IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

LEO LOVATO,

> **Plaintiff,**

> **vs.**   **No. CIV 16-01309 RB/GBW**

SOCIAL SECURITY ADMINISTRATION,
Andrew Saul, Commissioner of
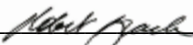*Social Security Administration,*

> **Defendant.**

ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on Plaintiff's Motion for Order Authorizing Attorney Fees Pursuant to 42 U.S.C. § 406(b) (Doc. 34) and the Magistrate Judge's Proposed Findings and Recommended Disposition (PFRD) (Doc. 38).

This case was referred to the Magistrate Judge to conduct hearings and perform legal analysis pursuant to 28 U.S.C. § 636(b)(1)(B), (b)(3) and *Virginia Beach Federal Savings & Loan Ass'n v. Wood*, 901 F.2d 849 (10th Cir. 1990). (*See* Doc. 27.) The Magistrate Judge filed his PFRD recommending that Plaintiff's Motion be granted on July 16, 2020. (Doc. 38.) Neither party filed objections to the Magistrate Judge's PFRD within the allotted time. Appellate review of these issues is therefore waived. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059–60 (10th Cir. 1996). Failure to object to the PFRD also waives the right to *de novo* review by the district court. *See id*. at 1060; *Thomas v. Arn*, 474 U.S. 140, 149–150 (1985). Nevertheless, the Court decided *sua sponte* to conduct a *de novo* review of the Magistrate Judge's findings in this

case. *See One Parcel*, 73 F.3d at 1061. The Court hereby concurs with all of the factual and legal conclusions recited therein.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 38) are **ADOPTED**. Plaintiff's Motion for Order Authorizing Attorney Fees Pursuant to 42 U.S.C. § 406(b) (Doc. 34) is **GRANTED**, and the Court hereby authorizes an award of **$16,242.13** in attorney's fees, to be paid to Plaintiff's counsel by the Commissioner from the funds withheld for this purpose.

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ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE