

New Year, Same Resolve



Welcome to 2015. At the speed at which days and weeks seem to go by, I am sure you must have got back into the grind of things. I hope everyone has taken advantage of the festive season to unwind. And, in the process, start the New Year with a new vigour.

New Year, they say, brings a new resolve to do things. In the case of your Chapter's board, the New Year has just continued with the same old resolves – to get your Chapter to be the most happening Chapter within FEI Canada. And provide value for money to its members and sponsors.

While the foundations of this were already laid in the past few years, we have to continue to build on it. A vibrant membership base is one key driver in this process. Voluntary organizations such as ours will always see an ebb and flow of members but we have, in the past successive quarters, been showing net positive growth. Our Membership Committee has been very active and set itself an aggressive target for this year. Working towards this end, it has launched the iPad Air 2 contest for members bringing in the most qualified prospects.

As I had stated in my previous message, the strength of our organization is premised on the level of involvement of our members. So take the time to reach out to your network and encourage qualified finance professionals to become members of this Chapter.

We work hard towards providing you with fun, fellowship, networking and learning. Learning comes with the strong programming our Program Committee puts together. On April 16, 2015, the SME Committee has put together a great one day confer-

ence at the Burlington Convention Centre. The featured luncheon speaker is the Mayor of Mississauga, Bonnie Crombie, who has made history of sorts in that City. So, block your date and take advantage of the early registration to be there. With a very active WFEN Committee, we have seen a significant growth in our women members.

The other benefit our members have is our Sponsors. They are not only invaluable to the Chapter, but can provide members with significant value based on their domain expertise. I strongly urge every member to check our Sponsors listed at the end of this newsletter and reach out to them when you have a need for their services. Very shortly, our website will have a brief description of their services and their primary contact in our Chapter.

I hope every member strengthens her/his resolve to continue her/his participation in the Chapter's activities. To become a **brand ambassador** and actively promote our Chapter within her/his circle of influence. To continue the conversation off-line and become contributors to the Chapter's LinkedIn Group (<http://linkd.in/Z609pU>) and on Twitter (<https://twitter.com/FEICanadaSGH>).

As actress Keri Russell stated, "Often it is the smallest of your resolves that can change your life forever."

I take this opportunity to wish every member, sponsor and their families the very best for this New Year. May it bring peace, prosperity, good health and happiness in your life.

I look forward to interacting with each of you in the coming months. I am sure you will continue to participate in our activities to take advantage of the fun, fellowship, learning and networking our Chapter has to offer.

~Chapter President, Ananth Koovappady

Women's Financial Executive Network

"...when our membership is growing, diverse and vibrant, we all benefit."

The more actively involved we are in FEI Canada, the more we recognize the value of being part of an association for senior financial executives for education, networking and thought leadership. We also know that when our membership is growing, diverse and vibrant, we all benefit. The Women's Financial Executive Network in the Southern Golden Horseshoe Chapter is an example of an initiative which delivers information designed for our current women executives and also helps to accomplish our goal of attracting more women to the chapter as part of the overall growth strategy.

The SGH Chapter hosts two WFEN events each year. Our committee selects topics that have been suggested by the participants and finds presenters and panelists who bring thought-provoking perspectives. For example, in April 2014 we learned about the Ontario Securities initiatives for Women on Boards and strengthening the performance of Canadian companies through diversity. In December, our panel on Strategic Networking highlighted the value of business relationships and provided practical advice on building and maintaining them. There are opportunities during each event to interact with the experts and we welcome questions from the

participants. After each event, we conduct a survey of the attendees to gather feedback and ideas for future topics.

WFEN events are held just prior to regularly scheduled chapter dinners. This way, WFEN members and guests have the opportunity to participate in topics of specific relevance to them as well as join all the attendees for networking, dialogue and the featured presentation that is part of the dinner. It's a great way to showcase all that FEI Canada has to offer to prospective members.

Our next WFEN event will be on April 30, 2015, featuring "The Art of Negotiating" as the topic. We encourage our members and sponsors to invite female business colleagues who have been pre-qualified as prospective FEI Canada members – once they are pre-qualified, the guests may attend for free. (To pre-qualify a guest, please contact Line Trudeau at ltrudeau@feicanada.org.)

We look forward to continue growing our membership base this year and sharing the power of learning and networking with our members and sponsors.

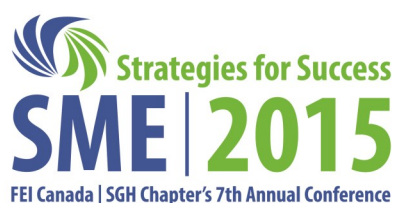
*~ Mary Parkes
Chair, WFEN Committee*

Chapter Membership Drive - Win an iPad Air 2



You could win an iPad Air 2 with Wi-Fi 128g in the 2015 FEI Canada SGH Chapter Membership Drive Campaign. You can secure a ballot for the draw with each pre-qualified guest that you bring to an event before May 2015. To pre-qualify a guest for a chapter event, please complete the [Prospective Member](#) form or contact Line Trudeau at ltrudeau@feicanada.org.

*~ Kriss Bush
Chair, Membership Committee*



Thursday, April 16, 2015

Burlington Convention Centre

REGISTER NOW for the 7th Annual SME Conference 2015: **Strategies for Success** for a day of stimulation, experience and networking, with a mix of keynote speakers, breakout sessions and panel discussions all designed specifically for senior finance executives, CFOs, CEOs and Directors of Small and Medium-sized Enterprises. We are now finalizing our list of speakers, some of which include Paul Rosen, a Gold Medal Paralympian and Catherine Swift of the Canadian Federation of Independent Business.

Time	7:30 a.m. REGISTRATION, BREAKFAST AND NETWORKING	
8:30 - 8:45 am	WELCOME AND OPENING REMARKS Norm Col - Incorporate Deloitte CO Survey	
8:45 - 9:30 am	OPENING KEYNOTE - Motivational Speaker Paul Rosen - Gold Medal Paralympian	
9:30 - 10:15	Panel: BEST MANAGED COMPANIES Moderated by Peter Brown, Deloitte (Panelists TBD)	
10:15 - 10:45 am	NETWORKING BREAK IN EXHIBITOR HALL	
10:45 - 11:30 am	LEADERSHIP TRACK Trevor Wilson, TWI Inc. <i>The Human Equity Advantage: Beyond Diversity to Talent Optimization</i>	RISK MANAGEMENT TRACK Lisa Bolton, Sherrard Kuzz <i>Employment Law Issues for SMEs</i>
11:30 am - 12:15 pm	Roger Thorpe, Thorpe Benefits <i>Wellness in the Workplace</i>	Larry Harding, Radius <i>Global Expansion</i>
12:15 - 1:30 pm	LUNCH AND FEATURED SPEAKER Bonnie Crombie, Mayor of Mississauga (TBC)	
1:30 - 2:30 pm	LEADERSHIP TRACK Rebecca Heaslip, Leadership Insight Inc.	RISK MANAGEMENT TRACK Mark Lippman, Protiviti <i>Cybersecurity Risk for SMEs</i>
2:30 - 3:00 pm	NETWORKING BREAK IN EXHIBITOR HALL	
3:00 - 4:00 pm	FEATURED SPEAKER Catherine Swift, Canadian Federation of Independent Business <i>Strategies for Ontario SMEs in the Years Ahead: Coping with a Challenging Economic Environment</i>	
	4:00 to 4:15 p.m. SPONSOR PRIZES	

A special thank you to our SME Conference Sponsors.

Platinum

Deloitte.

Silver

SHERRARD KUZZ^{LLP}
Employment & Labour Lawyers

Your Building Is For Sale - What's In It For You?

ELLINGTON
TENANT AND FACILITIES SERVICES

If you are a large tenant and your building is being put on the market for sale, there may be an opportunity for you. Purchasers typically want long-term, steady cash flow. If the remaining term on your lease is relatively short and/or you have termination rights in your lease, you may be able to leverage this as follows:

Extend Your Lease Term – If your business plan allows it, consider extending your lease. Your landlord may offer you inducements such as free rent or a cash allowance in exchange for a longer-term lease. Your landlord will be able to maximize the sale value of the building and your company will receive an economic benefit. The key to this strategy is making sure your lease extension rates are at “market” and the inducements are worthwhile.

Termination Rights – A potential purchaser will almost always discount a building's value if any of the larger tenants have termination rights in their lease. If that is the case, your landlord may offer you a cash payment to waive

your right to terminate. Alternatively, the building may conditionally sell and the new landlord may take the same approach. Either way, you will want to ensure that 1) the payment makes it worth your while to forego the flexibility and 2) check if there are any other lease terms that could be negotiated to your benefit.

How do you know when your building is for sale or about to be put on the market?

- ◆ Your landlord starts performing common area upgrades to prepare the building for sale (lobby upgrades, parking lot repairs, etc.).
- ◆ Frequent inspections of the building and/or your premises.
- ◆ You receive an estoppel certificate to sign.

If you think your building might be for sale and you want to explore how this could benefit you, please contact us.

Rick Comish
416-238-1555 x24
Rick.comish@ellingtonre.com

“How do you know when your building is for sale or about to be put on the market?”

Transfer pricing alert Canadian treaty deadlines for competent authority relief of double taxation

Deloitte.

Transfer pricing remains among the major tax risks for many multinationals. Controversy is on the rise and is likely to increase in years to come following the Organisation for Economic Co-Operation and Development's initiatives to combat base erosion and profit shifting (BEPS). Furthermore, recent transfer pricing audit initiatives by the Canada Revenue Agency (CRA) and other tax authorities have led to significant reassessments regarding intercompany transactions despite better documentation and efforts to use arm's length prices by taxpayers. In such cases, double taxation is a real risk, which is mitigated by the taxpayer's right to request competent authority assistance for correlative relief and the elimination of double taxation under the mu-

tual agreement procedure (MAP) article of the relevant Canadian income tax treaty.

Where a taxpayer is facing a proposal or a reassessment, whether it is initiated by the CRA or another tax authority, Canada's network of income tax treaties generally requires that taxpayers must take certain actions within specified time limits to be eligible for competent authority assistance. For example, under the Canada – U.S. tax treaty, where an adjustment or a proposal has been initiated by the CRA, the U.S. competent authority must be notified of the CRA's proposal or reassessment within six years from the end of the taxable year to which the

continued on page 5

Transfer pricing alert Canadian treaty deadlines for competent authority relief of double taxation

Deloitte.

...continued

transfer pricing adjustment relates. The same period applies in the reverse situation.

Some of Canada's tax treaties or memorandums of understanding for the MAP may require, and it is recommended, that each taxpayer file the request in their home country to be eligible for assistance. Again, your Deloitte advisor is available to review your facts and circumstances.

Failure to take the appropriate action within the specified time limit may result in the other competent authority denying a taxpayer's request to relieve double taxation. Where Canada's tax treaties do not place time limitation on a competent authority request, taxpayers should refer to the domestic legislation in both Canada and the other country to ensure these years are opened to corrections. In addition, taxpayers should not sign negotiated closing agreements with the tax authorities if they intend to request competent authority assistance, because doing so may limit their ability to obtain full relief from double taxation.

Many of Canada's tax treaties also place time limitation on the period for which a tax authority may raise a reassessment that are often shorter than the domestic time limitation. For example, the most recent protocol to the Canada – Switzerland tax treaty provides that neither of the tax authorities shall raise a reassessment beyond the lesser of the domestic time limitation and six years from the end of the taxable year. The fact that the domestic time limitation may still be open for transfer pricing reassessments in one or both of the affected countries is not determinative of the availability of competent authority assistance. Unfortunately, the trend established in recent protocols to amend Canada's tax treaties is to further extend the tax authority's rights to raise a

reassessment to eight years, which is beyond the Canadian domestic time limitation that is six or seven years. This complexity emphasizes the need for taxpayers and practitioners to thoroughly monitor the dispute resolution process.

Canada's tax treaties generally do not require a specific form to request competent authority assistance. Guidance on competent authority assistance in Canada can be found in the CRA's Information Circular 71-17R5 – Guidance on Competent Authority Assistance under Canada's Tax Conventions.

Taxpayers should also be aware that the competent authority is, in some circumstances, also bound by time limitation to reach a settlement and recently, Canada has been introducing new arbitration provisions with its major treaty partners. The Canada – U.S. treaty was the first recent agreement to introduce arbitration with a two-year limit to reach settlement that can be extended only at the consent of both countries. The recent Protocol amending the Canada – UK treaty will also introduce an arbitration provision for MAP cases that remain unresolved within a period of three years from the date on which the necessary information is received. The details on the arbitration process will be available when the Protocol enters into force.

Deloitte's transfer pricing professionals can assist you in navigating Canada's network of income tax treaties, taking the appropriate action and preparing the necessary documents to protect the treaty and domestic rights of taxpayers. A failure to approach this issue carefully may result in a denial of the taxpayer's request for competent authority assistance for correlative relief and to eliminate double taxation as well as to accelerate tax refunds.

~ Tony Anderson

toanderson@deloitte.ca or 905-315-6731

***“...the U.S.
competent
authority must be
notified of the
CRA's proposal or
reassessment
within six years
from the end of the
taxable year ...”***

Managing a Difficult Employee: What Every Employer Needs to Know... and Do!



January is a time for reflection and resolutions. With the holidays over and a new year beginning, now is the time to tackle some of the toughest employment issues, starting with the effective performance management of underperforming employees.

The poor performer

Poor performers exist in every workplace. Easy to identify, a poor performer is the employee who does 'just enough, but never more', is often the root of workplace 'gossip', gripes about 'unfairness' but rarely offers a solution, undermines or challenges management inside and outside of the workplace (often on social media), has spotty attendance (mysteriously on Fridays and Mondays), and isn't engaged in what he or she does.

Why tackle poor performance?

We know from experience that a poor performer reduces productivity, has a negative impact on the motivation and retention of other staff, and undermines management's credibility. We also know that many employers don't deal with poor performance as soon as they should, because managers are uncomfortable giving negative feedback and hope the problem will resolve itself with time. How, then, do we tackle this thorny issue?

Why is the employee performing poorly?

The first step is to identify why the performance of an employee may not be up to scratch. Meet with the employee and find out if he or she:

- ◆ Understands the performance expectations for the position.
- ◆ Has the skill and knowledge to perform at the level required.
- ◆ Is distracted by a non-work related problem which may be impacting performance.
- ◆ Requires additional training or resources to improve performance.

After the meeting:

- ◆ Take steps to put into place the framework necessary for success.
- ◆ Monitor the employee's progress daily.
- ◆ Conduct regular 'review' meetings to take stock of how and to what extent performance is improving.

If there is no, or insufficient, improvement, it may be time to terminate the employment relationship.

Best practices for effective performance

By implementing an effective performance management strategy an employer can help improve an employee's performance, while at the same time gather the evidence needed to defend a decision to terminate the employment relationship (should this be necessary).

Consider the following best practices:

Set the ground-rules: A written job description, code of conduct, attendance and performance management policy will help ensure managers and employees know what is expected of them and what steps will be taken to respond to performance issues or employee misconduct. Take the time to explain these codes and rules, and have each employee sign off.

Train supervisors: Frontline supervisors should receive training on how to identify, investigate and manage problem behaviour. Provide them with the tools to perform these important functions, including regular training on how to communicate expectations, determine the root of the problem, have difficult conversations, de-escalate conflict between employees, and set and implement a performance management program.

continued on page 7

Lisa M. Bolton and Andrew Ebejer are lawyers with Sherrard Kuzz LLP, one of Canada's leading employment and labour law firms, representing employers. Lisa and Andrew can be reached at 416.603.0700 (Main), 416.420.0738 (24 Hour) or by visiting www.sherrardkuzz.com.

Managing a Difficult Employee: What Every Employer Needs to Know... and Do!



...continued

Use probation periods wisely: If performance is a problem from the very start of the employment relationship consider whether it is reasonable to expect improvement with the benefit of additional time. If not, consider ending the employment relationship during the probationary period when exposure to liability will be at its lowest (if any).

Actively performance review: Conduct performance reviews early and often – don't wait until a "year-end review" to communicate poor performance to a difficult employee. Not dealing with a performance problem may also suggest to the employee the employer condones the behaviour, making it more difficult to explain and correct later. Instead, conduct periodic, written performance evaluations which clearly identify performance standards and consequences if those standards are not achieved. Be sure to provide a copy of the review to the employee and implement a timetable for improvement of any deficiencies.

Accommodate: Where it is appropriate to do so (e.g., where underperformance is caused by disability or another protected ground under the *Human Rights Code*) an

employer will need to explore accommodation options to help the employee succeed. This may include changes to job duties, shift times, and performance standards.

Keep a record: Every meeting, benchmark set, and disciplinary action taken (if any) should be recorded in writing and a copy provided to the employee.

End it: Don't be afraid to end the employment relationship when necessary. But before you do, it is always prudent to consult with experienced employment counsel to understand the associated risks (if any) and best practices.

The information contained in this article is provided for general information purposes only and does not constitute legal or other professional advice. Reading this article does not create a lawyer-client relationship. Readers are advised to seek specific legal advice from Sherrard Kuzz LLP (or other legal counsel) in relation to any decision or course of action contemplated.

"Conduct performance reviews early and often – don't wait ..."

MOE Imposes Absolute Remediation Liability on Directors



On October 18, 2013, Ontario's Ministry of the Environment (MOE) and a group of former directors ("the directors") of Northstar Aerospace (Canada) Inc. reached a settlement in their dispute over liability for remediation costs at a site owned by the now bankrupt helicopter parts manufacturer. The settlement of \$4.75 million paid was in addition to the over \$800,000 already spent by the directors to clean up soil and groundwater contamination and the significant legal costs to litigate the matter. While the settlement brings to a close the battle between the directors and the MOE, the

case raises a number of important insurance issues.

Background

From 2004 to 2012, Northstar Aerospace (Canada) Inc. carried out voluntary remediation work at a Cambridge site found to be contaminated with human carcinogens. In 2012, concerns about Northstar Aerospace's financial condition led the MOE to issue a remediation order against the company and

continued on page 8

MOE Imposes Absolute Remediation Liability on Directors

...continued



its parent and to provide a financial assurance in the amount of \$10 million to ensure that the work would be completed. By the early summer of 2012, Northstar Aerospace had applied for protection from its creditors under the Companies' Creditors' Arrangement Act (CCAA), effectively staying any and all action by creditors against them. As a result, the directors themselves were made the target of an MOE order which instructed them to personally remediate the site. The directors challenged the order at the Environmental Review Tribunal (ERT) and applied to stay the order until their appeal had been heard. In the summer of 2013, the Ontario Divisional Court declined to stay the order, ruling that the former directors were liable for ongoing remediation costs while their appeal was pending.

The Environmental Protection Act (Ontario) and the ERT

The *Environmental Protection Act* (EPA) permits the MOE to make various orders that impose obligations on individuals (including directors and officers) who are found to have management control of an undertaking or property that is contaminated. This liability can apply equally to individuals no longer affiliated with the undertaking or property. An MOE order instructs an entity or individuals or both to undertake certain work at contaminated sites, including securing the site, implementing testing and control protocols and remediation of water and land contamination. The target of MOE orders is typically the corporation, but where the solvency of the corporation is at issue, the MOE has demonstrated a willingness to target directors personally. Directors may challenge an MOE order at the ERT, but bear the burden of proving that they never had management control of a contaminated property.

Insurance Issues

The case raises important questions about how insurance policies respond to

MOE orders issued against directors. While remediation costs are most appropriately covered by stand-alone environmental impairment policies, it is not clear that in all cases these policies would be available to cover losses incurred by individuals while their companies undergo CCAA restructuring. The insurance typically available for statutory liabilities of directors, the Directors' & Officers' Liability insurance policy (D&O) generally contains exclusions that could preclude coverage: property damage exclusion; pollution exclusion; remediation costs exclusion. In addition, other terms and conditions of the D&O policy could make accessing remediation cost relief and legal costs coverage to challenge an MOE order problematic.

Solutions

There are a few primary D&O insurers that are marketing endorsements designed to provide limited coverage for the costs incurred by the Northstar directors. However, there are a number of terms and conditions in these endorsements that need to be amended to adequately provide such coverage. As well, protection can be procured from a specialized excess D&O policy offered by numerous insurers provided the language in such policies makes clear the intent of the insurer to cover Northstar-type exposures. Organizations and their directors and officers with any environmental liability are strongly encouraged to review their current D&O and environmental insurance programs in light of the Northstar case. Aon continues to work closely with these insurers to ensure coverage is available for Northstar-type liabilities.

The author, Brian Rosenbaum, LL.B is the National Director of Aon's Legal and Research Practice. Aon will be hosting a breakfast on April, 9, 2015 that will dive into this topic and other related issues. Please contact Jacinta Davies of Aon's Financial Services Group @ Jacinta.davies@aon.ca if you have any questions.

“The Environmental Protection Act (EPA) permits the MOE to make various orders that impose obligations on individuals ...”

Upcoming Chapter Events

SGH Chapter Dinner - January 22, 2015

Organize or Agonize

Speaker: Andrew Sherwood, President, Priority Management

FE Eye Opener - February 5, 2015

Update on M&A

Speaker: Howard E Johnson, Managing Director, Veracap M&A International Inc. and President of M&A International

SGH Chapter Dinner - February 19, 2015

Turning a Crisis into an Opportunity

Speaker: Andrew Miller, President, ACM Consulting Inc.

SGH Chapter Dinner – March 11, 2015

Creating Value in a Low Growth Environment

Speaker: Howard E Johnson, Managing Director, Veracap M&A International Inc. and President of M&A International

SGH Chapter SME Day – April 16, 2015

Strategies for Success

Burlington Convention Centre

SGH Chapter Dinner – April 30, 2015

War Stories from the Front Line

Speakers: Dave M. Oswald, Senior Manager, Ernst & Young and Linda M. Lister, Senior Manager, Fraud Investigation & Dispute Services, Ernst & Young

SGH Chapter Annual Social – May 21, 2015

Entertainment: Comedy Hypnotist, The Incredible Boris

Ristorante Giardino, Gate House Hotel, Niagara-on-the-Lake

Conference 2015 Winnipeg – June 10, 2015

Expand Your Horizons

RBC Convention Centre, Winnipeg

Stay tuned for more details on FE Eye Openers and events lined up for the Fall.

**To receive notification of these events via email, contact Rosemary Petrossi at fei.sgh@gmail.com*

Our Valued Sponsors

The SGH Chapter appreciates the support of a variety of sponsors. All members benefit from the contributions of our sponsors, awareness of their products, services, and subject matter expertise, and additional networking opportunities. We encourage our members to take advantage of our relationship with these great companies. Please visit the [Member Resource](#) section of our website for sponsor-driven articles and videos there for your learning and benefit.

This month we welcome TD and SB Partners as new sponsors to the SGH Chapter.



About our Organization

Welcome to the Southern Golden Horseshoe Chapter of Financial Executives International Canada.

Our chapter provides a great forum for peer networking by CFOs and other senior financial executives who want to meet quality people and share with others solutions to the crucial issues that confront them daily.

Our FEI dinner meetings, professional development seminars and informal outings focus on the highest quality speakers and entertainment to facilitate the flow of new ideas, perspectives as well as sound career and business decisions.



southern golden
horseshoe chapter

Financial Executives International—Canada's pre-eminent association connecting financial executives through networking, knowledge exchange, advocacy and ethical leadership.

Your Chapter Directors

President – Ananth Koovappady
ananthk@instantimprints.com

Director & Secretary/Treasurer – Dan Bowes
dtbowes@cogeco.ca

Director & Vice-President, Chair of Programming – Florian Meyer
fmeyer@newhousepartners.com

Director of Sponsorship – Monique Delorme
m.delorme@cogeco.ca

Director & Past President, Chair, Marketing & Communications & Chair, Chapter Nominating & Governance Committee – Elysia Estee
elysia.estee@softchoice.com

Director of Membership – Kriss Bush
kriss.bush@gmail.com

Director & Chair, Chapter Distinguished Service Award Committee - Bob Rollwagen
bobrollwagen@gmail.com

Director & Chair, SME Conference Committee– Norm Col
ncol@deloitte.ca

Director & Chair Women's Financial Executive Network - Mary Parkes
mparkes@bdo.ca

Director – Peter Gimon
pgimon@cogeco.ca

FEI Canada
Southern Golden
Horseshoe Chapter

Chapter Administrator
Rosemary Petrossi

Address
SGH Chapter
c/o 13 Peter Ave.
Guelph, ON, N1E 1T5

Phone
289.828.0200

Email
fei.sgh@gmail.ca

Website
www.feicanada.org/
Chapters/chapters/
southerngoldenhorse
shoe

Follow us on Twitter:
@FEICanadaSGH

With thanks to our Chapter Sponsors



RBC Wealth Management
Dominion Securities

The Dool Team of RBC Dominion Securities
www.doolteam.ca

LERNERS

LAWYERS



SHERRARD KUZ LLP

Employment & Labour Lawyers

Deloitte.

Fivel



Robert Half®
Management Resources

AON

VERACAP
M&A
INTERNATIONAL



SB Partners

Your Community. Your Accountant.



ELLINGTON
TENANT AND FACILITIES SERVICES