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**UNITED STATES BANKRUPTCY COURT
THE SOUTHERN DISTRICT OF NEW YORK**

In re:

NEW YORK CITY OFF-TRACK BETTING
CORPORATION,

Debtor.

Chapter 9
Case No. 09-17121-mg

**QUALIFIED STATEMENT OF EMPIRE RESORTS, INC. IN SUPPORT OF
RESPONSE OF NEW YORK CITY OFF-TRACK BETTING CORPORATION TO
OBJECTION OF THE NEW YORK RACING ASSOCIATION, INC. TO THE
DEBTOR'S BANKRUPTCY PETITION AND STATEMENT OF QUALIFICATIONS
UNDER SECTION 109(C)**

Empire Resorts, Inc. ("Empire"), through its wholly-owned subsidiary, Monticello Raceway Management, Inc. and by and through its undersigned counsel, hereby submits this qualified statement (the "Statement") in support of the Response of New York City Off-Track Betting Corporation ("NYCOTB") to the Objection of the New York Racing Association, Inc, to

the Debtor's Bankruptcy Petition and Statement of Qualifications Under Section 109(c). In support of the Statement, Empire states as follows:

FACTUAL BACKGROUND

1. On December 3, 2009, NYCOTB filed with this Court a voluntary petition for relief commencing this case under chapter 9 of title 11 of the Bankruptcy Code (the "Chapter 9 Petition").

2. NYCOTB is a public benefit corporation created by statute, to wit Racing Pari-Mutuel Wagering Law Section 518. NYCOTB operates an off-track pari-mutuel betting system through the OTB parlors, internet wagering and television racing channels. NYCOTB takes bets on live horse racing events taking place at New York State tracks as well as tracks all over the country.

3. The enabling statute which created the OTB system in New York, Racing Law § 518, specifically sets forth the mission statement and the intent of creating the OTB system for New York State and states as follows, in applicable part:

It is also the intention of this article to ensure that off-track betting is conducted in a manner compatible with the well-being of the horse racing and breeding industries in this state, which industries are and should continue to be major sources of revenue to state and local government and sources of employment for thousands of state residents.

4. Thus, it is the public policy of the State of New York that the OTB corporations in New York State foster and contribute to the well-being of the horse racing industry in New York State.

5. Through Empire's wholly owned subsidiary, Monticello Raceway Management, Inc., Empire owns and operates Monticello Casino and Raceway ("Monticello Raceway"). Monticello Raceway has been conducting live harness racing for over 50 years and conducts

over 200 racing programs every year, thereby providing racing opportunities for horsemen, including owners, trainers and drivers in New York as well as thousands of ancillary and related jobs which support the harness racing and breeding industry, including but not limited to the agricultural industry, in New York State.

STATEMENT

6. The facts of this case and the circumstances surrounding NYCOTB's decision to file the Chapter 9 Petition indicate that NYCOTB has appropriately petitioned for protection under the Bankruptcy Code. It appears from the declarations of Raymond Cassey and Robert Garry, as well as Empire's first hand knowledge and experience, that NYCOTB needs the advantages accorded by the Bankruptcy Code in order to address its financial troubles and take the steps necessary for NYCOTB to become a profitable and viable business.

7. Absent a Chapter 9 proceeding, any steps taken by NYCOTB to restructure would likely be hampered by litigation and creditor actions, resulting in a "free-for-all" and a potentially unmanageable state of affairs. The current bankruptcy should allow NYCOTB to focus on its restructuring needs and work with its creditors in an open, transparent and supervised forum.

8. A dismissal of the Chapter 9 Petition could in fact damage NYCOTB's business and its ability to restructure, as well as detrimentally impact numerous parties-in-interest whose business depends upon NYCOTB. Most significantly, a dismissal of this Chapter 9 Case would likely lead to a forced liquidation of NYCOTB, resulting in a damaging effect to Monticello Raceway and the New York harness racing industry as a whole. This impact can be avoided by allowing this Chapter 9 Case to proceed.

9. Empire believes that the advantages of allowing the Chapter 9 petition to proceed outweigh the disadvantages if it is dismissed. However, Empire's support for the Chapter 9 case

to proceed must not be viewed as support for NYCOTB's proposals to the New York State legislature and the proposed restructuring plan being offered by NYCOTB. In fact to the contrary, Empire adamantly opposes NYCOTB's proposed legislative agenda and objects to NYCOTB's proposed legislative amendments and any related business plan. Moreover, Empire believes that NYCOTB's parochial lobbying is not a concrete business plan and NYCOTB is hinging the success of this case on the State Legislature's "swift and decisive" action to modify the legislative distribution scheme. Accordingly, Empire expressly reserves all of its rights to oppose any plans and actions taken, or to be taken, by NYCOTB, including, but not limited to, any proposed legislative amendments and restructuring plan.

10. Finally, Empire expressly reserves its rights under the applicable Racing statutes to enforce and protect all of its rights and interests therein.

11. WHEREFORE, for all the foregoing reasons, Empire respectfully requests that the Court grant the Chapter 9 Petition or such other and further relief as the Court deems appropriate.

Dated: January 13, 2010

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