not closed. The remaining amount to be paid is RON 417,09 (RON 447,09 – RON 30);
- To bank Z: RON 632,12 (table no. 3).

To conclude, the paid amounts, starting from March N-3 up to date and the remaining ones, up to the full repayment of the loan are RON 4.279,15 lei, from which:

- RON 3.862,06 has been paid from March up to the present date.
- RON 417,09 remaining amount to be paid to bank Y, as the two loans have been paid.

Objective no. 2.

2) To be updated, by applying the inflation rate, the ½ quota of these instalments, starting with the month of March N-3 up to the present date.

#### REPLY TO OBJECTIVE NO. 2.

The following have been considered in order to address this objective:

- the case file;

- the reply to the first objective;
- the consumer price index and the inflation rate, published by National Statistics Institute.

The formulas to update certain values by using the Consumer Price Index (CPI)

$$A = \frac{\text{Initial amount to update} \times \text{CPI}}{100} \quad (1)$$

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$$B = \frac{\text{Initial amount to update} \times \text{Inflation rate}}{100} + \text{Initial amount to update} \quad (2)$$

**Note: Regardless of the formula used, the result of the update is the same, as the Inflation rate = CPI – 100.**

The consumer price index used in order to update the amounts has been retrieved from the information published by the National Statistics Institute [4].

We have presented the updated amounts below:

Table no. 4 Update of the ½ quota of the instalments paid to bank X, starting with March N-3 up to the present

No.	Monthly due date	Monthly payment	1/2 of monthly payment	Consumer price index	Updated value for ½ of monthly payment
1	20 March N-3	67,73	33,87	116,80%	39,55
2	20 April N-3	67,72	33,86	116,39%	39,41
3	20 May N-3	67,73	33,87	116,22%	39,36
4	20 June N-3	67,73	33,87	116,04%	39,30
5	20 July N-3	67,73	33,87	113,13%	38,31
6	20 August N-3	67,72	33,86	112,87%	38,22
7	20 September N-3	67,72	33,86	112,24%	38,00
8	20 October N-3	67,73	33,87	111,63%	37,80
9	20 November N-3	67,72	33,86	111,05%	37,60
10	20 December N-3	67,73	33,87	110,47%	37,41
11	20 January N-2	82,72	41,36	109,62%	45,34
12	20 February N-2	67,72	33,86	108,79%	36,84
13	20 March N-2	67,73	33,87	108,14%	36,62
14	20 April N-2	67,72	33,86	107,43%	36,38
15	20 May N-2	67,73	33,87	107,21%	36,31
16	20 June N-2	67,72	33,86	107,51%	36,40
17	20 July N-2	67,72	33,86	107,90%	36,53
18	20 August N-2	67,73	33,87	108,27%	36,67
19	20 September N-2	67,72	33,86	108,50%	36,74
20	20 October N-2	67,72	33,86	107,81%	36,50
21	20 November N-2	67,73	33,87	197,36%	66,84
22	20 December N-2	67,72	33,86	107,11%	36,27
	<b>Total</b>	<b>1.504,94</b>	<b>752,47</b>		<b>862,40</b>

**Argumentation:**

RON 67,73 / 2 = RON 33,87 (½ of the monthly amount)

CPI x ½ of the monthly amount = Updated value for ½ of the monthly amount

As a result:

$$\text{RON } 33,87 \times 116,80\% = \text{RON } 39,55$$

Using the inflation rate will lead to the same result (it represents a key method for checking the accuracy of the results). Practically:

The inflation rate for the reference period March N-3 – May N (16,80%).

$$\text{RON } 33,87 \times 16,80\% + \text{RON } 33,87 = \text{RON } 39,55$$

Table no. 5 Update of the ½ quota for the instalment paid to bank Y, starting with March N-3 up to the present

No.	Date	Monthly payment	1/2 of monthly payment	Consumer price index	Updated value for ½ of monthly payment
1	17 March N-3	55,00	27,50	116,80%	32,12
2	26 April N-3	50,00	25,00	116,39%	29,10
3	20 May N-3	50,00	25,00	116,22%	29,06
4	25 June N-3	50,00	25,00	116,04%	29,01
5	27 July N-3	50,00	25,00	113,13%	28,28
6	30 August N-3	50,00	25,00	112,87%	28,22
7	27 September N-3	50,00	25,00	112,24%	28,06
8	26 October N-3	50,00	25,00	111,63%	27,91
9	24 November N-3	50,00	25,00	111,05%	27,76
10	23 December N-3	50,00	25,00	110,47%	27,62
11	19 January N-2	40,00	20,00	109,62%	21,92
12	24 February N-2	40,00	20,00	108,79%	21,76
13	25 March N-2	40,00	20,00	108,14%	21,63
14	26 April N-2	50,00	25,00	107,43%	26,86
15	30 May N-2	50,00	25,00	107,21%	26,80
16	28 June N-2	50,00	25,00	107,51%	26,88
17	22 July N-2	50,00	25,00	107,90%	26,98
18	26 August N-2	50,00	25,00	108,27%	27,07
19	26 September N-2	50,00	25,00	108,50%	27,13
20	26 October N-2	50,00	25,00	107,81%	26,95
21	25 November N-2	50,00	25,00	197,36%	49,34
22	23 December N-2	50,00	25,00	107,11%	26,78
23	27 January N-1	50,00	25,00	106,72%	26,68
24	24 February N-1	40,00	20,00	106,04%	21,21
25	29 March N-1	40,00	20,00	105,60%	21,12
26	27 April N-1	40,00	20,00	105,53%	21,11
27	28 May N-1	40,00	20,00	105,32%	21,06
28	27 June N-1	40,00	20,00	105,37%	21,07
29	26 July N-1	40,00	20,00	104,75%	20,95
30	27 August N-1	40,00	20,00	104,22%	20,84
31	26 September N-1	40,00	20,00	103,01%	20,60
32	30 October N-1	45,00	22,50	102,71%	23,11
33	27 November N-1	35,00	17,50	102,67%	17,97
34	27 December N-1	40,00	20,00	102,06%	20,41
35	28 January N	40,00	20,00	100,71%	20,14
36	1 March N	30,00	15,00	100,37%	15,06
37	29 March N	30,00	15,00	100,33%	15,05

No.	Date	Monthly payment	1/2 of monthly payment	Consumer price index	Updated value for ½ of monthly payment
38	29 April N	30,00	15,00	100,23%	15,03
39	29 May N	30,00	15,00	100%	15,00
	<b>Total</b>	<b>1.725,00</b>	<b>862,50</b>		<b>953,63</b>

Table no. 6 Update of the ½ quota for the instalment paid to bank Z, starting with March N-3 up to the present

No.	Date	Monthly payment	1/2 of monthly payment	Consumer price index	Updated value for ½ of monthly payment
1	17 March N-3	65,00	32,50	116,80%	37,96
2	26 April N-3	65,00	32,50	116,39%	37,83
3	20 May N-3	65,00	32,50	116,22%	37,77
4	9 July N-3	65,00	32,50	116,04%	37,71
5	27 July N-3	65,00	32,50	116,04%	37,71
6	30 August N-3	65,00	32,50	112,87%	36,68
7	22 September N-3	108,12	54,06	112,24%	60,68
8	27 September N-3	65,00	32,50	111,63%	36,28
9	26 October N-3	69,00	34,50	111,05%	38,31
	<b>Total</b>	<b>632,12</b>	<b>316,06</b>		<b>360,94</b>

To conclude, the ½ quota of the paid instalments, have been updated up to May N, starting with March N-3 as follows:

- to bank X: RON 862,40.
- to bank Y: RON 953,63.
- to bank Z: RON 360,94.

**Total paid instalments updated with the ½ quota: RON 2.176,97**

### C. CONCLUSIONS

#### REPLY TO OBJECTIVE NO. 1:

**The amounts paid**, starting with March N-3 up to date **and the remaining ones to be paid**, up until the full repayment of the loan are a total of RON **4.279,15**, out of which:

- RON 3.862,06 have been paid from March N-3 up to the present.
- RON 417,09 remaining amount payable to bank Y, as the other two loans have been paid.

#### REPLY TO OBJECTIVE NO. 2:

The ½ quota of the paid instalments, have been updated up until May N starting with March N-3 as follows:

- to bank X: **RON 862,40.**
- to bank Y: **RON 953,63.**
- to bank Z: **RON 360,94.**

**Total paid instalments updated with the ½ quota: RON 2.176,97**

### 3. Conclusions

The accounting expertise report presented here represents an opinion. Any expertise report can be challenged in court by the parties, a re-survey with three experts may be required.

These procedures of postponement of court decisions are tricks used to „force the hand” of a judge in favour of a certain party. It is for this reason that we recommend accounting expertise, as well as other types of expertise, to be entrusted to experts based on competence criteria and not on „affinity”.

In most cases, the expertise office offers judges a list of 5 or 6 experts who are chosen to perform the work. This way, the access of certain experts is limited and certain people are privileged. Unfortunately, this practice is rather difficult to eliminate in present day Romania since the lists of judicial experts have to be communicated by expertise offices to a judge. The solution is that every judge should have a list to include all active experts and not communicate part of it as it is the case in the present.

Every expertise report should be well documented, based on opinions formulated after the study of accounting documents and a correct opinion is of major importance. Judicial reports quite frequently contain expert opinions which favour one of the parties, false opinions which the judge has to take into consideration. Although accounting expertises must be approved by an auditor employed within the CECCAR, there is no certainty that the expertise is reliable.

We recommend that the expert accountants examinations be more strict, as the quality of a court decision depends on the quality of the expertise.

Professional standard no. 35 states: „The accounting expert needs to respect the secret and the confidential character of the information he accessed during the accounting expertise, and must not disclose it to third parties, except when he has been authorized or if he has a legal or professional obligation to do so.”

In our opinion, this rule should be respected in its entirety. At present, the quality auditor hired in every CECCAR office needs to authorize the report before its’ submission to the court. This way, the confidential clause is broken and moreover, the auditor can disagree with the report and the expert will need to implement different ideas, therefore different conclusions. We believe the auditor signature should be eliminated because:

- the confidentiality character of the information is null
- there is a risk for the report not to be submitted on time
- it doesn't ensure that the expert opinion is respected
- should the report be contested, the expert will have to justify in the end the ideas of the quality auditor who signed the report.

In this manner a better performance regarding the report circuit would be ensured and we recommend that any decision of the professional institution be favorable to its members.

Additionally, we propose that an analysis should be carried out on the necessity of performing an expertise, before naming an accounting expert to write the report. Many times lawyers require an expertise in order to cash the fees. But the judge should thoroughly analyze the decision of performing an expertise, as a paradoxal case can occur, when the expertise is paid by the prevailing party in the case who cannot receive court taxes for various reasons.

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