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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION
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 13 TIMOTHY MICHAEL PECK,

CIVIL NO. C-09-2600-SBA

14 Plaintiff,

15 vs.

STIPULATION AND ~~PROPOSED~~
 ORDER FOR THE AWARD OF
 ATTORNEY'S FEES PURSUANT TO
 THE EQUAL ACCESS TO JUSTICE
 ACT, 28 U.S.C. § 2412(d)

16 MICHAEL J. ASTRUE,
 COMMISSIONER OF SOCIAL SECURITY,

17 Defendant.

18 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,
 19 subject to the approval of the Court, that Plaintiff be awarded attorney fees under the Equal Access to
 20 Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of SIX THOUSAND FIVE HUNDRED
 21 DOLLARS AND 00 CENTS (\$6,500.00). This amount represents compensation for all legal services
 22 rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28
 23 U.S.C. § 2412(d).

24 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
 25 matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to Astrue v. Ratliff, -
 26 S.Ct. - , 2010 WL 2346547 (U.S. June 14, 2010), the ability to honor the assignment will depend on
 27 whether the fees are subject to any offset allowed under the United States Department of the
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STIPULATION AND PROPOSED ORDER FOR THE AWARD OF ATTORNEY'S FEES
 PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)- C-09-2600-SBA- 1

1 Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine
2 whether they are subject to any offset.

3 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
4 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
5 and costs to be made directly to Plaintiff's counsel, David J. Linden, pursuant to the assignment
6 executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

7 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
8 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA.
9 Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims
10 that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees in connection with
11 this action.

12 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act
13 attorney fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

14 Respectfully submitted December 16, 2010.

15 Dated: December 16, 2010

s/ David J. Linden
David J. Linden
Attorney for Plaintiff, Timothy Michael Peck

18 Dated: December 16, 2010

MELINDA L. HAAG
United States Attorney

19 By s/ Odell Grooms
20 Odell Grooms
21 (As authorized by email)
22 Special Assistant U. S. Attorney
Attorneys for Defendant

23 ORDER

24 APPROVED AND SO ORDERED:

25 Dated: 2/22/11

Sandra B. Armstrong
Sandra Brown Armstrong
United States District Judge