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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL FITZPATRICK,
Plaintiff,
v.
BRIAN FITZPATRICK, ET AL.,
Defendants.

No. 2:12-cv-2938 GEB AC PS

ORDER

Plaintiff, proceeding pro se, filed the above-entitled action. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 72-302(c)(21).

On May 27, 2014, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

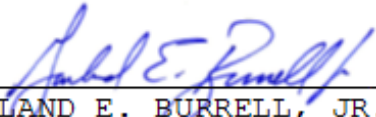
The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed May 27, 2014 (ECF No. 58) are adopted in full;
2. Defendants' October 16, 2013 motion to dismiss (ECF No. 49) is granted in part;

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- 3. Plaintiff's claims of fraud and breach of fiduciary duty based on a confidential relationship are dismissed without leave to amend;
- 4. This matter shall proceed on plaintiff's remaining claims (breach of implied contract, breach of fiduciary duty based on a fiduciary / partnership relationship, breach of implied covenant of good faith and fair dealing, resulting trust, and unjust enrichment); and
- 5. Defendants shall file an Answer to the Second Amended Complaint within thirty (30) days from the date of this order.

Dated: July 2, 2014



GARLAND E. BURRELL, JR.
Senior United States District Judge