

Ropers Majeski Kohn & Bentley
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10 LIBERTY LIFE ASSURANCE COMPANY OF BOSTON
11 and THE CHARLES SCHWAB DISABILITY PLAN

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 KEVIN KINA,
15 Plaintiff,
16 v.
17 THE CHARLES SCHWAB DISABILITY
18 PLAN; LIBERTY LIFE ASSURANCE
19 COMPANY OF BOSTON,
20 Defendants.

CASE NO. C09-05147 JSW

**STIPULATION AND [PROPOSED]
ORDER DISMISSING THE CHARLES
SCHWAB DISABILITY PLAN WITHOUT
PREJUDICE**

The Honorable Jeffrey S. White

21 **WHEREAS**, this is an action arising under the Employee Retirement Income Security
22 Act of 1974, as amended ("ERISA"), 29 U.S.C. section 1132 (a)(1) and (3);

23 **WHEREAS**, plaintiff Kevin Kina has named The Charles Schwab Disability Plan ("the
24 Plan") as a defendant in this action;

25 **WHEREAS**, effective January 1, 2005, the long-term disability portion of the Plan was
26 insured under a group disability income policy issued by Liberty Life Assurance Company of
27 Boston to Charles Schwab & Co., Inc., the sponsor of the Plan;

28 **WHEREAS**, Liberty Life Assurance Company of Boston agrees it will be liable for any
judgment or settlement concerning the payment or non-payment of long term disability benefits to
plaintiff that may result from this action as if it were the Plan;

IT IS HEREBY STIPULATED between the parties, by and through their respective

1 own fees and costs.

2 **IT IS SO ORDERED.**

3 Dated: February 10, 2010

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5 _____
6 UNITED STATES DISTRICT JUDGE

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