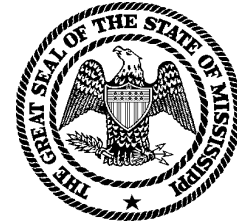


Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)

Report to
the Mississippi Legislature



A Management Review of the Mississippi Gaming Commission

When PEER first reviewed the Mississippi Gaming Commission (MGC) in 1996, the agency had begun licensing gaming establishments before its regulatory infrastructure was fully in place to address the economic, criminal, social, and other risks of legalized gambling. MGC has since improved in some areas, such as increasing its efficiency in conducting criminal background checks of casino employees. However, five years after PEER's initial review, MGC still does not have all of the components in place to protect the public effectively from the risks of legalized gambling.

The agency still issues work permits to employees before completing background checks and does not conduct thorough financial investigations of corporations applying to provide services in the gaming industry. Although MGC has established a routine compliance review program to determine whether casinos comply with internal control standards for safeguarding revenues, due to delays in implementation MGC has not yet conducted full compliance reviews of 12 of the state's 30 casinos.

The Enforcement Division has not developed a casino inspection program that specifies a checklist of steps that enforcement agents should routinely take to ensure that games are conducted in accordance with state law and MGC regulations. Also, MGC's enforcement agent training program does not ensure that agents have the necessary knowledge and skills.

Concerning oversight and control of electronic gaming devices, MGC does not thoroughly document the steps that it takes to approve electronic gaming devices and their modifications. Thus PEER could not verify whether the approval process is adequate to ensure that the devices comply with legal requirements (e.g., eighty percent minimum payout). Also, MGC does not test an adequate sample of proposed device modifications or provide adequate oversight through statistical analysis and machine verification checks.

MGC should establish criteria for each of its functional tasks through means such as analytical plans, checklists, audit steps, and a training manual; the agency should document its work to help ensure thoroughness and consistency through maintaining workpapers, inventories, and databases; and it should implement and comply with existing standards and mandates (e.g., federal regulations, state law, and its own policies and procedures).

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A flowing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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July 10, 2001

Honorable Ronnie Musgrove, Governor
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Members of the Mississippi State Legislature

On July 10, 2001, the PEER Committee authorized release of the report entitled **A Management Review of the Mississippi Gaming Commission.**


Representative Herb Frierson, Chairman

This report does not recommend increased funding or additional staff.

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A Management Review of the Mississippi Gaming Commission

Executive Summary

In response to a legislative request, the PEER Committee conducted a review of the Mississippi Gaming Commission (MGC). The purpose of the review was to evaluate the Gaming Commission's actions relative to PEER's 1996 report, *A Review of the Adequacy of the Mississippi Gaming Commission's Regulation of Legalized Gambling in Mississippi*. PEER also reviewed selected management issues not covered in the 1996 report.

PEER's review covered the following major areas:

- investigations of individuals and corporations involved in Mississippi gaming;
- compliance reviews of casino operations;
- gaming regulation enforcement;
- oversight and control of electronic gaming devices;
- implementation of gaming regulatory policies; and,
- compliance with state laws and regulations regarding personnel, travel, and use of state vehicles.

Investigations of Individuals and Corporations Involved in Mississippi Gaming

Although MGC has improved its efficiency in conducting criminal background checks of gaming employees, the agency is still issuing work permits to employees before completing the checks. This results in Mississippi's casinos employing a small percentage of persons whose employment is prohibited by state law and MGC regulations—i.e., those with felony convictions and certain misdemeanor convictions.

MGC's corporate investigators do not routinely conduct critical tests of financial viability such as cash flow analysis; debt, profitability and liquidity ratios; and financial trend analysis. Also, MGC's corporate investigators do not document that they have taken necessary steps to identify all legal judgments and

regulatory findings against corporations applying to operate gaming establishments in Mississippi. These deficiencies limit MGC's effectiveness in excluding unqualified individuals and entities from the state's gaming industry.

Since 1996, MGC has redefined the subgroup of key employees who must be licensed, subsequently reducing the number of employees requiring in-depth background investigations and increasing its percentage of key employee investigations completed. However, the agency does not have an adequate method of accounting for and updating the list of those employees who are defined as key employees. Not conducting in-depth background investigations of all gaming employees in key positions exposes the state to the risk of hiring individuals into these positions with known criminal records or financial problems.

MGC files now contain documentation of the reasoning and outcome of its show cause hearings. Such hearings are held to determine appropriate fines or other penalties for violations of laws and regulations governing casino operations. However, the agency has not developed a central listing of show cause case dispositions that would assist in assessing fines consistently.

Compliance Reviews of Casino Operations

Since 1996, the Compliance Division has developed a cooperative working relationship with the State Tax Commission, which is responsible for determining the amount of casino revenues to be taxed. Also, MGC has also established a routine compliance review program to determine that casinos comply with the agency's internal control standards for safeguarding revenues. However, MGC's review program does not contain steps regarding compliance with state laws governing patron disputes or federal laws governing the reporting of large cash transactions. Also, MGC has not yet conducted a full compliance review of twelve of the state's thirty casinos.

Gaming Regulation Enforcement

MGC has not developed a casino inspection program with a comprehensive and detailed inspection checklist that documents that casino games are being conducted in accordance with state law and MGC regulations.

Also, MGC's training program does not ensure that all of its enforcement agents have the knowledge and skills necessary to ensure that licensed gaming is conducted honestly and competitively.

Oversight and Control of Electronic Gaming Devices

Because MGC does not thoroughly document the steps that it takes to approve electronic gaming devices and modifications thereto, PEER could not verify whether the approval process is adequate to ensure that the devices comply with legal requirements (e.g., “honest and competitive” play of the games, eighty percent minimum payout). Further, MGC does not test an adequate sample of proposed device modifications or provide adequate oversight through statistical analysis and machine verification checks. Insufficient oversight could result in increased opportunities for theft from slot machines or in casino gaming devices that are confusing and/or unfair to patrons.

Implementation of Gaming Regulatory Policies

MGC has not implemented all necessary policies for gaming regulation. MGC has not established criteria for determining the honest and competitive conduct of table games, has not developed written criteria for approval or modification of table games, nor has the agency developed a routine process to distribute state exclusion lists to casino surveillance departments to assist in excluding undesirable persons from casinos.

MGC also has not adhered to its own ethics policies regarding participation of agency personnel in gaming activities. The MGC Executive Director, Deputy Director, and Chief of Staff competed in a state-licensed and regulated charity gaming tournament in March 2001.

Also, although MGC has implemented policies intended to reduce gambling by problem gamblers, it has not conducted a cost/benefit analysis as part of its monitoring of the socioeconomic risks of Mississippi’s gaming industry.

Compliance with State Laws and Regulations Regarding Personnel, Travel, and Use of State Vehicles

MGC changed its organizational structure without first obtaining the approval of the State Personnel Board, promoting two individuals into unapproved positions and violating MISS. CODE ANN. Section 75-76-17, which establishes an enforcement division and an investigations division in the Gaming Commission.

Also, MGC violated state travel guidelines by reimbursing two Northern District employees over \$3,000 for hotel and other expenses incurred while traveling back and forth to their new official duty station.

Further, in violation of state and federal law and its own policies, MGC has allowed personal use of state vehicles, costing the state at least \$31,818 in commuting expenses that could have been spent on legitimate regulatory activities of the commission.

Recommendations

Investigations

Corporate Investigations

1. The Gaming Commission should set direction for the Compliance Division staff in reviewing qualifications of corporate applicants for licenses by establishing in policies and procedures an overall purpose for the investigations, how qualifications will be determined, items to be analyzed by corporate investigators, and how the investigation will be reported and/or items to be included in an investigation report. For instance, the commission may require that certain background checks must be performed with specific state and federal agencies, that certain types of financial analysis should be performed and for what purpose, and that the Compliance Division may have investigatory and analytical discretion in certain areas.
2. Based on the Gaming Commission's direction, the Compliance Division should develop an analytical plan to conduct its investigations. Also, the Corporate Investigations section should document its investigation procedures and file the workpapers at MGC offices. The documentation should include evidence that background checks and financial and other analyses have been performed. Also, the corporate investigation reports should indicate the work that has been performed in summary form.

Work Permits

3. The Gaming Commission should adhere to MISS. CODE ANN. Section 75-76-131, which prohibits individuals from working for casinos for any amount of time without permits. MGC should not allow work permit applicants to work in the casinos until the process is completed. Specifically, MGC should not issue permits to applicants until it receives criminal background check information from all law enforcement agencies from which information is requested.
4. The Gaming Commission should ensure that the system for tracking work permits is accurate. Using existing resources, the Investigations Division should set up its database systems to form a centralized automated method for tracking work permit data, including tracking and retrieving work permits

that have been revoked and denied, by employee name and work permit number, by year, by district, and by final disposition. The system should be revised to allow comprehensive management reporting (a monthly management report showing the number of applications, denials, and revoked licenses).

Key Employee Background Checks

5. The Gaming Commission should improve its method of accounting for and updating the list of those employees who are defined as key employees. The division also should develop a database that is coded so that a report of all current key employees can be instantly produced.

Show Cause Hearings

6. The Gaming Commission should develop and maintain an inventory of show cause cases, listing their dispositions, to help assure that the handling of cases is consistent. The inventory of cases should:
 - list whether a fine was assessed;
 - be categorized by type of violation and reasoning for the fine amount or lack of fine; and,
 - be used as a database to help ensure consistency.

Compliance Reviews

7. The Gaming Commission should develop a Compliance Division operating manual, including overall policies for the implementation of compliance audits and guidance of compliance officers and procedures to assist auditors in understanding the elements of casino auditing.
8. The Compliance Division should implement audit steps to determine that:
 - the management at casinos have established internal procedures for ensuring that all currency transactions equaling or exceeding \$10,000 be reported to the federal government in compliance with Title 31;
 - the internal auditors at the casinos have established audit steps to monitor that Title 31 is implemented; and,
 - the managers at casinos have established internal procedures to ensure that their employees comply with

legal requirements governing the handling of patron disputes.

Gaming Regulation Enforcement

Training of Gaming Compliance and Enforcement Personnel

9. The Gaming Commission should establish a uniform field training program for its districts. This program should include a Field Training Manual that includes, at a minimum:
 - a training plan with specific goals and objectives for the trainer and trainee;
 - minimum qualifications for the trainer;
 - a training curriculum with lesson plans for specific tasks;
 - competency standards and performance outcomes for the established curriculum;
 - instructional methods;
 - documentation requirements for trainer and trainee;
 - the expected time for successful trainee completion; and,
 - a policy addressing the status of unsuccessful trainees.
10. The Gaming Commission should revise its MGC Regulatory Academy Training Program to include:
 - course objectives for the curriculum topics;
 - competency standards or performance outcomes for its established curriculum courses; and,
 - a policy concerning the employment and work status of compliance and enforcement personnel who do not successfully complete the academy.
11. Using existing resources, the Gaming Commission should establish a centralized management program for its in-service academy training programs. This program, under the MGC Training Officer, should include the following information for all MGC employees:
 - a management information system for monitoring training records. This system should, at a minimum, document the required and completed training courses and hours for each employee;

- a mandatory curriculum with training objectives, competency standards, or performance outcomes;
- an annual training budget under the control of MGC Training Officer; and,
- a centralized system for scheduling individuals' annual training requirements.

12. The Gaming Commission should establish a policy to require all enforcement personnel to attend at least annually its courses regarding detection of cheating on games and slot machines.

Statutory and Regulatory Inspection System

13. Using existing resources, the Gaming Commission should develop and use a documented inspection program that inspects every facet of each gaming operation a predetermined number of times every thirty days on a random basis. This system should include:

- Twenty-four hour enforcement personnel coverage, seven days per week, to conduct inspections on a random, "no notice" basis. Existing personnel resources could be rotated on a random basis to accomplish these inspections when necessary during the period of 12:00 A.M. to 7:00 P.M.
- A comprehensive inspection system that uses a detailed checklist to document what, who, when, where, number of monthly inspections for the operation, inspection results, state authority (statute and regulation reference), and a short summary statement of any violation.

The guiding objective of the detailed checklist should be to assure licensed gaming is conducted "honestly and competitively."

- The accomplishment of a mandated number of MGC sweep inspections to inspect the total gaming operation simultaneously.
- The use of a management information database to plan and manage the inspection schedule for each facet of each gaming operation in the three districts. The district personnel should document all inspection results in this system for management analysis.

14. The Gaming Commission should create a management information system with performance measures or outcomes that collects, analyzes, and tracks the information for its statewide enforcement and investigative programs. For example, some components should include:

- work activities of enforcement personnel.;
 - casino observations and regulatory inspections;
 - use and cost of state vehicles; and,
 - use of assigned personnel.
15. The Gaming Commission should review and revise, as necessary, its new statewide case management system to include all appropriate categories of regulatory and statutory violations, including compliance, investigative, and intelligence activities. These changes should include mandatory statewide use of standardized definitions for each component category.

Oversight and Control of Electronic Gaming Devices

16. The Gaming Lab should perform a needs analysis to determine the number of engineers needed for scientific sampling of modifications. If warranted by problems with recruiting electrical engineers to fill the open engineering positions in the lab, MGC should present documentation of the hiring difficulties to the State Personnel Board to determine if the jobs can be reclassified to higher salary levels. Any necessary starting engineer salary increases or new engineering positions for accomplishing inspections should be paid for only by increases to manufacturer's fees, as provided for under Section 75-76-79.
17. The Gaming Lab should document the engineering tests of software that it performs for approval of slot machines and electronic games for use in the Mississippi gaming industry and should document its tests of modifications to computer chips.
18. In the absence of a full review of each modification of computer chips for gaming devices considered by the Gaming Lab, the lab should implement scientific sampling of the modified chips. The scientific sampling should provide assurance that the chips reviewed represent the total population of chips that are approved.
19. The Compliance Division should develop a training program for its officers to learn to analyze slot machines on a statistical basis and determine whether machines on the casino floor have payouts that are in compliance with the amounts approved by the Gaming Lab. Officers should be trained to understand the various ways that machines could be compromised and to look for situations where this may have occurred. Officers should always request documentation

from casino management as to why they are asserting that a machine with aberrant payout is actually performing as would be expected under certain circumstances. Officers should also be trained to know when to continue testing of machines, for instance, when casino documentation is not satisfactory.

20. The Enforcement Division should develop a statewide program for enforcement and/or regulatory agents to conduct surprise Kobetron checks to ensure that the computer chips in casino gaming devices are those that have been approved by the Gaming Lab.

Management of Regulatory and Personnel Policies, Travel, and Vehicle Use

Policies for Gaming Regulation

21. The Gaming Commission should develop policies and procedures to ensure that table games and their modifications are approved in a consistent manner on a statewide basis. The policies, which should supplement the current New Table Games Policy and should be used by the training director and enforcement agents, should include:
 - criteria for the agency to determine whether table games are being conducted honestly and competitively according to MISS. CODE ANN. Section 75-76-3;
 - criteria for enforcement agents to determine whether to approve modifications; and,
 - policies and procedures for enforcement agents to determine how and when to approve table game modifications and when they should be forwarded to the training director for review.
22. As recommended in PEER's 1996 report, the Gaming Commission should conduct a cost/benefit analysis of Mississippi's legalized gambling industry and report the findings to the Legislature, gaming industry, and the public. The Legislature should require the State Economist to estimate the amount of funds needed to conduct such a study and provide options to the Legislature for conducting the study.

Exclusion Lists

23. The Gaming Commission should finalize its additions to its Mississippi casino exclusion list (undesirable casino patrons who are prohibited from visiting Mississippi casinos) based on the most recent information available from enforcement

personnel, compile the list, and disseminate the list to Mississippi casinos and other state gaming commissions. MGC should obtain copies of the exclusion lists of other large gaming jurisdictions and distribute copies of those lists to the casinos in Mississippi on a regular basis such as quarterly or monthly.

Ethical Conduct

24. The Gaming Commission should consider taking disciplinary action against its MGC Executive Director, Deputy Director and Chief of Staff in accordance with the MGC Ethics Policy for a Group Two Offense.

Gaming Enforcement

MGC Organizational Management

25. The Gaming Commission should establish a written policy regarding the development and implementation of major organizational changes. This policy should include the requirement that the commission review all proposed organizational changes and promotions to bureau director or above to ensure that they are in accordance with the legislative intent of the Gaming Control Act. The commission should approve any major organizational changes, document such approval in its minutes, and submit the changes to the State Personnel Board for review and approval.

Personnel Regulations

26. The Gaming Commission should not reimburse its employees for travel expenses when the purpose of the reimbursement is for expenses related to moving to a new MGC employment location within the state rather than travel expenses.

State Travel and Vehicle Use

27. The PEER Committee should refer payment of the unauthorized travel expenses to the Office of the State Auditor for collection under the provisions of MISS. CODE ANN. Section 7-7-211 (1972).
28. The Gaming Commission should conduct a needs analysis to determine how many vehicles that it actually requires performing its statutory and regulatory duties under the Gaming Control Act and Commission Regulations.

This needs analysis should exclude all historical commuter mileage except the mileage required for accomplishing the

shift work requirements and the on-call response time of the scheduled officers during the seven-day, twenty-four-hour work shifts.

29. The Gaming Commission should expand its “State Vehicles” policy to establish an agency-wide assignment and use policy for its state vehicles. In making decisions about the use and assignment of state vehicles, MGC should analyze its travel mileage data to determine the most efficient mode of transportation. (See Appendix B, page 78, for information from PEER’s report #407, *Managing Travel Expenditures*.)

When developing this agency-wide assignment and use policy for state vehicles, the Gaming Commission should organize its current inventory of state vehicles into a motor pool. Should the agency choose to establish one, MGC managers should consider the following:

- provide motor pool vehicles for work-related activities after MGC personnel arrive at their official duty station;
- determine the number of vehicles to be located at each of the four MGC locations based on documented analysis of need;
- develop and implement a policies and procedures manual for motor pool operations;
- require periodic management reviews of the MGC Daily Travel Logs and MGC Monthly Vehicle Report.

The Gaming Commission’s travel policy should also address the following:

- assigning state vehicles to individuals on the basis of work requirements rather than position titles;
- limiting commuter vehicles to the personnel scheduled to work on-call response time during the seven-day, twenty-four-hour work shifts;
- requiring all other personnel to use their personal vehicles for commuting between home and official duty station on their scheduled work days;
- requiring all employees (including executive managers) for in-state or out-of-state vehicle travel to use a state vehicle unless it is cheaper to reimburse the employee for the use of their own vehicle.

30. The Gaming Commission should take disciplinary action (as required by Section 7.8 of the MGC Administrative Manual) against all employees who misuse state vehicles.

31. The Gaming Commission should comply with Internal Revenue Service Regulation 26 CFR Section 1.61 governing reporting of personal use of vehicles.

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A Management Review of the Mississippi Gaming Commission

Introduction

Authority

The PEER Committee authorized a management review of the Mississippi Gaming Commission's effectiveness in administration of gaming regulation in the state. PEER conducted the review pursuant to the authority granted by MISS. CODE. ANN. Section 5-3-57 et seq. (1972).

Scope and Purpose

PEER followed up on its 1996 recommendations to MGC and also reviewed other selected management issues.

In response to a legislative request, the PEER Committee conducted this review of the Mississippi Gaming Commission (MGC). The purpose of the review was to evaluate the Gaming Commission's actions relative to PEER's 1996 report, *A Review of the Adequacy of the Mississippi Gaming Commission's Regulation of Legalized Gambling in Mississippi*. (See a discussion of PEER's 1996 review on page 8.) PEER also reviewed selected management issues not covered in the 1996 report.

Method

In conducting this review, PEER:

- reviewed state law and regulations governing gambling in Mississippi;
- reviewed financial, personnel, and management records of the Gaming Commission;

- interviewed MGC staff and staff of gaming regulators in other states; and,
- reviewed literature on legalized gambling.

Background

Statutory Requirements of Gaming Regulation

The Mississippi Legislature legalized dockside gambling in June 1990, with the passage of the Mississippi Gaming Control Act (MISS. CODE ANN. Section 75-76-1 et al.). At that time, the Legislature temporarily placed organizational responsibility for its enforcement with the State Tax Commission. The Legislature created the Mississippi Gaming Commission (MGC) three years later, effective October 1, 1993, to assume regulatory responsibilities over the gaming industry in Mississippi.

The Gaming Control Act created a three-member commission to establish regulations and oversee the operations of the agency and an Executive Director's position to direct and supervise all administrative and technical activities of the commission.

Risks Addressed by the Gaming Commission

Any government agency or office provides some type of service to the public. Depending on the type of agency, the type of service to the public differs. However, all of these services are designed to address risks to the public. If the agency's responsibilities are not fulfilled or if service is disrupted, a level of risk to the public can arise, although some risks are of a higher level and priority than others.

While some of the risks of legalized gambling are risks of any business, some are unique or more characteristic of the gambling industry. As noted in PEER's 1996 report *A Review of the Adequacy of the Mississippi Gaming Commission's Regulation of Legalized Gambling in Mississippi*, the following are some risks associated with legalized gambling:

Economic Risks

- *shifting of discretionary consumer dollars away from existing business*--To the extent that casino patrons are local residents, a portion of the dollars which they

spend in casinos may be dollars which they previously would have spent in other local businesses. Local restaurants and bars can be affected, as casinos subsidize their own restaurants and bars as a means of attracting patrons to gamble.

- ***growth of state regulatory staff***—The state general fund subsidizes the cost of regulating gambling in Mississippi (\$6.1 million in FY 2000). As the numbers of casinos increase over time, the costs of regulation may also increase.

Criminal Risks

- ***increase in white collar and organized crime***--The cash-intensive casino environment is conducive to crimes such as embezzlement and money laundering.
- ***cheating on the games***--The risk exists that both patrons and the casinos will cheat on the games.

Social Risks

One social risk, compulsive gambling, creates serious and costly social problems, including lost time and productivity on the job, debt which creditors are unable to collect, theft, fraud, forgery, embezzlement, alcoholism, domestic violence, depletion of family savings, increased medical and health problems, and suicide.

Public Health and Safety Risks

These concerns include safety of the gambling vessels; the health threat of working and gambling in a smoke-filled environment; environmental issues such as encroachment of casino-related construction on wetlands; and traffic control and safety. Public infrastructure (e.g., local roads and schools) may be inadequate to support the casinos.

Organization of Mississippi Gaming Commission's Regulatory Functions

MGC Functions

MGC's activities are organized into the divisions shown in the organization chart (April 2001) on page 57 and described below:

- **Investigations**—conducts in-depth investigations of the suitability of individuals to conduct gambling business in the state. MGC's investigations include personal background checks and fingerprinting of all casino employees (who must qualify for work permits) and MGC employees to avoid employment or licensing of anyone with criminal histories. The division also conducts more in-depth reviews of the financial and personal suitability of casino owners and key casino employees.
- **Gaming Laboratory**—evaluates the suitability of electronic gaming devices (i.e., software, hardware, and slot machines) for use on the casino floor, including their adherence to gaming regulations, fairness to patrons, and vulnerability to cheating scams. The division also provides technical consultation to MGC personnel regarding electronic gaming devices and investigates devices involved in patron disputes.
- **Intelligence**—gathers information regarding gaming-related criminal or improper activity and exchanges it with other local, state, and federal law enforcement agencies. Intelligence agents work with the Federal Bureau of Investigation and other organizations to pursue leads on organized crime and reduce cheating in casinos.
- **Compliance**—conducts operational audits of casinos on a routine basis to ensure compliance with MGC's internal control standards and other MGC statutes and regulations. Compliance personnel focus on accounting and management reports and records and observation of casino personnel at work. The Compliance Division also conducts background and financial investigations of corporate licensees, including casinos and gaming manufacturers and distributors.
- **Enforcement**—policies casinos on a day-to-day basis for adherence to the Gaming Control Act and regulations, investigates criminal violations at casinos, and handles patron complaints and disputes. The

Enforcement Division also shares duties with the Investigations Division of investigating and issuing work permits to casino employees.

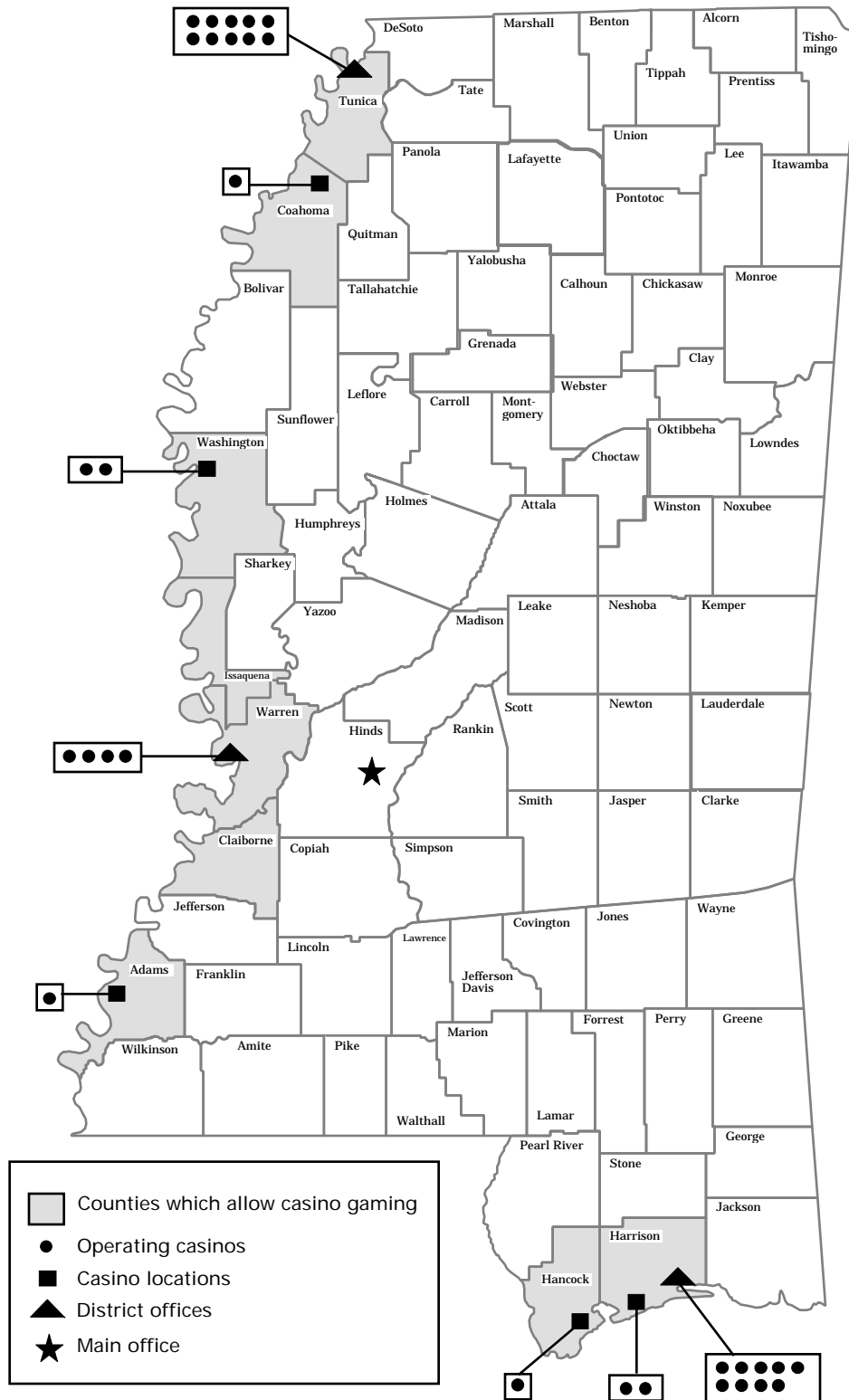
- **Other Divisions**—perform administrative functions such as accounting, legal, personnel, management information systems, and training. MGC also administers regulation of Charitable Gaming activities in the state.

During PEER's 1996 review, the Enforcement Division handled all enforcement and intelligence duties and the work permitting functions now currently handled by the Investigations Division. The intelligence duties and work permitting functions were transferred to the Intelligence and Investigations divisions in 1999, respectively. Also, in 1996 the Compliance Division had been newly formed to provide an audit function and to assume the responsibilities for corporate background checks which had been the responsibility of the Enforcement Division prior to 1996.

Statewide District Organization

As shown on the map in Exhibit 1, page 7, MGC functions are organized into a main office in Jackson and three district offices in Biloxi, Vicksburg, and Tunica. The districts oversee thirty casinos in the state. As of May 2001, MGC had 175 authorized personnel positions for all locations and 139 filled positions.

Exhibit 1: Mississippi Casinos Regulated by the Gaming Commission as of April 2001



SOURCE: PEER analysis.

PEER's 1996 Report on the Gaming Commission

In 1996, PEER reviewed the adequacy of MGC's operations and determined that MGC had begun licensing gaming establishments before its regulatory infrastructure was fully in place. Deficiencies at that time included a lack of an inspection program for monitoring the play of casino games and problems with pre-licensing financial investigations.

During the current review, PEER assessed whether the Gaming Commission had followed PEER's 1996 recommendations to determine how effective the commission was regulating the gaming industry. PEER also focused specifically on the management and training of enforcement agents, the approval and control of gaming devices, and management's handling of regulatory and personnel policies, travel and vehicle use, and information systems.

In this report, PEER summarizes 1996 recommendations and conclusions, notes MGC's response, and introduces follow-up conclusions by major gaming regulation function.

PEER did not review any aspects of the charitable gaming function, as PEER had issued a report on charitable gaming in 1997, entitled *An Evaluation of the Mississippi Gaming Commission's Bingo Division*.

Investigations of Individuals and Corporations Involved in Mississippi Gaming

Although MGC has improved its efficiency in conducting criminal background checks of gaming employees, the agency is still issuing work permits to employees before completing the checks. Also, the agency is still not conducting thorough financial investigations of corporations applying to operate gaming establishments in Mississippi. These deficiencies limit MGC's effectiveness in excluding unqualified individuals and entities from the state's gaming industry.

In order to protect the state from organized crime and other unwanted activity, MGC conducts personal and financial background checks of individuals and corporations who will be involved in the business of providing gaming services to the casino customers in the state. Investigations and background checks performed by MGC include:

- findings of suitability for corporations and other legal entities--i.e., "corporate investigations" of casinos, manufacturers, and distributors and their holding companies. As of January 2001 there were 114 licensed legal entities, including 34 scheduled for re-licensure in 2001, and 28 applicants on the waiting list to be licensed. The 34 licensees scheduled for re-licensure included 16 to be re-licensed through an on-site investigation and 18 scheduled for in-house application reviews. (Current regulations require licensed applicants to re-submit new applications with certain updated information every three years. If all information appears satisfactory, MGC is not required to conduct another on-site investigation until nine years have passed.);
- work permits for every casino employee (more than 39,000 currently work in the casinos); and,
- findings of suitability for directors, owners, and high-level managers of casino-related businesses in the state and key employee investigations of other casino employees who have major roles in operating the casinos (both of which include personal financial analysis). These personal findings of suitability include twenty years of checks of legal records and key employee investigations include legal checks for five years. As of April 2001, there were approximately 518 key employees at casinos that the commission required to be licensed, 49 of whose investigations

were pending, and 464 requiring findings of suitability, 55 of which were pending.

Corporate Investigations

1996 Conclusions and Recommendations

In 1996, PEER found that MGC's investigations of corporations applying to operate gaming establishments in Mississippi were lacking in financial depth, thus exposing the state to the risk that gaming establishments could be controlled by companies that are not financially sound.

PEER recommended that MGC proceed with the work that its newly formed Compliance Division had outlined for conducting financial pre-licensing investigations of corporations. PEER also recommended that MGC put a regulatory infrastructure in place to conduct corporate financial investigations, including hiring qualified individuals and developing an analytical plan. The compliance director on staff in 1996 had stated to PEER that MGC planned to conduct extensive analysis of companies under investigation, including reviewing the financial viability of the companies by performing cash flow, ratio, and trend analyses.

Follow-Up Conclusions

MGC's corporate investigators do not routinely conduct critical tests of financial viability such as cash flow analysis; debt, profitability and liquidity ratios; and financial trend analysis. Also, MGC's corporate investigators do not document that they have taken necessary steps to identify all legal judgments and regulatory findings against corporations applying to operate gaming establishments in Mississippi. Thorough corporate investigations are necessary to ensure that such businesses are financially sound.

The Compliance Division conducts MGC's findings of suitability investigations for corporations and other entities to join the gaming industry in Mississippi. MISS. CODE ANN. Section 75-76-29 states that MGC staff shall investigate the qualifications of each applicant for a gaming license. Sections 75-76-209, 75-76-225, and 75-76-239 state that corporations, partnerships, and related holding companies applying for licenses must provide management and financial information to the commission. MGC can use this information in its investigations.

The commission should set the staff's direction in reviewing licensees' qualifications by establishing formal, written policies on conducting corporate investigations.

Also, the *Mississippi Gaming Regulations* state that the MGC Executive Director and commission may consider the business history of an applicant for licensing, including its record of financial stability, integrity, and success of operations. According to the Director of Compliance, a division officer travels to the corporate offices of MGC license applicants to review business correspondence files, listings of stock holders, financial statements, and legal documents to determine the history of the applicant, including the sources of business funds. She stated that the investigator also conducts background checks on the corporate applicant by contacting regulatory and law enforcement agencies to request records that may exist regarding legal judgments and negative regulatory findings.

Although MGC has access to the financial and legal information that applies to corporate applicants, MGC has not used this information to its best advantage in conducting corporate investigations because:

- ***The commission lacks formal, written policies or an analytical plan that directs investigators to conduct specific types of financial or other analysis of corporate license applicants.***

The law and regulations regarding gaming investigations allow MGC to obtain financial information, but do not say how or whether the information must be analyzed in order to determine the qualifications of corporate licensees. The commission should set direction for the staff in reviewing qualifications of licensees.

Although the Compliance Division began a process to conduct corporate financial investigations in 1996, the commission never established policies or procedures to outline items that should be analyzed by its corporate investigations personnel. The Compliance Division's lack of financial analysis procedures has resulted because the commission never established requirements for the investigations or set in writing an overall purpose for the investigations. For instance, if the commission had described through policies that the financial viability of licensees should be determined, then the Compliance Division would be alerted that cash flow, ratio, and trend analysis must be performed to fulfill the board's purpose adequately.

The only written procedures developed by the Compliance Division consist of a checklist of items that are to be completed by the investigator. Because there are no workpapers (discussed below), the agency has no evidence that these procedures have been

performed. Division personnel confirmed to PEER that certain financial procedures listed on the checklist are not being conducted. For instance, PEER found that the Compliance Division had conducted some reviews that included ratio and trend analysis subsequent to 1996, but that in 2000 the division dropped this type of analysis from the scope of its reviews. Currently, the division conducts no specific procedures for financial analysis other than reading financial statements and citing when a company has financial problems significant enough that they could affect the company's ability to remain as an ongoing concern in the future.

- ***The division does not maintain workpapers to prove that investigative work is being conducted (including financial analysis and background checks). Also, written reports to the commission do not contain evidence that financial analysis and background checks are being performed.***

The division does not maintain workpapers or files to document that corporate background checks and other work steps have actually been completed--i.e., to show an audit trail of procedures performed as part of the investigation. However, it is standard practice in auditing and investigation professions to maintain workpapers documenting that the work has been completed.

Similarly, the division's corporate investigation reports presented to the board do not list the actual procedures carried out by the investigator (e.g., what and whether background check information has been obtained from various regulatory agencies, what documents were researched and reviewed on-site at the corporate office location). The reports also do not regularly include evidence that the investigator has conducted any financial analysis. No conclusions are made about a company's financial position or ability, except when a corporation has financial problems that may affect the ongoing viability of the company.

Although it is standard auditing and investigation practice to maintain workpapers, MGC's Compliance Division does not do so.

Without formal, written policies to guide corporate financial investigations, MGC cannot assure that the corporate investigator is carrying out the proper procedures and the will of the board. Without an audit trail and written procedures, the Compliance Division cannot adequately assure that the investigation work is being completed. Allowing corporations to be licensed without thorough background and financial checks could

result in corporations doing business in Mississippi that are not financially sound. Corporations could also have financial problems that would negatively affect:

- the operations of casinos, if financially troubled manufacturers or distributors do not deliver products or services as promised;
- gaming patrons, if casino services are not delivered as promised; or,
- employees, through layoffs.

Allowing corporations to be licensed without thorough background and financial checks could result in corporations doing business in Mississippi that are not financially sound.

During the current review, PEER determined that MGC had appointed a person with the appropriate financial, analytical, and gaming background and experience to conduct the corporate financial reviews. Thus the staff resources are in place to conduct the proper type of analysis if the agency would set the direction by establishing formal, written policies and adequate procedures.

Work Permits

1996 Conclusions and Recommendations

In 1996, PEER determined that MGC routinely issued work permits to gaming employees before their background checks were complete, resulting in casinos employing some individuals with criminal backgrounds, a violation of state law. MGC had begun this practice during the time when all casinos were in the start-up phase and these procedures allowed the casinos to fill their positions in a timely manner.

PEER recommended that MGC expedite the background check process for work permits by reducing the time involved in all procedures under the commission's control (e.g., improving the readability of fingerprints submitted to the FBI).

Follow-up Conclusions

MGC routinely issues work permits to gaming employees before their criminal background checks are complete, resulting in employment by Mississippi casinos of a small percentage of persons whose employment is prohibited by state law and MGC regulations—i.e., those with felony convictions and certain misdemeanor convictions.

Requirements for Work Permits and Work Permitting Process

Before any gaming employee can work in a Mississippi casino, the MGC must issue a work permit to the individual. MISS. CODE ANN. Section 75-76-5 (n) defines a gaming employee to be any individual who is connected with the operation of a gaming establishment licensed to conduct any game. From January 1, 2000, to December 31, 2000, the MGC issued 18,084 work permits.

CODE Section 75-76-131 states that a work permit shall not be issued to individuals who have been convicted of a felony. Also, certain prohibited misdemeanors (e.g., conviction of a gaming, theft, or drug misdemeanor within three years prior to the date of application) may also be grounds for a work permit not to be issued to an applicant. Furthermore, MGC's Regulation II. J. also supports statutory law that convicted felons shall not receive a work permit, and those convicted of certain misdemeanors may not be issued work permits.

If, after a work permit has been issued to an applicant, the MGC later discovers the applicant has certain criminal convictions, the agency begins its proceedings for the revocation of the work permit. This process is initiated by the executive director's recommendation to the commission that the work permit be revoked due to MGC's discovery of criminal convictions on the applicant's record. If the applicant objects to the recommendation of the executive director, a hearing is held where the final determination of whether the work permit should be revoked is decided by a hearing examiner.

MGC Continues to Issue Work Permits Prematurely

Although MGC has reduced its processing time, the agency continues to issue work permits before background checks are completed, thus exposing the state to risks of workers with felony (and certain misdemeanor) convictions.

In violation of state law, MGC has continued its practice, begun during the start-up phase of Mississippi's casinos, of issuing work permits before background checks are complete. This exposes the state to risks of workers with felony convictions.

MGC continues to violate the law because its procedures allow issuance of permits to employees before their background checks are complete. This practice continues to result in employment of individuals with charges or convictions of felonies or prohibited misdemeanors in a small percentage of cases--for example, at least thirty-nine of 18,084 cases in 2000. The statutory violations have occurred as outlined below:

- ***Although MGC has reduced its average number of days for revoking those permits that should have not been issued, the agency has continued to issue work permits before background checks are completed, thus allowing persons convicted of felonies or selected misdemeanors to work at least temporarily in the state's gaming industry.***

In calendar year 2000, MGC enforcement agents submitted 157 work permit cases to the MGC legal department to determine whether the permits should be revoked. PEER staff examined a sample of more than half of these cases (ninety-one) and found that thirty-nine revocation cases occurred because the applicants had been issued a gaming permit before their background checks revealed that they had been charged with or convicted of felonies or prohibited misdemeanors. (Some of the revocations occurred because the applicants had been convicted of the prohibited crimes--21 felonies and 9 misdemeanors. Nine other permits were revoked because applicants had lied on their applications about being charged with felonies. The crimes included theft, embezzlement, and drug-related charges.) PEER analysis determined that these thirty-nine gaming employees had worked eight and a half months (258 days) on average in casinos before their permits were revoked due to their criminal histories. (The 258 days included 186 days between issuance of the permit and notification to attend revocation hearings and seventy-two days between notification of hearings and the final disposition of the hearing.)

Eight and a half months is an improvement over 352 days, cited in the 1996 report as the average number of days taken to revoke work permits that had been issued despite felonies or applicable misdemeanors. However, eight and a half months is still unacceptable, because individuals with criminal and other records should not be allowed to work for that length of time in casinos where they could potentially pose a threat to casino regulation.

- ***MGC has allowed casino employees to work without a valid work permit.***

Mississippi law states that a work permit expires if the holder of the work permit is not employed as a gaming employee within the jurisdiction of the issuing authority for more than ninety days. From March 24-April 13, 2001, MGC violated the ninety-day requirement in a poker tournament that was held in

Tunica. The law was violated when MGC allowed thirty-five out-of-state poker dealers (who had been previously issued work permits in February and March 2000 for another tournament) to work in Mississippi using expired work permits. The permits had lapsed because the poker dealers from out-of-state had not been employed in Mississippi since the 2000 tournament.

In the same Tunica poker tournament, the MGC issued work permits to individuals whose background checks had not been completed. More specifically, seventy-one out-of-state dealers were issued work permits for the Mississippi tournament before the results of the background checks had been received by the MGC. As a result, Mississippi was exposed to outside poker dealers who may have committed felonies in other states.

Permit Processing Time Should Continue to Improve Due to Technology

Electronic fingerprinting technology and communication have dramatically reduced permit processing time, and should continue to do so.

Electronic fingerprinting machines in MGC districts were electronically connected to the State Criminal Intelligence Center in early 2001. This has reportedly reduced the average period for processing permits from three to five months (prior to January 2001) to approximately two weeks (currently). However, MGC should immediately begin complying with CODE Section 75-76-131, which prohibits individuals from working for casinos for any amount of time without permits.

Issuing Permits Prematurely Increases Risk and Wastes Resources

Besides allowing individuals with criminal backgrounds to infiltrate casinos, issuing permits prematurely and then having to revoke them unnecessarily uses agency resources that could be otherwise used to regulate gaming.

The time and effort spent in revoking work permits could be used to enforce gaming laws, rather than to revoke permits that should have not been issued initially.

Issuing work permits to applicants in violation of state law allows individuals who have criminal backgrounds to work in casinos, which could lead to infiltration of organized crime, increased thefts on the gaming premises, and other unwanted activity by gaming employees. Also, issuing work permits prematurely requires MGC to incur additional time and expense because personnel must re-review a file and prepare it for an appeals process when an

individual who was too hastily granted a work permit requests a hearing because of the revocation. The time and effort spent in the revoking of work permits could be used in other areas such as enforcing the gaming laws, rather than in revoking permits that should have not been issued initially.

Key Employee Investigations

1996 Conclusions and Recommendations

Key employees are defined in Section II. J. 8. of the regulations as those employees who have the “power to exercise a significant influence over decisions concerning any part of the operation of a gaming licensee” and anyone else who is also listed in the annual employee reports of casinos.

In 1996, PEER noted that MGC had completed key employee investigations of only .2% of Mississippi’s key employees (4,800 employees at that time).

PEER recommended that MGC continue using existing resources to obtain the investigatory services needed in completing a higher percentage of key employee investigations.

Follow-up Conclusions

Since 1996, MGC has redefined the subgroup of key employees who must be licensed, subsequently reducing the number of employees requiring in-depth background investigations and increasing its percentage of key employee investigations completed. However, the agency does not have an adequate method of accounting for and updating the list of those employees who are defined as key employees. Not conducting in-depth background investigations of all gaming employees in key positions exposes the state to the risk of hiring individuals into these positions with known criminal records and/or financial problems.

Licensing Required for Certain Key Employees

MGC requires that every casino compile a report with the names of all individuals with salaries of \$60,000 or more; those who extend gaming credit, hire and terminate employees, and participate in counting cash on a regular basis; floor shift supervisors; accounting managers; and those who formulate management policy and are important or necessary to the operation of the gaming establishment.

The regulations provide discretion to the Executive Director to determine which of the key employees must be licensed. Anyone working at a casino who is not licensed receives a work permit, as explained on page 14. While all work-permitted employees undergo fingerprinting and receive a background check of criminal history through the State Criminal Information Center and the FBI, those key employees who must be licensed are investigated on a more rigorous basis. Specifically, MGC investigators request three years of key employee tax returns, analyze licensee cash flow, and conduct onsite criminal history checks at every location where the license applicant has resided in the last five years.

Key investigations Completed

At the time of the 1996 report, MGC had completed only nine key employee investigations, or .2% of the estimated 4,800 key employees listed on the annual reports at that time. Since that time, MGC has defined the key employees who are most important to the operations of the casinos and who must be licensed. MGC currently licenses key employees who direct or manage security, finances, internal audit, slot and game operations and shifts, cash cage, credit, surveillance, and food and beverage operations.

As of March 2001, approximately 518 of 6,500 key employees working in the casinos were required by MGC to be licensed. At that time MGC had performed key background checks on 469 of the 518, or 90.5%. The 49 other key employee applicants had been assigned or were pending assignment to MGC investigators for their key background checks. Although only 49 checks were pending in March 2001, the Investigations Division conducts substantially more key background checks in a year because of the employee turnover in the casino industry. For instance, in FY 2000, MGC conducted 248 key employee license investigations.

As of 2001 MGC had complied with PEER's recommendation by:

- increasing its number of key investigations completed from 33 in FY 1996 to 212 in FY 2000; and,
- completing a higher percentage of key employee investigations than in 1996. However, the percentage of total key employee investigations completed has increased to such a high number (90.5%) because MGC narrowed its definition of key license requirements to include those who had the most widespread influence over casino operations. If MGC had a policy to license (rather than permit) all of the approximately 6,500 key

employees working in casinos in 2001, the percentage of the total completed, at 248 per year, would be approximately 4%.

Managing Key Employee and Work Permit Data

During the review, PEER determined that MGC does not have an adequate method of accounting for and updating the list of those employees who are defined as key employees. MGC was making efforts during the PEER review to improve its system of tracking key employees, a difficult process since the number of key employees changes frequently. Casinos have ongoing turnover, including exits from the industry as well as employees changing jobs from one casino to another. In order to maintain more current information, the Investigation Division has drafted a policy to increase reporting by casinos from annually to quarterly, which should help the division's oversight. The division also should develop a database that is coded so that a report of only current key employees can be instantly produced.

Without a good management information system to account for the numbers of casino personnel who must be investigated and licensed, the risk increases that employees with unsavory backgrounds will be hired into the industry without MGC's knowledge.

PEER also determined that MGC's process for tracking revoked work permit cases was inadequate. The Investigations Division does not have a method to retrieve automatically from its central database a list of revoked work permit cases and therefore has difficulty in compiling that information. During the review, the Investigations Division provided to PEER three separate lists from various sources such as district offices, each of which had a different final calculation for the number of work permits that were submitted for revocation in the year 2000. This conflicting information raises the question about whether and at what point the information MGC has regarding revoked work permits is complete or accurate.

Without a good management information system in place to account for the numbers of personnel who must be investigated and licensed, the risk increases that employees with unsavory backgrounds will be hired into the industry without the knowledge of MGC. Having employees with criminal or other unfavorable backgrounds work in the industry increases the risk of theft from the casinos, which can affect the tax revenue collected by the state.

Show Cause Cases and Hearings

1996 Conclusions and Recommendations

MGC regulations require an agent who observes a violation of gaming statutes or regulations to file an incident report with the district office. After reviewing the incident report, MGC officials notify the alleged perpetrator(s) to “show cause” why the alleged misconduct is not in violation of the cited statute or regulation, thereby affording the accused due process.

In 1996, PEER found insufficient documentation in some of MGC’s show cause files. MGC had failed to provide minutes or notes of preliminary show cause hearings or documentation noting the outcome of the complaint.

PEER recommended that MGC maintain in its permanent records any motion and order, or any other document, denoting the reasoning and outcome for all show cause hearings. PEER also recommended that MGC standardize its fines for violations of statutes and regulations.

Follow-Up Conclusions

MGC files now contain documentation of the reasoning and outcome of its show cause hearings. Such hearings are held to determine appropriate fines or other penalties for violations of laws and regulations governing casino operations. However, the agency has not developed a central listing of show cause case dispositions that would assist in assessing fines consistently.

Documentation in Show Cause Files Has Improved

Section 75-76-103 of the MISSISSIPPI CODE gives the executive director of the Mississippi Gaming Commission the power to make appropriate investigations to ensure that casinos are abiding by statutes relating to gaming as well as the MGC’s regulations. This is accomplished by investigating and monitoring the casinos’ activities and citing them for violations.

Show cause hearings are the formal process in which casinos are given the opportunity to “show cause” why the alleged violation does not violate statutory law or a MGC regulation. Show cause hearings and preliminary hearings should be documented to ensure through an audit trail

that the hearings are conducted in a fair and consistent manner.

PEER found through a file review that MGC has documented the reasoning and outcome of all hearings in its CY 2000 show cause files. In all seven of the cases, the executive director gave a reason for his decision to levy a fine or his decision not to levy a fine. Most of the reasoning could either be seen literally in the transcripts of the preliminary show cause hearing or it could be gathered from the facts that occurred in each case.

Inventory of Show Cause Cases Needed

By not implementing an inventory of show cause cases, MGC could be inconsistent in future application of penalties. Also, an inventory of show cause cases proves that MGC has established written precedents upon which it could base future decisions.

MISS. CODE ANN. Section 75-76-103 authorizes MGC to levy fines against casinos and casino employees if they violate the Gaming Control Act or MGC's regulations. As discussed in the previous finding, the procedure through which MGC determines whether the law has been violated is a show cause hearing. MGC held seven show cause hearings in 2000, four of which resulted in fines ranging from \$2,500 to \$50,000.

To help ensure that the handling of cases is consistent, MGC should, at a minimum, keep an inventory of show cause cases, listing their disposition. The inventory of cases should:

- list whether a fine was assessed;
- show categories of types of violations and the reasoning for the fine amount or lack of fine; and,
- be used as a database to help ensure consistency.

By not implementing an inventory of show cause cases, MGC could be inconsistent in future application of penalties. Also, an inventory of show cause cases shows that MGC has established written precedents on which it could base future decisions.

The MGC Executive Director stated that when he makes decisions on amounts of fines for violations, he attempts to be consistent with past MGC fines. In response to PEER's suggestion to develop an inventory of show cause cases, the MGC Executive Director stated that an inventory list would be helpful and that MGC plans to develop such a list.

Compliance Reviews of Casino Operations

Since 1996, the Compliance Division has developed a cooperative working relationship with the State Tax Commission, which is responsible for determining the amount of casino revenues to be taxed. Since that time, MGC has also established a routine compliance review program to determine whether casinos comply with the agency's internal control standards for safeguarding revenues. However, MGC's review program does not contain steps regarding compliance with state laws governing patron disputes or federal laws governing the reporting of large cash transactions. Also, MGC has not yet conducted a full compliance review of 40% of the state's casinos.

Cooperation Between MGC and State Tax Commission Regarding Internal Control Over Casino Revenue

1996 Conclusions and Recommendations

In 1996, PEER recommended that the Gaming Commission and the State Tax Commission jointly develop and promulgate for the casinos a single set of minimum internal control standards and rules for defining gross revenue.

At the time of PEER's recommendation, a joint agreement was necessary to ensure that the work of collecting casino revenues be done in an efficient manner, with minimum confusion for regulators and casinos alike. The recommendation effected a compromise between the personnel at the two agencies who were involved in a controversy over who would be primarily responsible for defining gross revenue and setting internal control standards.

Follow-up Conclusions

Since 1996, the Compliance Division has developed a cooperative working relationship with the State Tax Commission, which is responsible for determining the amount of casino revenues to be taxed.

Gross revenues largely consist of winnings of the casino less losses paid to casino patrons. Minimum control

standards consist of a list of administrative and accounting procedures that should be carried out at casinos to ensure that:

- assets are safeguarded through accurate transactions and adequate records;
- financial records are accurate and reliable;
- transactions and access to assets are authorized by management;
- functions, duties, and responsibilities of personnel are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel; and,
- accounting for assets is compared with actual assets at reasonable intervals and appropriate action is taken by the casinos with respect to any discrepancies.

The state is concerned with protecting casino assets and gross revenues so that the state will receive the full share of casino revenues that are legally due to it. Defining gross revenues is important so that the casino will know the rules for reporting revenues for taxation.

MGC managers have stated that MGC now confers with the State Tax Commission on issues related to taxation of gross revenue.

In 2001, the MGC Compliance Division director told PEER that MGC's current procedures are to always confer with the State Tax Commission on issues related to taxation of gross revenue. She stated that an objective of compliance reviews is to determine that casino operations are such that they will not compromise gross revenue. She stated that MGC gives no opinion as to whether the gross revenue calculation is accurate, but recognizes this as the responsibility of the State Tax Commission.

State Tax Commission and MGC personnel told PEER that the two agencies currently:

- have a good working relationship;
- have no disagreements regarding procedures;
- have no significant areas of difference in their separate minimum internal control standards (which therefore causes no confusion for casinos), and as a result do not see a need for a joint agreement.

Conducting Ongoing Compliance Reviews of Licensees

1996 Conclusions and Recommendations

In 1996, PEER found that neither the Gaming Commission nor the State Tax Commission performed ongoing compliance review procedures to address certain risks associated with gaming, including financial stability of licensees, hidden ownership, and unreported debts.

PEER recommended that MGC proceed with the planned work of the Compliance Division, which became operational in July 1996, to conduct ongoing reviews of licensees for compliance with gaming laws and regulations.

Follow-up Conclusions

Since 1996, MGC has established a routine compliance review program to determine that casinos comply with the agency's internal control standards for safeguarding revenues. However, as of March 2001, 40% of the state's casinos (i.e., 12 of 30 casinos) had not yet undergone MGC's full internal control review.

PEER determined that, after a slow start subsequent to the 1996 PEER review, the Compliance Division now conducts regular compliance reviews (also described in this section as internal control reviews) of all casinos in the state. (Specifically, since the compliance director began managing the division in September 1999, the division has performed fifteen compliance reviews, or a little over one per month. In the three years prior to that, the division had performed a total of only seven compliance reviews, six of those in the Biloxi district, one in the Vicksburg district, and none in the Tunica district.) In FY 2000, the Compliance Division began issuing compliance review reports to the casinos and requiring that they respond in writing to the recommendations. The compliance reviews consist of unannounced visits and implementation of a specific program of audit steps.

Twelve casinos have never had full internal control reviews by MGC due to the lack of a compliance review program in the Vicksburg and Tunica districts prior to calendar year 2000. However, the Compliance Division plans to conduct a full internal control review of every casino every two years in the future, plus two interim (short, focused) compliance reviews for each casino during those two years.

Description of MGC's Compliance Review Process

The Compliance Division's compliance reviews are comprehensive in nature, consisting primarily of determining casinos' compliance with minimum internal control standards, which entails operational and financial-related compliance review procedures. Examples of Compliance Division activities include:

- observation of casino employee actions and written casino procedures to determine that there is segregation of duties between personnel, thus reducing opportunities for theft (by providing checks and balances--i.e., oversight of employee actions by peers and supervisors);
- observation of casino employee actions to determine that they are conducting proper security procedures (for example, at the beginning of every compliance review, compliance officers--from other MGC districts in the state--visit casinos after midnight disguised as casino patrons to determine such controls as whether security guards watch the money carts to determine that no one steals cash from the carts);
- testing of slot machines on the floor to determine that the software counts coins, bills, and transactions accurately;
- conducting "bankroll verifications" to ensure that the licensee has maintained a minimum cash reserve amount sufficient to protect the licensee's patrons against defaults in gaming debts owed by the casinos.

MGC does not use an operating manual for compliance reviews.

The Compliance Division reports that it has now performed twenty-two full internal control reviews, including ten that had been conducted on records dated 1997 to 1999 and twelve on records in the year 2000. The Compliance Director stated that if the division is not satisfied with a casino's response, it continues to work with the casino until the issue is resolved. Also, the division is now undergoing a review of its compliance review program to ensure that it is updated to current casino operations in Mississippi.

Areas Needing Improvement

Although PEER determined that MGC has now developed an ongoing compliance review process that addresses major areas of concern, the following concerns remain:

- MGC has still not begun to use an operating manual (i.e., overall policies for the implementation of its compliance reviews and guidance of compliance officers), even though the former Compliance Division director had compiled a draft manual in July 1997. An operating manual should include items to assist auditors in understanding the elements of casino auditing in general, such as representative diagrams of the casino cage and money count rooms in a casino, flow charts of casino operations, copies of documents that auditors must review during a compliance review, and descriptions of events that affect accountability. The Compliance Director told PEER that she plans to develop a current operating manual and update the compliance review program (detailed audit procedures) now in use.
- In the area of statistical analysis of casino slot-machine payout (which probably includes the most technically complicated steps in the compliance review process), PEER reviewed the Compliance Division's actual implementation of audit steps and found they were not being implemented consistently statewide.

Monitoring Casino Handling of Patron Disputes

1996 Conclusions and Recommendations

In 1996, PEER recommended that the Gaming Commission include monitoring of casino compliance with legal requirements governing the handling of patron disputes as part of its ongoing casino compliance review program.

Follow-up Conclusions

MGC's compliance review program does not include steps for determining that the casinos have a process for properly handling, recording, and reporting patron disputes.

Patron disputes arise when patrons to the casinos are unhappy with the results of a game. They may believe that they have been treated unfairly (e.g., the instructions to a game were misleading and resulted in the loss of money

which perhaps would not have been wagered if they had understood the game) or, in some cases, may try to take advantage of the casinos (e.g., state that a slot machine took coins which in fact it did not).

MGC should ensure that casinos have a process for proper handling, recording, and reporting of patron disputes, as required by state law.

Enforcement agent actions and enforcement regulations are the primary methods to monitor disputes. However, MGC should also include in its compliance review program a step to determine that the casinos have a process for proper handling of patron disputes and a process for recording and reporting patron disputes to MGC as required by the statutes (chiefly, MISS. CODE ANN. Section 75-76-159).

Monitoring of Federal Currency Transaction Reporting

1996 Conclusions and Recommendations

In 1996, PEER recommended that MGC perform audit procedures to monitor whether casinos are in compliance with federal statutes pertaining to currency transactions (United States Code, Title 31, Section 5316).

MGC asserted in its response to the PEER report that the Compliance Division would implement procedures to monitor compliance with Title 31 as part of its ongoing compliance review cycle. The commission also stated that it would request each casino to forward copies of all currency transaction reports to the Compliance Division within fifteen days from the date of the transaction and that the division would establish a trouble log to identify any forms not properly completed. The commission also stated that copies of the report would be forwarded to the Internal Revenue Service and that they would be available to the Enforcement and Intelligence divisions to assist other law enforcement agencies in criminal investigations.

Follow-up Conclusions

MGC's compliance review program does not include steps to determine that casinos have procedures to comply with the federal law for reporting large currency transactions.

Title 31 of the United States Code is a federal law established to require reporting by banks and other entities of certain cash transactions. The law was designed to help prevent money laundering. Title 31 requires that casinos report cash transactions exceeding \$10,000 to the Internal Revenue Service.

MGC should monitor casinos' compliance with Title 31 of the U.S. Code, which was designed to help prevent money laundering.

Although MGC began to collect copies of the transaction reports from the casinos as it had described in its response to the PEER report in 1996, the agency did not establish the audit procedures that it had described in 1996. Also, in 1999, under a new Executive Director and a new Compliance Director, MGC halted the practice of requiring casinos to provide copies of the forms. MGC officials stated they dropped any attempt to monitor federal currency transactions because of Internal Revenue Service jurisdiction and lack of manpower.

PEER agrees that it is the Internal Revenue Service's primary duty to monitor the Currency Transaction Reports and that all steps in MGC's original plan of action may not be crucial. However, it is in the state's best interest that casinos implement the federal legislation that may deter money laundering in Mississippi's casinos. MGC could help to ensure that this occurs by determining that the casinos have established procedures to comply with this law.

Gaming Regulation Enforcement

MGC has not developed a casino inspection program that specifies the steps enforcement agents should perform to ensure that casino games are being conducted in accordance with state law and MGC regulations. Also, MGC's training program does not ensure that all of its enforcement agents have the knowledge and skills necessary to ensure that licensed gaming is conducted honestly and competitively.

The Enforcement Division is responsible for the regulation of gaming in accordance with the Gaming Control Act and Mississippi Gaming Commission Regulations. This responsibility embodies both law enforcement and regulatory functions. The Enforcement Division is responsible for performing these specific tasks:

- inspecting and examining premises;
- inspecting equipment and supplies;
- seizing, removing, and impounding equipment for examination and inspection;
- handling patron disputes;
- handling gaming violations; and,
- accessing and examining casino records.

The conclusions below outline problems related to gaming regulation enforcement in Mississippi.

Need for Improved Training of Enforcement Personnel

1996 Conclusions and Recommendations

In 1996, PEER found that MGC's enforcement agent training requirements were insufficient to ensure the expertise necessary to detect problems with casino games. Agents were not required to take training specifically related to detection of cheating on the games. Also, the casino industry provided most of what gaming-related training the agents received, which could hamper the independence of agents. PEER also noted that MGC did not have a formal training monitoring system and that district managers were responsible for planning and monitoring the training of their own district. Thus agents in various parts of the state were not being equally

trained, which could result in inconsistent enforcement of gaming laws and regulations statewide.

Follow-up Conclusions

Training of Enforcement Personnel

PEER found that MGC had addressed the deficiency noted in the 1996 report concerning needed specific training of enforcement personnel related to detection of cheating on games and slot machines. Specifically, MGC offered two seven-hour seminars on table and slot machine cheating and one twenty-four-hour games protection workshop between October 2000 and January 2001. However, as of May 2001, MGC has no written requirement that all enforcement personnel attend these courses. Twenty-five MGC personnel, including eighteen enforcement officers, attended one or the other of the training courses.

During the current review PEER noted that training of enforcement personnel in general (although improved since 1996) was deficient in areas described in the following sections.

Although MGC has added the training courses recommended by PEER in its 1996 review, the agency does not ensure that all enforcement officers are adequately trained to have the knowledge, skills, and abilities necessary to perform their job duties successfully.

MGC's policy is to provide 80 hours of in-service training annually to each enforcement agent.

In November 1995, MGC established a policy to provide "80 hours of in-service training. . .to each law enforcement officer on an annual basis." (Also, since 1995 MGC has hired non-law enforcement officers, "regulatory specialists," who are also covered by the eighty-hour-per-year training policy.) The purpose of MGC's policy was to make "job-related educational opportunities available to its employees" to ensure they had the "skills, education, and experiences necessary to perform their work." Currently, MGC offers several types of training for its enforcement personnel, including:

- state certification of new law enforcement agents if they are not state-certified law enforcement officers at the time of their employment (these employees must graduate from the Mississippi Law Enforcement Officer Training Academy within their first year of MGC employment to keep their position);
- field training of new personnel under the direct supervision of an experienced gaming agent;

- training courses at the MGC Regulatory Academy in Biloxi, Mississippi; and,
- in-service training at other MGC facilities or off-site.

Field Training Program

In two of three MGC districts in the state, the sufficiency of training cannot be determined because the districts have not developed written lesson plans and performance objectives or a system for documenting training completion.

After assignment to one of the three district offices, MGC enforcement personnel take part in field training under the supervision of a senior agent. In field training, agents learn administrative and regulatory responsibilities and experience what is expected of them on a daily basis.

Only the Southern District has established a training program that includes objectives and requires that specific lesson topics be completed and documented.

PEER found that field training varies among the three districts and that only the Southern District has established a program that includes objectives for training and requires that specific lesson topics be completed and documented. The other two districts' training was insufficient because they did not have written field training materials or objectives for use in instructing their new personnel. None of the districts have established minimum qualifications for the training instructors, such as years or types of experience required.

In May 2000, the MGC Training Officer proposed to the MGC Chief of Staff that the field training program developed by the Southern District be adopted for use as a statewide policy. Executive management has not taken any action on this proposal, which includes the necessary components and would help to ensure that all enforcement officers in the state receive the necessary field training.

None of the MGC districts have established minimum qualifications for training instructors, such as years or types of experience required.

The MGC districts that do not use a field training plan cannot ensure that their gaming enforcement personnel have a common understanding of their job performance requirements. They may be trained to different competency standards for some of their responsibilities. This situation has also created the potential for imposing differently interpreted regulatory standards and methods on the gaming industry.

MGC Regulatory Academy

MGC has not established course objectives or adequate competency standards for its Regulatory Academy to ensure that officers are trained uniformly. MGC also has not established a formal policy concerning the status of enforcement personnel who do not successfully complete the academy.

During their first year of employment, new enforcement personnel receive specialized training at the two-week MGC Regulatory Academy in Biloxi. The academy's goal is to provide personnel with the basic knowledge and skills that are required to fulfill their responsibilities through lectures, group discussions, and hands-on experience in playing casino games. MGC has conducted eight classes in the academy since 1998.

During this time, the academy's course materials (handouts) have included instruction in the following gaming regulation topics:

- policies and procedures;
- personal ethics and conduct;
- legal matters;
- regulating gaming operations and games;
- criminal investigations and techniques;
- patron complaints and disputes;
- internal casino controls and operations; and,
- play of the casino games and machines.

Although course materials appear detailed and helpful, MGC has not set course objectives outlining specific items which the agents are required to learn for the various courses taught.

Also, MGC has not set sufficient competency standards. Competency standards, which can include an instrument such as an examination, should be designed to ensure that trainees have reached a certain level of competence before they are allowed to graduate. Although the academy administers an exam to students that they must pass with a score of 80 of 100 points, the exam does not include questions on all of the course topics. The two exams that MGC provided to PEER included thirty questions each on how various table games were played and two to six questions each on slot machines and patron disputes. One of the tests had two questions on internal controls.

Neither exam included questions on ethics and conduct, legal and regulatory matters, or criminal investigations and techniques.

Without a complete exam or other competency standards, enforcement officers may not be trained to enforce regulations uniformly at all casinos.

Course objectives and competency standards help ensure that all agents learn the same subject material. Without course objectives, the actual content of the instruction on each topic could vary between sessions, based on factors such as knowledge and experience of the individual instructors. Without a complete exam or other competency standards, enforcement officers may not be trained to enforce the regulations uniformly for all casinos.

MGC also does not have a formal, written policy concerning the status of enforcement personnel who do not successfully complete the academy (for example, those who do not have a minimum score of 80 on the final exam, including any re-test). Thus, MGC does not have action steps in place to determine the employment status or future employment options of such individuals. Without a policy such as this, MGC cannot ensure that graduates of the training academy have mastered the basic knowledge, skills, and abilities necessary to perform as enforcement personnel.

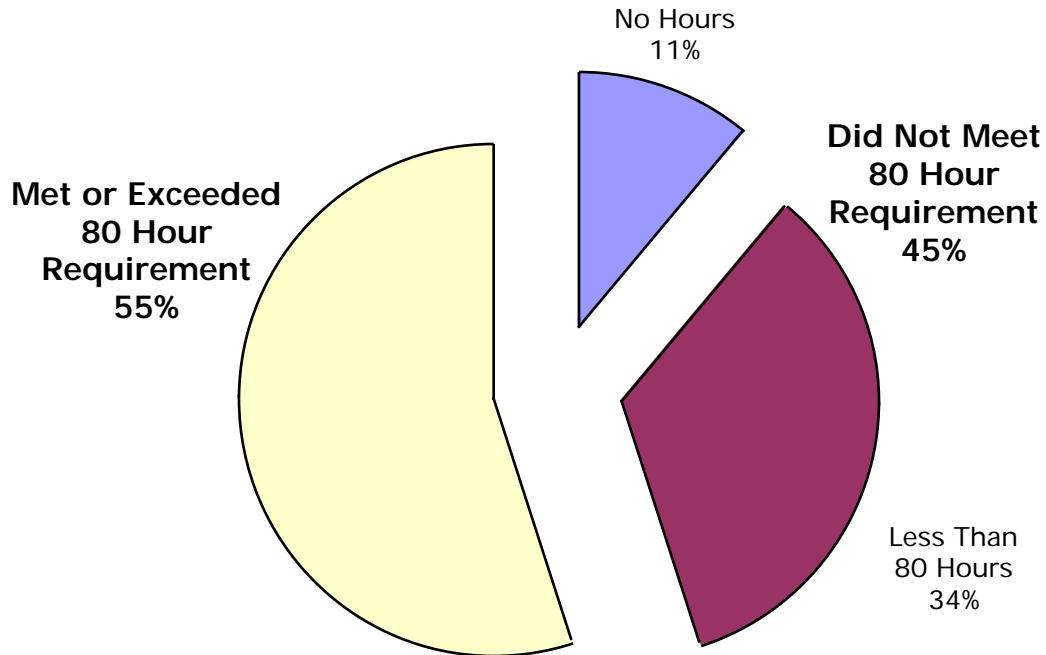
In-service Training Program

MGC has not ensured that all enforcement personnel receive the required eighty hours of in-service training each year.

As stated on page 30, enforcement personnel must complete eighty hours of annual in-service training. Forty hours may be fulfilled at the Mississippi Law Enforcement Officer Training Academy or through off-site training. The additional forty hours may include seminars or special schools such as those hosted by the Federal Bureau of Investigation. These courses can be used either to help maintain state certification as a law enforcement officer or to become a Certified Fraud Examiner.

Despite its policy, in practice MGC is not providing at least eighty hours of in-service training to all enforcement personnel at the district level. PEER reviewed the annual time accounting records of sixty-five MGC enforcement personnel during CY 1997 through CY 2000. The records showed that training requirements were met only 55% of the time. Employees received no training 11% of the time. Exhibit 2, page 34, summarizes the training hours completed.

Exhibit 2: Percentage of the Time that MGC Annual In-Service Training Hour Requirements for Enforcement Personnel Were Met in CY 1997-CY 2000



SOURCE: MGC time accounting records and training records

MGC has not taken actions necessary to ensure that all enforcement personnel have received the specified number of annual in-service training hours. For instance, the commission has not:

- established a formal system for monitoring training records to ensure that enforcement personnel are achieving their annual minimum in-service training requirements and documenting such training when it is received;
- established a centralized system for scheduling in-service training courses for each employee that needs the training;
- established an annual training budget under the control of the MGC Training Officer (as a result, the number of personnel attending a training course is limited to the number of employees whose training the

MGC Deputy Director will fund on an event-by-event basis.); or,

- established a mandatory curriculum, except for firearm, self-defense, and first aid training requirements. (The MGC Training Officer did prepare a tentative training curriculum for FY 2001.)

Need for Enforcement Inspection Program

1996 Conclusions and Recommendations

In its 1996 report, PEER found that the MGC enforcement program had regulatory deficiencies concerning its enforcement program for casino games. They included:

- no established criteria for judging the honesty and competitiveness of the games; and,
- no planned audit (inspection) program for identifying impediments to the conduct of honest and competitive games.

PEER recommended that MGC define and establish criteria for monitoring the “honest and competitive” conduct of table and electronic games and that the commission develop a written inspection program for monitoring the play of the games in compliance with gaming laws and regulations.

Follow-up Conclusions

The first regulatory objective of the Gaming Control Act, as stated in MISS. CODE ANN. Section 75-76-3, is to ensure that “licensed gaming is conducted honestly and competitively.”

MGC has assigned responsibility for regulating the games to several divisions. The Enforcement Division’s agents are responsible for monitoring the play of games on-site at the casinos and for other related statutory or regulatory functions or operations. Some examples of these related functions are:

- jackpot verifications;
- security and surveillance system operations;
- player disputes about money issues;
- player complaints about other casino matters;

- slot machine moves;
- playing rules for table games;
- coin testing and electronic testing of slot machines; and,
- checking machines periodically for state use approval.

As in most other areas of legalized gambling regulation, states vary in their approaches to regulating the games. Mississippi's on-site inspection system for electronic and table games does not have the depth of New Jersey's inspection processes. New Jersey provides the most intensive on-site regulation, with enforcement agents providing around-the-clock coverage in the casinos, including monitoring the play of the games from their own surveillance cameras.

Lack of Formal, Documented Inspections

MGC still lacks a formal, documented inspection program to assure that its enforcement personnel maximize their productivity in monitoring the gaming industry's games and related activities in accordance with provisions of the Gaming Control Act and MGC regulations.

MGC's casino inspections are not routinely planned, scheduled, or conducted on a standardized basis either among or within the three district operations. The following paragraphs discuss deficiencies and illustrate the inadequacy of the existing system.

Problems with Casino Inspections

MGC does not have an inspection system that requires that enforcement personnel inspect every facet of each casino's operations a pre-determined number of times within a given period.

MGC has no established inspection system that requires that districts inspect every facet of each casino's operations a pre-determined number of times (e.g., every thirty days on a random basis). Thus, the enforcement personnel determine who, what, when, and how often their inspections will be conducted unless the district director or their supervisor requests them to check a specific area at a specific casino. As a result, the inspection system varies among the districts and within a district.

The enforcement personnel also do not use a comprehensive checklist that documents their evaluations of the casino games and related operations. They either use a one-page casino observation form, the casino's copy

of its MGC-approved internal control procedures, or no checklist at all. The only exception is a sweep inspection of a casino operation, in which enforcement personnel use a detailed checklist that MGC developed for use in casino openings or sweep inspections. The sweep inspection is a “no notice” evaluation of the entire casino operation simultaneously by a team of five or six enforcement personnel.

MGC enforcement personnel do not use a comprehensive checklist to document their evaluations of casino games and operations.

Enforcement personnel also do not document their inspection results consistently and sufficiently. The MGC Enforcement Division Activity Blotter is the form MGC has devised for recording individual work activities by time, agent name, work activity, and action taken during the scheduled work shift. Typical information reported on the blotter is usually noted as one or more of the following:

- performed a casino observation or regulatory inspection;
- identified the inspected areas without any other comment; or,
- identified the inspected areas with some finding and/or MGC action detail.

Coverage of Casino Operations by Enforcement Personnel

MGC districts do not use a work schedule that ensures that its three districts provide twenty-four-hour coverage, seven days per week, on a random, “no notice” basis. The scheduled enforcement personnel in the Central and Northern districts provide sixteen and seventeen hours coverage, respectively, Monday through Sunday. The Southern District provides twenty-four-hour coverage Monday through Friday and sixteen hours coverage on Saturday and Sunday.

All MGC districts do not provide twenty-four-hour enforcement coverage, seven days a week, on a “no notice” basis.

MGC uses “on-call” officers to cover the remaining seven or eight hours on Saturday and Sunday. These “on-call” enforcement personnel only visit casino operations upon request to handle casino-identified statutory or regulatory enforcement matters.

Time Spent on On-Site Casino Responsibilities

PEER analyzed the work activity hours of enforcement personnel from July 1, 1997, through January 31, 2001. During this period, these personnel spent approximately eighty-three percent of their time in off-site casino administrative responsibilities such as work permitting,

fingerprinting, background interviews, patron disputes and complaints, and training. Therefore, enforcement personnel spent only approximately seventeen percent of their time fulfilling their on-site casino responsibilities. These responsibilities are those that help determine whether the games are played “honestly and competitively” in accordance with state law and regulations.

From July 1, 1997, through January 31, 2001, MGC enforcement personnel spent only 17% of their time fulfilling on-site casino responsibilities to determine whether the games were played in accordance with state law and regulations.

The impact of the lack of an inspection program is that MGC has not achieved its first regulatory objective in the Gaming Control Act--i.e., to ensure licensed gaming is conducted “honestly and competitively.” Thus, MGC has not insured that the financial and other interests of the state and its citizens in the gaming industry have been protected in accordance with the legislative intent for the play of games.

Oversight and Control of Electronic Gaming Devices

Because MGC does not thoroughly document the steps that it takes to approve electronic gaming devices and modifications thereto, PEER could not verify whether the approval process is adequate to ensure that the devices comply with legal requirements (e.g., “honest and competitive” play of the games, eighty percent minimum payout). Further, MGC does not test an adequate sample of proposed device modifications or provide adequate oversight through statistical analysis and machine verification checks. Insufficient oversight could result in increased opportunities for theft from slot machines or in casino gaming devices that are confusing and/or unfair to patrons.

MISS. CODE ANN. Section 75-76-99 states that any gaming device operated in the state must be approved for operation by MGC. The MGC, through its regulation IV.4, is responsible for approving electronic gaming devices (i.e., slot machines) used at the state’s casinos. The regulations require that MGC approve devices which:

- use a random selection process to determine the game outcome of each play of a game;
- can be monitored through an online data management system; and,
- exhibit other similar qualities to help assure that they are fair to the gaming patron and cannot be compromised in cheating.

Perhaps the most easily identifiable slot machine regulation is Section IV. 4. (b), which requires that a machine be configured to pay out (on average) an amount of eighty percent or more of the coins received into the machine.

It is in MGC’s best interest to review the machines prior to approval to assure that the machines comply with the gaming regulations and other procedures established by the MGC Gaming Lab (staffed by electrical engineers who are responsible for approving the devices).

MGC should also set up procedures to monitor the machines periodically to ensure that they continue to function as approved. The enforcement and compliance divisions both have roles to play in monitoring, as discussed below.

1996 Conclusions and Recommendations

As noted above, in the 1996 report PEER stated that MGC had not established written criteria for use in determining whether a proposed game was inherently honest and competitive and for monitoring to determine whether games had been conducted honestly and competitively while in play in the casinos. PEER recommended that MGC define and establish criteria for monitoring the “honest and competitive” conduct of both table and electronic games.

Follow-up Conclusions

In the 1996 report, PEER did not specifically address the issues of documenting lab approval steps, analyzing statistical data to verify that gaming devices have approved characteristics, and physically verifying that devices at casinos have been approved. However, these procedures would assist in determining that games are conducted in an honest and competitive manner. These issues are discussed in the following sections.

Approval of Electronic Gaming Devices

The Gaming Lab has not sufficiently documented its engineering approval steps.

Responsibilities of the Gaming Lab

The Mississippi Gaming Lab, a part of MGC, is responsible for approving gaming devices used at Mississippi casinos. The lab is largely funded through inspection fees charged to manufacturers of electronic gaming devices. PEER determined that from an auditing (internal control) standpoint, the lab’s procedures needed improvement to ensure full effectiveness. PEER’s recommendations are supported by the findings of a 1997 Mississippi State University engineering study.

In 1997, MGC contracted with three MSU computer and industrial engineering professors to review procedures and practices of the MGC Gaming Lab. While overall the professors concluded that the lab was “organized and effective” and that staff used appropriate statistical and electronic procedures, the professors suggested that the lab improve its effectiveness by:

- completing its lab policies and procedures manual, which includes sections on statistical analysis, and developing an audit program to ensure that lab procedures are being followed;
- addressing the security risks posed by an insufficient number of staff engineers and low pay. The professors noted that there were not enough staff engineers to segregate duties, which prohibited needed cross-checking of the lab's audit work. Low pay creates the potential for high turnover and low morale, which both pose security risks. The professors also suggested that the lab contract for trained security professionals to conduct routine security audits;
- increasing its oversight of modifications to gaming devices to ensure that significant changes are not overlooked;
- adding more advanced statistical tests; and,
- playing a more proactive role that includes anticipating and guarding against new ways of compromising gaming devices.

During the current review, PEER found that the lab has periodically updated its procedures manual. The lab has implemented raises for lab engineering personnel, but staffing is still insufficient to segregate duties. PEER's conclusions below include suggestions for addressing the staffing problem and improving documentation procedures, which together would assist in Mississippi State University's recommendation to develop an audit program.

PEER also concluded that the lab should take additional steps to ensure modifications are reviewed sufficiently, as indicated in the study. The Lab Director stated to PEER that if the lab employed more staff in future, he would use the staff to conduct more extensive modification review procedures and to be more proactive in studying new types of gaming devices (which pose a challenge to the lab due to rapidly increasing technologies used by manufacturers of electronic slot machines).

Lack of an Audit Trail for Engineering Tests

The Gaming Lab does not leave an audit trail of the engineering tests of software that it performs for approval of slot machines and electronic games for use in the Mississippi gaming industry. PEER reviewed Gaming Lab files of all prototype (original game) devices approved and

field-tested in calendar year 2000 and 1999 (a total of eleven files).

Although the eleven files generally included workpapers showing the tests of the hardware (slot machines) that the lab had performed, the lab had not documented the software tests (of computer chips used in the slot machines). The lab also has not included this documentation in its review of machine modifications (2,184 reviews conducted in the year 2000). The director of the lab stated that the relevant tests performed were not documented due to time constraints.

An audit trail of engineering steps would lend additional credibility and accountability to the work of the Gaming Lab.

An audit trail is a tool that holds organizations accountable for activities. Although PEER has no reason to believe that the lab does not perform the detailed work necessary for testing the machine prototypes, an audit trail of engineering work would lend additional credibility to the work of the lab. Also, the consultants recommended that the laboratory director implement an audit program to ensure that laboratory procedures are being followed. Documentation of engineering steps is necessary to audit the work.

The Gaming Lab has not implemented a scientific sampling process to ensure adequate approval of manufacturer modifications to gaming devices.

The Gaming Lab spends numerous hours approving new gaming device models for use in casinos (approximately fifteen new models submitted every two years). However, the lab spends much less time approving modifications to the new models which have been approved. For instance, the Gaming Lab spends less than an hour and a half on average reviewing the 2,200 modifications to gaming devices (computer chips) which it approves yearly. This is because, due to time constraints, the lab does not physically review hundreds of the chips which are represented by the gaming manufacturers as being changed only in minor ways, such as modifying the flashing lights on top of the slot machines.

Whenever the lab chooses not to review modifications made to a chip, there is a risk that the manufacturer has provided a chip to the lab that includes changes that are different from those it has represented. The MSU engineering consulting report acknowledged this risk when it stated the following:

For the purposes of speed and efficiency, modified prototypes. . .are verified quickly with emphasis on the modifications only. This is an acceptable procedure. However, care should be taken not to

overlook anything in this regard. The modifications should be clearly understood and any assumption made with the original prototype should be reassessed in light of the modifications.

The statement of the consulting engineers indicates that the lab should be careful when approving modifications to chips.

Scientific sampling of the computer chips used in electronic gaming devices would help ensure that the chips reviewed represent the total population of chips that are approved and that the chips installed at casinos are in compliance with regulations.

The lab officials told PEER that they are confident that they are sufficiently managing their risks by using a purposive sampling process. They state that they use knowledge of the types of chips that have already been approved to determine where the significant risks lie and to determine which chips to review. However, some form of scientific sampling of the chips would provide a better assurance that the chips that they do review represent the total population of chips that are approved. (Scientific sampling would allow the lab to choose a relatively small sample of chip modification requests for engineering review and determine that if very few or no problems are found with the small sample, the lab can expect similar results with the full population of chips to be reviewed. These determinations can be made because scientific sampling, which is used in various disciplines such as financial auditing and scientific, medical, and educational research, is based on mathematical formulas.)

Although PEER has no evidence that chips approved by the Gaming Lab are not in compliance with regulations, if the lab implemented scientific sampling of chips, it would help ensure that the chips installed at casinos are in compliance with regulations.

The lab director told PEER that time constraints on the engineers' time led them to spend less time verifying that chip modifications are submitted as represented by the manufacturers. However, since MISS. CODE ANN. Section 75-76-79 allows the lab to increase the fees charged to manufacturers to cover costs, the lab would have the authority to hire as many engineers as needed to perform the tasks needed. The lab could perform a needs analysis to determine the number of engineers needed for scientific sampling of modifications and increase fees to cover those costs.

In May 2001, the lab director also stated that he was having difficulty hiring engineers to fill his two vacant positions because the entry-level salaries of electrical engineers in the state are higher than he is allowed to pay under the current state job classifications. The lab director could present this information to the State Personnel Board to determine whether the jobs could be reclassified to higher salary levels. Any necessary salary

increases to accomplish inspections could be also reimbursed through increased fees allowed under Section 75-76-79.

Analysis of Statistical Data to Verify that Gaming Devices have Approved Characteristics

The Compliance Division has not consistently and adequately verified gaming device payout characteristics.

As stated in the January 1991 issue of *The CPA Journal*, because “of the limited documentation in regard to casino revenues” and the resulting difficulty in audit testing, “analytical review procedures are important in testing casino revenues.”

One of the controls on chips in the casinos is the Compliance Division’s statistical analysis of the chips to ensure that payouts of gaming machines are actually in line with the payouts that have been approved by the lab. However, the Compliance Division’s statistical analysis of chips is not consistent statewide and is deficient in some areas of the state.

Problems with some of the analysis include:

- relying on the casinos to explain why machines have unusual variances, without requiring documentation to verify their explanations; and,
- not providing any documentation of the statistical analysis performed.

The MGC Compliance Division Operations Manual drafted in July 1, 1997 (Section 6.0, pages 20 and 21), states that the compliance officers’ analysis and documentation of slot machine payout should include:

. . .discussing specific slot machine performance problems and submitting a list of variant machines on the exception report. To fully document follow-up, the Officer may consider drafting a request in the form of a memorandum from the Officer to the slot manager showing the machines performance. . . . The Officer would then request explanations be provided along with any documentation available, including. . . [machine] changes, maintenance records, etc. . . .The Officer is to verify the validity of the licensee’s representations, to the extent possible.

Because in some instances the Compliance Division has not performed the necessary statistical analysis to conclude that the machines are paying out as approved and in other instances has not documented that it has performed any analysis, there is a heightened risk that machines on the floor do not have the payouts that have been approved.

Although the Compliance Division never adopted for use the above-mentioned operations manual that the division had drafted, the manual was based on the current gaming regulatory practice at the time, including the Nevada Gaming Commission's audit procedures. Because in some instances the Compliance Division has not performed the necessary statistical analysis to conclude that the machines are paying out as approved and in other instances has not documented that it has performed any analysis, there is a heightened risk that machines on the floor do not have the payouts that have been approved. Machines with payouts that have not been approved are more likely to be machines that have been compromised by casino personnel and patrons to aid in theft of coins and currency from the machines. For instance, casino personnel could change the software on a slot machine to pay out more monies than approved and arrange for a friend posing as a casino patron to use the machine that has been compromised.

Physical Verification that Devices Located at Casinos have been Approved

The Enforcement Division does not conduct routine slot machine checks to verify that the chips have been properly installed and have not been tampered with.

MGC policies require the Enforcement Division to ensure that gaming devices installed in casino slot machines are approved for use by MGC. (To accomplish this, private consultants hired by the casinos use Kobetron machines to verify coding on the slot machine computer chips, which proves that the chips on the gaming floor are indeed those approved by the Gaming Lab.) However, MGC does not have a system to verify at a later date that the chips have been installed properly or have not been tampered with.

MGC should conduct surprise checks to ensure that the computer chips in gaming devices are those that have been approved by the Gaming Lab.

The machines are vulnerable to changes by casino personnel who have been known to devise schemes to steal from machines that are compromised in this manner. The risk of tampering is greater without routine post-installment verification checks. MGC should develop a program for enforcement agents to conduct surprise checks to ensure that the computer chips in gaming devices are those that have been approved by the Gaming Lab. This would help to ensure that the chips are in compliance with state laws, including the requirement that the casinos pay out at least eighty percent of amounts wagered by customers. The MGC Chief of Staff stated that

he has considered a program such as this and hopes to start it within the year.

The risks posed by the lack of a machine verification program are the same as those posed when MGC does not conduct adequate statistical testing on machine payout, as discussed in the previous section.

Implementation of Gaming Regulatory Policies

MGC has not implemented all necessary policies for gaming regulation, nor has it adhered to its ethics policies regarding participation of agency personnel in gaming activities. Also, although MGC has implemented policies intended to reduce gambling by problem gamblers, it has not conducted a cost/benefit analysis as part of its monitoring of the socioeconomic risks of Mississippi's gaming industry.

In conducting the work of gaming regulation, the commission has established certain regulatory policies regarding travel, vehicle use, personnel, and ethical conduct of employees. The State Personnel Board has also set certain regulations for personnel that the commission must follow.

This review outlines several areas where management has not effectively regulated gaming by violating policies and regulations or by not taking action to establish policy.

Lack of Needed Policies for Gaming Regulation

1996 Conclusions and Recommendations

In the 1996 report, PEER noted that MGC had not defined the terms "honest and competitive" to use in judging play of the games and had no written criteria for determining whether to approve proposed new games. PEER recommended that MGC define and establish criteria for monitoring the "honest and competitive" conduct of table games and electronic games and develop written criteria for approval of new table games.

PEER also found that MGC did not maintain a complete, accurate list of persons excluded from gaming establishments in other jurisdictions and thus unnecessarily exposed the state to the risk that these individuals could commit gaming-related crimes in Mississippi's casinos. PEER recommended that MGC obtain and distribute to all Mississippi casinos the names of persons maintained on exclusion lists from other gambling jurisdictions, particularly from Nevada and New Jersey.

Follow-up Conclusions

PEER found that since 1996, MGC has not established policies to address standards for “honest and competitive” table games, criteria for approval or modification of table games, or distribution of exclusion lists.

No Standards for “Honest and Competitive” Table Games

MGC has not established criteria for determining the honest and competitive conduct of table games.

MISS. CODE ANN. Section 75-76-3 (3) (a) states that “regulation of licensed gaming is important in order that licensed gaming is conducted honestly and competitively.” In 1996, PEER recommended that MGC establish criteria for monitoring the honest and competitive conduct of table games and electronic games in the casinos. Without these criteria, MGC cannot assure that the games are being conducted in an honest and competitive manner.

PEER found that MGC has established these criteria for electronic gaming but not for table games. Specifically, the Gaming Lab’s Internal Procedures manual outlines specific criteria to be used in evaluating electronic games which help to ensure that slot machine games are being conducted in an honest and competitive manner. For example, the manual includes:

- calculation standards for determining that electronic games pay out at least eighty percent, as required by MGC Regulation IV. 4. (b);
- test procedures to determine that computer chips containing slot machine software are not compromised (e.g., that the unused content of the chip is filled with zeros to avoid hidden computer instructions);
- limitations on the use of bonus games to ensure that the patrons are not misled into wagering more than they would if they were given other instructions;
- requirements for configuring bill acceptor devices so that they will endure power interruptions and thus not interrupt the play of patrons; and,
- detailed guidelines for agent verification of large jackpots to ensure that the jackpots did not result from compromise of machines by casino personnel or other means.

MGC's table game approval policy does not include criteria that would help ensure that table games are being conducted in an honest and competitive manner.

On the other hand, the New Table Game Approval Policy does not detail criteria that would help ensure that table games are being conducted in an honest and competitive manner. That policy only lists procedures for game developers to provide information to the commission and the sequence of steps in the approval process.

No Written Criteria for Table Game Approval or Modification

MGC has not developed written criteria for approval or modification of table games.

In 1996, PEER recommended that MGC develop written criteria for determining whether to approve new table games. In 2001, MGC had still not done so. As a result, the commission has no assurance that table games are being approved in the best interest of gaming in the state.

In 1996, the MGC deputy director was the primary individual responsible for recommending approval of table games to the commission. In 2001, the gaming relations specialist in charge of training (who has a background in casino operations) is the primary individual responsible for recommendations.

As of February 2001, MGC's "New Table Game Approval Policy" included no criteria for new table game approval, but did state that game developers must provide:

- drawings or photographs of the table layout;
- rules of play with specific examples; and,
- a complete mathematical analysis of the expected game results (i.e., win percentage for each wager) conducted by an independent math expert.

The rules also state that:

- the hold percentage of a new game (the amount of wagers that will be won by the casino on average) shall not exceed current games approved in Mississippi unless proved to be a traditional game approved for play in another gaming jurisdiction; and,
- final approval will be granted if the game is found to be compatible with the public interest and is suitable for casino use in Mississippi.

Although the rules list the items that will be reviewed in the decision process, they do not outline what will be considered acceptable--e.g., the characteristics that are deemed to be suitable for play in Mississippi casinos.

MGC has no policies to guide its districts in determining whether to approve modifications to table games.

Also, MGC officials stated that the enforcement divisions in the three districts are responsible for approving modifications to existing table games. However, no policies exist to guide the districts in determining whether to approve modifications to the games and when they should be forwarded to the training director for review.

Without sufficient policies governing the approval or modification of table games, the commission cannot be assured that the table games are being approved in a consistent manner and played consistently on a statewide basis.

No Routine Distribution of Exclusion Lists

MGC has not developed a routine process to distribute state exclusion lists to casino surveillance departments to assist in excluding undesirable persons from casinos.

Gaming regulators such as MGC routinely publish exclusion lists in order to prohibit certain persons from entering casinos in their jurisdictions for cheating and related offenses. The casinos use the exclusion lists, which include photos, in their surveillance rooms so that they can identify via camera an excluded person who may have entered the casino. Currently, MGC has only one individual on its exclusion list.

In 1996, PEER recommended that MGC distribute to Mississippi casinos the names of persons maintained on exclusion lists from other gambling jurisdictions, particularly from Nevada and New Jersey. MGC has not begun the practice as recommended by PEER.

Mississippi called the surveillance directors at several casinos to ask their opinion on whether receiving copies of exclusion lists from other states would be helpful to their surveillance operations. Four of six casino surveillance directors contacted stated that receiving copies of exclusion lists from MGC would be useful or very useful to them. Also, three of six surveillance directors stated they were not aware of the one person that MGC had placed on its exclusion list.

The executive director stated that MGC had gathered input from enforcement directors in 2001 and is now in the process of adding names to its exclusion list. Mississippi's list includes the names of persons thought to be undesirable for entry into the Mississippi casinos. Two additional names are in the process of being considered by the board for exclusion.

MGC should further develop its exclusion list based on the most recent information available from its Enforcement Division and disseminate it to Mississippi casinos and other state gaming commissions. Also, MGC should provide state exclusion lists to casinos, especially to those that find them useful and for the smaller casinos that cannot afford the private published exclusion lists, on a quarterly or other regular basis. Assuring casinos have access to timely information would help avoid problems, such as eviction of gaming cheats who already have been problems in other jurisdictions.

Violation of Ethics Policies

The MGC Executive Director, Deputy Director, and Chief of Staff competed in a state-licensed and regulated charity gaming tournament in March 2001. Such participation violates the ethics policy of the commission.

In a joint gaming venture, the Horseshoe Casino Hotel and Gold Strike Casino Resort in Robinsonville, MS, held the Second Annual Jack Binion World Poker Open Tournament from March 24 through April 13, 2001. This tournament included a charity tournament on March 25, 2001. The players in the charity tournament competed for a World Poker Open Signature Suede jacket and \$2,500 for their favorite charity. All casino personnel and competitive events in this tournament were subject to state laws and regulations for legal gaming in the state.

The MGC Executive Director, Deputy Director, and Chief of Staff participated in this charity poker tournament, along with twenty individuals from the print, radio, and television media. According to a tournament media release, dated March 25, 2001:

- The MGC Deputy Director finished seventh and the MGC Chief of Staff finished ninth in the tournament. (They received World Poker Open Signature Suede jackets for finishing in the top ten.)
- The MGC Executive Director participated as one of the “other notable players competing in the 2001 Media/Celebrity Charity Invitational.”

Section 3.0 in the MGC Administrative Manual contains a very clear ethical policy concerning the conduct of its employees. This policy states:

All employees of the Mississippi Gaming Commission are public servants on whom a high degree of trust has been placed. In order to maintain the credibility of the Commission and its activities, all employees

must avoid actual or potential conflicts while performing their public responsibilities and duties. The appearance of conflict should also be minimized in the employee's private affairs.

In applying this policy and its associated guidelines, it is important to remember that they are designed to minimize the appearance of situations which may damage the integrity of the Commission in the eyes of the general public, the gaming industry, and other governmental and enforcement agencies.

Any activity not specifically covered by these guidelines, but which might have the potential of undermining the credibility of the Commission, should be avoided or be minimized. . . .

Employees are not to engage in any activity in either a private or official capacity where a conflict of interest may exist. All activities that could affect an employee's objectivity in job performance or in making job-related decisions should be avoided.

An employee shall not gamble or play any licensed game or gaming device in Mississippi when such activity is not directly related to his or her official duties. [PEER emphasis added]

MGC ethics policies prohibit the agency's employees from gambling or playing any licensed game or gaming device when it is not related to his or her official duties.

These individuals' participation in this poker tournament violates the MGC Ethics Policy. As a result, they have committed a Group Two Offense, according to the MGC Ethics Policy, that requires the commission to discipline them. According to the MGC Discipline and Grievance Policies in Section 7.8, the penalty for this type of offense ranges from a written reprimand to a suspension without pay for up to five days. If the individual has another Group Two offense within one year of the second offense, the individual may be demoted or dismissed.

MGC management stated to PEER that they did not believe that their behavior was unethical because the tournament did not include gambling as defined by an Attorney General's opinion. Specifically, a Mississippi court has ruled that "in order to constitute gambling, the winner in the game must either pay a consideration for his chance to win, or he must, without paying anything in advance, stand a chance to lose or win."

Although PEER recognizes that the tournament did not constitute gambling within the meaning of the law, MGC ethics policy prohibits not only gambling but playing of a licensed game when it is not related to official duties. In

fact, the MGC managers were engaged in a licensed, regulated game because MGC formally approved various aspects of the tournament, including allowing the tournament itself; licensing the out-of-state dealers in the tournament; and approving the rules, poker chips used, location of surveillance cameras, and movement of tables.

MGC managers' participation in a charity poker tournament gives the appearance of promotion of the industry, which is not an official duty or responsibility of the commission.

PEER believes that MGC managers' participation in the tournaments gives the appearance of promotion of the industry, which is not an official duty or responsibility of the commission because it is a regulatory board. By violating MGC's ethics policy, these senior managers have created the appearance of impropriety. As a result, they have possibly damaged the integrity of the commission and themselves with the general public, gaming industry, other governmental and enforcement agencies, and, most importantly, their employees.

Monitoring Socioeconomic Risks of Gaming

1996 Conclusions and Recommendations

In 1996, PEER noted that, while not specifically mandated by state law, full protection of the general welfare of the state's inhabitants includes ongoing monitoring of the negative social consequences of legalized gambling and development of regulations designed to lessen the negative impact, where feasible.

PEER recommended that, using existing resources, MGC conduct an ongoing cost/benefit analysis of Mississippi's legalized gambling industry and report its findings to the Legislature, industry, and the general public. The analysis should address factors such as the percentage of gamblers who are in-state versus out-of-state, the socioeconomic profile of these gamblers, and the incidence and associated costs of casino-related problems such as compulsive gambling and white collar crime.

Follow-up Conclusion

No Cost/Benefit Analysis

MGC has implemented policies intended to reduce gambling by problem gamblers, but has not conducted a cost/benefit analysis of the gambling industry in Mississippi.

Since 1996, MGC has implemented policies related to reducing gambling by problem (addicted) gamblers at the

casinos. In September 2000, the commission strengthened the procedures that allowed patrons to exclude themselves from casinos due to gambling problems. Prior to September, a patron could revoke his or her self-exclusion at any time. Now the regulations require that a casino cannot let self-excluded patrons enter casinos for a period of two years after they have excluded themselves. This rule presumably helps the patron kick the habit of gaming once they have come to the decision to do so.

However, MGC stated to PEER that it has not conducted a cost/benefit analysis of the effects of legalized gaming in Mississippi because it does not believe it has the expertise to do so and because it does not have the funds to hire consultants.

Compliance with State Laws and Regulations Regarding Personnel, Travel, and Use of State Vehicles

The Gaming Commission has not complied with some state laws, state regulations, and commission policies governing personnel actions, travel reimbursements, and state vehicle use.

The MGC Executive Director, Deputy Director, and Chief of Staff have violated state laws, regulations, and commission policies governing personnel, travel, and state vehicles.

Agency Reorganization without State Personnel Board Approval

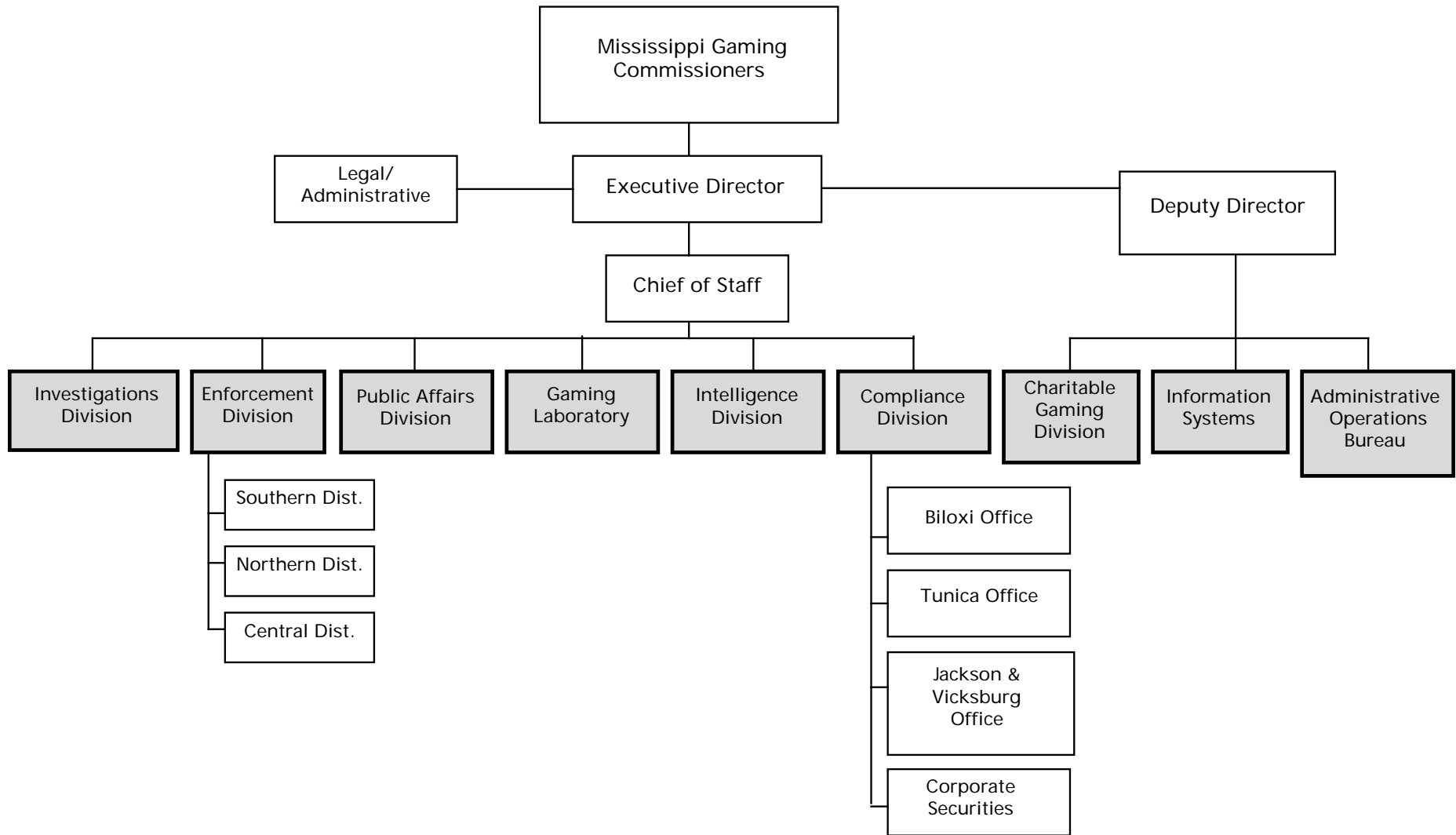
MGC changed its organizational structure without first obtaining the approval of the State Personnel Board, thus promoting two individuals into unapproved positions.

Since its creation in October 1, 1993, MGC has maintained the same basic operating structure for its charitable gaming, enforcement, and investigative functions. In FY 1997, the commission activated a Compliance Division to perform financial and operational audits of licensed gaming establishments. Exhibit 3, page 56, shows MGC's basic operating structure that was approved by the State Personnel Board in July 2000 for FY 2001.

In August 1999, the commission implemented a new operational concept at the district level that made each district a branch operation with four distinct divisions: Compliance, Enforcement, Criminal Intelligence, and Investigative. The three district operations worked directly for the MGC Enforcement Division Director, who worked directly for the Chief of Staff. Exhibit 4, page 57, shows the MGC basic operating structure in February-April 2001.

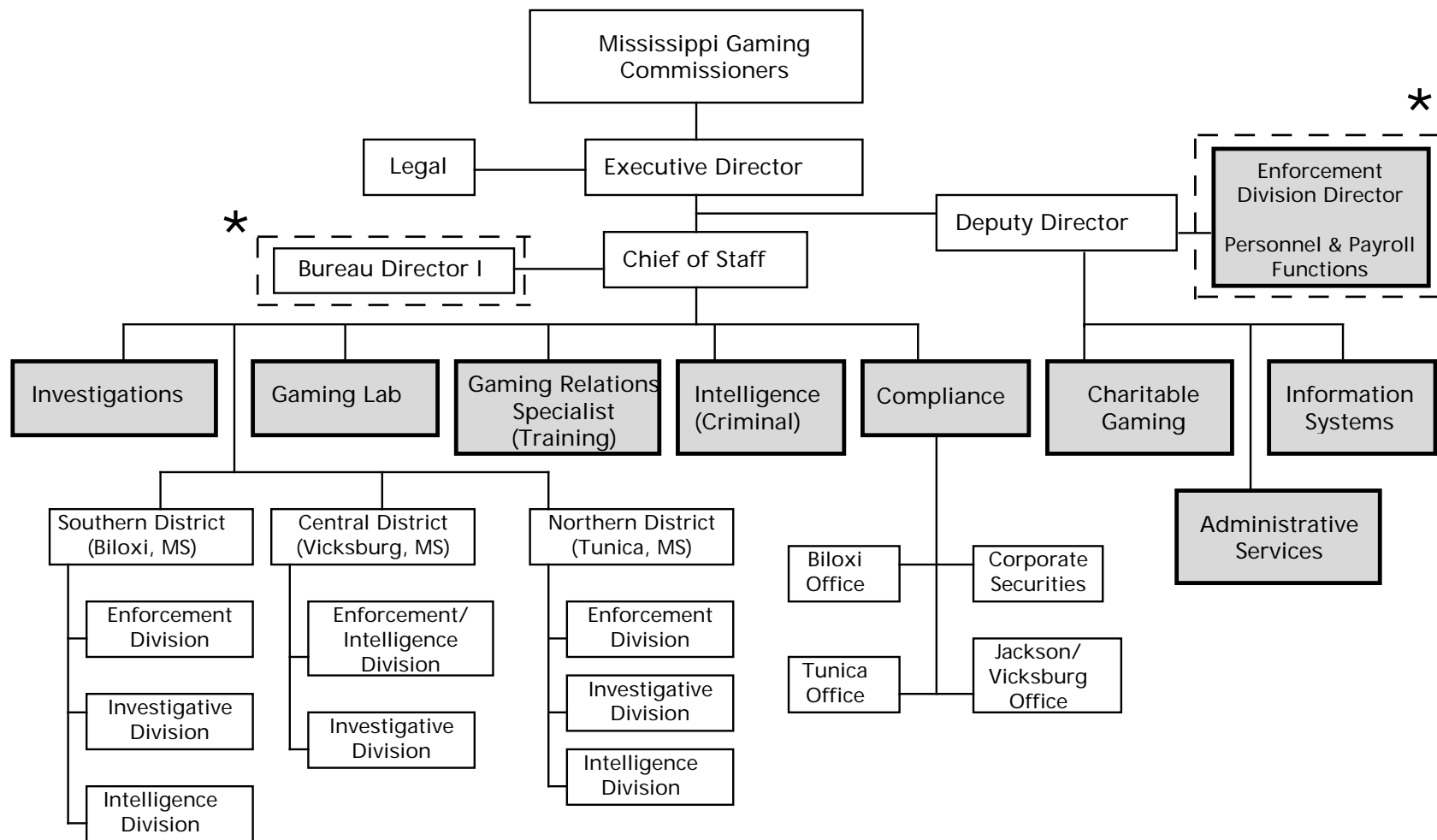
The MGC Executive Director, Deputy Director, and Chief of Staff (noted here as senior managers) implemented a major reorganization in support staff functions without SPB approval.

Exhibit 3: Organizational Structure of the Mississippi Gaming Commission (July 2000)



SOURCE: SPB-Approved FY 2001 Organizational Chart for MGC

Exhibit 4: Organizational Structure of the Mississippi Gaming Commission (April 2001)



NOTES: * These positions or divisions were created without SPB approval.

This chart summarizes the actual organizational structure in MGC's Central, Northern, and Southern Districts as of April 1, 2001. The gray boxes represent the primary functional areas of the Commission.

SOURCE: MGC Organization Chart submitted to the State Personnel Board, dated April 9, 2001.

Specifically, these managers:

- **Created a new support division that included the personnel and payroll accounting functions.** They used the MGC Enforcement Division Director position for this new division director slot and promoted the MGC Bureau Director of Personnel into this MGC Enforcement Division Director position effective October 1, 2000.
- **Created a Bureau Director I position to work as an executive officer for the Chief of Staff.** This position was filled with an MGC Special Agent who had been working in the same role for the Chief of Staff. This promotion opportunity occurred on a non-competitive basis in violation of the MGC Personnel Policy, since the position was not advertised in the districts.

State Personnel Board policies require that the SPB approve all major alterations, movements, or changes within an agency's organizational structure.

The State Personnel Board Policies and Procedures Manual establishes clear policies regarding the board's and the agency's responsibilities concerning staffing management. Section 6.13.3 requires that the Personnel Board review each agency's organization chart and that "**major alterations, movements or changes within the agency organizational structure must be approved by the State Personnel Board prior to implementation by the agency.**"

This serious violation of state personnel policies occurred for one of two reasons:

- **The senior managers and personnel officer did not seek SPB approval before implementing the proposed organizational changes with the new division and Bureau Director I position.** However, since both the MGC Deputy Director and MGC Personnel Bureau Director were former SPB employees, they should have known to seek approval from the Personnel Board.
- **The senior managers made these changes without concern for MGC policies.** They wanted to promote two specific individuals, so they initiated the reorganization action in order to accomplish this purpose. MGC did not follow its personnel policy in the MGC Administrative Manual. The Personnel Director did not advertise the Bureau Director I position in its three MGC districts, where qualified applicants worked and might have applied for the position.

Because of MGC's disregard for State Personnel Board requirements and MGC personnel policies, the agency has technically eliminated the Enforcement Division, one of two mandated MGC divisions in the Gaming Control Act. No division exists technically because the Chief of Staff directly oversees enforcement agents instead of an Enforcement Division Director. This action violates MISS.

CODE ANN. Section 75-76-17, which establishes an Enforcement Division and an Investigations Division at the Gaming Commission.

The statute also requires that the Enforcement Division Director “possess training and experience in the fields of investigation, law enforcement, law or gaming.” The individual in the Enforcement Division director’s position does not meet the requirements for the position. The position also requires at least six years in an administrative, professional capacity in an area of work related to the functional responsibility of a Gaming Enforcement Division Director.

MGC has also created a new support division and a Bureau Director I position that SPB has not yet approved, according to the Assistant State Personnel Director, Office of Classification and Compensation. These two promotions have negatively affected the credibility of the senior managers with their supervisory and line enforcement personnel. The inequitable treatment of personnel has limited promotional opportunity for enforcement personnel.

Inappropriate Payment of Travel Reimbursement

MGC violated state travel guidelines by reimbursing two Northern District employees for hotel and other expenses incurred while traveling back and forth to their new official duty station.

Prohibition of Travel Reimbursement While at Official Duty Station

The FY 2001 Travel Manual of the Department of Finance and Administration establishes the state’s policies for intrastate and interstate travel reimbursement of state employees. Section 101 of the Department of Finance and Administration (DFA) Travel Manual defines “travel status” as:

The official status of an employee when away from the employee’s Official Duty Station and Official Residence on official state business. NOTE: An employee is not in travel status and shall not receive lodging nor meal reimbursement while at his/her Official Duty Station. Reimbursement will continue to be allowed for approved and documented expenses incurred during any authorized meeting/workshop/conference. [PEER emphasis added]

The DFA Travel Manual further defines “official duty station” as:

The city, town, or other location where the employee’s primary office is located, or the city, town or location where the employee’s primary work is performed on a permanent basis.

Reassignment of MGC Employees to a New Official Duty Station

As noted earlier in this report, MGC reorganized its district operations in the summer of 1999. The commission established three new district director positions and two deputy district director positions (Northern and Southern districts). The commission filled these new positions through an intra-agency promotion process. The new district operational concept was officially implemented on August 1, 1999, which served as the effective date for the promotions.

When the commission’s managers reassigned the Northern District Director and Deputy District Director to their new official duty stations in Tunica, MS, the MGC Deputy Director and Chief of Staff approved travel reimbursement for each of these individuals for a period up to approximately ninety days. Specifically, MGC reimbursed the following:

- \$741.85 to Northern District Director--These travel expenses were incurred between August 5, 1999, and September 2, 1999. In addition, the commission never paid approximately \$594 in casino hotel bills because the hotel never billed MGC directly for these charges.
- \$2,279.39 for the Deputy District Director--These travel expenses were incurred between September 7, 1999, and December, 6 1999. In addition, the commission never paid approximately \$2,312 in casino hotel bills because the hotel never billed MGC for these charges.

When PEER questioned these expenditures, MGC submitted a written explanation for this travel funding action. The MGC Deputy Director and Chief of Staff acknowledged that they were unaware of the state travel policy at the time that they made the decision. The commission’s explanation also stated:

. . .that it was in the best interest of the MGC to maintain the integrity of the industry for these Agents to report immediately to the Tunica District. . . .The agents were not prepared to move as soon as they were needed so in order to facilitate the greater need of the Commission and the State of

Mississippi they approved to place them on TDY [Temporary Duty] status until they were able to take time off and attempt to find sufficient housing.

Because state travel guidelines prohibit reimbursement of an employee's expenses while at his or her official duty station, MGC's above-listed travel reimbursements do not comply with state travel guidelines.

These reimbursements also represent inequitable treatment of other MGC personnel who have moved at their own expense from one work location to another or who have paid their own expenses while commuting to their new location.

When MGC employees have unpaid bills at the establishments they regulate, their objectivity as regulators could be called into question.

Also, concerning the issue of unpaid casino hotel bills, when the commission or its employees have unpaid bills at the establishments they regulate, their objectivity as regulators could be called into question.

Illegal Use of State Vehicles

In violation of state and federal law and its own policies, MGC has allowed personal use of state vehicles, costing the state at least \$31,818 that could have been spent on legitimate regulatory activities of the commission.

MGC has a fleet of sixty-one vehicles ranging from 1994 to 2001 models of automobiles, trucks, a sport utility vehicle, and a van. These vehicles are assigned to:

- local use motor pools at MGC headquarters in Jackson and three enforcement districts with offices at Biloxi, Tunica, and Vicksburg;
- MGC Gaming Laboratory personnel and the MGC Training and Special Projects Officer in Biloxi; and,
- charitable gaming enforcement agents who maintain vehicles at their residences throughout the state.

The map on Exhibit 1, page 7, shows the MGC office locations where MGC personnel commute to work.

MISS. CODE ANN. Section 25-1-79 (1972) prohibits personal use of state vehicles by limiting the use of state vehicles to "official state business," as stated below:

It shall be unlawful for any officer, employee, or other person whatsoever to use or permit or authorize the use of any automobile or any other motor vehicle owned by the State of Mississippi or any department,

agency, or institution thereof for any purpose other than upon the official business of the State of Mississippi or any agency, department, or institution thereof. [PEER emphasis added]

MGC's state vehicle policies (Section 9.2 of MGC Administrative Manual) also clearly prohibit personal use of vehicles, as follows:

State-owned vehicles will be used only for employees travelling on official business...escorting arrested individuals is the only exception to this policy. Routine transportation to and from work will not be considered official state business.

Vehicles can be driven home by employees leaving home earlier than normal or returning from traveling after normal working hours. If the employee is designated as a law enforcement official and is required to respond to calls after hours, a vehicle may be assigned for his or her use; if this occurs, the vehicle can be driven home at night. [PEER emphasis added]

MGC has misused its state vehicles by allowing its employees to use them for purposes not related to official business. MGC also allows its Executive Director to drive an unmarked vehicle in violation of state law regarding marking of state vehicles. Examples of vehicle misuse are outlined in the following sections.

Employee Commuting

MGC uses state vehicles for non-business-related commuting from home to work.

MGC allows all of its employees who are assigned state vehicles to commute in them from home to work at state expense, even individuals driving state vehicles who were not scheduled for on-call response after normal duty hours. MGC allows its employees, including enforcement and compliance officers and supervisors and executive managers, to keep these vehicles seven days per week, twenty-four hours per day at their homes, even if they are not scheduled to work.

During 2000, MGC allowed 47 of its officers to use state vehicles for daily commuting, although they did not have a legitimate business purpose for doing so. Of these 47, 27 were never "on call."

In CY 2000, MGC allowed approximately forty-seven of its officers to use state vehicles for daily commuting from home to work although they did not have a legitimate business purpose for doing so. Specifically, twenty-seven of the forty-seven were never "on call" during this time (to respond to emergencies or other activities at casinos) and their travel did not meet DFA's requirements for full-time assignment of vehicles. The remaining twenty of the forty-seven were on call for only a portion of the time that they were assigned vehicles. For the time these twenty were not on call, their travel also did not meet DFA's requirements for full-time vehicle assignment.

For the twenty-seven officers assigned vehicles full-time who were never on call, MGC expended approximately \$31,818 on vehicle operating costs during CY 2000 (318,177 miles at MGC's ten-cent operating cost per mile). The \$31,818 spent for the personal commuting mileage of the twenty-seven officers equaled twenty-six percent of MGC's total \$124,567 in state vehicle operating expenditures (e.g., fuel, repairs) in CY 2000.

MGC management defends its practice of allowing its employees to commute in state-owned vehicles because it considers MGC law enforcement officers and supervisors and themselves to be on call twenty-four hours per day (even though they are not scheduled for on-call response work). However, in practice this is not the case because only three of ten law enforcement supervisors showed any on-call response time on their time activity sheets from January 1997 through January 2001. Also, the total amount of on-call response time for those three officers during these four years was only 45 of 1,145 hours.

Other Personal Use of State Vehicles

MGC staff use state vehicles to transport family members and make recreational trips.

MGC supervisors and other personnel have used their assigned state vehicle or other state vehicles for personal use purposes. Some examples include:

- transporting family members, including one supervisor's use of a state car with the permission of the supervisor's manager as a primary means of personal and business travel since September 1999 (specifically transporting family members daily and using the vehicle for long-distance personal trips);
- recreational trips, including several instances of transporting managers to and from a golf game during work hours. (The MGC Executive Director issued a

letter of reprimand to the responsible executive manager for this misuse of state vehicles, which took place in August 2000).

One reason for the improper management of vehicle assignment and use is that the MGC Chief of Staff, who is responsible and accountable for the district operations, has delegated vehicle management to the district directors without ensuring that they comply with the MGC policy concerning their use and operation. The Chief of Staff acknowledged that he had never read the MGC state vehicle use policy prior to the PEER Committee's review.

Because PEER believes that personal use of state vehicles is not a problem peculiar to MGC, the Committee urges all state agencies to adopt and enforce specific policies that prohibit personal use of vehicles.

The PEER Committee has recommended that MGC adopt additional policies and procedures to assure that its employees do not use state vehicles for personal use. (See recommendations 29 and 30 on pages 74-75 of this report.) Because the PEER Committee believes that personal use of state vehicles is not a problem peculiar to MGC, the Committee urges all state agencies to adopt and enforce specific policies that prohibit personal use of vehicles.

Improper Use of an Unmarked State Vehicle

The MGC Executive Director uses an unmarked state vehicle, in violation of state law.

The MGC Executive Director uses an unmarked state automobile in violation of MISS. CODE ANN. Section 25-1-87 (1972). The statutes allow certain state agencies (including MGC) to request gubernatorial approval to operate unmarked vehicles if they are needed for confidential or undercover investigations. (See Appendix A on page 77 for the details of Section 25-1-87.) During the period of PEER's review, on April 19, 2001, the Governor approved the use of the eleven MGC unmarked vehicles for "confidential investigation and undercover activities within the scope of certified law enforcement personnel investigations." However, PEER determined that one of those vehicles was actually being used as the Executive Director's personally assigned vehicle. Because the Executive Director does not conduct law enforcement investigations, his use of the unmarked vehicle is a violation of the statutes.

MISS. CODE ANN. Section 25-1-87 was enacted to help ensure that state vehicles are used for official business only. Disregarding the statute reduces accountability for state property.

Violation of Federal Tax Regulations Regarding Non-Personal Use of State Vehicles

MGC does not add the value of commuting to the W-2 forms of employees who commute in state vehicles.

In addition to increased operating costs as discussed on page 63, MGC's vehicle practices have violated Internal Revenue Service Regulation 26 CFR Section 1.61 governing non-personal use of state vehicles. MGC has violated this regulation because it does not report the personal commuting of its state employees to the IRS as income, as required by IRS regulations.

Specifically, MGC does not add the value of the commuting privilege to these commuters' W-2 forms who do not meet the IRS exemption criteria. MGC also does not charge a daily commuting fee that the IRS allows as an alternative action. This type of reporting to the IRS is routine practice of other state agencies. For instance, DFA added a fringe benefit for 230 commuting state employees to their 2000 W-2 forms for reporting taxable income.

Certain MGC personnel qualify for an IRS exemption regarding on-call commuting in police or fire vehicles (Federal IRS Regulation 26 CFR 1.274-5T[k]). However, those cited by PEER do not.

Inequitable Treatment of Employees Regarding Assignment of State Vehicles

By assigning state vehicles to some employees in selected positions (and allowing them to commute) and not allowing this benefit to other employees with the same position title, MGC has treated employees inequitably.

By allowing some employees to commute in state vehicles (an illegal practice, as discussed on page 62) but not allowing others with the same position title to do so, MGC is essentially supplementing the annual compensation of those employees with assigned vehicles. For example, compliance officers in the Northern and Southern districts must travel to their official duty stations in their personal vehicles at their own expense while Central District compliance officers were allowed to begin commuting from their homes in the vicinity of Jackson to Vicksburg when their headquarters was moved to Vicksburg.

Travel compensation ranging from \$193 to \$2,000 in CY 2000 was paid to:

- compliance officer supervisors in the three districts who have the full-time use of state vehicles; and,
- the six Central District compliance officers (as noted above).

This additional compensation, which is not even reported as income to the Internal Revenue Service (see discussion page 65), results in income subsidies to selected employees.

Recommendations

Investigations

Corporate Investigations

1. The Gaming Commission should set direction for the Compliance Division staff in reviewing qualifications of corporate applicants for licenses by establishing in policies and procedures an overall purpose for the investigations, how qualifications will be determined, items to be analyzed by corporate investigators, and how the investigation will be reported and/or items to be included in an investigation report. For instance, the commission may require that certain background checks must be performed with specific state and federal agencies, that certain types of financial analysis should be performed and for what purpose, and that the Compliance Division may have investigatory and analytical discretion in certain areas.
2. Based on the Gaming Commission's direction, the Compliance Division should develop an analytical plan to conduct its investigations. Also, the Corporate Investigations section should document its investigation procedures and file the workpapers at MGC offices. The documentation should include evidence that background checks and financial and other analyses have been performed. Also, the corporate investigation reports should indicate the work that has been performed in summary form.

Work Permits

3. The Gaming Commission should adhere to MISS. CODE ANN. Section 75-76-131, which prohibits individuals from working for casinos for any amount of time without permits. MGC should not allow work permit applicants to work in the casinos until the process is completed. Specifically, MGC should not issue permits to applicants until it receives criminal background check information from all law enforcement agencies from which information is requested.
4. The Gaming Commission should ensure that the system for tracking work permits is accurate. Using existing resources, the Investigations Division should set up its database systems to form a centralized automated method for tracking work permit data,

including tracking and retrieving work permits that have been revoked and denied, by employee name and work permit number, by year, by district, and by final disposition. The system should be revised to allow comprehensive management reporting (a monthly management report showing the number of applications, denials, and revoked licenses).

Key Employee Background Checks

5. The Gaming Commission should improve its method of accounting for and updating the list of those employees who are defined as key employees. The division also should develop a database that is coded so that a report of all current key employees can be instantly produced.

Show Cause Hearings

6. The Gaming Commission should develop and maintain an inventory of show cause cases, listing their dispositions, to help assure that the handling of cases is consistent. The inventory of cases should:
 - list whether a fine was assessed;
 - be categorized by type of violation and reasoning for the fine amount or lack of fine; and,
 - be used as a database to help ensure consistency.

Compliance Reviews

7. The Gaming Commission should develop a Compliance Division operating manual, including overall policies for the implementation of compliance audits and guidance of compliance officers and procedures to assist auditors in understanding the elements of casino auditing.
8. The Compliance Division should implement audit steps to determine that:
 - the management at casinos have established internal procedures for ensuring that all currency transactions equaling or exceeding \$10,000 be reported to the federal government in compliance with Title 31;
 - the internal auditors at the casinos have established audit steps to monitor that Title 31 is implemented; and,

- the managers at casinos have established internal procedures to ensure that their employees comply with legal requirements governing the handling of patron disputes.

Gaming Regulation Enforcement

Training of Gaming Compliance and Enforcement Personnel

9. The Gaming Commission should establish a uniform field training program for its districts. This program should include a Field Training Manual that includes, at a minimum:
 - a training plan with specific goals and objectives for the trainer and trainee;
 - minimum qualifications for the trainer;
 - a training curriculum with lesson plans for specific tasks;
 - competency standards and performance outcomes for the established curriculum;
 - instructional methods;
 - documentation requirements for trainer and trainee;
 - the expected time for successful trainee completion; and,
 - a policy addressing the status of unsuccessful trainees.
10. The Gaming Commission should revise its MGC Regulatory Academy Training Program to include:
 - course objectives for the curriculum topics;
 - competency standards or performance outcomes for its established curriculum courses; and,
 - a policy concerning the employment and work status of compliance and enforcement personnel who do not successfully complete the academy.
11. Using existing resources, the Gaming Commission should establish a centralized management program for its in-service academy training programs. This program, under the MGC Training Officer, should

include the following information for all MGC employees:

- a management information system for monitoring training records. This system should, at a minimum, document the required and completed training courses and hours for each employee;
 - a mandatory curriculum with training objectives, competency standards, or performance outcomes;
 - an annual training budget under the control of MGC Training Officer; and,
 - a centralized system for scheduling individuals' annual training requirements.
12. The Gaming Commission should establish a policy to require all enforcement personnel to attend at least annually its courses regarding detection of cheating on games and slot machines.

Statutory and Regulatory Inspection System

13. Using existing resources, the Gaming Commission should develop and use a documented inspection program that inspects every facet of each gaming operation a predetermined number of times every thirty days on a random basis. This system should include:

- Twenty-four hour enforcement personnel coverage, seven days per week, to conduct inspections on a random, "no notice" basis. Existing personnel resources could be rotated on a random basis to accomplish these inspections when necessary during the period of 12:00 A.M. to 7:00 P.M.
- A comprehensive inspection system that uses a detailed checklist to document what, who, when, where, number of monthly inspections for the operation, inspection results, state authority (statute and regulation reference), and a short summary statement of any violation.

The guiding objective of the detailed checklist should be to assure licensed gaming is conducted "honestly and competitively."

- The accomplishment of a mandated number of MGC sweep inspections to inspect the total gaming operation simultaneously.

- The use of a management information database to plan and manage the inspection schedule for each facet of each gaming operation in the three districts. The district personnel should document all inspection results in this system for management analysis.
14. The Gaming Commission should create a management information system with performance measures or outcomes that collects, analyzes, and tracks the information for its statewide enforcement and investigative programs. For example, some components should include:
- work activities of enforcement personnel;
 - casino observations and regulatory inspections;
 - use and cost of state vehicles; and,
 - use of assigned personnel.
15. The Gaming Commission should review and revise, as necessary, its new statewide case management system to include all appropriate categories of regulatory and statutory violations, including compliance, investigative, and intelligence activities. These changes should include mandatory statewide use of standardized definitions for each component category.

Oversight and Control of Electronic Gaming Devices

16. The Gaming Lab should perform a needs analysis to determine the number of engineers needed for scientific sampling of modifications. If warranted by problems with recruiting electrical engineers to fill the open engineering positions in the lab, MGC should present documentation of the hiring difficulties to the State Personnel Board to determine if the jobs can be reclassified to higher salary levels. Any necessary starting engineer salary increases or new engineering positions for accomplishing inspections should be paid for only by increases to manufacturer's fees, as provided for under Section 75-76-79.
17. The Gaming Lab should document the engineering tests of software that it performs for approval of slot machines and electronic games for use in the Mississippi gaming industry and should document its tests of modifications to computer chips.

18. In the absence of a full review of each modification of computer chips for gaming devices considered by the Gaming Lab, the lab should implement scientific sampling of the modified chips. The scientific sampling should provide assurance that the chips reviewed represent the total population of chips that are approved.
19. The Compliance Division should develop a training program for its officers to learn to analyze slot machines on a statistical basis and determine whether machines on the casino floor have payouts that are in compliance with the amounts approved by the Gaming Lab. Officers should be trained to understand the various ways that machines could be compromised and to look for situations where this may have occurred. Officers should always request documentation from casino management as to why they are asserting that a machine with aberrant payout is actually performing as would be expected under certain circumstances. Officers should also be trained to know when to continue testing of machines, for instance, when casino documentation is not satisfactory.
20. The Enforcement Division should develop a statewide program for enforcement and/or regulatory agents to conduct surprise Kobetron checks to ensure that the computer chips in casino gaming devices are those that have been approved by the Gaming Lab.

Management of Regulatory and Personnel Policies, Travel, and Vehicle Use

Policies for Gaming Regulation

21. The Gaming Commission should develop policies and procedures to ensure that table games and their modifications are approved in a consistent manner on a statewide basis. The policies, which should supplement the current New Table Games Policy and should be used by the training director and enforcement agents, should include:
 - criteria for the agency to determine whether table games are being conducted honestly and competitively according to MISS. CODE ANN. Section 75-76-3;
 - criteria for enforcement agents to determine whether to approve modifications; and,

- policies and procedures for enforcement agents to determine how and when to approve table game modifications and when they should be forwarded to the training director for review.
22. As recommended in PEER's 1996 report, the Gaming Commission should conduct a cost/benefit analysis of Mississippi's legalized gambling industry and report the findings to the Legislature, gaming industry, and the public. The Legislature should require the State Economist to estimate the amount of funds needed to conduct such a study and provide options to the Legislature for conducting the study.

Exclusion Lists

23. The Gaming Commission should finalize its additions to its Mississippi casino exclusion list (undesirable casino patrons who are prohibited from visiting Mississippi casinos) based on the most recent information available from enforcement personnel, compile the list, and disseminate the list to Mississippi casinos and other state gaming commissions. MGC should obtain copies of the exclusion lists of other large gaming jurisdictions and distribute copies of those lists to the casinos in Mississippi on a regular basis such as quarterly or monthly.

Ethical Conduct

24. The Gaming Commission should consider taking disciplinary action against its MGC Executive Director, Deputy Director and Chief of Staff in accordance with the MGC Ethics Policy for a Group Two Offense.

Gaming Enforcement

MGC Organizational Management

25. The Gaming Commission should establish a written policy regarding the development and implementation of major organizational changes. This policy should include the requirement that the commission review all proposed organizational changes and promotions to bureau director or above to ensure that they are in accordance with the legislative intent of the Gaming Control Act. The commission should approve any major organizational changes, document such

approval in its minutes, and submit the changes to the State Personnel Board for review and approval.

Personnel Regulations

26. The Gaming Commission should not reimburse its employees for travel expenses when the purpose of the reimbursement is for expenses related to moving to a new MGC employment location within the state rather than travel expenses.

State Travel and Vehicle Use

27. The PEER Committee should refer payment of the unauthorized travel expenses to the Office of the State Auditor for collection under the provisions of MISS. CODE ANN. Section 7-7-211 (1972).
28. The Gaming Commission should conduct a needs analysis to determine how many vehicles that it actually requires performing its statutory and regulatory duties under the Gaming Control Act and Commission Regulations.

This needs analysis should exclude all historical commuter mileage except the mileage required for accomplishing the shift work requirements and the on-call response time of the scheduled officers during the seven-day, twenty-four-hour work shifts.

29. The Gaming Commission should expand its “State Vehicles” policy to establish an agency-wide assignment and use policy for its state vehicles. In making decisions about the use and assignment of state vehicles, MGC should analyze its travel mileage data to determine the most efficient mode of transportation. (See Appendix B, page 78, for information from PEER’s report #407, ***Managing Travel Expenditures.***)

When developing this agency-wide assignment and use policy for state vehicles, the Gaming Commission should organize its current inventory of state vehicles into a motor pool. Should the agency choose to establish one, MGC managers should consider the following:

- provide motor pool vehicles for work-related activities after MGC personnel arrive at their official duty station;

- determine the number of vehicles to be located at each of the four MGC locations based on documented analysis of need;
- develop and implement a policies and procedures manual for motor pool operations;
- require periodic management reviews of the MGC Daily Travel Logs and MGC Monthly Vehicle Report.

The Gaming Commission's travel policy should also address the following:

- assigning state vehicles to individuals on the basis of work requirements rather than position titles;
- limiting commuter vehicles to the personnel scheduled to work on-call response time during the seven-day, twenty-four-hour work shifts;
- requiring all other personnel to use their personal vehicles for commuting between home and official duty station on their scheduled work days;
- requiring all employees (including executive managers) for in-state or out-of-state vehicle travel to use a state vehicle unless it is cheaper to reimburse the employee for the use of their own vehicle.

30. The Gaming Commission should take disciplinary action (as required by Section 7.8 of the MGC Administrative Manual) against all employees who misuse state vehicles.

31. The Gaming Commission should comply with Internal Revenue Service Regulation 26 CFR Section 1.61 governing reporting of personal use of vehicles.

Appendix A: Unmarked State Vehicle Law

§25-1-87. Marking publicly-owned or leased vehicle; exceptions; effect of non-compliance.

All motor vehicles owned or leased by the State of Mississippi or any agency, department or political subdivision. . . . shall have painted on both sides in letters at least three (3) inches in height, and on the rear in letters not less than one and one-half (1-1/2) inches in height, the name of the state agency or department, or political subdivision. . . . The provisions of this paragraph shall not apply to vehicles used by the Chief Executive of the State of Mississippi, to vehicles owned or leased by the Department of Economic and Community Development, to vehicles owned or leased by the Office of the Attorney General, to not more than one (1) vehicle owned or leased by the Department of Finance and Administration for use by the Capitol Police, to vehicles owned or leased by the Mississippi State Board of Medical Licensure and used only by the Investigative Division of the board, to one (1) vehicle owned or leased by the Executive Director of the Department of Mental Health, to one (1) vehicle owned or leased by the Commissioner of the Mississippi Department of Corrections, to not more than three (3) vehicles owned or leased by the Department of Corrections and used only by Community Services Division officers, to not more than one (1) vehicle owned or leased by the Mississippi Department of Transportation and used only by an investigator employed by the Mississippi Department of Transportation, to not more than two (2) vehicles owned or leased by the Mississippi Department of Marine Resources, or to not more than one (1) vehicle owned or leased by the Mississippi State Tax Commission; and upon receipt of a written request from the State Adjutant General, the Commissioner of Public Safety, the Director of the Alcoholic Beverage Control Division of the Mississippi State Tax Commission, the Executive Director of the Mississippi Department of Wildlife, Fisheries and Parks, the Director of the Bureau of Narcotics, the Executive Officer of the Board of Pharmacy, the Executive Director of the Mississippi Gaming Commission, the State Auditor or a president or chancellor of a state institution of higher learning, the Governor may authorize the use of specified unmarked vehicles only in instances where such identifying marks will hinder official investigations, and the governing authorities of any municipality may authorize the use of specified, unmarked police vehicles when identifying marks would hinder official criminal investigations by the police. [PEER emphasis added.]

Appendix B: Recommended Steps in Establishing a Motor Pool

As shown in the recommendation section of PEER's report #407, *Managing Travel Expenditures*, a state agency should include the following steps when establishing a motor pool:

- determining the most effective and efficient method of developing a motor pool or motor pools;
- developing a needs-based system for determining the number of vehicles that the agency should own, based upon analysis of vehicle usage patterns and break-even analysis. The "breakeven mileage for purchasing" represents the point at which it is more economical for the employee to drive a state vehicle rather than be reimbursed the state mileage reimbursement rate (34.5 cents a mile as of May 2001); and,
- establishing policies for use of vehicles and for maintenance and disposal of vehicles.

The agency should collect data on the vehicle management system to determine whether the system implementation has been cost effective and for ongoing analysis of the costs and trends in vehicle management expenditures.

In implementing the motor pool, the agency should assess the costs and benefits of contracting with an automobile leasing agency to supply the agency's automobile needs.

Agency Response

W.W. Gresham, Jr.
Chairman

Leonard A. Blackwell, II
Commissioner

Victor P. Smith
Commissioner



Charles O. Patton
Executive Director

MISSISSIPPI GAMING COMMISSION

Post Office Box 23577
Jackson, Mississippi 39225-3577
(601) 351-2800

June 5, 2001

Dr. Max Arinder
Executive Director
PEER Committee
P.O. Box 1204
Jackson, MS 39215-1204



Dear Dr. Arinder:

Thank you for the review of our agency recently completed by your staff.

We believe we have developed a regulatory body that provides outstanding control of the gaming industry in Mississippi. Jurisdictions from as far away as New Zealand and South Africa have visited us to use our agency as a model to set up similar organizations in their own jurisdictions.

We are gratified to note that your review has validated this view, finding no area where the integrity of gaming operations in this state has been stained.

Of course, with additional resources, there are more controls that could be overlaid that would provide increased oversight. It is our opinion, however, that these controls would not be cost effective, and would not provide sufficient improvement in the overall regulatory program to warrant requesting those additional resources. Recommendations of your staff that fall into this category include the following:

Recommendations 2 & 7: Our Compliance Division is fully aware of the significance of having a policy manual. The policy manual is something the Division would like to accomplish if given the staffing to complete this voluminous task. Although the Division does not have a policy manual, detailed work programs are utilized for all work. As such, the Division operates effectively and efficiently and follows all policies of the Mississippi Gaming

Commission ("MGC"). We are also confident that the corporate investigations are thorough and comply with all MGC rules and regulations and state law.

Recommendation 8: The IRS has the responsibility to ensure compliance with Title 31. The MGC can not and should not oversee licensees' compliance with all laws and regulations of other regulatory entities.

Recommendations 13, & 16-20: We are confident that the review and approval process is adequate to ensure that the devices comply with legal requirements (e.g., "honest and competitive" play of the games, eighty percent minimum payout). (See Mississippi State University study attached as Attachment "G")

Recommendations 14 & 15: These are areas that would be nice to do given unlimited resources, and, as time allows, we are continuing to develop.

Recommendation 22: As we have discussed, the MGC has neither the resources nor expertise to conduct such an analysis. Such an analysis was recently completed in the State of Louisiana at a cost of \$600,000, conducted by several experts from various institutions of higher learning. In addition, such an analysis would be of no benefit to this agency, as we do not have a voice in state policy regarding whether gaming should be allowed in the state. Finally, any such analysis would be tainted by the MGC's involvement, and should be conducted by an entity with no connection to the industry.

In addition, the report includes recommendations which, we believe, could and should be implemented. These include:

Recommendation 1: The Commission does set direction for reviewing qualifications. There has never been, to our knowledge, any decision made by the Commission without information they felt was critical to that decision.

Recommendation 5: We continually work to improve investigations of key personnel, and a database would help in that regard. We believe that there is some confusion, however, based upon two definitions of key employees. While a list of "key employees", i.e., those who earn more than \$60,000 per year, is obtained from all licensees, not all of those individuals (such as chefs) are key to gaming operations, and, as such, should not be investigated (see Miss. Code Ann. §75-76-5).

Recommendation 6: We agree that a show cause inventory would be useful in determining proper penalties during a "show cause" hearing.

Recommendation 23: The MGC has finalized its additions to the exclusion list (although this is a continuous process). Other large jurisdiction lists are not useful unless we have information that such individuals may pose a threat in Mississippi.

Recommendations 28-30: We agree that a review of automobile usage in the agency would be appropriate, and disciplining employees who violate policy and regulation in regard to those vehicles would also be appropriate.

Recommendation 31: We will review Internal Revenue Service Regulation 26 CFR Section 1.61 and ensure compliance.

Other recommendations require individual responses as follows:

Recommendations 3 & 4: The State of Mississippi handles the issuance of work permits based upon the process utilized in every jurisdiction in the United States (see Attachment "A"). The reason for issuing work permits within a short period of application has traditionally been based upon the extremely long time period to conduct background checks.

Under the old system (prior to January 2001) of manually taking fingerprints and submitting them to the appropriate state and federal law enforcement agencies to check for criminal records, the turn around time was three (3) to five (5) months for the federal sector. In order to avoid delaying employment for that length of time to Mississippians who desperately needed a job, delay a casino opening and/or shut a casino down for lack of available work force, work permits were issued to applicants based on signed applications that qualify for a permit.

By issuing the work permits without totally completing the background, PEER has cited that during the fiscal year 2000 the Commission issued 18,084 work permits. Of these, 39 were identified with prohibited records and should not have received a work permit. We agree that this happened but would like to point out that this small percentage of approximately .00215 is a risk we were resigned to live with or delay employment for three (3) to five (5) months to the additional 18,045 other Mississippians who needed jobs and qualified for work permits. It should be further noted that the 39 permits were revoked for having a prior criminal record and not for any criminal activity while holding a permit.

Having said this, we are continuing to work to reduce the time it takes to conduct background checks. Due to lack of funding, efforts to establish on-line electronic fingerprint checks with the state and federal agencies were not completed until January 2001. With the completion of on-line fingerprint checks, the ability to obtain a state check was reduced to not more than 24 hours and federal checks were reduced to several weeks. Efforts are continuing with the federal sector to

reduce weeks to several days by expending more funds to allow the federal system to provide a response directly to the district offices submitting the print. Once that is completed, we will be able to delay issuing work permits until all background checks are completed.

Recommendations 9-12: Currently, the MGC has a FTO program that employs the use of a lesson plan and exams. This program is constantly being updated and refined. Policy requires that our agents have a minimum of eighty (80) hours of training annually, which all agents have met.

Recommendation 21: The MGC has more-than-adequate established criteria for determining the honest and competitive conduct of table games. Policies and procedures have been developed for the approval of table games (see Attachment "B") and are strictly followed.

Recommendation 25: Mississippi Code Annotated §75-76-17 states:

- (1) From and after October 1, 1993, there are hereby created, for supervision by the executive director, two (2) divisions which are entitled the Enforcement Division and the Investigation Division. The executive director shall be authorized to create such other divisions as he deems necessary to implement the provisions of this chapter excluding an audit division.
- (2) The executive director shall employ division directors that possess training and experience in the fields of investigation, law enforcement, law or gaming.

The MGC is in compliance with Mississippi law. Each of the three (3) field offices has a fully operational Enforcement Division, with a total of thirty-four (34) agents, all with law enforcement training and experience, that enforce the gaming laws on a daily basis. These enforcement operations are coordinated and administered by an individual with over twenty-five (25) years of training and experience, including over nineteen (19) years of experience in the gaming industry in two (2) different gaming jurisdictions.

The statute clearly specifies that the Executive Director oversees the supervision of the Enforcement Division and has the authority to make such other personnel decisions as deemed necessary to carry out the responsibilities set forth therein. Long before the Gam-Division Director, Chief of Enforcement position became vacant in June, 2000, the Executive Director decided that the current Chief of Staff was qualified, trained and experienced to successfully oversee the operations of the Enforcement Division. When the Gam-Division Director, Chief of

Enforcement position became vacant, it remained vacant for four (4) months with no intentions by the Executive Director to fill it. Based upon the fact that the Enforcement Division was being led by a qualified individual and in an attempt to correct an inequity that existed within the agency, the Executive Director decided at that time to move the position to the Personnel Division. The Personnel Director, an African-American female and the only such minority in senior management, was promoted into this position.

The Executive Director based this decision upon knowledge of past approvals by the State Personnel Board. In May, 1994, the Gam-Division Director classification was requested by this agency for a position with no direct supervision over anyone and approved by the State Personnel Director. Again in January 1996, the State Personnel Director approved a new division to be headed by a Gam-Division Director with only one individual being supervised by this director. Thus, the vacant Gam-Division Director position was moved to the Personnel Division with supervision of three (3) employees. Further, we recognize that the Bureau Director I classification is not the proper classification for the duties and responsibilities being performed by the incumbent. Thus, we are requesting some assistance and guidance from State Personnel Board staff on an appropriate job class.

The MGC submitted an updated organizational chart and a formal request for structural modification to the State Personnel Board on May 16, 2001, in order to comply with State Personnel Board policies and procedures. The personnel decisions that were made meet the statutory requirements with respect to Enforcement and are consistent with past decisions by the State Personnel Board.

Recommendations 26-27: With respect to the travel and reimbursement of employees, the MGC deemed it imperative to staff the Tunica Office as soon as possible. The Tunica market is the third largest gaming jurisdiction in the country. It was critical that proper management be in place to oversee these operations. The MGC will refer payment of unauthorized travel expenses to the State Auditor's office for collection under the provisions of Mississippi Code Annotated §7-7-211 (1972).

The Executive Director meets with many gaming groups interested in site approval. As you can understand, this information is very confidential in nature. An unmarked vehicle provides the confidentiality these businesses expect in discussing potential business ventures in our state. Further, the Executive Director is called upon by many casinos to investigate matters that are highly confidential. A marked car would automatically announce that a MGC official is at the site for some purpose. The MGC acted in accordance with state law regarding the use of an unmarked vehicle. The law clearly states that, upon

request by an agency, the Governor can approve the use of such vehicles, which he so did.

Recommendation 24: For the past two (2) years, a Jack Binion World Poker Open event (“Tournament”) has been held in Tunica, Mississippi. The MGC regulates this Tournament. Regulate means that the Commission approves the tournament itself, issues work permits to participating dealers, is notified of scheduled drops and routes, approves the chips used, and approves table layout and surveillance in the tournament area. All Tournament participants are required to post a buy-in and entry fee. A copy of the Tournament rules is attached as Attachment “C” for your information.

This year, the Tournament, held at Gold Strike Casino Resort, provided a Charity/Celebrity Hold'em Invitational (“Charity Play”). (See the Event Schedule attached as Attachment “D”). The Charity Play was not regulated by the Commission. No approvals were sought nor obtained by Gold Strike or the Tournament sponsor concerning the Charity Play. There were no rules for play. Further, no buy-in or entry fee was required for participation. All proceeds from the Charity Play went to charity.

The Commission's Executive Director, the Commission's Deputy Director, and the Commission's Chief of Staff participated in the Charity Play. After considering Mississippi's conflict of interest/ethics in government statutes, a previous opinion from the Attorney General (see Attachment “E”), and Section 3.0 of the Commission's Administrative Manual (see Attachment “F”), we determined that participation was both legal and ethical. Our conclusion was based on several facts. First, while the Tournament clearly fell within the Commission's regulatory authority, the Charity Play clearly did not; no approvals were required and if any had been sought, would not have been granted as an activity outside the Commission's regulatory authority. Second, the Charity Play was not a licensed game. A third fact was that the charity play was not gambling within either the common or legal definition of that activity. Finally, we would not, nor could we, receive any free thing of personal gain such as money, gifts, prizes, etc., from participation. Although dinner and prizes were provided for all participants, we paid for these items from personal funds to avoid any appearance of impropriety. Indeed, our personal and professional integrity was a factor of overriding importance in our deliberations.

Our conclusion that participation in the Charity Play was both legal and ethical is consistent with Mississippi Attorney General Opinion 1990 WL 548161, dated February 28, 1990. Based on that decision, the Charity Play did not constitute “gambling” or “gaming”. The following factors were relevant in the aforementioned opinion in determining whether “gambling” occurred:

- “The game was a casino-type game”. In this case, a casino-type game was involved—poker.
- “The game was conducted at an event or place which required no admission fee, cover charge, or any other consideration to enter or attend.” As shown on the event schedule, the Charity Play did not have any buy-in or fee.
- “A set number of chips or tokens were given to those in attendance at no charge or other consideration, and these chips or tokens may be used to play the games and no other chips or tokens may be purchased or obtained to play the games.” Players in the Charity Play were given a set amount of chips to be used solely for the Charity Play. Players were required to play all chips and could not purchase any additional chips.
- “The individuals playing the games may use their remaining chips or tokens at the end of the evening to purchase “door prizes”. “ In this case, all chips had to be played and players were not allowed to take any chips with them at the conclusion of play. No player received any benefit from having played in that any “winnings” went solely to a charity of their choice. If any Mississippi Gaming Commission employee had won (which they did not), the designated charity to receive the “winnings” was the Mississippi Compulsive Gaming Association.

The AG Opinion cited above states:

[C]onsideration is necessary to constitute gambling... Consideration includes, but is not limited to, admission fee, cover charge, payment for a ticket, donation to attend, or any other thing of value which is required of those who would participate in the games. Any payment whatsoever for the chips or tokens involved in the games would also constitute consideration.

Since there was no consideration in any form by any player involved in the Charity Play, there was no “gambling”.

The Mississippi Gaming Commission regulates “gambling”. Since there was no “gambling” involved in the Charity Play, the Mississippi Gaming Commission had no jurisdiction to regulate the Charity Play. Since the Mississippi Gaming Commission had no jurisdiction over the Charity Play, no approvals were required, sought or given with respect to the Charity Play. The State of Mississippi received no revenues on the play from the Charity Play since it did not constitute “gambling”, further evidence that this was not an activity subject to regulation by the Mississippi Gaming Commission.

For all these reasons cited herein, participation in the Charity Play by MGC staff was entirely legal, ethical and proper. There was never any attempt to hide the MGC staff's participation; to the contrary, media were present and the participants in the Charity Play were publicized to the general public. Never once did anyone question or allude to any impropriety in the MGC staff's participation, because it simply did not exist. The integrity of our roles as regulators was always maintained.

In conclusion, the MGC strives on a daily basis to improve its operations within the constraints imposed by staffing and budget. While improvements can still be made, we are confident that the work of the agency currently provides the State of Mississippi with the statutorily mandated assurance that gaming operations in this State are conducted honestly and competitively, that the rights of creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

Sincerely,



Charles Patton
Executive Director
Mississippi Gaming Commission

CP/br

cc: Chairman W.W. Gresham, Jr.
Commissioner Leonard A. Blackwell, II
Commissioner Victor P. Smith

W.W. Gresham, Jr.
Chairman

Leonard A. Blackwell, II
Commissioner

Victor P. Smith
Commissioner



Charles O. Patton
Executive Director

MISSISSIPPI GAMING COMMISSION

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June 7, 2001

Dr. Max Arinder
Executive Director
PEER Committee
P.O. Box 1204
Jackson, MS 39215-1204

Dear Dr. Arinder:

Please accept this letter as an amendment to our response, dated June 5, 2001, to PEER's recent report of our agency review. The following responses are amended as noted:

Recommendations 28-30: The MGC will conduct a needs analysis on the number of vehicles necessary to perform agency work. Further, we will modify vehicle locations to optimize vehicle usage and eliminate commuting mileage.

Recommendations 9-12: Currently, the MGC has a FTO program in the Southern District Office, which will be followed as a model for implementing the same program in both the Central District and Northern District Offices. Further, MGC will continue to strive to ensure that our agents have a minimum of eighty (80) hours of training annually.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Charles Patton".

Charles Patton
Executive Director
Mississippi Gaming Commission

CP/br

cc: Chairman W.W. Gresham, Jr.
Commissioner Leonard A. Blackwell, II
Commissioner Victor P. Smith



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