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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BRETT J. BALL,)
)
Plaintiff,)
)
vs.)
)
SUNTRUST MORTGAGE, INC.;)
AZTEC FORECLOSURE)
CORPORATION; FEDERAL)
NATIONAL MORTGAGE)
ASSOCIATION; MORTGAGE)
ELECTRONIC REGISTRATION)
SYSTEMS, IND.)
)
Defendants.)

2:10-CV-02064-PMP-LRL

ORDER

Before the Court for consideration is Defendant Aztec Foreclosure Corporation's fully briefed Partial Motion to Dismiss Plaintiff's Complaint (Conspiracy and Injunctive Relief) filed February 4, 2011 (Doc. #25).

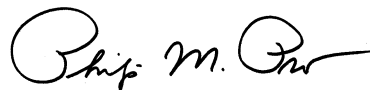
By this motion, Defendant Aztec seeks dismissal of Plaintiff's claims of Civil Conspiracy and Injunctive relief as both of these claims are derivative and dependant upon a finding of wrongful foreclosure, which Defendants contend does not exist as a matter of law in this case. The Court agrees.

Although the Court must consider the facts alleged in a complaint as true for purposes of evaluating a motion to dismiss, the Court does not assume the truth of legal conclusions alleged by a plaintiff. Here the Court finds Plaintiff's conspiracy claim necessarily fails because Plaintiff does not state a claim for the underlying tort of wrongful foreclosure which was allegedly the object of the unlawful conspiracy alleged. Moreover, because Plaintiff fails to state a claim for

1 wrongful foreclosure or conspiracy, Plaintiff's separate claim for injunctive relief
2 similarly fails. Finally, Plaintiff has failed to identify any basis under which he
3 would be entitled to a judgment quieting title to the five properties at issue in this
4 case.

5 **IT IS THEREFORE ORDERED** that Defendant Aztec Foreclosure's
6 Partial Motion to Dismiss (Doc. #25) is **GRANTED**, and that each of Plaintiff's
7 remaining claims as to Defendant Aztec are hereby dismissed.

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9 DATED: March 22, 2011.

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PHILIP M. PRO
United States District Judge