

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SEQUOIA PARTNERS, LLC, and
SEQUOIA VILLAGE, LLC,

Plaintiffs,

v.

FEDERAL DEPOSIT INSURANCE
CORP., and SOUTH VALLEY
BANK & TRUST,

Defendants.

No. 1:11-cv-03057-CL

ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). When either party objects to any portion of a Magistrate Judge's Report and Recommendation, the district court makes a de novo determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

Here, plaintiffs object to the Report and Recommendation, so

I have reviewed this matter de novo. I agree with Magistrate Judge Clarke that the statute of frauds bars plaintiffs' claims. Plaintiffs have neither alleged nor presented evidence of an enforceable written loan agreement.

Plaintiffs argue that they should be allowed to file an amended complaint and to present additional evidence of a written loan agreement. Plaintiffs have had several opportunities to submit documents supplying the essential terms of a loan agreement, and they have failed to do so. As Magistrate Judge Clark notes, "If plaintiffs had signed a note for the \$2.4 million loan, they would allege such in their complaint." I conclude that allowing plaintiffs to amend the complaint would be futile. Dismissal must be with prejudice.

Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#32) is adopted. Defendants' motion to dismiss (#16) is granted with prejudice.

IT IS SO ORDERED.

DATED this 10 day of May, 2012.



OWEN M. PANNER
U.S. DISTRICT JUDGE