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## PARTIE III

# EXPERTISE, JUSTICE, JURICOMPTABILITÉ

### IS IT TIME TO REGULATE FORENSIC ACCOUNTING?

PAR WM. DENNIS HUBER ET EMMANUEL CHARRIER\*

Both in US common law or in French codified law, Forensic Accountants aim to serve justice<sup>1</sup>, by illuminating technical, financial facts in the context of a dispute or a trial<sup>2</sup>.

According to the American Institute of Certified Public Accountants (AICPA)<sup>3</sup>, Forensic accounting services... “generally involve the application of specialized knowledge and investigative skills possessed by CPAs to collect, analyze, and evaluate evidential matter and to interpret and communicate findings in the courtroom, boardroom, or other legal or administrative venue. More simply in a litigation context, the term forensic means to be suitable for use by a court of law. Forensic accounting services include dispute resolution, litigation support, bankruptcy support, and

*fraud and special investigation*”<sup>4</sup>. French Forensic expertise is called “Expertise comptable judiciaire”. The main difference is due to the fact that French experts are chosen by the judge to help him, whilst US experts are chosen by litigants. Beyond the procedural specificities there is much in common between the two practices: quantification of damages, business valuation, fraud investigation, and knowledge of the rules of evidence and procedure are the main specialized knowledge of both US and French Forensic Accountants<sup>5</sup>.

*Forensic Accounting anglo-saxonne et expertise comptable judiciaire sont bien plus proches qu'on le pense souvent.*

Prof. Huber has been involved for many years in studying US Forensic Accounting and especially professionalism, ethics, certifications, training and standard-setting in the field. He has published several articles<sup>6</sup>, and coordinated a

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1 - See Perry J., Doxey P., « Règles et rôles des témoins-experts dans les litiges commerciaux en Amérique du Nord », *Cahiers du Chiffre et du Droit*, 1, 2013.

2 - See : Crumbley D., Heitger L. and Smith G., *Forensic and Investigative Accounting*, CCH, 2009 Weil, R. et al. (ed.), *Litigation services handbook. The role of the financial expert*, Wiley, 2009 – France : Rousseau et de Fontbressin, *L'expert et l'expertise judiciaire en France*, Bruylant, 2007.

3 - The American Institute of Certified Public Accountants is a professional organization whose members are Certified Public Accountants (CPAs). CPAs are licensed by each state rather than the federal government. One can compare it to French *Ordre des experts comptables* (OEC) and *Compagnie des commissaires aux comptes* (CNCC), which resemble *experts-comptables* (professional accountants) and *commissaires aux comptes* (legal auditors). Neither OEC nor CNCC state any forensic standards.

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4 - AICPA, *FVS Practice Aid 10-1: Serving as an expert witness or consultant*, 2010.

5 - See Charrier E., "L'expert-comptable judiciaire et le Certified Fraud Examiner", Institut France-Amériques and Cnej, *Recherche et détection des fraudes: un défi pour l'institution judiciaire*, oct. 2014, Paris (actes à venir), and Blaise N. et al., *Manuel d'expertise judiciaire comptable*, Anthemis, Bruxelles, 2011. See also Labelle R., Saboly M., « Forensic accounting in France, emergence and development », *Journal of Forensic Accounting*, 9(1), 2008, 83.

6 - W.D. Huber, "A comparison of Forensic accounting corporations in the USA", *Journal of Accounting, Ethics & Public Policy*, 12(3), 2011, 301 [2011]; "Is Forensic Accounting in the United States Becoming a Profession?", *Journal of Forensic & Investigative Accounting*, 4(1), 2012, 255 [2012]; « Should the forensic accounting profession be regulated? », *Research in Accounting Regulation*, 25, 2013, 123 [2013a]; "Forensic accounting corporations' codes of ethics and standards of practice – a comparison", *Interna-*

special issue of the Journal of Forensic and Investigative Accounting about international forensic systems.

The following article follows an interview of Dennis Huber by Emmanuel Charrier in July, 2014 in Paris.

E. Charrier (EC) – Professor Huber: in the USA, anybody can state that he is a Forensic Accountant, and offer such services, isn't it? This practice isn't regulated?

D. Huber (DH) – No, it isn't. It is really common because private initiative and free competition are major policy principles in the United States. Professional associations have therefore supported these services. Furthermore US trial rules are based on orality – that means that the so called forensic accountant must be able to testify and his credibility and his knowledge will be challenged by opposing counsel in front of the Court.

EC – But you suggest that the current private regulation system fails to support the strong values requested by the Courts, and you conclude that it is time for States to be concerned about this activity.

DH – in the common law system, forensic accounting services are usually solicited by lawyers and lawyers pay attention to the qualifications of the experts<sup>8</sup>. Actually, it is important that the expert authority is well recognized in front of the Court, because the more he is recognized the more his analysis and his opinion will be received by the judge and the jury. Now a forensic accountant must not only master the accounting techniques but also specific forensic techniques – quantification of damage, etc. – and, moreover, the rules of procedure and evidence. That is why it is relevant for an expert to be a member of a recognized forensic organization, and better, to hold a certification issued by this organization.

*Aux USA, les associations d'experts sont aujourd'hui trop nombreuses, et trop peu transparentes sur leurs valeurs et leur gouvernance, pour prétendre être les régulateurs appropriés de la Forensic Accounting.*

But nowadays, in the United States, there is no less than seven specialized forensic organizations, offering six forensic accounting certifications (see Table 1). This is not healthy because these associations suffer many amazing ambiguities: many of them are "for-profit" and hardly

organisation	FCPAS	ACFS	ACFE	ACFEI	NACVA	AICPA	ACFS
certification	forensic cpa	certified forensic specialist	certified fraud examiner	certified forensic accountant	certified forensic financial analyst	certified in financial forensics	certified financial crime specialists *
history	2005	2008	1988	2004	2008 - 2013	2008	*planned
certified members	?	?	~40,000	?	part of 15,000	?	0.

Table 1<sup>7</sup> – US organizations and certifications

tional Journal of Auditing, Accounting and Performance Evaluation, 9(2), 2013, 126 [2013b]; "Forensic Accountants, Forensic Accounting Certifications, and Due Diligence"; Journal of Forensic & Investigative Accounting, 5(1), 2013, 182 [2013c]; Forensic Accounting: An Anglo-American Comparison – Forensic Accounting in the U.S.A.", Journal of Forensic & Investigative Accounting, 6(3), Special International Issue, 2014, 154 [2014a]; Research in forensic accounting – what matters?", with J.A. DiGabriele, Journal of Theoretical Accounting Research, 10(1), 2014, 40 [2014b]. These papers follow fieldwork researches.

7 - Table 1 from [2013a], [2013b], [2014].

mention it and in any case do not publish their accounts; many of the leaders of these associations have no recognized qualification in forensic accounting (academic degrees ...). Many of these organizations do not have a code of ethics and / or are not able to make it effective<sup>9</sup> (see

8 - Braun, R., Mauldin, S., & Fischer, M. A., "The CFE designation in perspective", The CPA Journal, 71(4), 2001, 42-47. Davis, C. et al., Characteristics and skills of the forensic accountant, New York: AICPA, 2010.

9 - Note from the interviewer: for an example of effective endorsement of such standards, see Labelle R. and Charrier E., "Expertise de justice et juricomptabilité", Encyclopédie de Comptabilité, Contrôle de gestion et audit, dir. B.Colasse, Economica, 2009. The ICCA, the Canadian

Table 2). Finally, certifications themselves have very different standards of requirements.

Table 2<sup>10</sup> – US organizations, governance, ethic

organization	fcpas	acfs	acfe	acfei	nacva	aicpa
certification	fcpa	cfs	cfe	crfa	cffa - maff	cff
status	fp	nfp	fp	fp	fp	nfp
... published on website	n	y	n	n	n	y
Financial statements published	n	n	n	n	n	y
Officers... qualified, certified, Directors... and/or with degree on FA	n	y	Y	n	y	
code of ethics	n	n	y	creed	y	y
disciplinary procedures/enforcement	n	n	y	n	y	y
code of ethics requirements:						
independence in fact	na	na	y	y	y	y
independence in appearance	na	na	n	n	y	y
due professional care	na	na	y	n	n	y
objectivity	na	na	y	y	y	y
opinion based on data or evidence	na	na	y	n	y	y

EC – So, in your view, private organizations regulating forensic accounting fail to be transparent about their operations. Does it question the benefits expected by their members?

DH – Yes. Such transparency requirement is more precisely the requirement of behaviour alignment of these associations’ officers with the goals given to them. The survey I conducted in 2011 revealed that these requirements (officers’ qualification, status, etc...) are shared by the vast majority of these associations’ members, although some of them may be misinformed about the reality of their organization (e.g., the for-profit status: experts see more sense to a non-for-profit status). As Mason writes 2010: “[C]ompliance with standards and ethics is the most deadly cross-examination subject. If expert witnesses appear to be unable or unwilling to

accounting oversight have endorsed a label called “IFA”, which is only for CPA (with credentials and examination), and has enacted standards which are audited during the quality reviews. Since the ICCA (now-called “CPA Canada”) entered into an agreement in 2014 with the AICPA, the CA-IFA label still isn’t supported. Canadian CPA-IFA will qualified as CPA-CFF.

10 - Table 2 from [2011], [2013b], [2013c].

follow their own profession’s rules, how can the trial court accept that the testimony they provide is actually independent and objective?”<sup>11</sup>. Forensic accountants are certified by associations whose

status is contrary to what forensic accountants consider important (non-for-profit status is the right status for public service).

Is the system different in France?

EC – Really different. The “Judicial expert” status comes from the inscription on the list of judicial experts<sup>12</sup> maintained by the Courts of Appeal, which enroll few new experts every year and carry a five-year review of the lists. A lot of applicants, few enrolled, at the discretion of the Courts, considering their needs, and both the experience and the reputation of the candidate<sup>13</sup>.

11 - Mason, M., “Daubert challenges increase when forensics enter the valuation process”. *Business Valuation Update*, 16(8), 2010.

12 - A law was enacted 10 Apr. 2014 in Belgium (C. 2014/09214, published 19 Dec. 2014), stating a similar list of judicial experts. This system is promoted in Europe by the European Expertise & Expert Institute (EEEI), *Expertise de justice – quel avenir pour l’Europe*, Bruylant, 2014.

13 - See Heugas-Darraspens H., “Harmonisation du contrôle de la motivation du refus d’inscription initiale sur les liste d’experts judiciaires ?”, *AJDI*, 2014(11), 757 about the Courts’ criterias to refuse a candidate, and Dumoulin L. *L’expert en justice, de l’invention d’une figure à ses usages*, Economica, 2007 about the figure of the judicial expert.

After the enrolment, judicial experts are designated by the judges to examine technical cases<sup>14</sup>. Experts mention that they are “expert near the court of...”<sup>15</sup>. The title is well-recognized but it isn't a profession, only a “function”.

*L'expertise comptable judiciaire française est une pratique encadrée directement par les Cours. Les associations assurent la diffusion des bonnes pratiques et l'acquisition des bons comportements, implicites dans le dispositif.*

For each forensic specialty, one can find a not-for-profit association. Two associations focus on finance and accounting. Around 2/3 of judicial experts are members of one association. These associations promote ethical standards, organize continuous training and various meetings between experts and judges. These associations don't issue certification but a few of them organize a two-three years training for applicants<sup>17</sup>. The associations are not disciplinary: the

Table 3<sup>16</sup> – an international comparison

	Canada	USA	USA	France
<b>Organisation</b>	<b>ICCA</b>	<b>AICPA</b>	<b>ACFE</b>	<b>Courts of Appeal</b>
System	Certification	Certification	Certification	Registration
Title	Certified Accountant, specialized as an Investigative and Forensic Accountant (CA.IFA)	Certified Financial Forensic (CFF)	Certified Fraud Examiner (CFE)	Expert Comptable judiciaire (rare: "ECJ")
History	1998	2008	1988	1971 / 1994
Initial Certification				
Conditions	CA, Certified Accountant IFA Master of Toronto, or experience (1500h by 3 years)  Free of criminal sanction	CPA Specific training (75h) or experience (1000h by 10 years)  Free of criminal sanction	BSc or more fraud-related experience (2 to 5 years by grade)  Free of criminal sanction	French CPA such long, recognised experience that need the Courts  Free of criminal sanction
Application	CV, copy of forensic reports, letters of reference, oral examination	CV, written examination	CV, letters of reference, written examination	CV and documents proving experience and knowledge, letters of reference
Decision	automatic (grading)	automatic (grading)	automatic (grading)	Discretion of the Courts
Registration	Oath (Law)	Oath (Ethic)	Oath (Ethic)	Oath (Law)
Renewal				
Frequency	each year	each year	each year	five years (with an annual reporting to the Courts)
Registration	Automatic renewal	Automatic renewal	Automatic renewal	Full re-examination by the Courts
Experience	Continuous Activity (1500h / 3 - years)		-	Forensic Activity satisfying the Courts
Training	Continuous training (60h/3 years)	Continuous training (60h/3 years)	Continuous training (20h/year)	Continuous training (legal and techniques)

14 - The expert is quite a delegate of the judge, and must follow specific proceedings rules. The judge is free not to use the report of the expert. See Conseil national des compagnies d'experts de justice (CNCEJ) « *Brochure Europe* » (French and English), retrieved from [http://www.cncej.org/documents/uploads/315\\_Brochure%20Europe.pdf](http://www.cncej.org/documents/uploads/315_Brochure%20Europe.pdf), 31 Aug. 2015. The CNCEJ is the federal organization of forensic associations. This private organization is enacted to serve de public judicial interest.

15 - For example : « Emmanuel Charrier, expert près la Cour d'appel de Paris »

16 - From Leclerc G. et al., *Expertise de justice et juricomptabilité*, Thomson-Yvon Blais, 2012. There are around 1,000 French Forensic Accountants registered by a Court of Appeals (and few others financial specialists such registered: bank experts...). See Pelisse et al., *op. cit.* There is no statistic about Forensic Counsels. For a presentation, see Leaders League, *Guide Décideurs Risk Management Contentieux et Assurances*, 2014/2015.

experts' discipline is ruled by the Courts, and could strongly impact a forensic accountant. Exclusions are rare, but inquiries are not<sup>18</sup>. Beyond that, French proceedings don't include examination nor cross-examination of experts in front of the court. But, before reporting to the court, the expert has to discuss a draft of his report with litigants. It's an effective way to

17 - See Pelisse J. et al., *Des chiffres, des mots et des lettres, sociologie des experts judiciaires*, Armand Colin, 2012. The three forensic associations are : Cnecj (« compagnie nationale des experts comptables de justice »), Cnejd (« compagnie nationale des experts judiciaires en finance et diagnostic ») and Cneact (« compagnie nationale des experts en activités commerciales et techniques »).

18 - See Dumoulin, *op. cit.*

favor fair, objective analysis, and one can think that regulation is effective. But we must discuss the private expertise phenomenon (forensic counsel, “expertise de partie”) to complete the comparison. Let's go to your work: to summarize, in your opinion, the state should regulate forensic accounting associations and the forensic accounting profession? According to the variety of forensic activities and cases, is it really accurate?

DH – regulating an activity is necessary when it impacts legal rights, and when it disturbs the effective market competition. Nowadays the forensic accounting market is around \$ 5,000m a year and this market is growing<sup>19</sup>. The fact that the AICPA launched its own certification in 2011 – a very rare event in this organization! – and the decision of the AAA<sup>20</sup> to launch a new academic journal dedicated to the specialty, confirm that the forensic services has grown significantly in the accounting and financial matters. The specialty is no longer a branch of public accounting, it definitely meets all the criteria to qualify as a profession: specialized body of knowledge, governing admission standards, code of conduct, formal membership, performance of the service with the aim to serve common good ... only altruism is not clear but this requirement is no longer valid in contemporary sociology (Brante, Pavalko<sup>21</sup>...). In this context, the ambiguities about values, and the conflicts<sup>22</sup> between associations, should be not normal. According to Williams<sup>23</sup> the public interest is particularly involved in forensic accounting, and it would be helpful if States shall

authorize the use of this title under the conditions discussed above.

*L'intérêt général est aujourd'hui en jeu en matière de Forensic Accounting. La régulation doit désormais passer par les États.*

EC – I think that many French legal professionals agree with this conclusion. According to Garapon and Papadopoulos<sup>24</sup>, matters of general interest are a monopoly of the French State. But for many years, at the same time one notices less State rules. For example, the criminal policy has changed. There are fewer criminal expert investigation. Then the police have to succeed in technical matters that they didn't used to manage. Or the litigants themselves have to pay for private investigation<sup>25</sup>. In civil and commercial matters<sup>26</sup>, the Supreme Court recently ruled that the report of a forensic counsel (a private expert) named by a litigant (and not by a judge) can now be taken into account as an offer of evidence by the judges, except if there is no other evidence to support the report<sup>27</sup>. As a result, private expertises increase. A recent study valuates the French financial forensic market<sup>28</sup> around €500m<sup>29</sup>. Several categories of experts act as forensic counsels: judicial experts; specialized experts (insurance experts, ...); Economists, CPA, Business consultants... These counsels examine the offer of proof. They could also assist the litigants during the course of the judicial expertise...

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19 - Tysiac, K., “Demand strong for forensic accountants in wake of financial crisis”, *CPA Insider*, 2012. Available from [http://www.cpa2biz.com/Content/media/producer\\_content/Newsletters/Articles\\_2012/CPA/SEP/ForensicAccounting.jsp](http://www.cpa2biz.com/Content/media/producer_content/Newsletters/Articles_2012/CPA/SEP/ForensicAccounting.jsp)

20 - The *American Accounting Association* is the largest Anglo-American academic association in audit and accounting matters. The AAA publishes well-recognized journals (The Accounting Review, Auditing – a journal of practice and theory, Accounting Horizons, Issues in Accounting Education, Journal of Information Systems,...), quite involved in statistical causal analysis and modelling. See [2014b].

21 - Brante, T., “Sociological Approaches to the Profession”, *Acta Sociologica* 31(2), 1988, 119; Pavalko, R.M. *Sociology of Occupations and Professions*, 1988, 2nd ed. Peacock Publishers, Inc. See [2012].

22 - See [2013a], 127

23 - Williams, J. W., *Playing the corporate shell game: The forensic accounting and investigation industry, law, and the management of organizational appearances*. Doctoral Dissertation, Dissertation Abstracts International. Toronto: York University.

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24 - Garapon A., Papadopoulos I., *Juger en Amérique et en France*, Odile Jacob, 2003.

25 - Compagnie des Conseils et Experts financiers, conference, *Le juge, l'avocat et l'expert de partie: quelles évolutions dans la gestion des litiges ?*, Paris, Oct. 2011.

26 - The French system encompasses the civil and commercial, the criminal, and the administrative cases. The criminal order is largely an inquisitorial system, the civil and commercial one is an adversarial system, and the administrative order (litigation involving a public body) is largely an adversarial system.

27 - Cour de Cassation (France), Ch. Mixte, 28 sept. 2012, 11-18.710, Huk Coburg c. Trigano. See CNCEJ, *Newsletter*, 2013, n.47, 4.

28 - i.e. judicial expertise (« expertise de justice ») and forensic counsel (« expertise de partie »).

29 - Durand-Barthez P., Langlart F., *Choisir son droit. Conséquences économiques du choix du droit applicable dans les contrats internationaux*, L'Harmattan, 2012. That means \$5,000m/300m people = 17,000 per 1,000 Americans, vs \$600m/60m people = 10,000 per 1,000 French people. It's important to note that in France court expertises are no more than a third of these figures, see Pelisse et al., *op. cit.*

*Le développement, en France, de l'expertise de partie (forensic counsel), fait bouger les lignes de l'expertise judiciaire (judicial expertise).*

DH – The same in the USA. Crumbley<sup>30</sup> summarized that by stating that forensic accountant haven't to follow GAAP – the monopoly of CPAs.

EC – Indeed: the issue was discussed last year and it was stated that judicial accounting experts don't need to be registered as CPA<sup>31</sup>. Accounting and financial assistance is not under the monopoly of French CPAs.

DH – It seems that US and French forensic accounting services are closer than one thinks, isn't it? Except for the fact that it's less common that US courts name experts to assist them; US forensic accountants usually are named by litigants as expert witnesses, but must act in the interest of justice even if this could be contrary to the interest of their client. How do French forensic counsels play with truth?

EC – the issue stirred the world of expertise two years ago. The editor of a specialized journal, often (but wrongly) equated to forensic associations, signed a vigorous editorial<sup>32</sup>, arguing that what distinguishes the forensic counsel (the private expert) from the judicial expert is its right to lie ... then the journal welcomed an article<sup>33</sup> claiming that a court expert can't, in a private mission, behave other than he would have done as a judicial expert, and the President of the Paris' Court of Appeals said that if he caught such a fault from a court expert, it would have to meet in disciplinary proceedings. The editorial was a provocation however it expressed, in my view, what many technicians feel in contact with belligerents and lawyers, who see in the forensic counsel a "fighter" to their sides. And the issue is difficult: lawyers lack the technical expertise to appreciate what accounting and financial points must be questioned, highlighted, discussed, analyzed, or according

to what timing it makes sense to do so. It is therefore tempting to associate the forensic counsel to this legal strategy. It seems complicated, moreover, that the lawyer hires two experts, one for advises him and the other to reflect his objective opinion.

DH – but the expert leaves the passive mode that the judge is waiting after, to check the technical facts.

EC – with this difference that in French proceedings, the court expert can contradictorily discuss with counsels during the expertise meetings, so that the evidence is gradually co-built, and to some extent collegially stated<sup>34</sup>. Furthermore it has been observed that judges cultivate an "art of the draw" by selecting in the forensic expert's report such items they needed<sup>35</sup>. Are expert witnesses not exposed to the solicitations – e.g. to discuss the discovery or to suggest questions to ask during the cross-examination?

*Comment traiter du rapport de l'expert à la vérité ?*

DH – this "strategic contribution" seems smaller because ultimately the expert's objectivity will be weighed in front of the court, by the public cross-examination. Moreover in some courts exchanges between the expert and the lawyer may be discovered.

EC – but a large part of affidavits are closed before being stated in Court, right?

DH – Right. Not in France?

EC – There are no statistics in such matters. But a lot of judicial expertises are decided before the plain trial<sup>36</sup> and a large part of such expertises are not followed by a plain trial. That suggests that well-managed forensic expertises give an end to a significant part of litigations. It comes back to the question of behaviour and transparency ... but you mentioned the sociological studies relating to professions. Several sociological studies are really critical about forensic expertise, analyzing that as a "small world" closing its field and promoting or stig-

30 - Crumbley, D. L., "So what is forensic accounting?" *The ABO Reporter*, 2009, Fall (9).

31 - Millot P.A., "l'expert-comptable, expert judiciaire, face à de nouvelles missions" and « Le congrès de Lyon », *Revue française de comptabilité*, 2014, Oct., 21 and Dec., 22.

32 - Peckels B., « Editorial », *Revue Experts*, 2011, Déc.

33 - Fassio F., Kerisel J.B., Loeper P., « Non l'expert de justice ne peut mentir ! », *Revue Experts*, 2012, Février. The authors were the president and past-presidents of the CNECJ (see note 15).

34 - Charrier E., Pelisse J., "Conventions at Work: On Forensic Accountant's Intermediation", *Economic Sociology - ESEEN*, vol. 14 (1), 2013, 31.

35 - Dumoulin L., "L'expertise judiciaire dans la construction du jugement, de la ressource à la contrainte", *Droit et Société*, 44/45, 2000, 199.

36 - Pre-trial proceedings ("art. 145 CPC") or urgent proceedings ("référés"). It must be noted that these proceedings aren't similar to discovery.

matizing behaviours according to powers views rather than the public interest's service. Critics often involve psychological matters in criminal cases<sup>37</sup> where the judicial expert (sometimes a "serial expert"<sup>38</sup>) could be seen as a fighter of the judge. But technical expertise (construction, engineering, IT, accounting) could be criticized too, because there a many "grey areas" in these techniques, and the judicial expert is often questioned about good practices – not scientific rules. Sociologists question the rhetoric of power of judicial experts, following studies about lawyers<sup>39</sup>. Are the *Daubert* and *Kumho Tire* cases<sup>40</sup> effective in this matter?

*La jurisprudence Daubert est-elle la réponse aux attentes en matière de transparence de l'expertise ?*

DH – These court decisions changed the forensic practices: techniques used by the experts have, now, to be based on published, tested and shared references. This has undoubtedly contributed to develop forensic organizations, and increased technical and scientific publications related to the forensic services in the accounting journals. It probably also favored the rise of new journals: *Journal of Forensic Accounting* (no longer published), *Journal of Forensic and Investigative Accounting*, *Journal of Forensic Studies in Accounting and Business*<sup>41</sup>... In my view, the specific body of knowledge of a profession which deals with the public interest must be analyzed, discussed, and shared.

EC – Which brings us to one last topic, what body of knowledge do we need to share? In

France the specialized technical literature is quite limited. Publications are mainly oriented towards the knowledge of the rules of procedure and evidence, which are significantly different from trade communication in the business world or in public life. That makes sense that lawyers are often mandatory in judicial matters.

But the specific technical issues of dispute situations are analyzed as an implicit knowledge of well-recognized experts. Books and journals articles are very rare<sup>42</sup>, and forensic accounting knowledge is mainly shared during symposia or seminars issued by forensic associations<sup>43</sup>. One can suggest that the field is fenced by the actors, promoting their identification<sup>44</sup>... what about the USA?

DH – It is the subject of a recent debate initiated by the American Accounting Association. The AAA decided in 2011 that a specialized academic journal could be launched. Its first issue is not yet published. I recently argue, with James A. DiGabriele<sup>45</sup>, that the project lacked of analysis, like the study published by Stone and Miller on "*forensic accounting research that matters*"<sup>46</sup>: Stone and Miller reduce forensic accounting to financial fraud issues (excluding judicial matters, damages quantification, witnessing...), with an emphasis on the role of auditors. To analyze current publications, they do not include non-AAA journals (*JFA*, *JFIA*, *JFSAB*). These studies postulate that accounting research journals don't publish professional studies nor include professional in editorial boards. Defining "forensic accounting research that matters" without seeking professionals is problematic according to the fact that profes-

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37 - One can remember the French case « *Outreau* » (Besnier C. (dir.), "Parole(s): l'affaire d'Outreau", *Droit et Cultures*, 55-1, special issue, 2008).

38 - Protais C., *Sous l'emprise de la folie. La restriction du champ de l'irresponsabilité psychiatrique en France (1950-2007)*, thèse pour le doctorat en sociologie, Paris, EHESS, 2011.

39 - I.e. Sarat and Felstiner, « Law and Strategy in the Divorce Lawyer's Office », *Law and Society Review*, 1986, 20(1), 93; Felstiner W. (dir.), *Reorganisation and resistance. Legal professions confront a changing world*, Hart Publishing, 2004.

40 - *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (509 U.S. 579, 1993) and *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999). For a French analysis of this cases, Leclerc O., *Le juge et l'expert. Contribution à l'étude des rapports entre le droit et la science*, LGDJ, 2005; Nussenbaum M., "L'évaluation des préjudices économiques: l'application des critères Daubert", CEACC, Conférence « *La force probante de l'expertise* », Paris, avr. 2010.

41 - Ed. Note. This ceased publication in 2015.

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42 - Bouchon F., *L'évaluation des préjudices subis par les entreprises*, Litec, 2002 is the main French book in such matter. Articles are published in the magazine of the forensic accountant association (Cnecj) and in few business magazines (*Décideurs-Strategie Finance Droit*, *Option Finance*) and law journals (*Gazette du Palais*, *JCP*). *Les Cahiers du Chiffre et du Droit* aim to publish forensic articles.

43 - Nowadays, Cnecj is the main organization for forensic financial trainings and conferences.

44 - Comp about the French CPA profession, Ramirez C., "la règle et la norme : des grands cabinets d'audit multinationaux et de la place qu'ils occupent dans la profession comptable libérale", in Gadéa C., Demazière D. (eds), *Sociologie des groupes professionnels*, La Découverte, 2009, 129.

45 - [2014b].

46 - Stone D.N., Miller T.C., "The states of, and the prospects for, forensic and fraud research that matters", *Journal of Forensic and Investigative Accounting*, 4(2), 2013, 35.



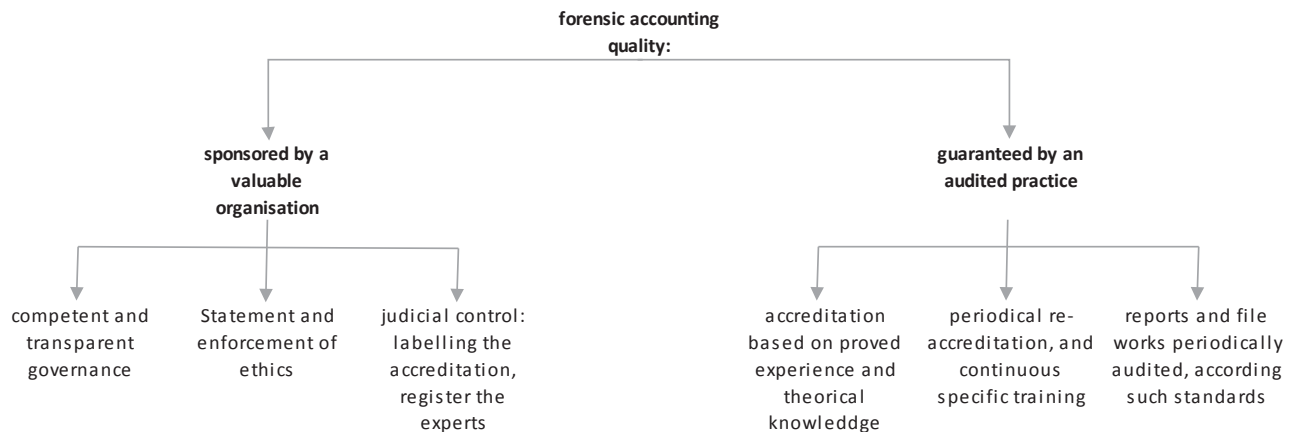
sionals don't read academic journals<sup>47</sup>. It is also noteworthy that the well-recognised AAA journals<sup>48</sup>, gradually concentrated towards economic or statistical publications for a specialized academic readership. If the aims of the AAA, and academics is to contribute to a better knowledge of the techniques, issues and challenges of forensic accounting, we have to reconsider these pitfalls.

*Comment partager les connaissances importantes – et quelles connaissances – en matière de Forensic accounting ?*

EC – According to our discussion on ethics and quality, one can conclude that studies and debates just begin about forensic accounting services and that we need in-depth comparison to assess the models<sup>49</sup>. The following table could be a synthesis, and a proposal, to think about the quality issues<sup>50</sup>. Thank you for this interview, Pr. Huber.

DH – My pleasure. Thank you.

Table 4 – enhancing quality of forensic accounting



47 - [2014b].

48 - E.g. *The Accounting Review*, see note 204.

49 - One can note such a way in Europe: for 4 years, the Council of Europe have included a chapter about forensic services in its report on “*Evaluation of judicial systems*” conducted by the European Commission for Efficiency of Justice (Cepej). [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp).

50 - J.A. DiGabriele, « An Empirical View of the Transparent Objectivity of Forensic Accounting Expert Witnesses. », SSRN, 2010.