

**AFFIDAVIT OF IVAN ALBERTO RACINES ENRIQUEZ**

I, IVAN ALBERTO RACINES ENRIQUEZ, declare under penalty of perjury under the laws of Ecuador and the United States of America that the following is true and correct:

1. I am over the age of 21, under no disability, and am competent to testify to the matters contained in this affidavit. I am a lawyer by training, an Ecuadorian citizen with the cédula identification number [REDACTED], and a resident of Quito, Ecuador. Since 2003, I have been a member of the legal team associated with the law firm of Adolfo Callejas & Associates, representing Chevron Corporation in the case of Maria Aguinda et al. v. Chevron Corporation, Case No. 002-2003, filed in the court now known as the Provincial Court of Justice of Sucumbíos in Lago Agrio, Ecuador, and currently pending on cassation appeal before the National Court of Justice in Quito. I have personal knowledge of the facts set forth in this affidavit.

2. In approximately July or August 2009—I do not recall the exact date—I happened to encounter Dr. Alberto Guerra Bastidas, by then a former judge and ex-President of the Provincial Court, as I was walking along the street in Quito. After exchanging pleasantries, Dr. Guerra stated, "We need to talk. At any moment the judgment will issue, and we should talk about it." I recall responding with words to the effect, "Yeah, sure" in order to appease Dr. Guerra at that moment but with no intention of following up with him on the matter. The next day I relayed this encounter to Dr. Adolfo Callejas, my superior and Chevron's lead counsel of record in the Aguinda case. Dr. Callejas replied that Dr. Guerra was shameless and that was the end of the conversation.

3. As I previously swore in a contemporaneous affidavit I signed on October 16, 2009 (a true and correct copy of which is attached hereto as Exhibit A) in early October 2009—I



do not recall the exact date, but it was after the recusal was presented to the Presidency of the Provincial Court by Dr. Juan Evangelista Núñez Sanabria—I received on my cellular telephone (number [REDACTED]) a call from Dr. Guerra, stating, without entering into detail, that he needed to speak with me on an urgent basis. I later returned Dr. Guerra's phone call. Dr. Guerra told me that he could intervene to act as an intermediary with the person who is now in charge of the case (which I understood had to be Dr. Nicolás Zambrano, who was acting as the Substitute President of the Provincial Court) to correct the errors that Dr. Núñez had committed and that Dr. Guerra could "fix" the entire case. Dr. Guerra also stated that he could influence the subject of the judgment. I responded that this was a very sensitive subject, which I would need to communicate to my superior, Dr. Callejas. The next day, I conveyed the conversation to Dr. Callejas, who responded that these types of contacts were not permitted by Chevron and were prohibited under Ecuadorian law. Even though Dr. Guerra was no longer a judge of the Provincial Court, I told Dr. Callejas that I would not return Dr. Guerra's call.

4. A few days later, I received a second call on my cell phone from Dr. Guerra, asking whether I had an answer from the company and whether Chevron's lawyers would be willing to be put into contact with Dr. Zambrano, so he may properly carry on the proceedings and correct the errors committed by Dr. Juan Núñez. Dr. Guerra stated that any such meeting would be held in a secure location. Dr. Guerra also stated that Chevron should decide what is more important: the first or the second instance. I interpreted this statement to mean that Dr. Guerra was asking whether Chevron was more interested in a favorable judgment in the trial court or the appellate court, and Dr. Guerra was implying that he had the power to achieve a favorable judgment for the company at either level through Dr. Zambrano. In an effort to defuse the situation in a politically correct way, I stated Chevron's lawyers were very busy at the present



moment dealing with matters of the case and I did not have an answer from my superior, so I could not discuss the subject further. I also told Dr. Guerra that his communications to me were putting me in a delicate position and that I preferred to have no further discussions with him on these issues.

5. Later, I received multiple calls from the same cellular telephone number from which Dr. Guerra previously had called me, but I did not answer any of them.

6. Approximately one or two months after the second telephone call that I received from Dr. Guerra in October 2009, I happened to encounter Dr. Guerra in El Chacal restaurant in Quito. Dr. Guerra again stated that he could “fix” the judgment in favor of Chevron. Dr. Guerra stated, “Everything could be ‘fixed’ for a reasonable value that benefits everyone, and of course you would receive your portion.” He also stated that he could be going back to the Provincial Court and that he knows who would draft the judgment. I refused to engage in this discussion and said goodnight. Later I relayed this encounter and the statements made by Dr. Guerra to Dr. Callejas, who stated that we should avoid any further contact with Dr. Guerra. I changed my cellular telephone number shortly thereafter because of the persistent calls from the telephone number used by Dr. Guerra, which I refused to answer.

I declare under penalty of perjury under the laws of Ecuador and the United States of America that the foregoing is true and correct.

Executed: November 29, 2012, at Quito, Ecuador



Iván Alberto Racines Enríquez

# **EXHIBIT A**



**AFFIDAVIT OF IVAN ALBERTO RACINES ENRIQUEZ**

My name is Iván Alberto Racines Enríquez. I have personal knowledge of the facts set forth in this affidavit. I am over the age of 21, under no disability, and am competent to testify to the matters contained in this affidavit. I am a lawyer by training, an Ecuadorian citizen, and a resident of Quito, Ecuador.

Some days ago — I do not remember the exact date, but it was after the recusal was presented to the Presidency of the Provincial Court of Sucumbíos by Dr. Juan Núñez S. — I received on my cellular telephone number [REDACTED] a call from Dr. Alberto Guerra, an ex-President of the Superior Court of Sucumbíos. On this call, Dr. Guerra, without entering into detail, said that he needed to speak with me on an urgent basis, in response to which after a few days I returned his call. Dr. Alberto Guerra stated that he could serve as a conduit for communicating with Dr. Nicolás Zambrano for the purpose of discussing important topics relating to Case Number 002 /2003, which is before the Provincial Court of Justice of Sucumbíos in Ecuador and which has been brought by 48 natives against Chevron Corp. I responded that this was a very sensitive subject which I would need to communicate to my superior (Dr. Adolfo Callejas, Chevron's authorized legal representative in Ecuador). Once I was able to speak directly with Dr. Adolfo Callejas, I informed him about the conversation described above. Dr. Callejas told me to be very careful, as these types of contacts were not company policy, and to remember that since March 2009 there has been a legal prohibition against making certain types of out-of-court contacts concerning the case.

Days later, I received another call from Dr. Alberto Guerra. I returned his call, and Dr. Guerra asked me if we had already decided as to whether Chevron's lawyers would be



willing to speak with Dr. Nicolás Zambrano, so that he may properly carry on the proceeding and correct the errors committed by Dr. Juan Núñez. With a view towards deflecting his question in a politically sensitive manner and thereby avoiding any problems for myself or Chevron, I responded that at that time we had been very busy with all of the events of the case, that I did not have an answer from my superior, and that therefore I could not discuss this subject, let alone make any decision on this matter.

I later received multiple calls on my phone from the same cellular telephone number from which Dr. Alberto Guerra had previously called me, but I did not answer any of them.

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed: October 16, 2009



Iván Alberto Racines Enríquez

Subscribed and sworn to me this 16<sup>th</sup> day of October 2009. Witness my hand and official seal.



Notary Public

My Commission Expires: May 11, 2013

