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CASINO GAMBLING: THE ELEMENTS OF EFFECTIVE CONTROL

by Michael A. Santaniello*

Casino gambling has existed for some forty years in Nevada and is in its fourth year in New Jersey. Despite its longevity, there are few people who understand or appreciate the system for controlling internal casino operations and the unique characteristics that make that control so difficult. More importantly, this lack of understanding is shared by those who are responsible for managing, operating, auditing, and regulating casino gambling. Many individuals in these categories know that control is essential and that certain procedures must be followed.¹ Few of these individuals comprehend the overall system of control that is necessary, or why a given procedure should be followed, or what makes controlling a casino different than controlling any other business.

The Unique Problem of Internal Control

Unlike other enterprises, two elements join to make the effective control of a casino's internal operation problematic and complex. First, a casino contains a vast amount of liquid assets in the form of cash and gaming chips which are very attractive and susceptible to misappropriation. Second, these liquid assets remain uncounted and unrecorded as the gaming activity takes place. Casinos are unique because millions of dollars are continually changing hands among thousands of people on the casino floor without any record being made of how much money is exchanged, how many people are involved, or who those individuals are.² A casino

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¹ For example, a report issued from the executive branch of the New Jersey state government included recommendations that *minimum standards* be established by legislation and regulation to control the administration of cash, checks, and gaming chips and the supervision of employees and management. STAFF POLICY GROUP ON CASINO GAMBLING, SECOND INTERIM REPORT 40, 42 (1977) (emphasis added).

² In contrast to other types of businesses, casinos do not have inventories of goods that can be compared to the cash received. The distinction between traditional business practice and the requirements of the casino business has been recognized elsewhere:

[W]hen a Macy's store clerk sells a pair of gloves, the clerk prepares a sales slip or rings up the sale on the register. When IBM leases a computer, a contract is prepared. IBM and Macy's record their sales and leases in their financial records; their independent auditors perform test checks of sales slips, cash register tapes and leases, and compare the test

neither records the initial exchange of money for gaming chips at the gaming tables nor records each win or loss incurred in the myriad of gaming transactions occurring at the tables. Since there is no record of how much has been won or lost, no one knows how much is at the tables at any point in time during the gaming day. It is this peculiarity that makes a casino especially vulnerable and creates substantial problems in accurately accounting for a casino's revenue, in effectively auditing casino operations, and in detecting and preventing theft by casino management, employees, and patrons.

Due to the impracticality of recording each gaming transaction,³ a casino must rely on aggregate amounts of cash, checks, and gaming chips to determine its gross profit or loss. Each table contains an initial inventory of chips at the beginning of the gaming day. These chips are sold to patrons in exchange for cash or checks and are used by the patrons to make wagers. As the game progresses, losing wagers are collected by the dealers and placed in the table inventory. Winning wagers are paid from that inventory. Thousands of these unrecorded gaming chip exchanges occur at each table every day. The following example illustrates the manner in which these aggregate amounts are used by a casino in determining its gross profit or loss.

Calculation of Win/Loss

| | | |
|--------------------------------------|---|-----------------|
| Beginning Chip Inventory (one table) | = | \$100,000 |
| Chips Remaining at End of Day | = | <u>— 80,000</u> |
| Chips Outstanding | = | \$ 20,000 |
| Amount of Cash and Checks at Table | = | 50,000 |
| Chips Outstanding | = | <u>— 20,000</u> |
| GROSS PROFIT | = | \$30,000 |

results with the financial records. When a blackjack dealer in a casino pays off on a winning hand, he simply pushes some chips across the table. Since there are no sales slips for blackjack bets or receipts for roulette chips, an auditor must rely on other tests to determine if a casino's records truly reflect its financial operations.

Meyer, *Accounting For The Winnings—Auditing Gambling Casinos*, 12 CONN. L. REV. 809 (1980).

³ Records of individual gaming transactions are impossible to maintain without bringing action at the tables to a virtual standstill. In the past, this impracticality has been recognized by auditors and typically referenced in the auditor's report as follows:

Because of the nature of the casino business, initial accounting control over gaming revenues is established when the cash and cash items from casino operations (after having

Although the calculation of a casino's gross profit or loss is rather simple,⁴ an analysis of the above example demonstrates that its accuracy is based on a plethora of assumptions. First, it assumes that the amount of chips with which the table began had been properly counted and recorded; second, it assumes that the amount of chips left outstanding at the end of the day had been either exchanged for cash or checks, or paid to winning patrons; third, it assumes that all losing wagers had been properly collected; fourth, it assumes that all cash and checks had been properly exchanged by the dealer for gaming chips; fifth, it assumes that all cash and checks collected by the dealer had remained at the table and had reached the counting process; sixth, it assumes that there had been no misappropriation of gaming chips, cash, or checks by either casino employees or patrons throughout the gaming day; seventh, it assumes that the game had been conducted in accordance with the prescribed rules; and eighth, it assumes that any equipment used to operate the game was fair and had been used in accordance with the rules of the game. The final result also assumes that any additional chips sent from the cashier's cage to the table or sent from the table to the cashier's cage⁵ actually reached its destination and had been properly recorded. The reported gross profit or loss of the casino, with its accompanying tax consequences, is dependent upon the continued integrity of these assumptions.

In order to ensure the reliability of an accounting system based on aggregate amounts, any proposed control mechanism must guarantee that cash, checks, and gaming chips will be properly handled during the gaming day and that they will reach the counting process. Proper handling necessarily includes the proper collection and transferral of cash, the proper granting and recording of credit, and the proper exchange, dispersal, and collection of gaming chips. If the dispersal, collection, or transfer

been removed from the gaming areas) are concurrently counted, recorded on the master game report, and placed in the custody of the casino cashier. *It is not practicable to establish such accountability prior thereto.*

Carmichael, *Auditing and Reporting for Casinos*, J. OF ACCOUNTANCY, Feb. 1972, at 71 (emphasis added).

⁴ The actual computations involved in the calculation of gross profit or loss are more complex than those of the previous example. See REGS. OF THE NEV. GAMING COMM'N AND STATE GAMING CONTROL BOARD § 6.080 (1980) [hereinafter cited as NEV. REGS.] as an example of the specificity with which procedures for reporting winnings may be promulgated.

⁵ Included in actual aggregate amount calculations are any chips sent to or returned by the table during the gaming day. See, e.g., N.J. ADMIN. CODE tit. 19 §§ 45-1.22, .23 (1981). See notes 19-25 *infra* and accompanying text for a discussion of the "Fill Slip" concept.

of cash, chips, or checks is inaccurate, fraudulent, or otherwise improper,⁶ the aggregate amounts reaching the counting process will be inaccurate. Thus, the final tabulations of gross profit or loss will also be inaccurate. Moreover, an impropriety would not be evident from the final tabulations⁷ since records of individual gaming transactions are not kept.⁸ A casino never learns if it has been victimized unless a theft or impropriety is detected as it is committed.

Deficiencies of Accounting and Internal Controls

In developing detailed systems to control these activities, the developers and those responsible for auditing and regulating the casinos usually emphasize the accounting and internal control area.⁹ Generally, proce-

⁶ A list of fraudulent schemes frustrating the delivery to the counting process of accurate assessments of aggregate amounts includes but is not limited to the cash skim (the removal of funds before they have been recorded), the recorded credit skim (the substitution of a check with a lesser amount of cash), the unrecorded credit skim (the non-recording of a receivable), false fills (the recording of a fictitious transaction), unrecorded collections (where receivable payments are not remitted and are written off as bad debts), advances to fictitious players, the use of fictitious winners in collusion with casino employees, and kickback devices. STAFF POLICY GROUP ON CASINO GAMBLING, SECOND INTERIM REPORT 41 (1977).

See notes 26-27 *infra* and accompanying text for a discussion of collusion.

⁷ Innovative provisions have been adopted in both Nevada and New Jersey to attempt to control the improper diversion of casino assets. Note, *The Casino Act: Gambling's Past and the Casino Act's Future*, 10 RUT.-CAM. L.J. 279, 320 (1979).

See generally N.J. ADMIN. CODE tit. 19 §§ 45-47 (1981).

⁸ See note 3 *supra* and accompanying text.

⁹ Internal control is described in Nevada as follows:

(a) The system of accounting control relative to gaming operations shall provide a plan of organization and a description of the procedures and records which are designed to provide reasonable assurance that the following objectives will be attained:

- (1) The safeguarding of assets.
- (2) The reliability of financial records.
- (3) That transactions are executed in accordance with management's general or specific authorization.
- (4) That transactions are recorded as necessary to (a) permit proper recording of gaming revenue, and (b) maintain accountability for assets.
- (5) That access to assets is permitted only in accordance with management's authorization.
- (6) That the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(b) The system of administrative control relative to gaming operations shall include a complete plan of organization which will provide appropriate segregation of functional responsibilities and sound practices to be followed in the performance of these duties by competent and qualified personnel. The plan of organization shall be diagrammatic and

dures of this character regulate how cash is collected and stored at the tables,¹⁰ how it is transported to the count room,¹¹ how it is counted and recorded,¹² how credit is verified, granted, and recorded,¹³ how gaming chips are transferred to and from the tables,¹⁴ and what records and documents are created in the cashiers' cage and count rooms.¹⁵ Although each of these areas is essential to control, a system that limits itself to traditional accounting and internal control areas lacks the comprehensive approach needed to effectively regulate the activities occurring on the casino floor. The pure accounting and internal control approach fails to provide controls over the most vulnerable area of the casino, namely, the activity occurring at the table games.

To be an effective safeguard over casino assets, the system must provide controls on the substantive and procedural rules of the games¹⁶ and on the standards and procedural safeguards for gaming equipment.¹⁷

narrative in describing the interrelationship of functions and the division of responsibilities upon which the system of internal control relative to gaming operations is based. NEV. REGS., *supra* note 4, § 6.050.

In New Jersey, the parameters of internal control are more explicitly defined. N.J. STAT. ANN. § 5:12-99 (West Supp. 1981-1982). Internal control includes procedures "for the handling and storage of gaming apparatus" and "governing the conduct of particular games and the responsibility of casino personnel in respect thereto." N.J. STAT. ANN. § 5:12-99(a)(16), (17) (West Supp. 1981-1982). Although the New Jersey rules are arguably more comprehensive than those of Nevada in that the need for table game control is recognized, the results under both provisions are the same if they are not scrupulously enforced.

¹⁰ See N.J. STAT. ANN. § 5:12-99(a)(5) (West Supp. 1981-1982); N.J. ADMIN. CODE tit. 19 § 45-1.18 (1981); NEV. REGS., *supra* note 4, § 6.100. Both New Jersey and Nevada provide that currency accepted from a patron be immediately placed in a locked box, or "drop box," affixed to or in the table. New Jersey requires that the amount of currency accepted be verbalized to the patron before deposit and allows some coins to remain in the table inventory. *Id.*

¹¹ See N.J. STAT. ANN. § 5:12-99(a)(7) (West Supp. 1981-1982); N.J. ADMIN. CODE tit. 19 § 45-1.17 (1981); NEV. REGS., *supra* note 4, § 6.230(1)(d). Both New Jersey and Nevada require the submission of schedules regarding the removal and delivery of cash from the tables. While New Jersey sets forth detailed provisions as to the storage of drop boxes in the "count rooms," Nevada provides only that they be kept in a secure place. *Id.*

¹² See N.J. STAT. ANN. § 5:12-99(a)(8) (West Supp. 1981-1982); N.J. ADMIN. CODE tit. 19 § 45-1.33 (1981); NEV. REGS., *supra* note 4, § 6.230.

¹³ See N.J. STAT. ANN. § 5:12-101 (West Supp. 1981-1982); NEV. REGS., *supra* note 4, § 6.260. See also Note, *The Casino Act: Gambling's Past and the Casino Act's Future*, 10 RUT.-CAM. L.J. 279, 316-17 (1979) (discussing three approaches to the formulation of a credit policy and New Jersey's adoption of the English model).

¹⁴ See N.J. STAT. ANN. § 5:12-99(a)(6) (West Supp. 1981-1982); N.J. ADMIN. CODE tit. 19 §§ 45-1.22, .23 (1981); NEV. REGS., *supra* note 4, §§ 6.210, .240, .250.

¹⁵ See N.J. STAT. ANN. § 5:12-99(a)(4), (8) (West Supp. 1981-1982); N.J. ADMIN. CODE tit. 19 §§ 45-1.15, .33 (1981); NEV. REGS., *supra* note 4, §§ 6.230-.260.

¹⁶ See notes 35-40 *infra* and accompanying text.

¹⁷ See notes 41-46 *infra* and accompanying text.

Despite compliance with the accounting and internal control system, control over assets can still be seriously impaired by a rigged roulette wheel, a dealer dealing seconds, prearranged decks of cards, or a marked set of cards. The fact that cash is collected and gaming chips are transported in accordance with proper accounting procedures provides little control if these chips are depleted or misappropriated through biased or rigged equipment, or through the improper conduct of the game.

Although the foregoing observation may appear obvious, it is not appreciated in practice. Casino games and casino equipment are treated like the stepchildren of accounting and internal controls and are given little, if any, attention. The games and the equipment seem to mystify those responsible for designing the overall control system, leaving the control of games and equipment to those who have been supervising them for years. Accordingly, there has been little recent, independent examination of the games and equipment from a control perspective.

The Theory of People-To-People Control

Another misapprehension regarding the control of casino operations involves the importance of the role that records and documents play in the control system. It is not uncommon for casino management to applaud favorable audits of records and documents as assurances of the continued integrity of the process. However, a person can audit every piece of paper generated by a casino and still never detect whether theft, embezzlement, or skimming has occurred. For example, a simple way to steal money from a casino is for a dealer to pocket some chips or to pass them off to a friend on the other side of the table. An audit of every document in the casino will never provide any indication of this theft.¹⁸

The records and documents generated in a casino are not direct control mechanisms on the activities occurring on the casino floor. Instead, the documents function as evidence that the primary control mechanism is functioning properly. The real control is people watching people; an individual acts as a check and balance on the activities of another. The various forms used on the casino floor simply provide the evidence that the

¹⁸ For discussions concerning the duty of a certified public accountant in the completion of a certified audit of a casino, see Carmichael, *Auditing and Reporting for Casinos*, J. OF ACCOUNTANCY, Feb. 1972, at 71; DeArmas, *Internal Control in Casinos*, PENNSYLVANIA CPA SPOKESMAN, Apr. 1978, at 11; Meyer, *Accounting For the Winnings—Auditing Gambling Casinos*, 12 CONN. L. REV. 809 (1980).

individuals who should have been involved in a transaction were actually involved.

This can be readily illustrated by examining one of the common transactions occurring on the casino floor—the transporting of chips from the casino cage to the gaming tables. This procedure, reduced to its essential components, occurs as follows. First, a supervisor of a table area requests that the cage¹⁹ send additional gaming chips out to a table.²⁰ This is referred to as a “Fill” since the cage is being asked to fill the table with chips.²¹ Once the request is received, a cashier in the cage places the requested amount of chips in a container and prepares a “Fill Slip.” A Fill Slip includes the amount of chips being transported and the signature of the cashier.²² One copy of the Fill Slip is retained in the cage and two copies are given to a security officer who signs them after verifying the amount of chips he has received.²³ The chips and Fill Slip are then taken by the security officer to the table. The dealer at the table and supervisor of the table area sign the two copies of the Fill Slip after verifying the amount of chips received.²⁴ The chips are then placed in the table inventory. One copy of the Fill Slip is retained at the table and the second copy is returned to the cage.

This procedure is designed to ensure that the gaming chips requested by a table are transported, in fact, from the cage to the table. As previously discussed, it is impossible to determine from a table inventory what

¹⁹ In New Jersey, the cashier's cage is on or immediately adjacent to the gaming floor and generally serves to approve and exchange patron checks, and to receive and distribute gaming chips. N.J. ADMIN. CODE tit. 19 § 45-1.14 (1981).

²⁰ See N.J. ADMIN. CODE tit. 19 § 45-1.15(b)(3) (1981).

²¹ Technically speaking, the New Jersey regulations term this request for a fill as a “Request.” N.J. ADMIN. CODE tit. 19 § 45-1.22(a) (1981).

²² Compare N.J. ADMIN. CODE tit. 19 § 45-1.22(g), (h) (1981) with NEV. REGS., *supra* note 4, §§ 6.210, .240. The New Jersey and Nevada regulations regarding Fill Slips are similar. Both jurisdictions require that Fill Slips be serially prenumbered forms consisting of three parts, two of which may be discharged from a dispenser and one of which is kept in the possession of personnel with no incompatible function.

Although both jurisdictions require that the Fill Slip include the signature of the preparer and the time of preparation, New Jersey requires information regarding the denominations and totals of gaming chips, coins, and plaques distributed, the game and table number to which the fill is distributed, and the shift during which the distribution occurs.

²³ Compare N.J. ADMIN. CODE tit. 19 § 45-1.22(l) (1981) with NEV. REGS., *supra* note 4, § 6.240(2) (whereas the individual making the physical transfer in New Jersey signs the Fill Slip upon receipt of the chips before delivery, his Nevada counterpart signs the Fill Slip upon delivery to the table).

²⁴ See N.J. ADMIN. CODE tit. 19 § 45-1.22(m) (1981).

specific amount of chips has been received from the cage once the chips have been received at the table and commingled with the other chips in the table inventory. Therefore, the control mechanism necessary to ensure the proper transportation and receipt of chips must exist in the procedures used in the transportation process. To many, the control mechanism is the Fill Slip that is prepared and signed at each step in the process. But the Fill Slip is not the primary means by which this transaction is controlled. The Fill Slip can be completely filled out in accordance with all the appropriate requirements, yet it does not guarantee that the chips were actually received at the table.²⁵

The Fill Slip serves only as an indicator of the individuals who were actually involved in the transaction (provided the signatures are valid). The only effective control mechanism involved in this transaction is the role played by each individual as a check and balance on the activities of another. Ideally, the security officer serves as a check on the actions of the cashier, the dealer serves as a check on the actions of the security officer, and the supervisor serves as a check on both the officer and dealer. However, this method of control is vulnerable to collusive activity. If several individuals involved in the transaction are in collusion, the system of control is overcome.²⁶ Unless the scheme is uncovered during its operation, its occurrence would never be detected unless disclosed by one of those involved. Of course, the more individuals that are involved in the same collusive activity, the more difficult it is to keep the secret. This is why the control system should provide for the involvement of as many employees as possible in a transaction. Nevertheless, it is because collusion can overcome the system that casinos utilize closed circuit television systems. Closed circuit television permits surveillance employees to observe

²⁵ This is illustrated by a simple variation to the Fill Slip procedure described above. A cashier in the cage prepares a Fill Slip for \$10,000 in gaming chips to be transported to Table Number One. The \$10,000 in chips is given to the security guard with the two copies of the Fill Slip. On his way to the table, the security guard gives the \$10,000 in gaming chips to his friend who leaves the casino with them. The security officer takes the Fill Slip to the dealer and supervisor at Table Number One with whom he is in collusion. Each individual signs the Fill Slip in accordance with procedure. One copy of the Fill Slip is retained by the table while the second is returned to the cage. According to the completed Fill Slip, the \$10,000 in chips were received by the table. In fact, \$10,000 in chips were removed from the casino by a cohort of the security officer, later to be distributed between the security officer, his friend, and the dealer and supervisor at the table. This hypothetical demonstrates that the control over this transaction is not the Fill Slip itself.

²⁶ It has been recognized that an effective check and balance system makes impropriety "infinitely more difficult absent extensive, interdisciplinary collusion." STAFF POLICY GROUP ON CASINO GAMBLING, SECOND INTERIM REPORT 43 (1977).

the transactions while they occur and serve as another check on the actions of the individuals involved.²⁷

Although illustrated with a transaction involving the transportation of chips, this people-to-people control method is the primary control mechanism on all activities occurring on the casino floor.²⁸ It is utilized to protect the integrity of the equipment, to prevent the misappropriation of chips or cash, and to control the transportation of chips, the receipt and exchange of cash, the payment of winning wagers, and the collection of losing wagers. The realization that control over casino operations is completely dependent on a people-to-people system of control should begin to

²⁷ The preeminence of the human control system in casinos and its various technical elements have been described as follows:

The people-to-people controls in most well-run casinos include supervision and observation, and by players who watch the pay-offs like hawks. They also include the use of the "eye in the sky" (overhead observers) and closed circuit television cameras. Human observation is conducted by the surveillance department, which is not under the control of the casino management. Many casinos have dark globes in the ceilings containing television cameras that can usually turn 360 degrees to monitor all areas of the casino floor; the cameras also have zoom capabilities to focus on any activity within the casino at any time.

Leonard, . . . *And Then There's The 'Eye-In-The-Sky,'* LAVENTHOL & HORWATH PERSPECTIVE, Fall/Winter 1979, at 21, 22.

One instance demonstrating the effectiveness of this system occurred at the Four Queens Hotel in Nevada, where a "boxman" employed by the hotel was detected, through the use of the "eye in the sky" television system, removing twenty-five dollar gaming tokens from the dice table. The Supreme Court of Nevada affirmed the lower court's conviction of the defendant on embezzlement charges. *Siriani v. Sheriff, Clark County*, 93 Nev. 559, 571 P.2d 111 (1977) (decided on other grounds).

Accordingly, each casino licensee in New Jersey is required to install a closed circuit television system. N.J. STAT. ANN. § 5:12-98(b)(1) (West Supp. 1981-1982).

²⁸ For example, it has been recommended that people-to-people control be utilized in the cashier's cage in the following manner:

1. Chief cashier

Reporting to the chief cashier:

2. Credit and collections

3. Shift supervisor

Reporting to the shift supervisor:

4. Cashiers

5. IOU custodian

6. Reserve cash bank

7. Master chip bank

Gaming Industry Committee, Nevada Society of Certified Public Accountants, *Internal Control for Casinos at i* (1972).

New Jersey has segregated its cashiers by function in a manner similar but not identical to the format suggested above. The New Jersey cashier's cage includes general cashiers, check cashiers, chip bank cashiers, and reserve cash ("main bank") cashiers. N.J. ADMIN. CODE tit. 19 § 45-1.15(b)(1) to (4) (1981). They are supervised by a cage manager who is responsible to a casino controller. N.J. ADMIN. CODE tit. 19 § 45-1.11(c)(7), (8) (1981).

explain the vulnerability of casino operations and the importance of the integrity of the people involved.

In order to maximize the effectiveness of a system of casino control, it is essential that authority be dispersed, that duties and responsibilities be segregated amongst various individuals and departments, and that no person on the casino floor possess plenary authority. The check and balance system is effective only if floor employees are responsible to different superiors. Further, those superiors must hold positions of equivalent authority in the organizational hierarchy.²⁹ These ground rules are intended to prevent any person on the casino floor from accumulating authority extensive enough to direct and override each individual serving as a check and balance. Ideally, each person involved in a transaction should be delegated authority from an independent superior. In this way, even a lower-echelon employee can act as a check on the actions of a higher-echelon employee since both derive their authority from different superiors and each follows the directions of their respective supervisors.

Surveillance and Control in the Gaming Area

As indicated previously, the most vulnerable and difficult area to control in a casino is the activity occurring at the table games. In this instance, the control system must serve to protect both the patron and the casino. It must assure that the assets of the casino are properly administered and that the game is honestly conducted.

The effectiveness of the check and balance system on table games depends upon two factors. First, the supervisory and surveillance personnel, who are responsible for acting as a check and balance on the actions of

²⁹ Responsibilities could be segregated in the following manner. A casino manager is responsible for the operation of the casino proper. A chief financial officer supervises the accounting functions, the cashier's cage, and the counting process. A head of surveillance is responsible for monitoring casino activities. An internal auditor periodically runs checks on the casino to verify the effectiveness of the prescribed procedures. Each of these supervisors should be responsible to a single chief operating officer of the casino. A system of segregated authority like the one above is the "first aspect of good internal control" and "a factor that is needed to deter or eliminate fraud by management or employees." Leonard, . . . *And Then There's The 'Eye-In-The-Sky.'* LAVENTHOL & HORWATH PERSPECTIVE, Fall/Winter 1979, at 21.

In New Jersey, a casino's system of internal control is to provide for "[t]he segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of his duties." N.J. ADMIN. CODE tit. 19 § 45-1.11(b)(2) (1981). At a minimum, each New Jersey casino is required to establish segregated departments for surveillance, internal audits, casino operations, the slots, credit, security, and accounting. N.J. ADMIN. CODE tit. 19 § 45-1.11(c)(1) to (7) (1981).

the dealers and patrons, must know at what they are looking.³⁰ Second, the number of games that a supervisor is responsible for observing must not exceed the number of games which one supervisor is physically capable of observing.³¹

In the games area, control is exercised primarily through both supervisory and surveillance personnel watching the actions of dealers and patrons. The responsibility of the first-line supervisors, namely the floorpersons and boxpersons, is to ensure that the game is being played by both dealer and player in accordance with the rules; they must detect and prevent any irregularity, mistake, theft, embezzlement, or cheating activity. A system of control that merely requires individuals to serve in these capacities is insufficient. The method of control must be such as to require that the individuals who are serving in these roles have the proper training and experience to know at what they are looking.³² A person who does not know the substantive rules of the games, the proper procedures for dealing, the common methods of cheating and the movements associated with each form of cheating, and who cannot follow and verify the actions of the dealer provides little control in this sensitive area.³³

Despite the existence of qualified supervisory personnel, the quality of control is affected by the amount of activity a supervisor is responsible for observing and controlling. No matter how qualified a person is, he can only observe so much at one time. By contrast, it takes seconds for a dealer or patron to misappropriate gaming chips or to cheat at the games. Since the mechanism for preventing and detecting misappropriation or cheating is the observation process, any control system must ensure that a supervisor

³⁰ See note 32 *infra* and accompanying text.

³¹ See note 34 *infra* and accompanying text.

³² In New Jersey, each applicant for a casino employee license must establish by clear and convincing evidence that he or she has that amount of business ability and casino experience to have a reasonable likelihood of success. This standard may be satisfied by a showing of casino job experience and knowledge of the New Jersey provisions concerning the position sought or by the successful completion of a course of study at a licensed school. N.J. STAT. ANN. §§ 5:12-89(b)(3), -90(b) (West Supp. 1981-1982).

³³ The results of an informal quiz given to a group of blackjack floorpeople in Alberta, Canada is interesting as it relates to this factor of control. Given that blackjack floorpeople must observe and verify the actions occurring at the table from vantage points that may not permit them to see the numbers on the cards, they must have the ability to discern the value of each card from the arrangement of spots on it. Question twenty-six of this test directed blackjack floorpeople to "[i]llustrate the spot placement of the following:— 5, 6, 7, 8, 9, and 10." Pit Boss Test, 1979-1980, at 7. The majority of persons tested failed to answer that question correctly. At best, this made questionable the quality of control being exercised by these individuals.

is not assigned to oversee more gaming activity than he can realistically observe and control.³⁴ As a practical matter, the scope of responsibility of a supervisor should be limited to the amount of gaming activity he can either observe or to which he can give his immediate attention.

In addition to the observation process, the rules of each game provide an important mechanism for control³⁵ that is too often overlooked. Cheating activity and the misappropriation of funds is completely prevented in some instances and in others made substantially more difficult through safeguards and procedures built into the rules of the games. For example, the potential for players marking or switching cards in blackjack is virtually eliminated by requiring that all players' cards be dealt face up and by prohibiting players from touching the cards.³⁶ Similarly, peeking at the top card in the deck, dealing seconds, dealing from the bottom of the deck, and other cheating activities are made extremely difficult, if not eliminated, by the simple requirement that all cards be dealt not by hand but from a dealing shoe.³⁷ The ability of a dealer to disclose his hole card to a player with whom he is in collusion is abolished by the rule prohibiting a dealer from looking at his hole card until all cards have been dealt.³⁸

The detailed procedures followed in conducting the games are vital to the effective control of the games. The procedures serve not only as a deterrent but also as an important detection device. In many cases, the activity initially observed is not the cheating activity itself but either a break or deviation in established procedure, or an uncommon or unusual move. In some cases, the cheating activity can be implemented so quickly and proficiently that detection is difficult even when videotaped. What is detected, however, is the fact that the person deviated from established procedure, presumably in order to effectuate the cheating activity. For

³⁴ New Jersey divides the responsibility of its front-line supervisory personnel as follows. One boxman is a first level supervisor of one craps game. One floorman is the second level supervisor of not more than two craps games. The floorman position also includes supervision of not more than four blackjack, roulette, or Big Six Tables, or any combination thereof. The floorman is also responsible for not more than one baccarat table. N.J. ADMIN. CODE tit. 19 § 45-1.12(a)(4), (5) (1981).

³⁵ As stated hereinbefore, New Jersey provides for the regulation of the conduct of particular games under its description of internal control. See note 9 *supra* and accompanying text. Those games explicitly provided for are craps, blackjack, baccarat-punto banco, baccarat-chemin de fer, roulette, and Big Six Wheel. See generally N.J. ADMIN. CODE tit. 19 §§ 47-1 to -5 (1981).

³⁶ See N.J. ADMIN. CODE tit. 19 § 47-2.6(d), (k) (1981).

³⁷ See N.J. ADMIN. CODE tit. 19 § 47-2.6(a) (1981).

³⁸ See N.J. ADMIN. CODE tit. 19 § 47-2.6(g) (1981).

example, one common procedural requirement is for a dealer never to hand gaming chips directly to a patron or to accept chips directly from a patron. Instead, proper procedure dictates that the chips be placed on the gaming table and then be picked up either by the patron or the dealer.³⁹ This procedure is designed to deter a dealer from passing off chips to a patron as well as to avoid disputes as to the amount of chips received. A dealer who passes off chips through direct hand-to-hand contact with a patron would not be seen making an overpayment, since the chips are concealed in the hands of the dealer and the patron. What would be seen is the dealer's violation of the procedure prohibiting direct hand-to-hand contact. Another simple and very common procedure is for a dealer to show the tops and bottoms of his hands to the closed circuit cameras any time he is leaving the table.⁴⁰ If the dealer does walk away from the table with a chip in his palm, what would be seen is not the chip in the palm of his hand but his violation of established procedure by not showing the face of his hands to the cameras.

Certainly not every deviation from a procedural requirement means that cheating has occurred. However, these deviations from standard performance formats provide the first indication that cheating may have occurred and that further surveillance may be necessary. If these procedures are to be an effective mechanism for the prevention and detection of cheating, it is essential that they be scrupulously enforced by the casino management and not be taken lightly.

Equipment Control

The area of control usually afforded the least amount of attention involves the equipment used in the casino games. Since each game requires equipment (such as cards, dice, wheels, and dealing shoes) that can substantially affect the honesty and fairness of the game, this area of control is no less important than either the accounting and internal control area or the rules and procedures of the games. An effective system of equipment control must include three basic components. First, it must set forth specific standards for each piece of equipment used in the conduct of the game;⁴¹ second, it must include an appropriate inspection process to

³⁹ See N.J. ADMIN. CODE tit. 19 §§ 47-1.3(b), -2.3(d), -3.2(c), -5.1(a) (1981).

⁴⁰ This ceremony is duplicated in New Jersey count rooms immediately prior to the opening of the drop boxes. N.J. ADMIN. CODE tit. 19 § 45-1.33(e)(2) (1981).

⁴¹ The physical characteristics of New Jersey gaming equipment is controlled by regulation. N.J. ADMIN. CODE tit. 19 § 46-1.1 (gaming chips), .2 (gaming plaques), .7 (roulette tables), .8 (roulette

ensure that the equipment actually meets the established standards;⁴² and third, procedural controls must be included to safeguard the transportation, storage, and use of the equipment.⁴³

The specifications or standards applied to gaming equipment are important both to ensure the integrity and fairness of the equipment, and to prevent and detect certain types of tampering. For example, standards intended to ensure the fairness of the Big Six Wheel require that each peg around the border of the wheel be equally spaced and that the wheel be properly balanced.⁴⁴ Standards designed to prevent or discourage tampering of craps equipment require that the dice be transparent.⁴⁵ Although simple, these examples illustrate the importance of equipment standards as a control mechanism.

Formal equipment standards are valueless without the establishment of a review mechanism to ensure that the equipment meets the established standards. To accomplish this, the control system should include provisions for inspections that occur at regular intervals, conducted by individuals specifically trained for such inspection.⁴⁶ The inspection process should include a specific procedure for inspecting the equipment before it is used in the gaming process. It is also important to conduct an inspection of certain equipment after its use to determine whether it was tampered with in any way while in use. Without this latter inspection, any tampering may go undetected.

Finally, the transportation and storage of gaming equipment must be controlled in a manner similar to that of gaming chips and cash. Procedures should be established to protect the integrity of the equipment during transport and to prevent anyone from being able to tamper with it.⁴⁷ Likewise, controls must be established to prevent unauthorized or unchecked access to the equipment while the equipment is in storage or is not in use on the gaming floor.

balls), .10 (blackjack tables), .11 (craps), .12 (baccarat), .13 (Big Six Tables), .15 (dice), .17 (cards), .19 (dealing shoe) (1981).

⁴² See N.J. ADMIN. CODE tit. 19 § 46-1.9, .16, .18, .19 (1981).

⁴³ See N.J. STAT. ANN. § 5:12-100(b) (West Supp. 1981-1982); N.J. ADMIN. CODE tit. 19 § 46-1.6, .16, .18 (1981).

⁴⁴ See N.J. ADMIN. CODE tit. 19 § 46-1.13 (1981).

⁴⁵ See N.J. ADMIN. CODE tit. 19 § 46-1.15(3) (1981). Both transparent and opaque dice can be fair. However, transparency discourages the use of loaded dice, since heavy loads can usually be seen in transparent dice.

⁴⁶ See note 42 *supra* and accompanying text.

⁴⁷ See note 43 *supra* and accompanying text.

The New Jersey Solution

The previous discussion set forth some of the theories, components, and vulnerabilities of control systems used to regulate gaming operations. From this analysis, certain basic principles of effective gaming control become apparent. The approach that the system itself must take is of paramount importance. Due to the volume of liquid assets flowing throughout the casino and the fact that no record is kept of each gaming transaction, no control system can be reasonably relied upon to aid in the detection and investigation of transgressions after they have occurred. Unlike other enterprises, an audit of casino operations will not disclose routine acts of theft, embezzlement, or cheating activity that can occur at the gaming tables. For this reason, emphasis must be placed on preventing these activities and uncovering them while they are in progress.

Since the integrity of gaming operations and the accuracy of gross revenue calculations may be affected by many variables, an effective system of control must be multi-faceted. In addition to the mere preparation of records and documents, the system must concern itself with game rules and procedures, equipment standards and procedures, internal and accounting control requirements, tables of organization, job responsibilities, training and experience of employees, and the physical security of areas and equipment. Each one of these issues must be comprehensively addressed if an integrated system of control is to be achieved.

The provisions of the New Jersey Casino Control Act reflect this philosophical approach to gaming control and manifest a recognition of the components that must be regulated for an effective system of control over gaming operations to exist. For example, the Act includes a variety of requirements governing the licensure of prospective casino employees.⁴⁸ These requirements are commonly interpreted as attempts by the New Jersey Legislature to prevent the entry of criminal elements into casino operations. However, the broad design of these provisions reflects the legislature's understanding of the subtler vulnerabilities of an internal control system. As previously discussed, acts of cheating, embezzlement, or fraud cannot be detected after they have occurred,⁴⁹ and the control system itself can be overcome by collusion.⁵⁰ By requiring an applicant for a casino key employee license or a casino employee license to prove by

⁴⁸ N.J. STAT. ANN. §§ 5:12-89, -90 (West Supp. 1981-1982).

⁴⁹ See note 18 *supra* and accompanying text.

⁵⁰ See notes 26-27 *supra* and accompanying text.

clear and convincing evidence his "good character, honesty and integrity,"⁵¹ the legislature acknowledged the dependence of effective person-to-person control on the integrity of casino employees.

Also, the New Jersey Legislature recognized an employee's training, ability and experience as important elements in the control system. As stated previously, the person-to-person system of control is effective only if those involved in its implementation know what they are watching⁵² and have the ability to detect and prevent procedural and substantive deviations from established rules and procedures.⁵³ The Act includes provisions requiring that an applicant demonstrate "sufficient business ability and casino experience as to establish the reasonable likelihood of success and efficiency in the particular position involved."⁵⁴ As additional assurance, the legislature conditioned the authorization of a licensee to operate a casino upon the licensee's proving "that casino personnel are properly trained and licensed for their respective responsibilities."⁵⁵

The legislature has vested the Casino Control Commission with broad operational jurisdiction. For example, the Commission is required to promulgate regulations "[d]efining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices."⁵⁶ These regulations are intended to address areas such as "the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility"⁵⁷ and "the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness."⁵⁸ Also, the Commission was intended to extensively control game rules, equipment, and credit transactions.⁵⁹

⁵¹ N.J. STAT. ANN. § 5:12-89(b)(2) (West Supp. 1981-1982) (concerning casino key employees). The same standard is made to apply to casino employees by reference to section 89. N.J. STAT. ANN. § 5:12-90(b) (West Supp. 1981-1982).

⁵² See note 32 *supra* and accompanying text.

⁵³ See notes 39-40 *supra* and accompanying text.

⁵⁴ N.J. STAT. ANN. § 5:12-89(b)(3) (West Supp. 1981-1982) (concerning casino key employees). The same standard is made to apply to casino employees by reference to section 89. N.J. STAT. ANN. § 5:12-90(b) (West Supp. 1981-1982).

⁵⁵ N.J. STAT. ANN. § 5:12-96(a) (West Supp. 1981-1982).

⁵⁶ N.J. STAT. ANN. § 5:12-70(f) (West Supp. 1981-1982).

⁵⁷ N.J. STAT. ANN. § 5:12-70(j) (West Supp. 1981-1982).

⁵⁸ N.J. STAT. ANN. § 5:12-70(l) (West Supp. 1981-1982).

⁵⁹ N.J. STAT. ANN. § 5:12-100, -101 (West Supp. 1981-1982).

Each licensee is required to submit to the Commission testimony and graphic illustrations of its control systems for approval by the Commission.⁶⁰ The purpose of these submissions is to ensure that the control system of each licensee complies with the regulations and is adequate to control the operations of that particular licensee. These submissions must include discussions of those components essential to an effective system of control. Thus, the analyses must address areas such as (1) accounting controls; (2) job descriptions and the system of personnel and chain-of-command; (3) procedures for the receipt, storage, and disbursal of chips, cash, and other cash equivalents used in gaming; (4) the cashing of checks; (5) the redemption of chips and other cash equivalents used in gaming; (6) procedures and security standards for handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment; and (7) procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto.⁶¹ Each of these submissions is required by the Act to be reviewed by the Commission for a determination of whether it complies with the requirements of the Act and regulations, and whether it provides adequate and effective controls for the particular casino submitting it.⁶²

The New Jersey Legislature, through the aforementioned requirements and others, has acknowledged the unique nature of gaming operations and the method needed to ensure, to the greatest extent possible, an effective system of control over the activities occurring on the gaming floor. Although many detailed and specific requirements are dispersed throughout the New Jersey Casino Control Act, each requirement cannot be viewed independently of another. Instead, each is a component in an integrated system designed to ensure the fairness and integrity of casino operations. Accordingly, each can be appreciated only with an understanding of the unique nature of casino operations.

⁶⁰ N.J. STAT. ANN. § 5:12-99 (West Supp. 1981-1982).

⁶¹ N.J. STAT. ANN. § 5:12-99(a)(1) to (17) (West Supp. 1981-1982).

⁶² N.J. STAT. ANN. § 5:12-99(b) (West Supp. 1981-1982).