

# MIRZA & MALAN

ADVOGADOS

## SÓCIOS

Diogo Malan  
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## CONSULTORES

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## CODE OF ETHICS, CONDUCT AND COMPLIANCE

### 1. Introduction

The present Code of Ethics, Conduct and Compliance of Mirza & Malan Advogados is based on the ethical commitments and values that underpin the practice of criminal law and applies to the internal relations among the Consultants, Partners, Associates, Interns and administrative employees as well as their external relations with public servants, suppliers of products, providers of services, clients etc.

Our Firm adopts an institutional policy of strict and unconditional observance of ethical precepts, considered to be fundamental to modern business management.

This means that our Firm has a solid commitment to the adoption of internal policies and procedures and an organizational structure focused on preventing and deterring any illegal or unethical acts, notably *corruption*.

In this context, the adoption of this Code has two objectives: to establish standards of conduct, and to clarify any doubts

about the behavior expected of the Consultants, Partners, Associates, Interns and administrative employees, both internally and in their external relations.

## **2. Scope**

This Code applies to all the Partners, Associates, Interns and administrative employees, without exception.

Any time an Associate, Intern, administrative employee, local corresponding attorney, supplier of products, provider of services, etc., is contracted, that person or company must sign the standard commitment instrument contained in the Attachment, declaring awareness of this Code and formally undertaking to comply with it in full.

## **3. Structural principles**

The institutional policy adopted by our Firm is based on six fundamental pillars: *combativeness, technical skill, ethics, confidentiality, responsibility and sustainability*:

3.1. *Combativeness*: The duty to employ the highest level possible of technical knowledge, personal effort, time and human and material resources in defense of clients' interests, using all the ethical and legal means available to protect their fundamental rights against illegal or

excessive interference by the State and to maximize the chances of positive procedural results.

3.2. *Technical skill*: The need for solid academic training and ongoing technical improvement by the Consultants, Partners, Associates and Interns, through the parallel exercise of legal teaching, participation in cultural or technical-scientific entities, attendance at congresses, symposiums, seminars, etc. and/or extension, postgraduate or specialization courses, in Brazil or abroad. All court submissions, legal opinions and technical notes must always be prepared with the highest level of technical refinement and excellence, based on thorough and systematic research of the best possible bibliographical sources, court decisions and legislation.

3.3. *Ethics*: Application to the Consultants, Partners, Associates and Interns of the Statute of the Legal Profession (Law 8,906/94), Code of Ethics and Discipline of the Brazilian Bar Association (OAB) and the other normative acts issued by the Federal Council and the Sectional Councils of the OAB. The Consultants, Partners, Associates and Interns have the duty to discourage any illegal or unethical acts by public servants, suppliers of products, providers of services, clients etc., by alerting them to the resulting risks. Besides these, the following ethical precepts apply:

(i) *Legality*: Prohibition of any illegal or unethical acts in the exercise of professional activities, notably corruption (public or private), as

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well as any acts injurious to the public administration (national or foreign);

(ii) *Excellence*: Duty to apply the highest degree of technical qualification, personal effort, time and resources to defend the interests of clients, by acting with the maximum discipline and diligence in the performance of any tasks, without consideration for the personal opinion about the guilt of clients, as well as assurance that personal questions or conflicts of interest do not compromise the interests of clients;

(iii) *Truth*: Duty of frankness and loyalty to all Consultants, Partners, Associates, Interns, administrative employees, public servants, suppliers of products, providers of services, clients etc. This means no promise of success may be given to the client, since legal representation is a *best-efforts obligation*. The prognosis of success must be formulated carefully and realistically in light of the evidence, after detailed study of the case and all possible variables, preferably together with other Consultants and/or Partners. Doubts expressed by clients must be answered with the highest degree of accuracy and alacrity possible;

(iii) *Respect*: Cordial treatment must be given to all Consultants, Partners, Associates, Interns, administrative employees, public servants, suppliers of products, providers of services, clients etc., to maintain an agreeable, fraternal, harmonious and productive work

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environment. Any acts that can be characterized as discrimination or prejudice of any type, as well as offenses, mental or sexual harassment, etc., are expressly forbidden;

(iv) *Solidarity*: Orientation of conduct to serve the best interests of clients and the Firm as a whole, irrespective of personal interests; duty to provide assistance to colleagues, by sharing technical knowledge, documents, efforts and information any time necessary to achieve the common objective;

(v) *Professionalism*: Adoption of impeccable public and private behavior, compatible with the dignity and decorum of the legal profession. Prohibition of maintaining any type of amorous or business relationship with clients, as well as dealing in securities issued by any companies whose owners or managers are clients. Duty to protect the social standing and financial position of the Firm, with respect to its installations, equipment, materials, electronic devices etc. Duty to use the professional electronic mail account and internet access in the workplace exclusively for professional purposes, with prohibition of disclosure of discriminatory or prejudiced, personal, humorous, playful, illegal, pornographic and political contents etc.;

3.4. *Confidentiality*: Duty to maintain the highest level of secrecy regarding all communications, documents, data or information in electronic devices related to clients. No Consultant, Partner, Associate, Intern or administrative employee is authorized to disclose any

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communications, documents, data or information related to a client to third parties without the authorization of the client;

3.5. *Responsibility*: Prohibition of Consultants, Partners, Associates or Interns to act with malpractice or negligence in performing their tasks. It is forbidden to assume an excessive number of cases, or any case where it is not possible to devote the highest possible degree of technical knowledge, personal effort, time and human and material resources in defending the interests of the client. The total number of *pro bono* cases cannot exceed 10% of the total number of cases handled or supervised by each Partner.

3.6. *Sustainability*: Incentive to ongoing training of the Firm's human resources. Encouragement of social involvement, through *pro bono* work by all the members of the Firm, within the limit of 10% of the total number of cases handled or supervised by each Partner. Unconditional respect for the environment and labor legislation. Preference for the use of recycled office materials. Prohibition of wasteful use of resources.

#### **4. Ethics Committee**

The Ethics Committee (henceforth Committee) shall be composed of one Partner, one Associate, one Intern, one administrative employee and one independent member (with proven knowledge of business integrity), and shall be chaired by the Partner.

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The Committee shall not be subordinated in any way to the Partners, including those with majority equity participation in the Firm.

The decisions of the Committee are definitive and not subject to reform.

The members of the Committee shall have terms (not remunerated) of two years, with reappointment possible. The membership takes priority over any other responsibilities, generates employment stability (other than dismissal for cause) and prevents imposition of any sanction on the members for exercising their attributions.

The Committee shall ordinarily hold monthly meetings, but can meet extraordinarily any time an urgent question needs to be decided.

Minutes shall be prepared of all meetings of the Ethics Committee, for ample internal disclosure.

The Committee shall be able to: (i) receive complaints, including anonymously, through the e-mail denuncia@mirzamalan.com.br, with protection of the identity of the complainant;; (ii) commence internal proceedings to investigate the complaints received, with assurance to the accused of the guarantees of due legal process (by application, as fitting, of Law 9,784/99); (iii) apply penalties for failing to comply with this Code; (iv) determine the prompt cessation of any irregularities or infractions detected; (v) periodically analyze the risks inherent to the most sensitive areas regarding illicit or illegal conduct, and take the pertinent preventive

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measures; (vi) conduct auditing (due diligence) about the criminal and professional background of any candidates for positions as Associate, Intern, corresponding attorney, supplier of products, provider of services, etc., including investigation of any past involvement in fraud, corruption, bribery, money laundering and the like, for which purpose the Committee may request documents and/or clarifications from the candidate; (vii) respond to queries regarding any doubts about the interpretation of this Code; (viii) organize annual internal training events, in the form of workshops, dynamic presentations, etc., for dissemination of the content of this Code; (ix) monitor the integrity program, aiming to improve the prevention, detection and deterrence of illegal or unethical acts; and (x) report acts of corruption or administrative malfeasance to the public authorities.

The Committee shall dedicate special attention to sensitive areas, those involving the regular or frequent interaction with public servants, with the power to determine measures such as: (i) periodic rotation of Partners, Associates or Interns; (ii) segregation of functions; (iii) prohibition that a Partner, Associate or Intern communicates or meets alone with a public servant; (iv) prohibition that a Partner, Associate or Intern communicates or meets with a public servant outside the work premises and/or outside of normal working days or hours of public offices, etc.

The penalties applicable to violation of this Code are, in rising order of gravity: (i) warning; (ii) suspension for up to 30 days; (iii) contractual termination for serious fault; and (iv) exclusion from



the Firm or dismissal for just cause. The penalties shall always be applied based on evidence, identified in meeting minutes, with subsidiary application of the criteria of the Penal Code.

## **5. Relations with public servants**

The Consultants, Partners, Associates and Interns must know and always respect the normative framework that limits the actions of public servants, notably the Anticorruption Law (Law 12,846/13), Legal Regime of Federal Civil Servants (Law 8,112/90), Administrative Improbity Law (Law 8,429/92), Conflict of Interest Law (Law 12,813/13), Code of Judicial Ethics of the National Council of Justice, Code of Conduct of the Senior Federal Administration, Code of Professional Ethics of Civil Servants of the Federal Executive Branch (Decree 1,171/94), Organic Law of the National Judiciary (Complementary Law 35/79) and Organic Law of Prosecution Services (Law 8,625/93), besides other legal and regulatory acts applicable to the specific case.

It is forbidden to offer or deliver any presents or gifts (e.g., food, entertainment, hospitality, transportation, favors, invitations to give paid classes or presentations etc.) to public servants. The only exception is the offer of books on legal doctrine, if all of the following four conditions are fulfilled: (i) organization, authorship or co-authorship of the work by one or more Partners, Associates or Interns; (ii) cover price suggested by the publisher less than or equal to R\$ 100.00; (iii) prohibition of offer to the same civil

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servant in an interval shorter than 12 months; and (iv) prior approval of the Committee.

The Consultants, Partners, Associates, Interns and administrative employees have the duty to refrain from using their power in their own benefit or that of a family member or other party to obtain any type of support, donation, commission, favor, gratification, present, advantage, etc. from a public servant, under any title or pretext.

The contracting of a former public servant as a Consultant, Partner, Associate, corresponding attorney, etc. must be approved by the Committee. Under no circumstance may a former civil servant be contracted who: (i) can act in benefit or on behalf of the Firm in a proceeding or business transaction in which he or she participated due to the position; (ii) can provide consulting to the Firm using information not disclosed publicly about programs or policies of the body or entity of the public administration to which he or she worked or had a direct and relevant relationship in the six months before leaving the civil service; (iii) was dismissed from the civil service less than six months ago; (iv) failed to comply with legislation on quarantine periods (articles 13 et seq. of the Code of Conduct of the Senior Federal Administration, articles 6 and 7 of Provisional Measure 2,225-45/01, Decree 4,187/02 and Law 12,813/13).

## **6. Relations with private parties**

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The relations of Consultants, Partners, Associates, Interns and administrative employees with suppliers of products, providers of services etc. must be based on: (i) clarity, technical criteria, courtesy, ethics, honesty, respect and veracity of information; (ii) equal treatment and opportunities, without unreasonable discrimination, compliance with obligations assumed and impersonality of contracting; and (iii) complete and equal supply of relevant information, which may not be used in own benefit or that of other parties.

The Consultants, Partners, Associates, Interns and administrative employees may not use their power in their own benefit or that of relatives or other parties, to obtain any type of assistance, donation, commission, favor, gratification, present or advantage from suppliers of products, providers of services etc., under any title or pretext.

The Consultants, Partners, Associates, Interns and administrative employees must always avoid conflicts between their personal economic interests or those of relatives and the institutional interest. Any doubts about conflicts of interest must be addressed to the Committee. The contracting of any companion, spouse or relative to the second degree of any Consultant, Partner, Associate, Intern or administrative employee, or of a company which has among its owners a companion, spouse or relative to the second degree of any Consultant, Partner, Associate, Intern or administrative employee, must be approved by the Committee.

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No relations will be established with persons or companies that do not share the values expressed in this Code. Any hiring must be preceded by an audit (due diligence) by the Committee, to investigate: (i) the possible involvement of the person or company's managers with fraud, corruption, bribery, money laundering and other such acts; (ii) the National List of Ineligible and Suspended Persons (CEIS); (iii) the National List of Persons Convicted Civilly for Acts of Administrative Improbability of the National Council of Justice (CNJ); (iv) the List of Disqualified and Ineligible Persons of the Federal Audit Tribunal (TCU); and (v) the National List of Punished Companies (CNEP). For that purpose, the Committee may request documents and/or clarifications from the candidate. Besides this, all contracts formalized will contain standard clauses with: (i) declaration that the person contracted is not on the National List of Ineligible and Suspended Persons of the Ministry of Transparency and the Office of the Comptroller General (CGU); and (ii) declaration that the person contracted is aware of the full content of this Code and undertakes to respect it during the life of the contract, under pain of contractual termination for grave fault. This Code shall constitute a mandatory attachment to all the contracts to be signed with suppliers of products, providers of services etc.

### **7. Relations with clients**

The relations with clients must be based on *trust, loyalty, predictability, transparency* and *reciprocal cooperation*, to protect their

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fundamental rights against illegal or excessive interference from the State and to maximize the chances of favorable procedural results.

The clients shall have the right to: (i) attentive and courteous treatment by the Consultants, Partners, Associates, Interns and administrative employees; (ii) response to their telephone calls, text messages, e-mails etc. within a reasonable time frame, unless it is impossible to reach the client; (iii) a written and signed fee proposal that itemizes, at least, the scope of the services to be rendered, the overall amount of the fees to be paid, the due dates of the respective bills and the conditions for reimbursement of expenses incurred while rendering the services; (iv) issuance of an invoice for each portion of the fees paid; (v) request for reimbursement of expenses identifying the dates and nature, as well as the supporting documents; (v) provision as quickly as possible of information about any personal questions or conflicts of interest that prevent the continuation of the engagement; and (vi) preservation of the highest degree of secrecy regarding any communications, documents, electronic devices or information shared.

The charging of fees constitutes the fair return consideration for the services performed honorably and correctly, and can be waived in up to 10% of the total number of cases handled or supervised by each Partner. The criterion for waiving fees is under the discretion of each Partner and can be related to: (i) the *institutional, social or political* importance of the criminal case, which transcends the personal interest of the client; (ii) the position, function or public activity of the client, when the criminal accusation involves the

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exercise of official duties; and (iii) the relative vulnerability of the client, etc.

The fees will be estimated in accordance with: (i) the academic achievement, competence, practical experience and reputation of the Consultants, Partners and Associates who will be involved; (ii) the relevance, size, complexity and difficulty of the criminal case; (iii) the work and time necessary; (iv) the possibility that a Consultant, Partner or Associate might be prevented from working on other cases or advising other clients; (v) the financial situation of the client and possible economic benefit resulting from the services rendered; (vi) the nature of the relationship with the client (e.g., single case, ongoing retainer); (vii) the places where the services will be rendered; and (viii) the fees charged by other lawyers with similar academic achievement, competence, experience and reputation.

The fee proposal may not stipulate a success fee.

## **8. Relations with the social communications media**

The Consultants, Partners, Associates and Interns may not use the cases handled by the Firm for personal or professional self-promotion in the social communications media.

The frenzied publicity of criminal prosecutions and judgment in the media (trial by media) are always harmful to the client, so the Consultants, Partners, Associates and Interns may not

participate in journalistic programs or press reports about the cases handled by the Firm, mainly those of a sensationalist nature.

The participation of Consultants, Partners, Associates and Interns in press reports and journalistic programs is allowed if all of the following conditions are satisfied: (i) the nature is not sensationalist; (ii) the purpose is illustrative, educational or instructional; (iii) a case handled by the Firm is not the topic; and (iv) the participant refrains from expressing any value judgment about a colleague, case or working method of another law firm.

## **9. Donations and sponsorships**

The Consultants, Partners, Associates, Interns and administrative employees are forbidden to make any campaign donations to candidates or political parties.

All suppliers of products, providers of services etc. may only make campaign donations to candidates or political parties strictly within the limitations of Law 9.504/97 and the normative acts issued by the Superior Electoral Tribunal (TSE).

Donations and sponsorships are permitted to institutions of higher learning or for specific *cultural* or *academic* events, provided they are of high repute and are related to the theory or practice of criminal law, and: (i) there are no public and private conflicts of interest; and (ii) the Committee approves them in advance.

## **10. Final provisions**

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The Senior Partners of the Firm reaffirms their support for entities dedicated to prevention and suppression of illegal or unethical practices, such as the Pro-Ethical Company List of the Ministry of Transparency and the Federal Comptroller General's Office (<http://www.cgu.gov.br/assuntos/etica-e-integridade/empresa-pro-etica>), the Ethos Institute of Business and Social Responsibility (<https://www3.ethos.org.br/>), Transparency Brazil ([www.transparencia.org.br/](http://www.transparencia.org.br/)), Ethos Institute Business Pact for Integrity and Anti-Corruption ([www.empresalimpa.org.br/index.php/empresa-limpa](http://www.empresalimpa.org.br/index.php/empresa-limpa)), United Nations Global Compact ([www.unglobalcompact.org/](http://www.unglobalcompact.org/)), and Partnering Against Corruption Initiative (PACI) of the World Economic Forum ([www.weforum.org/issues/partnering-against-corruption-initiative](http://www.weforum.org/issues/partnering-against-corruption-initiative)) etc.

The latest version of this Code will always be available for download, in Portuguese and English, at the Firm's institutional page on the internet ([www.mirzamal.com.br](http://www.mirzamal.com.br)).

Rio de Janeiro, RJ and Brasília, DF, November 2017.

**Mirza & Malan Advogados**

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**ATTACHMENT**

**Declaration**

I hereby declare I have received a copy of the Code of Ethics, Conduct and Compliance of Mirza & Malan Advogados, and undertake to comply with it in full during the entire period of the contractual relationship, under pain of application of the penalties of warning, suspension for up to 30 days, contractual termination for grave fault, exclusion from the Firm or dismissal for cause, as the case may be, at the discretion of the Ethics Committee.

Name: \_\_\_\_\_

CNPJ or CPF: \_\_\_\_\_

Address: \_\_\_\_\_

City and date: \_\_\_\_\_

Signature: \_\_\_\_\_