### Edgar Filing: BERMAN ROBERT ALAN - Form 5

#### BERMAN ROBERT ALAN

Form 5

February 14, 2005

**OMB APPROVAL** FORM 5

**OMB** UNITED STATES SECURITIES AND EXCHANGE COMMISSION 3235-0362 Number: Washington, D.C. 20549 Check this box if January 31, Expires: no longer subject 2005 to Section 16. Estimated average ANNUAL STATEMENT OF CHANGES IN BENEFICIAL Form 4 or Form burden hours per OWNERSHIP OF SECURITIES 5 obligations response... 1.0 may continue. See Instruction Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, 1(b). Form 3 Holdings Section 17(a) of the Public Utility Holding Company Act of 1935 or Section Reported 30(h) of the Investment Company Act of 1940 Form 4 Transactions Reported

1. Name and Address of Reporting Person * BERMAN ROBERT ALAN			2. Issuer Name and Ticker or Trading Symbol EMPIRE RESORTS INC [NYNY]	5. Relationship of Reporting Person(s) to Issuer			
(Last)	(First)	(Middle)	3. Statement for Issuer's Fiscal Year Ended	(Check all applicable)			
C/O MONTICELLO RACEWAY, ROUTE 17B		7B	(Month/Day/Year) 12/31/2004	_X_ Director _X_ 10% Owner _X_ Officer (give title Other (specify below) Chief Executive Officer			
(Street)			4. If Amendment, Date Original	6. Individual or Joint/Group Reporting			
			Filed(Month/Day/Year)	(check applicable line)			

## MONTICELLO, NYÂ 12701

\_X\_ Form Filed by One Reporting Person Form Filed by More than One Reporting

(City)	(State)	(Zip) Table I - Non-Derivative Securities Acquired, Disposed of, or Benefic								
1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)  (A) or Amount (D) Price		5. Amount of Securities Beneficially Owned at end of Issuer's Fiscal Year (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)		
Common Stock, \$.01 par value per share	06/02/2004	Â	J <u>(1)</u>	3,039,283	A	\$0	4,137,377	D	Â	
Common Stock, \$.01 par	09/29/2004	Â	J(2)	928,269	D	\$0	3,209,108	D	Â	

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value per share									
Common Stock, \$.01 par value per share	09/29/2004	Â	J <u>(3)</u>	101,500	A	\$ 0	101,500	I	By Avon Road Partners, LP
Common Stock, \$.01 par value per share	09/29/2004	Â	J <u>(2)</u>	928,269	A	\$ 0	1,029,769	I	By Avon Road Partners, LP
Common Stock, \$.01 par value per share	09/29/2004	Â	J <u>(4)</u>	31,833	A	\$ 0	1,061,602	I	By Avon Road Partners, LP
Common Stock, \$.01 par value per share	06/02/2004	Â	J <u>(5)</u>	101,500	A	\$ 0	113,772	I	By Trust (6)
Common Stock, \$.01 par value per share	09/29/2004	Â	J <u>(3)</u>	101,500	D	\$ 0	12,272	I	By Trust
Common Stock, \$.01 par value per share	06/02/2004	Â	J <u>(7)</u>	3,207,141	D	\$ 0	25,000	I	By Watertone Holdings, L.P. (8)
	eport on a separate lin	contained	Persons who respond to the collection of information contained in this form are not required to respond unless						

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D)	6	7. Title and Amount of Underlying Securities (Instr. 3 and 4)	8. Price of Derivative Security (Instr. 5)	9. of D Se B O E I Is
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(Instr. 3, 4, and 5)

(A) (D) Date Expiration Title Amount Exercisable

Number of Shares

# **Reporting Owners**

Relationships Reporting Owner Name / Address

> Director 10% Owner Officer Other

BERMAN ROBERT ALAN C/O MONTICELLO RACEWAY **ROUTE 17B** MONTICELLO, Â NYÂ 12701

ÂX ÂX Chief Executive Officer Â

**Signatures** 

/s/ Berman, 02/14/2005 Robert A.

\*\*Signature of Date

Reporting Person

## **Explanation of Responses:**

- If the form is filed by more than one reporting person, see Instruction 4(b)(v).
- Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- On June 2, 2004, Watertone Holdings, LP ("Watertone") made a distribution of 4,483,588 shares of common stock of Empire Resorts, **(1)** Inc. to its partners, including 3,039,283 shares to Robert A. Berman.
- These shares of common stock were transferred by Robert A. Berman to Avon Road Partners, LP, with respect to which Mr. Berman is its **(2)** general partner.
- These shares of common stock were transferred by the Berman Family Trust to Avon Road Partners, LP, with respect to which Robert (3)Berman is its general partner.
- These shares of common stock were transferred by Debbie N. Berman to Avon Road Partners, LP, with respect to which Robert A. **(4)** Berman is its general partner.
- On June 2, 2004, Watertone made a distribution of 4,483,588 shares of common stock of Empire Resorts, Inc. to its partners, including Avon Road Partners, LP, which, in turn, distributed 101,500 of such shares to the Berman Family Trust.
- These shares are held by the Berman Family Trust. Debbie N. Berman and Philip Berman, the brother of Robert A. Berman, are (6) co-trustees for the Berman Family Trust, and have joint power to vote or to direct the vote and joint power to dispose or to direct the disposition of these shares. Robert A. Berman disclaims beneficial ownership of such shares.
- On June 2, 2004, Watertone made a distribution of 4,483,588 shares of common stock of Empire Resorts, Inc. to its partners, including 3,207,141 shares that had previously been attributed to Robert A. Berman.
- (8) Robert A. Berman is the managing member of BKB, LLC, the general partner of Watertone.

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, see Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

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