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9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 CITY AND COUNTY OF SAN FRANCISCO

12 CALIFORNIA DENTAL ASSOCIATION, a
California Corporation; RICHARD W.
13 BARNES, D.D.S.; ROBERT E. REED,
D.D.S.; DEAN SCHWEITZER, D.D.S.;
14 GERALD MIDDLETON, D.D.S.; WHITNEY
JOHNSON, D.D.S.; TERRENCE Y. LAU,
15 D.D.S., BARBARA M. HAWTHORNE,
D.D.S., individually and on behalf of all others
16 similarly situated,

17 Plaintiffs,

18 vs.

19 DELTA DENTAL OF CALIFORNIA, a
California Corporation,

20 Defendant.
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No.: CGC-14-538849

**DECLARATION OF KIM SCHMIDT,
SENIOR VICE PRESIDENT OF RUST,
THE PROPOSED CLASS
ADMINISTRATOR, IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL**

Hearing Date: March 21, 2017

Time: 10:00 a.m.

Judge: Hon. Mary E. Wiss

Dept.: 305

1
2 I, Kim Schmidt, hereby declare as follows:

3 1. I am a Senior Vice President at Rust Consulting, Inc. ("Rust"). I submit this
4 declaration in connection with the above-captioned matter at the request of Counsel. I have
5 seventeen years of experience overseeing administration for more than five hundred class action
6 settlement and regulatory enforcement actions, including in numerous consumer finance, insurance
7 and healthcare matters. I make this declaration based upon my own personal knowledge, the
8 information generally available to me at Rust, and information communicated to me by other Rust
9 employees. If called as a witness in this action, I would be able to competently testify as to the facts
10 set forth herein. Attached as Exhibit A is my C.V., which outlines my experience and
11 qualifications.

12 2. With nearly 30 years of experience, Rust is among the industry's leaders in class
13 action settlement administration. Rust has administered more than 5,200 class action settlements,
14 judgments, and similar administrative programs, 2,000 of which were in the past five years alone.
15 Rust employs a permanent staff of approximately 200 people working in offices nationwide. A C.V.
16 outlining Rust's services and experience is attached as Exhibit B.

17 3. Rust handles class notices and claims administration for class actions of all sizes and
18 types, including consumer, antitrust, securities, insurance, healthcare, labor and employment,
19 property, finance, telecom, and products liability class actions. In the past, Rust has handled class
20 notices and claims administration in, among many other matters, *Franklin v. Scripps Health*;
21 *Fontana v. St. Joseph Health System*; *Cristiani v. Advocate Health Systems Care Network, Inc.*;
22 *Sutter Health Uninsured Pricing Cases, J.C.C.P. No. 4388*; *Robert Harrison, M.D. v. Coventry*
23 *Health Care of Georgia, Inc.*; *Dancer and Howell v. Catholic Healthcare West*; *Chehalem Physical*
24 *Therapy v. Coventry Healthcare and Merrill v. PEMCO Mutual Insurance Company*. Rust has
25 considerable experience in providing class action notice and administration for all class types and
26 sizes, including in California state court proceedings.

27 4. Based on information provided to me by Counsel, I understand that the class is
28 comprised of roughly 30,000 class members, who are current or former Premier dentists who are or

1 were signatories to, or are or were subject to, a Participating Dentist Agreement with Delta Dental
2 of California (“Delta Dental”) at any time from January 1, 2011 to the date the Court enters the
3 Preliminary Approval Order.

4 5. Delta Dental has provided to Rust contact information for these Premier dentists that
5 I understand Delta Dental maintains in the ordinary course of business, including name, last known
6 address, and Dental Board of California license number, which Delta Dental uses to communicate
7 with Premier dentists and provide payment for services for which they submit claims. Counsel has
8 also provided to Rust a CDA membership list, which also contains names, addresses and Dental
9 Board of California license numbers. Finally, Delta Dental provided a copy of a list of licensed
10 dentists in California that is generated by the Dental Board of California. It is standard industry
11 practice in providing class notice and the administration of class action settlements to use these
12 types of data to compile a mailing list for a class notice designed to reach Class Members. Rust will
13 use these data sets to create a single mailing list designed to reach all Class Members for whom
14 address information is available.

15 6. The long-form Class Notice approved by the Court will be sent by U.S. first class
16 mail to all Class Members for whom address information is available no later than twenty-one (21)
17 calendar days after the Court enters the Preliminary Approval Order. Prior to mailing, Rust will
18 update class member address information using the National Change of Address (NCOA) system
19 maintained by the United States Postal Service (USPS). The NCOA system contains new addresses
20 of people and businesses that have moved over the past 48 months and notified USPS of their new
21 addresses. Standardizing and updating addresses prior to mailing using NCOA is industry standard
22 and improves delivery rates. Rust will follow these procedures in mailing the long-form notice to
23 Class Members.

24 7. Notices that are returned by the USPS as undeliverable will be processed as follows.
25 If the Notice is returned with a new address from the USPS, Rust will send a Notice to the updated
26 address. If the Notice is returned without a new address from the USPS, Rust will use an address
27 tracing service and if an updated address is available, a Notice will be sent to the updated address.
28

1 8. Rust will also publish a short-form notice approved by the Court to present the key
2 facts and details of the settlement and administration plan to Class Members in a transparent, easily
3 understood format. The publication will run for one day in the California edition of *USA Today*,
4 and will be published at least 45 calendar days before the Objection and Opt-Out Deadline set by
5 the Court. This short-form notice will lay out deadlines and any action required by Class Members,
6 including how Class Members can access documents associated with the settlement at
7 www.DeltaDentalofCaliforniaSettlement.com, which Rust will create and maintain as described
8 below.

9 9. Rust will create a settlement website (www.DeltaDentalofCaliforniaSettlement.com)
10 that includes key settlement information such as case status, settlement documents, and FAQs for
11 easy access to information regarding the settlement. The settlement website will also include the
12 long-form and short-form notices. Rust will post to the settlement website any updates approved by
13 counsel or ordered by the Court regarding the status of the settlement and any court documents that
14 the parties or the Court ask Rust to post. Rust shall provide Class Counsel and Delta Dental's
15 Counsel a copy of any material to be posted on the website at least five (5) calendar days before the
16 date it is posted. The settlement website will be referenced in both the long-form and short-form
17 notices and through the toll-free phone number, discussed below.

18 10. A toll-free phone number will be established allowing Class Members to call the
19 Class Notice Administrator. The toll-free number will provide Class Members with access to
20 recorded information that includes answers to frequently-asked questions and directs them to the
21 website. Callers may also speak to live operators who can address questions during regular
22 business hours.

23 11. Rust will also receive and process all written correspondence from Class Members,
24 including all objections and requests for exclusion. As part of this process, Rust will establish a
25 post office box to receive administrative mail, objections and requests for exclusion. This post
26 office box will also be used as the return address for all mail. All objections and requests for
27 exclusion received by Rust will be processed and provided to Class Counsel and Delta Dental's
28

1 Counsel within five calendar days of receipt. Rust understands that Class Counsel will file all
2 objections with the Court.

3 12. Rust will prepare a declaration for the final approval motion that summarizes the
4 work Rust has performed and relevant statistics related to this notice process, including opt outs and
5 objections.

6 13. Given that the class period dates back to 2011, some addresses may be slightly more
7 than six years old. Given the USPS NCOA process, we would expect an undeliverable mail rate of
8 10-15% based on our prior experience handling mailed class notices. We also predict, based on our
9 extensive prior experience, that the trace process would generally have a 60-80% success rate,
10 meaning we would mail a notice to the updated address for 60-80% of those notices initially
11 returned as undeliverable. This would result in a deliverability rate in the range of over 90%.

12 14. Given that the mailing in this case will be to a group of defined dentists, for whom
13 address information is available, we reviewed data regarding the success rate in sending class
14 notices in other matters where the class consisted of members of provider groups. We were able to
15 identify three matters in which we mailed notices to comparable provider groups and we reviewed
16 the undeliverable mail statistics for those matters. For those provider groups, the undeliverable mail
17 rate was less than 12% prior to the implementation of a trace process. This experience in similar
18 matters confirms that the undeliverability rate for this class, prior to the implementation of a trace
19 process, should be no more than 10-15%.

20 15. We consider the projected over 90% deliverability rate to be successful and at the
21 higher end of deliverability rates when compared to rates in other class action settlements. The
22 process we intend to use to administer this matter, including mailed notice, a publication notice, and
23 maintaining a website and toll-free number is consistent with our standard approach for
24 administering these types of class action settlements.

25 I declare that the foregoing is true and correct to the best of my knowledge.

26 Executed this 6th day of March, 2017, at Faribault, Minnesota.

27 

28 _____
KIM SCHMIDT

Exhibit A



Senior Vice President

Kim R. Schmidt, CPA

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Faribault, MN 55021

D: 612.359.2872 F: 612.359.7472

E: kschmidt@rustconsulting.com

Education & Certifications

- **B.S. Management** Carlson School of Business, University of Minnesota
- **CPA**

Kim Schmidt, a senior vice president at Rust Consulting, leads Rust's government services practice area and has a depth of experience in consumer finance, insurance and healthcare matters. Schmidt has 17 years of experience consulting with counsel, economic experts, and independent distribution consultants and overseeing administration for class action settlement and regulatory enforcement action. Schmidt further oversees services provided for federal agencies including the Dept. of Justice, the Dept. of Labor, the Federal Trade Commission, and the Office of the Comptroller of the Currency.

Since joining Rust in 1999, Schmidt has worked on all aspects of more than 500 settlements. Her experience informs Schmidt's current role: providing consultative expertise to clients seeking to accomplish critical settlement objectives through innovative and customized administration strategies.

Among Kim Schmidt's notable settlements are:

- ***In re Electronic Books Antitrust Litigation:*** Schmidt is overseeing the settlement of several antitrust lawsuits filed by state attorneys general and private attorneys alleging a conspiracy between Apple and five top U.S. publishers to fix and raise the retail prices of e-books. A total of \$566 million was recovered from all defendants. Rust emailed 5.4 million notices and 686,000 postcard notices; along with retailers' email notices, more than 23 million notices were disseminated in total. Rust established a settlement website which, between the publishers' settlements and the Apple settlement, received more than 2 million unique visits. Rust mailed 1.5 million checks totaling over \$20 million.
- ***In re TFT-LCD (Flat Panel) Antitrust Litigation:*** The direct and indirect TFT-LCD settlements resolved allegations that defendants and co-conspirators conspired to raise and fix the prices of thin film transistor-liquid crystal display panels and certain products containing the panels, resulting in overcharges to purchasers of those panels and products containing those panels. Rust was engaged to administer both the direct (\$388 million) and indirect (\$1.1 billion) settlements. Rust's indirect settlement website received 1.8 million unique visits and Rust ultimately distributed 233,000 payments totaling over \$707 million.

- ***In re Dynamic Random Access Memory (DRAM) Antitrust Litigation:*** The administration of multiple settlements involving Dynamic Random Access Memory ("DRAM"), a memory part that is sold by itself or as part of electronic devices such as computers, printers, and video game consoles. For the \$310 million indirect settlement, Rust pursued a creative new approach to claims stimulation. Just five weeks into the claims process, over a quarter of a million claims had already been filed. Rust received 469,000 claims in total, almost all of them online through the settlement website, www.dramclaims.com. The website received 1.3 million hits. Rust distributed 444,000 checks totaling \$50 million and 1,400 wire transfers totaling \$140 million.
- **National Mortgage Settlement:** Rust was engaged to administer the \$1.5 billion distribution portion of the \$50 billion National Mortgage Settlement, reached between the state attorneys general and the nation's five largest mortgage servicers. Under Schmidt's leadership, Rust worked in close coordination with the attorneys general monitoring committee. A multipart notification program resulted in more than 7.7 million notices disseminated via mail and email to more than 2 million borrowers. Rust handled nearly 1.4 million calls and distributed approximately \$1.5 billion to more than 1 million eligible borrowers.
- **Excellus Health Plan Inc.:** Schmidt has overseen Rust's administration of this settlement between Excellus and the New York Office of the Attorney General. Rust was selected as the claims monitor by the New York Attorney Healthcare Task Force to design and oversee the settlement process. Additionally, Rust was responsible for reimbursement process, conducting and audit of the claims process and final determination on appeals.
- **Refund Remediation Program:** Through internal reviews, a Fortune 500 financial services company identified customers who were due credits or payments. Rust was engaged to administer each remediation project—to date, more than 200 remediations ranging from a few to over 1 million checks. For each, Rust's services include administrative support (project-specific and overall program reporting); check and letter preparation and mailing; telephone support; abandoned property file preparation; and correspondence receipt and processing.
- **SEC v. ConAgra:** Schmidt managed this \$45 million settlement, where Rust was appointed as the Fund Administrator. Rust was responsible for the development and execution of the Distribution Plan. As part of this role, Rust worked with the SEC economists and a consultant to design the calculation methodology. For the notification process, Rust introduced a simplified letter with investor information regarding their loss. The resulting benefits included an increased filing rate, easing investors' burden, and investor information on economic claim impact.
- ***In re American Investors Life Insurance Co. Annuity Marketing and Sales Practices Litigation:*** Schmidt oversaw the management of this nationwide insurance settlement. As part of this settlement, Rust provided web based solutions for the claim processing to streamline and provide visibility to the attorneys for evaluating the claims.

Prior to joining Rust, Schmidt spent two years as an accounting manager with Federated Insurance and seven years at Ameriprise Financial.



Thought Leadership

- Panelist, "**Settlement – Soup to Nuts,**" National Association of Attorneys General: Antitrust Litigation Training Seminar, San Francisco, CA, September 28-30, 2016
- Co-author, "**National Mortgage Settlement Distribution Summary Report,**" Oct. 2015
- Panelist, "**21st Century Settlements -- How to Get the Most Back to the Consumer,**" National Association of Attorneys General: Antitrust Litigation Training Seminar, Hartford, CT, September 25-27, 2013
- Frequent CLE presentations

Association Memberships

- Minnesota Society of CPAs



Exhibit B

Qualifications Summary

This document outlines Rust Consulting's qualifications to serve as the administrator for class action, mass tort, and regulatory settlements, as well as to perform other similar, complex and time-sensitive matters. It includes summary information categorized as follows:

- Firm Overview
- Practice Area Organization
- Personnel
- Services
- Representative Case Experience
- Data and System Security

Firm Overview

Rust Consulting, Inc., a SourceHOV company, is a consulting and administration firm that ranks among the industry leaders in the class action field. Rust provides public and private sector clients a full complement of services required to administer legal settlements and other complex or time-sensitive programs. These services include consulting; project management; data management; notification; contact centers and websites; claims processing; and fund management, distribution, and tax reporting.

Rust grew out of the Rust Consulting Group, which was founded in 1976 by Ron Rust as a litigation support firm that pioneered the use of computer technology in litigation support. In 1988, the Group administered its first class action settlement; in 1995, Rust Consulting, Inc. was established as a separate operating entity to focus on legal settlement administration. Since then, Rust has administered more than 5,200 settlements and projects.

Headquartered in Minneapolis, Rust also has offices in Faribault, Minn., Los Angeles, and San Francisco. Our subsidiary Kinsella Media maintains a Washington, D.C., location.

Practice Area Organization

Rust administers programs spanning diverse subject matter. The depth and breadth of our legal settlement administration experience spans all practice areas, with teams focused on antitrust, consumer, finance, insurance and healthcare, labor and employment, product liability, and securities matters. We work with governmental agencies at all levels – federal, state, and local – on matters often involving private and sensitive data. Our services also lend themselves to our clients' non-settlement needs, including data breach responses, recalls, and remediation programs.

Our leadership and certain operations and client services personnel focus on specific practice areas relevant to our clients, deepening their subject matter expertise and directly relevant experience.

Personnel

Our permanent staff of approximately 300 includes professionals with backgrounds and disciplines including project management, information technology, finance, law, and operations. This cross-functional, innovative team includes experts in their respective disciplines, such as CPAs, Ph.D.s, attorneys, and PMPs.

Rust's team includes some of the most experienced practitioners in the industry, with much of that experience Rust-specific. Our executive leadership team averages nearly 20 years of Rust experience, our senior vice presidents average over 12 years, and our functional directors average 15 years.

Services

The Rust team provides high quality administrative services for matters of any size and scope. Specific approaches may vary depending upon the requirements of each individual matter; however, the below services are typical of our engagements.

Preliminary Consulting

Rust consults with clients prior to settlement to help anticipate otherwise identified issues that may arise in the management of complex data sets, providing notice, processing claims, and distributing funds, leading to delays and additional costs.

Project Management

Our project management personnel prepare plans of notice and administration, create or customize project tracking tools and reports, and oversee the creation of project-specific databases designed to house and capture appropriate information for use in claims administration. Throughout the administration process, project management personnel coordinate all activities between the parties, vendors, and internal Rust departments to ensure work is completed accurately and according to any service level agreements, internal standards, settlement documents, etc. We provide regular and on-demand reports and statistics to the appropriate parties and raise potential issues requiring their attention, as necessary. Upon completion of each major phase of administration, or as required, we prepare declarations or affidavits attesting to the scope and results of our work.

Data Management

The secure and efficient handling of data underlies all aspects of claims administration; Rust creates and customizes data management processes, databases, applications to meet the unique needs of each settlement or project. Tasks associated with data management throughout administration may include:

- Intaking original client data.
- Normalizing data for cross-platform usability, such as meeting mailing or other outreach requirements.
- Consolidating and deduplicating data from multiple sources.
- Extracting data for standard or customized trace services.
- Extracting data for mailing or other outreach.
- Calculating awards.



Notification

Rust disseminates hundreds of millions of notices annually by mail and email. We also work with our subsidiary Kinsella Media, the leading provider of notice to unidentified audiences and the only firm in the nation with two qualified, court-recognized notice experts, to develop and implement notice plans.

With respect to legal settlements, these notice programs notify class members or other affected individuals of their legal rights and options. With respect to data breach responses, recalls, or remediation, these programs inform affected individuals about the situations and any options those affected individuals may have.

Among our notification-related services are:

- Designing notice programs (through Kinsella Media).
- Drafting plain language materials (through Kinsella Media).
- Designing and proofreading notice materials.
- Locating unidentified individuals and updated addresses.
- Printing and mailing.
- Processing and forwarding undeliverable mail.
- Opining about notice program adequacy (through Kinsella Media).

Contact Centers

Rust supports the programs we administer through an assortment of contact center services including call centers, websites, and email support up to 24/7 and for class members and other affected individuals worldwide.

Our call center services include inbound and outbound calls in our own domestic, in-house call centers. These call centers are located in our two Minnesota locations, typically contain approximately 800 workstations, and are readily expandable to meet the needs of specific programs. In 2013, our call centers supported several large programs by simultaneously staffing well over 1,000 customer service representatives (CSRs).

To provide high levels of service on complex matters to class members and our clients' customers, Rust maintains a robust, permanent core group of call center employees, comprising managerial, supervisory, and customer service resources. We engage additional call center staff on a project basis as required. All CSRs—permanent or temporary—undergo background checks and training on Rust's policies and technology, customer service fundamentals, and project-specific information. Typical engagements include English- and Spanish-speaking CSRs, while we provide support in additional languages, as required. In one case, Rust CSRs took live inbound calls in 10 languages.

In lieu of or in conjunction with live customer service, Rust builds and maintains automated Interactive Voice Response (IVR) systems. These systems provide 24/7 service to toll-free numbers and include menus of prerecorded options such as program overviews, frequently asked questions and answers, and options for requesting forms or filing claims. Rust's IVR systems regularly support English- and Spanish-language speakers and can be programmed to support other languages, as required. In one case, Rust managed IVR support including translations of information pre-recorded by native speakers in 67 languages.



Claims Processing

Rust develops or executes claims processing or adjudication programs as required by the diverse terms of our engagements. We use several proprietary software applications and tested, streamlined processes to provide the most appropriate solutions for each engagement's needs, whether for paper or online claims. Our systems automate the claims administration process:

- Receipt.
- Link to class member database record.
- Data capture.
- Review of supporting documentation.
- Initial adjudication.
- Deficiency processing.
- Final adjudication.
- Rejection letters.
- Reporting/affidavits.

To meet the needs of each engagement, our systems can be configured to give clients or authorized parties secure online access to claimant data and reporting, or to class members to facilitate online claims filing.

Fund Management, Distribution, and Tax Reporting

Rust annually distributes billions of dollars associated with settlements and similar programs.

- Quality assurance - Positive pay
- Various fraud detection/prevention measures

Tax reporting

- Simultaneously manages more than 500 distribution and interest-bearing accounts containing billions of dollars.
- Tax identification numbers (federal and state).
- Qualified Settlement Fund (QSF) determination.
- Claimant award taxability and reporting.
- W-9 review.
- Quarterly 1120-SF tax deposits.
- Annual 1120-SF tax returns (600+ annually).
- IRS & State 1099 & 1042-S reporting and transmission.
- Backup withholding deposits and 945 annual reporting.
- Employment payroll taxes: 941, 940, SUTA, SIT, and local income taxes.



Representative Case Experience

Having administered more than 5,200 projects, a complete listing of our experience is voluminous. However, the below tables demonstrate the scope of our experience and capacity.

Note: All numbers are rounded

Notices	Case
83 million	Confidential consumer settlement
31 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-md-01999 (E.D. Wis.).
24 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
15.7 million	<i>Blessing v. Sirius XM Radio</i> , No. 09-cv-10035 (S.D.N.Y.).
14 million	<i>In re Groupon Marketing and Sales Practices Litigation</i> , 3:11-md-02238, MDL No. 2238 (S.D. Cal.).

Distributed	Case
\$3.6 billion	Independent Foreclosure Review
\$1.5 billion	National Mortgage Settlement
\$800 million	<i>Naef v. Masonite Corp.</i> , No. CV 944033 (Aia. Cir. Ct. Mobile County).
\$800 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
\$762 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04 Civ. 8141 (S.D.N.Y.). (PwC, Company, Starr, and Gen Re Settlements)

Claims	Case
3.5 million	<i>In re Compact Disc Minimum Advertised Price Antitrust Litigation</i> , MDL No. 1361 (D. Me.).
3.2 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04-cv-8141 (S.D.N.Y.) (Company, PwC, Starr, and Gen Re settlements).
3 million	Abbott Infant Formula Settlements
2.7 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).
1.2 million	National Mortgage Settlement

Calls	Case
3.6 million	Independent Foreclosure Review
1.5 million	<i>Dyson v. Flagstar Corp.</i> , No. DKC93-1503 (D. Md.).
1.4 million	National Mortgage Settlement
1.3 million	Abbott Infant Formula Settlements
1 million	<i>Naef v. Masonite Corp.</i> , No. CV 94-4033 (Aia. Cir. Ct. Mobile County).



Data and System Security

The secure handling of data, systems, and applications is of utmost importance to Rust and its clients. As such, Rust actively mitigates potential threats by adhering to a complex set of best practices, including documented and audited processes and a business continuity plan to ensure uninterrupted, secure service. As part of this "unified compliance posture," Rust:

- Has received system Certification & Accreditation under the Federal Information Security Management Act ("FISMA") for two federal agencies. The framework for FISMA compliance is driven by the National Institute of Standards and Technology ("NIST"), which provides a unified security framework spanning three major security control classes (technical, operational, and management) and 18 control areas with more than 250 security controls.
- Complies with and adheres to Safe Harbor Principles, which cover notice and choice, disclosures and transfers, data security, data integrity, access to and removal of personal information, and enforcement and dispute resolution.
- Undergoes an annual SSAE16 SOC 2 Type II Report audit of our data and system security controls and protocols.
- Complies with applicable laws, such as the Gramm-Leach-Bliley Act (GLBA), also known as the Financial Modernization Act of 1999, which controls how financial institutions deal with individuals' private information.
- Has implemented controls to prevent unauthorized access or disclosure, maintain data accuracy, and ensure the appropriate use and confidentiality of information, either for its own purposes or on behalf of our clients.
- Has put in place appropriate physical, electronic, and managerial procedures to safeguard and secure the information we process.
- Processes personal information only in ways compatible with the purpose for which it was collected or subsequently authorized to do.