IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY ANDREW ELLIOTT, No. CIV S-10-0174-LKK-CMK

Plaintiff,

vs. ORDER

REGISTRAR OF CONTRACTORS, et al.,

Defendants.

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Plaintiff, who is proceeding pro se, brings this civil action. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On September 13, 2011, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed.

The court has reviewed the file declines to adopt the findings and recommendations.

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The Magistrate Judge recommends that the action be dismissed on the basis that the district court lacks jurisdiction to hear matters already decided in state court, pursuant to the Rooker-Feldman abstention doctrine. Under Rooker-Feldman, a federal district court "has no authority to review the final determinations of a state court in judicial proceedings." Worldwide Church of God v. McNair, 805 F.2d 888, 890 (Ninth Cir. 1986) (citing D.C. Court of Appeals v. Feldman, 460 U.S. 462 (U.S. 1983)). In this case, plaintiff challenges a decision by the state Contractors' State License Board, an administrative agency. It is not clear whether, under California law, such a decision is a final determination in a judicial proceeding and therefore subject to Rooker-Feldman abstention. See, e.g., Zupan v. Cal. Dep't of Corps., 2010 U.S. Dist. LEXIS 10623 (N.D. Cal. 2010) (holding that Rooker-Feldman abstention does not apply to a decision by the California Department of Corporations because it is a state agency and not a state court); Murray v. Dep't of Consumer & Bus. Servs., 2010 U.S. Dist. LEXIS 96563 (D. Or. 2010) (holding that Rooker-Feldman does apply where, under state law, the ALJ's decision is a "final order" when not appealed in state court).

The court therefore concludes that Rooker-Feldman abstention is not a basis for screening plaintiff's complaint.

Accordingly, IT IS HEREBY ORDERED that:

1. The court declines to adopt findings and recommendations filed September 13, 2011;
2. The Magistrate Judge is directed to determine whether there is any other basis for screening the complaint.

DATED: December 22, 2011.

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT