

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**ABACUS AMERICA, INC.,**

**Plaintiff,**

**v.**

**7500 WEST 100TH STREET  
INVESTORS, LLC,**

**Defendant.**

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**CIVIL ACTION**

**No. 08-2146-KHV**

**ORDER**

Abacus America, Inc. brings suit against 7500 West 110th Street Investors, LLC alleging breach of contract and breach of the duty of good faith and fair dealing under state law. On April 9, 2008, the Court ordered plaintiff to show good cause in writing why it should not dismiss its claim for lack of subject matter jurisdiction. See Order To Show Cause (Doc. #2). Specifically, the Court noted that plaintiff had not properly alleged the citizenship of each of defendant's members for purposes of establishing diversity jurisdiction under 28 U.S.C. § 1332. See id. at 2.

On April 23, 2008, before defendant answered, plaintiff filed its first amended complaint, see Fed. R. Civ. P. 15(a)(1)(A) (party may amend pleading once as matter of course before being served with responsive pleading), which alleges that "none of Defendant's members is a citizen of either the state of California or the state of Kansas," see Amended Complaint (Doc. #4) ¶ 3. This allegation creates diversity of citizenship with plaintiff – a California corporation with its principal place of business in Kansas. See id. ¶ 2. The Court is now satisfied that plaintiff has sufficiently alleged diversity of citizenship and it therefore finds good cause why it should not dismiss the complaint for lack of subject matter jurisdiction.

**IT IS SO ORDERED.**

Dated this 21st day of May, 2008 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Court