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5	Attorneys for Defendants,	
6	LIBERTY LIFE ASSURANCE COMPANY OF BOSTON and THE CHARLES SCHWAB DISABILITY PLAN	
7		
8	UNITED STATES DISTRICT COURT	
9	NORTHERN DISTRICT OF CALIFORNIA	
10		
11	KEVIN KINA,	CASE NO. C09-05147 JSW
12	Plaintiff,	STIPULATION AND [PROPOSED] ORDER DISMISSING THE CHARLES
13	v.	SCHWAB DISABILITY PLAN WITHOUT PREJUDICE
14	THE CHARLES SCHWAB DISABILITY PLAN; LIBERTY LIFE ASSURANCE COMPANY OF BOSTON,	The Honorable Jeffrey S. White
15		
16	Defendants.	
17		
18	WHEREAS, this is an action arising under the Employee Retirement Income Security	
19	Act of 1974, as amended ("ERISA"), 29 U.S.C. section 1132 (a)(1) and (3);	
20	WHEREAS, plaintiff Kevin Kina has named The Charles Schwab Disability Plan ("the	
21	Plan") as a defendant in this action;	
22	WHEREAS, effective January 1, 2005, the long-term disability portion of the Plan was	
23	insured under a group disability income policy issued by Liberty Life Assurance Company of	
24	Boston to Charles Schwab & Co., Inc., the sponsor of the Plan;	
25	WHEREAS, Liberty Life Assurance Company of Boston agrees it will be liable for any	
26	judgment or settlement concerning the payment or non-payment of long term disability benefits to	
27	plaintiff that may result from this action as if it were the Plan;	
28	IT IS HEREBY STIPULATED between the parties, by and through their respective	
	RC1/5496368.1/RMF	STIPULATION AND ORDER DISMISSING DEFENDANT WITHOUT PREJUDICE CASE NO. C09-05147 JSW

counsel of record, that Liberty Life Assurance Company of Boston will be liable for any judgment or settlement concerning the payment or non-payment of long term disability benefits to plaintiff that may be entered or reached in this action as if it were the Plan.

IT IS FURTHER STIPULATED that the Plan is hereby dismissed from this action without prejudice, with each party to bear its own fees and costs.

IT IS SO STIPULATED.

Dated: February 9, 2010 SPRINGER-SULLIVAN & ROBERTS LLP

By: /S/
MICHELLE L. ROBERTS
Attorneys for Plaintiff, KEVIN KINA

Dated: February 9, 2010 ROPERS, MAJESKI, KOHN & BENTLEY

By: /S/
PAMELA E. COGAN
ROBERT M. FORNI, JR.
Attorneys for Defendants, LIBERTY LIFE
ASSURANCE COMPANY OF BOSTON
and THE CHARLES SCHWAB
DISABILITY PLAN

ORDER

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that Liberty Life Assurance Company of Boston will be liable for any judgment or settlement concerning the payment or non-payment of long term disability benefits to plaintiff that may be entered or reached in this action as if it were the Plan.

IT IS FURTHER ORDERED that THE CHARLES SCHWAB DISABILITY PLAN shall be, and hereby is, dismissed from this action without prejudice, with each party to bear its

STIPULATION AND ORDER DISMISSING DEFENDANT WITHOUT PREJUDICE CASE NO. C09-05147 JSW

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own fees and costs. IT IS SO ORDERED. Dated: February 10 , 2010 Ropers Majeski Kohn & Bentley A Professional Corporation Redwood City

UNITED STATES DISTRICT JUDGE