

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RAPID FUNDING GROUP, INC.,

Plaintiff,

v.

KEYBANK NATIONAL
ASSOCIATION,

Defendant.

No. CV 07-1348-PK

OPINION AND ORDER

MOSMAN, J.,

On June 23, 2009, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#171) in the above-captioned case recommending that I DENY defendant's Motion for Summary Judgment (#113), DENY plaintiff's Motion for Partial Summary Judgment (#114), and DENY defendant's Motion to Strike (#139). Plaintiff (#174) and defendant (#175) filed Objections to the F&R.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination of those portions of the report or specified findings or

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recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendations, and I ADOPT the F&R (#171) as my own opinion.

IT IS SO ORDERED.

DATED this 2nd day of September, 2009.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court