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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

CIENA CAPTIAL FUNDING, LLC
formerly known as BLX CAPITAL, LLC, a
Delaware foreign limited liability company,

CASE NO. 1:09-cv-01239-AWI-SKO

**ORDER GRANTING MOTION TO
SUBSTITUTE HSBC BANK USA AS
PLAINTIFF REAL PARTY IN
INTEREST**

Plaintiff,

v.

DJR PROPERTIES, INC. dba SUPER 8 –
MARIPOSA, a California corporation, et al.,

(Docket No. 122)

Defendants.

_____ /

On November 17, 2010, Plaintiff Ciena Capital Funding, LLC ("Plaintiff") filed a Motion to Substitute HSBC Bank USA ("HSBC") as real party in interest pursuant to Federal Rule of Civil Procedure 17 and 25(c).

Fed. R. Civ. P. 17 provides that "[a]n action must be prosecuted in the name of the real party in interest." Fed. R. Civ. P. 25(c) provides that, "[i]f an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party."

Plaintiff states that on June 1, 2005, Plaintiff assigned to HSBC the following: (1) all of its right, title, and interest in the Adjustable Rate Promissory Note (the "Note") dated May 26, 2004,

1 executed by Defendant DJR Properties, Inc. ("DJR") as maker, and (2) the Deed of Trust, Security
2 Agreement, Fixture Filing, and Assignment of Leases and Rents dated May 26, 2004, executed by
3 DJR.

4 Plaintiff contends that, by virtue of this assignment, HSBC stands in the shoes of Plaintiff
5 and is the plaintiff real party in interest for the purposes of this action and requests that the Court
6 grant its request for substitution. Any opposition to this motion was to be filed by December 1,
7 2010. *See* Local Rule 230(c). No opposition to this motion was filed.

8 Accordingly, IT IS HEREBY ORDERED THAT:

- 9 1. HSBC is substituted as the plaintiff real party in interest for Ciena Capital Funding,
10 LLC under Fed. R. Civ. P. 17 and 25(c);
- 11 2. All papers and pleadings filed with the Court shall reflect that HSBC Bank USA is
12 the plaintiff in this matter;
- 13 3. The Clerk of Court shall update the docket to reflect that Ciena Capital Funding, LLC
14 is substituted out of the action and replaced by HSBC Bank USA as the plaintiff; and
- 15 4. The December 15, 2010, hearing on this matter is VACATED.

16
17 IT IS SO ORDERED.

18 **Dated: December 13, 2010**

19 **/s/ Sheila K. Oberto**
20 **UNITED STATES MAGISTRATE JUDGE**