

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

In re

NEW YORK CITY OFF-TRACK BETTING
CORPORATION,

Debtor.¹

Chapter 9

Case No. 09-17121 (MG)

**STIPULATION, AGREEMENT AND ORDER BETWEEN EMPIRE RESORTS,
INC., FINGER LAKES RACING ASSOCIATION, INC. AND NEW YORK CITY
OFF-TRACK BETTING CORPORATION EXTENDING THE TIME FOR NEW
YORK CITY OFF TRACK BETTING CORPORATION TO RESPOND TO
PENDING MOTIONS**

New York City Off-Track Betting Corporation, the Debtor in the above-captioned case (“**NYC OTB**”), Empire Resorts, Inc., operators of Monticello Raceway, and Finger Lakes Racing Association, Inc. (collectively, the “**Parties**”), enter into this Stipulation and Agreed Order (the “**Stipulation**”) and represent and agree as follows:

RECITALS

A. On May 7, 2010, Empire Resorts, Inc. filed a “Motion to Compel the Debtor to Comply with the Requirements of the New York Racing, Pari-Mutuel Wagering and Breeding Law and to Make Certain Statutory

¹ NYC OTB’s address is 1501 Broadway, New York, NY 10036. NYC OTB’s tax identification number is 13-2664509.

Distributions and on May 24, 2010, Finger Lakes Racing Association, Inc., filed a Motion to “Compel the Debtor to Immediately Pay Its Post-Petition Obligations, Comply with the Requirements of the New York Racing, Pari-Mutuel Wagering and Breeding Laws and Make Certain Statutory Distributions” (collectively, the “**Motions**”).

B. As directed by the Court, the hearing on the Motions originally scheduled for June 16, 2010 will be treated as a status conference and a hearing on the merits of the Motions will be set by the Court at such status conference.

C. On June 4, 2010, NYC OTB’s Chairman, Meyer S. Frucher tendered his resignation to Governor David Paterson.

D. NYC OTB has requested additional time to confer with its new Chairperson before submitting a response to the Motions filed by Empire Resorts, Inc. and Finger Lakes Racing Association, Inc.

E. Counsel for the Parties have agreed that a hearing on the merits of the Motions is required to resolve the issues raised in the Motions filed by Empire Resorts, Inc. and Finger Lakes Racing Association, Inc.

F. Empire Resorts, Inc. and Finger Lakes Racing Association, Inc. have asked for and NYC OTB has agreed to provide certain expedited discovery in advance of the proposed hearing date.

NOW, THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IT IS HEREBY STIPULATED AND AGREED, BY AND BETWEEN THE PARTIES, THROUGH THEIR RESPECTIVE UNDERSIGNED COUNSEL, AND SUBJECT TO OBTAINING COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

1. This Stipulation shall be immediately effective upon approval by the Court (the “**Effective Date**”).

2. If there are any material facts in dispute, the Parties agree not to challenge the need for an evidentiary hearing on the Motions and to request that such hearing be held during the week of July 5, 2010, or as soon thereafter as counsel may be heard.

3. NYC OTB’s time to file and serve a response (the “Initial Response”) to the Motions is hereby adjourned to June 11, 2010 at 4:00 p.m. (EST), *provided, however*, that NYC OTB may file and serve a supplemental response (the “Supplemental Response” and together with the Initial Response, the “Responses”) no later than 10 days prior to the date of any hearing on the merits of the Motions set by the Court.

4. Empire Resorts, Inc. and Finger Lakes Racing Association may file a reply to the Responses at any time up to 3 days prior to the hearing on the merits of the Motions set by the Court.

5. NYC OTB will provide Empire Resorts, Inc. and Finger Lakes Racing Association, Inc. with the agreed upon expedited discovery as soon as is practicable, on a rolling basis, but in no event later than June 24, 2010 at 5:00 p.m. (EST). Such expedited discovery shall include, but not be limited to:

- A complete list of all creditors that received payments since December 3, 2009, when such payments were made, and the amount of each payment;
- Documents sufficient to show amounts of deferred statutory payments (the “**Deferred Statutory Payments, or DSPs**”) paid into any segregated account, including one at JPMorgan Chase Bank, from retained

commissions payable to New York racing entities, including NYRA and the Thoroughbred Breeders;

- Documents sufficient to show the Debtor's policy, practice and determination since December 3, 2010, as to which creditors to pay and not to pay and when;
- Documents evidencing the timing of decisions since December 3, 2009, as to which creditors to pay and not to pay and when, the parties involved in making such decisions, and the factors and considerations employed in making such decisions;
- All Board of Directors resolutions and minutes reflecting the Debtor's determination to pay or not to pay creditors since December 3, 2009;
- Any analyses and presentations generated since April 1, 2010 reflecting the Debtor's cash flow or projected cash flows;
- A Balance Sheet as of a date after April 30, 2010 reflecting, among other things, both accrued and current expenses and payables; and
- Depositions for up to four hours each of appropriate OTB personnel, including, but not necessarily limited to, Robert J. Garry, Executive Vice President and Chief Financial Officer for NYC OTB, and Raymond Casey, President and Chief Executive Officer of NYC OTB..

6. This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7. This Stipulation may be amended or otherwise modified only by a signed writing executed by the Parties.

8. This Court shall retain jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation.

Dated: June 10, 2010

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SO ORDERED:

Dated: New York, New York
June 11, 2010

/s/Martin Glenn

HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE