

STATEMENT

1. District Counsel 37 is a public employee union, the largest municipal union in New York City, which represents 125,000 members and over 50,000 retirees. DC 37 represents 1,027 of the 1,216 employees of NYC OTB, including betting clerks, cleaning and maintenance staff and all other support staff in all 68 branches of NYC OTB.

2. Although the filing of a bankruptcy petition is never a desirable result for an entity or its creditors, the facts of this case and the circumstances surrounding the Debtor's decision to file the Chapter 9 Petition indicate that the Debtor has appropriately and necessarily petitioned for protection under the Bankruptcy Code. NYC OTB needs the advantages accorded by the Bankruptcy Code in order to address its financial troubles and take the steps necessary for NYC OTB to become a profitable and viable business. In particular, in this Chapter 9 Case, NYC OTB will be able to begin a restructuring process unhampered by impending creditor action and litigation that could be brought against NYC OTB absent the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. The automatic stay will, among other things, prevent creditors from bringing actions against the Debtor and from seeking the enforcement of judgments against NYC OTB while NYC OTB remains under bankruptcy protection. This hiatus will allow NYC OTB to focus on its restructuring needs – including the adjusting of its debts, the analysis of its executory contracts and ultimately, establishing a strategy to turn NYC OTB into a long-term cost-effective and profitable business.

3. Most notably, the Chapter 9 protections provided by Bankruptcy Code will grant NYC OTB the time and protection necessary for NYC OTB to negotiate with the New York State Legislature and the New York horse racing industry for necessary changes to be made to state legislation relating to the horse racing and wagering business. As noted in the *Declaration*

of Raymond Casey in Support of the Chapter 9 Petition and the Statement of Qualifications
[Docket No. 3], NYC OTB should be focusing on the efforts necessary to overhaul state legislation, including a modification of the current statutory mandatory distribution payments, which significantly impairs NYC OTB's profitability. Such changes are necessary for NYC OTB to resuscitate its business. Thus, by obtaining Chapter 9 protection, NYC OTB can focus on a plan to turn around its business, while working with the State Legislature to effectuate new legislation to benefit NYC OTB's profitability, ultimately leading to an increase in the value of the Debtor's estate and a greater recovery to unsecured creditors.

4. On the other hand, a dismissal of the Chapter 9 Petition would further damage NYC OTB's business, as well as detrimentally impact numerous parties-in-interest whose businesses or livelihoods depend upon NYC OTB. Most significantly, a dismissal of this Chapter 9 Case would likely lead to a liquidation of NYC OTB, resulting in the loss of thousands of jobs, harming employees of NYC OTB, their families and their communities. Such an impact can be avoided by allowing this Chapter 9 Case to proceed.

5. Due to the advantages presented by allowing the Chapter 9 Case to proceed, and the disadvantages imminent if the Chapter 9 Petition is dismissed, this Court should grant the Chapter 9 Petition to allow NYC OTB the opportunity to restructure.

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WHEREFORE, DC 37 respectfully requests that the Court grant the Chapter 9 Petition and grant DC 37 such other and further relief as the Court deems appropriate.

Dated: January 13, 2010
New York, New York

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