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Corporación Grupo Mosqueda

#### CONTENIDO—CONTENT

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#### Recuerda No estás solo, estamos Contigo

Remember You are not alone, we are with you" 1.- Cuando se genera el Fraude Penal en los contratos.

2.- El Programa de Servicio Legal Empresarial de Grupo Mosqueda denominado Corporate Check Up, como Instrumento Especializado para detectar fallas en la estructura corporativa y su operatividad.

3.- Que es el emplazamiento documental por parte de la Secretaría del Trabajo y Previsión Social.

4.- Por qué se deben extinguir los Contratos Hipotecarios cuando se firma un Contrato de Fideicomiso de Garantía.

5.- Que son los Delitos Corporativos.

6.- La Simulación de Actos en materia Fiscal y sus Consecuencias.

7.- La Innovación vs. Plagio.

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6.- The Simulation of Acts in Tax Matters and its Consequences.

7.- Innovation vs. Plagiarism.

#### **Editor's Letter**

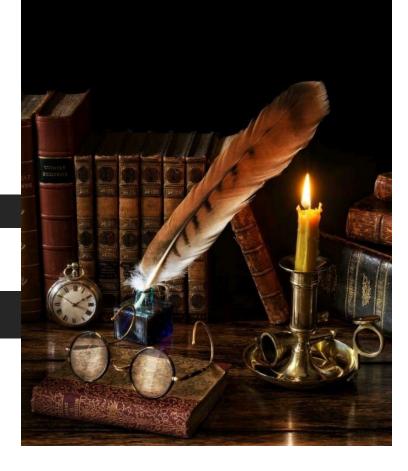
With a proactive attitude, the Mosqueda Group Corporation creates the Digital Corporate Gazette "GLOBAL BUSINESS CIRCUIT", located at www.globalbusinesscircuit.com; with the purpose of strengthening the business sector, through legal guidance for our readers; therefore, you will find publications of articles and essays on current and specialized topics, derived from our constant study and under our experience as a legal corporation with more than 65 years of experience, (we are 2nd Generation), which may be useful tools for companies and business people.

On the other hand, you will find information on events that will be of interest to you and your business such as conferences, courses, diplomas, orientation talks and legal consultation, etc.; all with the purpose of structuring an updated and specialized circuit of information so that businesses are safer, in order to further consolidate your company and your businesses; hence the name of the gazette "Global Business Circuit".

The consultation of the gazette and its download is free.

At GLOBAL BUSINESS CIRCUIT, "You are not alone, we are with you". It is our contribution to the business sector.

> PROMOTING LEGAL CULTURE IN BUSINESS



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# PLAN DE AFILIACIÓN EMPRESARIAL INSTITUCIÓN DE INVESTIGACIONES JURÍDICAS, A. C.



INICIAR MEMBRESÍA DE AFILIACIÓN

## PLAN DE AFILIACIÓN EMPRESARIAL ANTE LA INSTITUCIÓN DE INVESTIGACIONES JURÍDICAS, A. C.

### QUÉ ES EL PLAN DE AFILIACIÓN EMPRESARIAL:

Es un Programa Corporativo creado por Institución, con el fin de que las empresas, al Adquirir su Certificado de Membresía Corporativa ante la Institución de Investigaciones jurídicas, A. C., tengan acceso a toda la información actualizada día a día de las reformas y tendencias que debe conocer toda empresa, así como los estudios de investigación especializados que contribuyan al fortalecimiento de las empresas en su operatividad y negocios, nacional e internacional; pudiendo solicitar orientación en temas específicos que requieran de una opinión especializada.

### **BENEFICIOS PARA LA EMPRESA AFILIADA:**

- Tener acceso a la información actualizada de las reformas de leyes y tratados internacionales en forma inmediata a su creación por los órganos públicos.
- Tener acceso en forma inmediata a los trabajos de investigación jurídica documental de la Institución que publique y que tengan relación con la actividad empresarial.
- Conocer las tendencias legales y económicas, que se obtienen conforme al constantes análisis que va desarrollando la Institución a nivel nacional e internacional y que sean de interés para el sector empresarial.
- Tener acceso a consultas directas con la Institución sobre temas específicos que requieran de opinión especializada para las empresas afiliadas.
- Participación sin costo, o cuotas preferenciales, en su caso, en eventos que organice la Institución a nivel nacional como conferencias, cursos, diplomados, seminarios, reuniones de estudio, etc.

### CÓMO SE DESARROLLA EL PROGRAMA DE AFILIACIÓN:

- Se registra la empresa y se le concede permiso a la sección de afiliación empresarial en la plataforma digital de la Institución en www.iijac.org para tener acceso a toda la información especializada que se publique por la Institución para su consulta y descarga.
- Mediante el grupo de difusión por whatsapp se les informa a los Miembros Afiliados sobre publicaciones nuevas en la página web y en la nube de usuarios, así como comunicados.
- Se otorga clave de acceso a la nube de Mega para intercambiar información con la Institución para consultas de orientación especializada; así como intercambiar información con los demás Miembros Afiliados.



### WHEN CRIMINAL FRAUD OCCURS IN CONTRACTS

By Jesús Alfonso Mosqueda Juárez

Contracts are agreements of wills to create or transfer rights and obligations. As for the agreements, they are agreements of wills to modify or extinguish rights and obligations.

The law requires a series of requirements for contracts to be fully valid, otherwise they would have elements that would make them illegal contracts, which would lack effective-ness.

In this study we will focus on the agreement of wills. Contracts will always have 2 poles, the first is the creditor and the second is the debtor or obligated party, and to formalize the fulfillment of the obligation, the contract is entered into.

This document, at the time it begins to be drafted, will be based on the agreement of the will of the contracting party and the debtor, in such a way that all the elements are established so that the contract is properly fulfilled, including everything that must be done legally in case of non-compliance with the same contract.

All these elements of consensus between the contracting parties are what constitute the clauses of the contract, which must be balanced, they must never be totally favorable to the creditor and to the detriment of the debtor, or they must be for the benefit of the debtor and to the detriment of the creditor. If this happens, then we would be faced with a contract that would be vi-



tiated by the will of the contracting party who seeks the advantage, and for this reason it may be null.

On the other hand, it is important to emphasize that there are contracts called adhesion, in which the clauses are not negotiated, but the debtor agrees to be bound by the content of the clauses already pre-established in advance. An example is electricity contracts, water contracts, telephone service contracts, etc.

When these undue advantages are seen in a contract, it is evident that there is fraud in the will of the contracting party who obtains the advantage, that is, he has the intention of harming the other contracting party.

But when it is seen that the advantageous contractor from the beginning of the contract had the advantage to harm his opponent in the contract, taking advantage of the error in which he is, or, by inducing him into a false assessment (deception) to obtain undue advantage for himself or for another person, then the crime of fraud will be committed.

Although it is true, contracts are of a civil or commercial nature, and by constitutional mandate it is not appropriate to penalize the person when dealing with business of this nature (civil or criminal), but what is appropriate is the action of nullity of the contract. But the exception is that if it is shown that the person who had the advantage did so by shaping his intention from the beginning to the celebration of the contract, which is the instrument to induce deception, then we will be in the presence of the crime of fraud.

For this, there is a Jurisprudence that supports this criterion and says it literally under the following criterion:

Spanish:Epoch: Ninth Epoch Record: 193709 Instance: Circuit Collegiate Courts Type of Thesis: Jurisprudence Source: Judicial Weekly of the Federation and its Gazette Volume X, July 1999 Subject(s): Criminal Thesis: V.2o. J/47 Page: 733

FRAUD, NON-EXISTENCE OF, IN THE CASE OF A PRIVATE CONTRACT. THE NON-COMPLIANCE CANNOT BE ATTRIBUTED TO A CRIMINAL CHARACTER, IF THE EXISTENCE OF THE DECEPTION AT THE TIME IN WHICH THE CONTRACT WAS EN-TERED INTO IS NOT PROVEN The limits that in certain cases separate criminal law and civil law are so subtle that they can determine the disfigurement of private law to serve, unfortunately, those who deserve the repression of criminal law; However, due to the very subtlety of the boundaries between the two disciplines, the opposite may also occur. In fact, it is understandable that sometimes criminal judges, when studying issues of this nature, make the mistake of considering purely civil conduct as criminal, thereby distorting criminal law, which is therefore at the service of private interests, such as those of the contracting party who claims to be the victim of deception and who, by contracting, accepted the risk that his or her contractor would not comply, which can happen and in fact frequently happens, even though the party who does not comply has entered into the contract with sufficient good faith and the intention to comply. Adopting a different criterion would easily lead to the consideration that all those who fail to comply with contracts would be criminals, so the existence of the element of deception when entering into the contract must be clearly noted in all cases so that criminal repression can proceed.

SECOND COLLEGIATE COURT OF THE FIFTH CIRCUIT.

Amparo in review 42/95. María Teresa Espinoza Ramírez and another. February 23, 1995. Unanimous vote. Speaker: Genaro Rivera. Secretary: Silvia Marinella Covián Ramírez.

Direct amparo 852/96. Ramón Zapata García. October 31, 1996. Unanimous vote. Speaker: Genaro Rivera. Secretary: José Rafael Coronado Duarte.

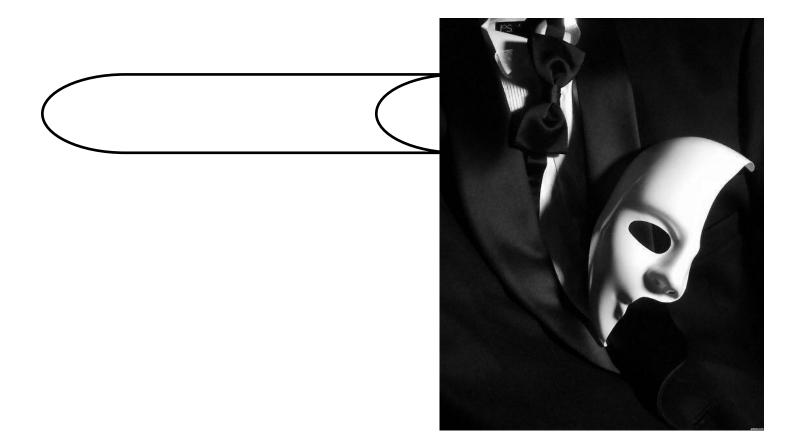
Direct amparo 436/97. José del Carmen Arellano Marreño. June 19, 1997. Unanimous vote. Speaker: Genaro Rivera. Secretary: José Rafael Coronado Duarte

Amparo in review 93/98. Second Judge of First Instance of the Criminal Branch of the Judicial District of Hermosillo, Sonora. February 25, 1999. Unanimous vote. Speaker: Abraham Calderón Díaz. Secretary: María de los Ángeles Peregrino Uriarte.

Direct Amparo 11/99. Armando Campa Montaño. May 13, 1999. Unanimous vote. Speaker: Lucila Castelán Rueda. Secretary: Ydolina Chávez Orona.

See: Judicial Weekly of the Federation, Seventh Period, Volume 54, Sixth Part, page 31, thesis with the heading: "FRAUD, NON-EXISTENCE OF, IN THE CASE OF A PRIVATE CONTRACT. THE NON-COMPLIANCE CANNOT BE ATTRIBUTED TO CRIMINAL CHARACTER, IF THE EXISTENCE OF THE DECEPTION AT THE TIME WHEN THE CONTRACT WAS MADE IS NOT PROVEN.".

Note: By final judgment of June 29, 2011, the First Chamber declared non-existent the contradiction of thesis 419/2010, derived from the complaint that was the subject of the criteria contained in this thesis, considering that the criteria subject to the respective complaint are not discrepant. When a person was deceived into entering into a contract, and it is proven that the person who obtained the advantage was the person from the beginning of the contract, then he or she may report to the Public Prosecutor's Office the fraud caused by the deception and the advantage obtained by the person who obtained the advantage through the contract.

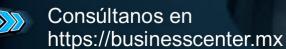




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Corporate Check Up

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EXPLANATION OF THE CORPORATE PROGRAM

We have commented that we as a corporation have a main philosophical element and that is Innovation, among other principles.

Innovation in the professional service as lawyers is to design a new way of offering legal advice for companies and individuals that offers certainty, security, confidence and results in the development of the professional legal service according to the needs and demands of the contemporary client, taking into account national and international circumstances, thus creating the professional service under the discipline of the "corporate legal service program"

Within this innovation, the corporate legal service program called "corporate check up" was created, which is created to analyze the status of a company to determine whether or not there are legal risks in the short, medium or long term, indicating the types of risks and the reason for their existence.

When a company requests this corporate service, a meeting is scheduled where the company must answer a questionnaire that is in a software created by the Mosqueda Group Corporation and the Legal Research Institution, A.C. The businessman will only be limited to answering the questionnaire together with the executives that he/she is accompanying, without presenting any document, he/she will only be limited to answering "yes" or "no" to the questions that are asked, and the same system will be giving observations as the answers are given.

The sincerity of those who answer is required, because the authenticity of the results will depend on it.

The questions are classified in the structure of the company, its operation, hiring of personnel, compliance with labor obligations, as well as tax obligations, contracts signed with clients, creditors, etc.



We reiterate, it is not necessary to present any document, much less provide information about employees, clients, etc., the questions are simple and are only aimed at detecting the status of the company.

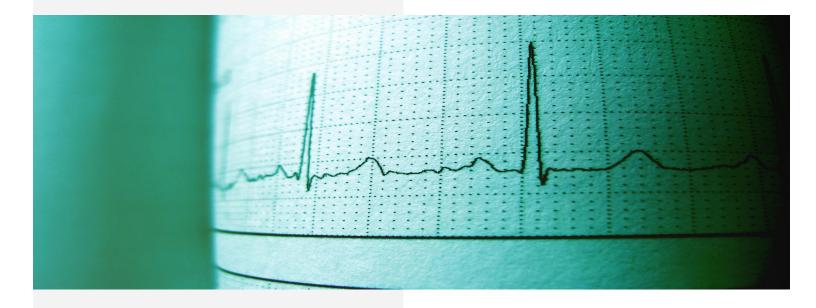
At the end, the observations and risk rating that the company has and suggestions to eliminate the risks will be given.

It is a very noble legal service, you only have

to answer a questionnaire answering yes or no, and that's it, you will have the results of the situation in which the company is.

The questions or reagents are designed based on the 60 years of experience that the Grupo Mosqueda corporation has had in trials, through Grupo Mosqueda y Mosqueda, S. C. (formerly the law firm J. Jesús Mosqueda M., y Asociados), as well as the study, update and legal documentary research of the Institution of Legal Research, A. C.; For this reason, companies that wish to hire this professional legal service structured in a corporate program have an admirable experience, since they obtain results that were not appreciated even with a professional review of the company's areas.

It is a service for forward-thinking companies that act with discipline in their business and organization.



THE LEGAL SERVICE PROGRAM OF GRUPO MOSQUEDA CALLED CORPORATE CHECK UP, AS A SPECIALIZED INSTRUMENT TO DETECT FAILURES IN THE CORPORATE S TRUCTURE AND ITS OPERATION.



Doctors always recommend that

everyone have a medical checkup periodically, in order to be certain that the person is in good health.

This is suggested because there are diseases that do not give notice, their symptoms are very stealthy and when the person realizes it is because the disease is very advanced, examples of this are some types of cancer, diabetes in some cases, etc.; for this reason, it is important to have a checkup on our body at a certain time to have the peace of mind that everything is in order.

Well, this same thing happens with the legal entity (company), being an entity independent of the human being, it requires preventive attention like any body. On the surface, it may seem that everything is in order, but when a problem arises, that is when we see the extent of the failures that were already developing within the company.

And just as stealthy cancer is mostly fatal, so are some types of problems, especially those that have a direct impact on the company's economy and that subject its partners or shareholders to direct responsibility.

It is for this reason that the Corporate Consulting Program Corporate Check Up aims to conduct a study of the company to determine its status. For a better understanding, this program performs a "scan" of the company using software created by the Institution of Legal Research, A. C. (IIJAC), where only the businessman or executive director who goes to the check-up, briefly answers "yes" or "no" to the questions that are asked and once the questionnaire for each corporate area is completed, the system will give the result which includes the status of the company (its problems, what is good and what needs to be improved). This study is extraordinary, because with the conclusions the company can organize its work team to solve in time everything that harms it and strengthen what is favorable for the company.

Therefore, it is always healthy to act under the culture of prevention in corporate activities, because they further strengthen the economic activity of the company without having future distraction factors that can cause a serious problem.

It is true that it is cheaper to prevent than to solve problems. For this reason, it is better to invest in preventive policies than to face problems that could have been avoided, causing moral, emotional and economic wear and tear.



### Because you have your rights in Mexico

The book that every Foreigner must have in Mexico

> THE RIGHTS OF FOREIGNERS IN MEXICO

> > Jesús Alfonso Mosqueda Juárez



Institución de Investigaciones Jurídicas, A. C.

### FOREIGNERS' RIGHTS IN MEXICO

This is a book written by the President of the Mosqueda Group Corporation, Jesús Alfonso Mosqueda Juárez, based on the professional experience of its author with more than 30 years as a Constitutional and Corporatist Lawyer and Researcher in the Science of Law and the experience of the Corporation with more than half a century of its foundation, supported and printed by the Institution of Legal Research, A. C.

It is a practical book dedicated to Foreigners so that they know their rights in Mexico and before which authorities they can defend themselves; and in which cases they should seek professional advice and how to do it either here in Mexico or from their country of origin.

It is available in Spanish and English.

A book that every Foreigner should have.





## WHAT IS THE DOCUMENTARY SUBMISSION BY THE SECRETARIAT OF LABOR AND SOCIAL SECURITY

By Jesús Alfonso Mosqueda Juárez

The purpose of the Ministry of Labor and Social Security is to ensure that the employer complies with the legal and regulatory requirements in the performance of its duties in the employee-employer relationship.

The Federal Labor Law establishes a series of obligations that the Employer has towards its workers and which are provided for in article 132 of the Federal Labor Law. To this end, the Ministry of Labor and Social Security may carry out home visits to companies in order to be certain that the company visited is complying with the requirements we have mentioned previously. And for this purpose, during the development of the home visit, it may require the visited source of work to exhibit all the documents required to prove compliance with the obligations. Likewise, the labor authority will also require that the annual declaration be exhibited in order to analyze whether all labor regulations in favor of the workers are truly being complied with.

Once the above has been done, the labor authority will give a legal term for the company visited to add to the same labor and social security secretariat the documents that will be required. And in case this authority determines that not all the requirements provided for in the federal labor law have been met, it will summon the company to a legal procedure so that it can defend itself against the determination that it is not considered to be complying with the labor and social security requirements for its workers.



Once this procedure is concluded, the corresponding resolution will be issued with the imposition of a fine and a warning for the visited company to comply immediately. This procedure that we have mentioned is known as the documentary summons carried out by the Department of Labor and Social Security.

That is why we recommend that every company have an adequate organization under the culture of foresight, to always be prepared for all home visits that may be made, since it is the way in which a company can comply with the obligations imposed by the labor and social security law.

For these cases and even in other cases, and not only in labor and social security matters, but also in matters of contracts, obligations, taxes, etc., the corporate service program corporate check up helps to determine the maximum and minimum faults that a company has and solve them before facing a home visit, or any problem that may arise for the company.

This program is exclusive to our corporation and created by our Legal Research Institution, A. C.









Asesoría Legal Perfeccionada en Programa Empresarial

Objetivo del Servicio (Programa): Blindar y Proteger el Patrimonio Personal y de la Empresa para el Fortalecimiento de Negocios

Institución de Investigaciones Jurídicas, A. C.

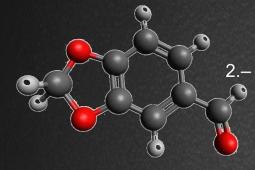
### Logística del Proyecto Corporativo

### OBJETIVO

Proteger el Patrimonio, Aseguramiento las Operaciones de Negocios, Fomentar el Crecimiento de la Empresa.

1.– ETAPA PRELIMINAR.- Implementar la disciplina colaborativa y la Cultura de la Prevención y Cultura de la Innovación.





2.– ETAPA RESTRUCTURAL.– Crea la conformación del núcleo y de la células de la empresa, generando la Nueva Corporación.

3.– ETAPA DE INICIACIÓN.– Reorganizar todas las actividades, bienes y servicios conforme al Corporate Veil.





4.– ETAPA DE DESARROLLO DE LAS ACTIVIDADES DE LA CORPORACIÓN.– La nueva corporación desarrollará sus actividades conforme al nuevo esquema corporativo.

5.– CORPORATE PARTNER.– Si se causa un piercing the corporate veil, atribuible a la propia estructuración del corporate veil, se responde sobre dicha falla y se corrige por nuestra cuenta.



### Industria del Derecha

WHY MORTGAGE CONTRACTS SHOULD BE EXTINGUISHED WHEN A GUARANTEE TRUST CONTRACT IS SIGNED

By Jesús Alfonso Mosqueda Juárez

A company or individual can be obligated within a mortgage contract to pay a debt, whether for a house, a loan, etc.; but if the contract is "changed" for another contract and that is the Guarantee Trust, this is called "Novation", because the mortgage contract is going to be changed for a guarantee trust contract at the request of the creditor party (bank, financial institution) either because they are restructuring the payments due to late monthly payments; or because they have greater guarantee in favor of the creditor, since the trust does not allow credit preferences as happens with mortgage contracts, since the latter can be surpassed in credit preference by a labor, fiscal or alimony debt, to whom payment preference would be given over the mortgage credit.

RACT

CONT

In practice, banks and financial institutions, when they enter into a mortgage contract and are subsequently faced with late payments by debtors, choose to enter into a Guarantee Trust Contract through a debt recognition, in order to further protect the capital that was financed. But this new contract clearly has totally different characteristics in essence and legal form with respect to the first obligation (mortgage). Let us remember that, quite simply, the assets that guarantee the debt in the mortgage contract go from being mortgaged assets to trust assets, this being a mutation without major complications in its evidence, since said assets simply stop being in the name of the debtor and are now trust assets, which are in the name of the creditor party and the debtor is left with the mortgaged asset in his name, now as a trust asset it will be in the name of the creditor.

And in practice, the guarantee trust contracts expressly establish in their clauses that this contract does not imply any novation.

This means that the mortgage contract does not lose its validity, and the new trust contract does not lose its validity either, therefore, the debtor is committed to his creditor by two contracts on the fulfillment of the same obligation.

Title Five entitled "EXTINCTION OF OBLIGATIONS", through its Chapter IV regulated in its article 2213 of the Federal Civil Code, the reason for the extinction of an obligation by NOVATION, which establishes: Article 2213.- There is novation of a contract when the interested parties substantially alter it by substituting a new obligation for the old one. In the present case, there is a substantial alteration of the mortgage contracts in relation to the Trust, since there is a new instrument or contract that has the purpose of securing

the old obligation under a new contractual form. And this is so, because it is only necessary to analyze the content of the clauses of any guarantee trust agreement and they will usually always contain this type of clauses:

The purposes of this trust agreement are: To guarantee any of



the obligations that "THE DEBTOR" contracted in the contracts for opening simple credit with interest and mortgage guarantee related in the background I first, III third IV fourth and V fifth of this instrument, as well as those that may be contracted in the terms established in this instrument. ------

---- Especially to guarantee the punctual and preferential payment to "THE MORTGAGE HOLDER", both of the RECOGNIZED DEBT indicated in the previous chapters as well as its accessories, expenses and court costs and other obligations. -----

---- The defense of the trust assets as long as they are within the assumptions of the two previous paragraphs. ------

---- The obligation not to affect the trust assets by the TRUSTOR------

---- In the event that any legal act other than the constitution of the trust is required, "THE TRUSTEE" reserves the right to set the deadlines for the celebration of said acts, with the understanding that it will have at least 5 (five) business days from the time that all the necessary documentation is in its possession, to carry out the analysis of the act or document to be signed, for which reason "THE TRUSTEE" will be relieved of any responsibility for the delay or omission of the signing of the acts in question, if the guidelines provided in this paragraph are not followed.

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Notwithstanding the provisions of the preceding paragraph, "THE TRUSTOR" is expressly authorized to process and obtain from the corresponding administrative authorities, all types of licenses, authorizations, permits, concessions and in general to enter into any type of act or agreement that contributes to the construction of the houses, provided that the guarantees of the trust are not directly affected, in which case the provisions of the preceding paragraph shall apply.

As can be seen in said clause, there is a novation of compliance with an obligation derived from a trust agreement. In itself, the mortgage contract is totally subordinated to the trust contract in its form of guarantee, in all its parts, including the mutation of guarantee in terms of its legal status as such, since it ceases to be mortgaged assets to become trust assets, regardless of whether the trust contract contains an express clause that says "that the trust contract does not constitute novation", since it is only necessary to analyze the objective and purposes of the trust contract and its legal consequences with respect to the collateral assets to conclude that we are in the presence of a novation. For this we invoke the following jurisprudential criterion:

Registry No. 913235 Location: Fifth Period Instance: Third Chamber Source: Appendix 2000 Volume IV, Civil, Jurisprudence SCJN Page: 247 Thesis: 293 Jurisprudence Subject(s): Civil NOVATION.- It is never presumed; it is subject to the conditions of all contracts and to the express provisions of the law. The novation of the contract only exists when the intention to change the original obligation for another clearly appears. Fifth Period:

Civil protection.-Escalante Lara Herminia.-February 11, 1918.-Unanimity of eleven votes.-The publication does not mention the name of the speaker.

Direct civil protection.-Castaños Manuel.-October 22, 1920.-Unanimous vote of ten votes.-The publication does not mention the name of the speaker.

Direct civil protection.-Machado de García Cuéllar Pomposa.-June 3, 1925.-Unanimous vote of ten votes.-The publication does not mention the name of the speaker.

Direct civil protection 2821/21.-Espejo Guillermo y Vázquez del Mercado de Espejo María.-October 22, 1927.-Majority of nine votes.-Dissenting: Teófilo Olea y Leyva.-The publication does not mention the name of the speaker.

Civil protection in review 377/29.-Ibarra Felipe, succession of.-June 14, 1929.-Five votes.-The publication does not mention the name of the speaker.

Appendix 1917-1995, Volume IV, First Part, page 196, Third Chamber, thesis 290.

As can be seen, novation is not subjective, but express, since it is reflected in a written trust agreement with all the formalities of the Law, since the content of the clauses will always show the subsumption of the first mortgage obligations, as well as their respective modifying agreements to the Trust agreement.

This legal figure of Novation is also regulated in articles 1704 to 1714 of the Civil Code of the State of Guanajuato.

For this reason, it is not possible to have two guarantee contracts for the same obligation, so the mortgage contract or the trust agreement must subsist but never both contracts at the same time.



## PREVENTIVE CORPORATE LEGAL ASSISTANCE AJEP



THE PROFESSIONAL LEGAL SERVICE TRANSFORMED INTO A PERMANENT ADVISORY PROGRAM TO MONITOR AND PROTECT THE DEVELOPMENT OF THE COMPANY TO AVOID FUTURE LEGAL PROBLEMS

### PROTECTION FEATURES OF THE AJEP PROGRAM

1. PERMANENT CORPORATE SUPERVISION TO MINIMIZE RISKS IN THE COMPANY AND ITS ACTIVITIES: TOTAL PROTECTION: LABOR, ADMINISTRATIVE, CONTRACTS, ETC. SPECIFIC PROTECTION: ONLY THE AREAS INDICATED BY THE COMPANY

2. SOLUTION OF LEGAL CONFLICTS, IF APPLICABLE, WITH ADVANTAGES TO THE CLI-ENT FOR THE PREVENTION APPLIED.

3. CONTRACTUAL GUARANTEE CLAUSE, IF ANY FAILURE OF APPLICATION OF THE PROGRAM OCCURS, WE ARE RESPONSIBLE.

4, WITH SECRECY CLAUSE FOR THE PROTECTION OF PERSONAL DATA OF THE COMPANY.

5. PROGRAM REGISTERED WITH THE NATIONAL COPYRIGHT INSTITUTE.

6. THE CONTRACT IS REGISTERED WITH THE FEDERAL CONSUMER PROSECUTOR'S OFFICE IN ACCORDANCE WITH THE FEDERAL CONSUMER PROTECTION LAW AND THE MEXICAN OFFICIAL RULES. They have entered into purchase-v contracts



### WHAT ARE CORPORATE CRIMES?

By JESUS ALFONSO MOSQUEDA JUÁREZ

Crimes are conducts that go against the Law and are contemplated within a catalogue of illicit conducts in the Penal Codes of the States and the Federal Code.

These conducts are regulated at the Federal level and others at the level of each State. Sometimes some conducts vary between the Penal Codes of each State, but only in some cases. An example is that in the Penal Code of the State of Guanajuato the crime of arbitrary exercise of one's own right is contemplated, while in the Penal Code of the State of Jalisco this crime is not contemplated.

Corporate crimes are those illicit conducts directly related to the activity of the company, committed both internally (by partners, shareholders, union members, directors, administrators, workers, etc.); externally (against third parties such as creditors, debtors, clients, etc.), or to the detriment of the authority (labor, fiscal, administrative, etc.), where both the members of the company and the corporate legal entity itself (company) are responsible; and all these behaviors are sanctioned by the Criminal Law.

There are States in our country where the criminal legislation still does not sanction companies as responsible for the crime.

Corporate crimes are classified:

1.- Regarding the harm to its members.-

These are all those related to its partners or shareholders, directors, administrative personnel and workers. These crimes are contemplated in the Federal and State Criminal Code, as well as in the Federal Labor Law.

This crime can be committed by any person, whether it be the partners or shareholders themselves, executive or administrative personnel, workers or third parties.

These crimes are provided for in the Federal and State Penal Code.

2.- Regarding corporate patrimonial damage.-

These are all those economic crimes that are committed to the detriment of the company, and that have a direct effect on the share values of its partners or shareholders. (against the partners, shareholders and assets of the company).

And the subjects who commit the crime can be internal persons of the company or third parties.



These crimes are provided for in the Federal and State Penal Code.

3.- Regarding the damage to Third Parties.

These are those economic crimes that the same company committed to the detriment of third parties who are not an integral part of the legal entity, but have an economic link with it, (creditors, suppliers, clients, etc.).

The company is directly responsible, but if the State where the crime was committed does not penalize legal entities, then there is no crime. However, it must be emphasized that if in the execution of the acts there is a breach of the corporate veil caused by the members of the company themselves, then criminal liability may be imposed on the executive, partner or shareholder who committed the illegal act.

These crimes are contemplated in the Federal and State Penal Codes.

4.- Regarding the damage to the State.

These are economic crimes committed by the company against authorities that are part of the State (fiscal, administrative, labor, judicial authorities, etc.) in accordance with the relationship that exists derived from the nature of the company, its social objective and activities. This crime is committed only by the company and its directors who have direct control of the company, such as general managers or general directors. But depending on the conduct, its planning, its intention to harm and the person who carried it out, the company may also be exposed to a dismissal of the corporate legal entity, that is, derived from the breach of the corporate veil, criminal liability may be established for all its members of the company, such as partners or shareholders and directors who had direct control.

Now, the crimes are contemplated in principle within the Federal and State Penal Code, as well as in the Federal Tax Code, Federal Labor Law. And depending on the constitution of the company, its social objective and activities, the laws that have a direct relationship with the company's activities may be applied.

Because it is an extensive topic, its content will be developed in the various publications of the gazette.



### **CORPORATE PROGRAMS**

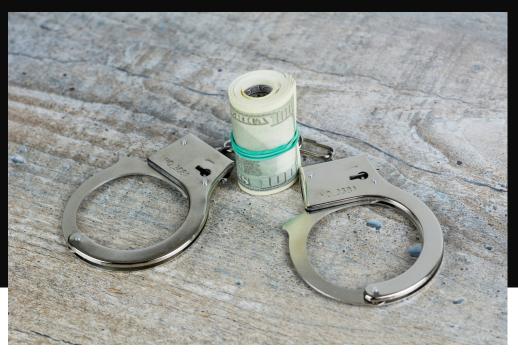


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### SIMULATION OF ACTS IN TAX MATTERS AND ITS CONSEQUENCES



By JESUS ALFONSO MOSQUEDA JUÁREZ

The simulation of acts is to pretend a contract of any nature to face certain events, taking advantage to obtain a profit.

In tax matters, for many lawyers and accountants, as well as businessmen, it is considered a "strategy" to pretend contracts in order to obtain tax deductions, and even refunds of payments.

These appearances or simulations range from obtaining invoices to include them in the accounting, to the payment by third companies for the labor that the company has internally, simulating that the employer is not the businessman who has his workers working in his plant, but rather another company that was contracted to bring the workers to work within the company "requesting the service."

And there are even companies that, taking advantage of the ignorance of their partners or shareholders, the board of directors, simulate the payment of dividends to their shareholders, through other companies that supposedly have the partners or shareholders working, in order to achieve the payment of dividends, under the excuse of the board of directors, that the company is in the red and that is why they are helped by another company for the payment because they do not have the resources to face said payments. For some law firms, as well as accountants and businessmen, this practice of simulating legal acts constitutes a supposed strategy to evade tax responsibilities, but in truth it does not constitute a strategy, but rather a professional deception, where the client, who is the businessperson, is sold the idea that it is a corporate maneuver to pay less taxes, but in truth, what is being sold is only a bad idea which will generate fiscal problems in the medium term.

The purchase of invoices also constitutes a simulation of acts, since this document is nothing more than a receipt that accredits the acquisition of a good or the contracting of a service, which results in a tax burden. Therefore, buying the tax receipt is simulating that this purchase-sale operation or contracting of a service really existed, when in truth it does not.

Based on this reality, the company that is assisted in this way is exposed to serious problems such that it may face not only fiscal problems, but also criminal ones.

For this reason, we suggest avoiding this type of practice because the company, as well as its partners or shareholders, are exposed to a delicate experience due to the legal problems that this type of act will generate. And we emphasize that the partners or shareholders are also exposed to the legal figure of the dismissal of the corporate legal entity, which is the lifting of the corporate veil so that not only the company faces the legal problems, but also the partners and shareholders who are in solidarity with the legal entity.





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- 7.- The Business Attitude within the Culture of Prevention







By Jose Natividad Lira Lara

The word innovation comes from the Latin innovatio, which means the action and effect of creating something new. In other words, it means inventing an idea, a product, a good, or a service.

The innovator becomes the creator and inventor of that new project, giving life and form to something that did not exist and, based on creativity, its author shapes his idea to materialize it in an object or a service.

In the Mexican market, the culture of innovation is still in a primary stage, since the idea prevails in the market that it is better to have the bad because you know it than the good because you don't know it. This means that the consumer or the potential contractors of the service or innovation prefer the classic instead of having a new experience with the acquisition of products created under innovation, or contracting services constituted by an innovation.

It is for this reason that the inventor or creator must focus on 2 important axes to be successful in the market with his idea embodied and materialized in an innovative product, firstly he must adequately plan the way in which he is going to promote his product or services that he has innovated, in this promotion he must provide certainty to potential clients, about the quality and seriousness of the product or service, since at first the potential client will distrust said product or service, for the same reason that he did not know it until now. That is why it is important to provide confidence, seriousness and guarantee in the product or service.

On the other hand, we should not confuse innovation with plagiarism, since the latter means copying an idea that already existed in order to handle it as one's own today.

For some, they believe that taking a product and making a small variation without losing its essence, already constitutes an innovation, when in reality it is still plagiarism.

Let us remember that this practice of plagiarizing ideas is sanctioned by criminal laws in Mexico, since it constitutes a violation of copyright.

On the other hand, it is highly recommended that the innovator be in constant evolution in his or her creation, for 2 fundamental reasons, the first is to keep the clientele under the expectation of the new products or services that the innovator offers periodically, this being a very important business strategy. As for the second reason, it is so that it is always at the forefront and that the unfair competition that only plagiarizes the designs, is not at the level of the competitiveness of the innovator's market. That is why it is important to always support a company's projects under a culture of innovation, to always have an advantage over its competitors.









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On the website you will find content of importance for you and your company; a section on innovation in business consulting; a section on events such as conferences, diplomas, seminars, business information talks, etc. in the lecture hall at the headquarters of the Grupo Mosqueda Corporation.

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