

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
JOHN OCEGUERA, *Assemblyman, Chairman*
Lorne J. Malkiewich, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
BERNICE MATHEWS, *Senator, Co-Chair*
STEVEN HORSFORD, *Senator, Co-Chair*
Gary L. Ghiggeri, *Fiscal Analyst*
Mark W. Stevens, *Fiscal Analyst*

LORNE J. MALKIEWICH, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

Legislative Commission
Legislative Building
Carson City, Nevada

We have completed an audit of the Division of Financial Institutions. This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Division's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Division of Financial Institutions for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

October 13, 2009
Carson City, Nevada

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF FINANCIAL INSTITUTIONS

AUDIT REPORT

Table of Contents

	<u>Page</u>
Executive Summary	1
Introduction	6
Background	6
Scope and Objectives	9
Findings and Recommendations	10
Examinations of Non-Depository Licensees	10
Examinations Not Always Performed Timely	10
Records Retention Schedule Not Followed	12
Financial and Administrative Controls Need Improvement	13
Better Controls Are Needed Over Revenues	13
Controls Over Employee Travel and Reimbursement Are Weak	16
Property and Equipment Inventory Records Not Accurate	20
State Personnel Requirements Not Always Followed	21
Policies and Procedures Are Needed	22
Appendices	
A. Audit Methodology	25
B. Nevada Revised Statutes for Examinations of Non-Depository Licensees..	28
C. Response From the Division of Financial Institutions	31

EXECUTIVE SUMMARY

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF FINANCIAL INSTITUTIONS

Background

The Division of Financial Institutions was created in 1983. The purpose of the Division is to maintain a safe and sound financial institutions system that promotes a conducive business environment, protects consumers, and defends the public interest. This is accomplished through equitable licensing, examination, and enforcement of depository, lending, debt collection, and money transmission activities.

The Division's primary responsibilities include: (1) reviewing all applications for licensing, (2) issuing new and renewal licenses, (3) examining licensees on an annual basis, (4) processing written complaints, (5) conducting investigations of violations, and (6) testing and approving collection agency managers.

The Division's administrative office is located in Carson City, with another office in Las Vegas where the Commissioner is located. In fiscal year 2008, the Division had a total of 31 authorized positions. In November 2008, the Interim Finance Committee approved the Division's request for 10 additional examiner positions. The Division is self-funded and collected revenues of about \$3.9 million during 2008.

Purpose

The purpose of this audit was to determine whether the Division performed timely examinations of non-depository institutions, and whether financial and administrative practices were carried out in accordance with applicable state laws, regulations, policies, and procedures. This audit focused on the Division's regulatory, financial, and administrative activities for calendar year 2008.

EXECUTIVE SUMMARY

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF FINANCIAL INSTITUTIONS

Results in Brief

The Division did not always perform timely examinations of non-depository licensees. Non-depository licensees include collection agencies and companies that provide services such as check cashing, high-interest and title loans. These licensees often deal with individuals with a financial hardship. Therefore, examinations are important to ensure consumers are protected against unethical business practices, and violations are promptly detected and corrected. During our audit, the Interim Finance Committee approved the Division's request for additional staff to help ensure examinations are performed when required.

The Division can improve controls over its financial and administrative activities, including revenues, travel expenditures, equipment inventory records, and personnel requirements. For example, controls were not in place to ensure revenues were adequately safeguarded and staff deposited payments timely. In addition, travel costs were higher than necessary, and travel reimbursements were not always accurate. Furthermore, staff did not maintain accurate property and equipment inventory records. Finally, the Division did not always comply with state personnel requirements. During our audit, management took action to start addressing control weaknesses as they were identified.

Principal Findings

- Required examinations were not always performed timely. Of 50 non-depository licensees tested, 24 (48%) did not receive a timely examination during 2008. In addition, the Division did not consistently use a risk-based approach for scheduling examinations to ensure higher-risk licensees were examined before lower-risk licensees. When examinations are not performed timely, consumers

EXECUTIVE SUMMARY

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF FINANCIAL INSTITUTIONS

are not adequately protected against unethical business practices, and compliance violations may not be detected and corrected in a timely manner. (page 10)

- The Division did not follow its records retention schedule for maintaining licensee files for 6 years. Instead, examination working papers, including correspondence with the licensee, were retained for about 1 to 2 years, until the licensee's next examination was completed. Licensee files are official state records and should be retained to support work performed and any future actions needed. (page 12)
- Better controls are needed over the Division's revenues. Control weaknesses included: (1) payments not adequately safeguarded, (2) payments not always deposited timely, (3) collections not compared to deposits, (4) payments returned to licensees without adequate approval, and (5) accounts receivable not reported when required. Controls are important because the Division collected and deposited about \$3.9 million during 2008. Without proper safeguards in place, there is an increased risk that theft or loss could occur and go undetected. (page 13).
- Division staff did not use the least expensive method of travel when conducting state business. Our review of employee travel claims revealed examiners traveling over 50 miles one-way use their personal vehicles instead of using a state motor pool vehicle and car pooling. For instance, three examiners traveled to Elko for one bank examination and drove separately costing a total of \$1,113 for 1 week. If a motor pool vehicle was used, we estimate the Division would have saved \$876. (page 16)
- The Division does not have adequate policies for claiming mileage when examiners travel from home to

EXECUTIVE SUMMARY

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF FINANCIAL INSTITUTIONS

a licensee's place of business. Currently, the Division allows employees to claim all mileage when traveling from home to a licensee's business, even when the mileage driven is less than the employee's normal commute. For example, one monthly travel claim we tested included the reimbursement of \$280 for mileage less than the normal commute. This amount could be disallowed in the future depending on policies adopted by the Division. (page 18)

- Accurate property and equipment records were not maintained. Of 25 assets tested, we identified 9 discrepancies. Some equipment could not be located, certain disposed items were not removed from the agency's inventory report, and some equipment was on hand but not listed on the inventory report. Accurate property records are important to maintain accountability and enhance loss prevention. These problems occurred because the Division lacks written policies and procedures for controlling equipment. (page 20)
- The Division does not have adequate policies and procedures in place to ensure state personnel requirements are consistently followed. Work performance standards were not always communicated in writing, and performance evaluations were not always completed. Without work performance standards and evaluations, communications between management and staff may not be as effective, and the Division may not have recourse if the employee falls below standard. Furthermore, employees did not have signed agreements to accrue compensatory time. (page 21)
- Adequate policies and procedures are lacking to guide the Division's financial and administrative activities. The lack of procedures contributed to numerous control weaknesses identified in this report. Without complete policies and procedures, problems

EXECUTIVE SUMMARY

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF FINANCIAL INSTITUTIONS

could reoccur if there is personnel turnover in key positions. (page 22)

Recommendations

This audit report contains 12 recommendations to improve the Division's regulatory, financial, and administrative activities. Two recommendations include improving controls to help ensure non-depository licensee examinations are performed timely. We also made 10 recommendations to improve controls over revenues, travel expenditures, equipment inventory records, and personnel requirements. (page 36)

Agency Response

The Division, in response to the audit report, accepted the 12 recommendations. (page 31)

Introduction

Background

The Division of Financial Institutions was created in 1983. The purpose of the Division is to maintain a safe and sound financial institutions system that promotes a conducive business environment, protects consumers, and defends the public interest. This is accomplished through equitable licensing, examination, and enforcement of depository, lending, debt collection, and money transmission activities.

The Division's primary responsibilities include: (1) reviewing all applications for licensing, (2) issuing new and renewal licenses, (3) examining licensees on an annual basis, (4) processing written complaints, (5) conducting investigations of violations, and (6) testing and approving collection agency managers. As of December 2008, the Division had 2,212 licensees. Exhibit 1 shows the number of licensees by type.

Exhibit 1

Number of Licensees As of December 2008

Depository Institutions	
Banks ⁽¹⁾	163
Credit Unions	11
Thrift Companies ⁽¹⁾	7
Total Depository Institutions	181
Non-Depository Institutions	
Check Cashing / Deferred Deposit, High-Interest & Title Loan Services ⁽¹⁾	679
Collection Agencies	199
Debt Adjusters	11
Foreign Collection Agencies	281
Installment Loan Services	53
Money Transmitting Services	51
Trust Companies ⁽¹⁾	28
Total Non-Depository Institutions	1,302
Total Collection Agency Managers	729
Total Number of Licensees	2,212

Source: Division of Financial Institutions.

⁽¹⁾ Includes branch locations.

The Division's licensees include both depository and non-depository financial institutions. Depository institutions include banks, savings and loan associations, savings banks, thrift companies, and credit unions. These institutions hold or receive deposits, savings, or share accounts; issue certificates of deposit; or provide its customers other depository accounts which are subject to withdrawal. However, a majority of the Division's licensees are non-depository institutions. The Division regulates the following non-depository institutions:

- **Check Cashing Service** – any person engaged in the business of cashing checks for a fee, service charge or other consideration.
- **Collection Agency** – all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.
- **Debt Adjuster** – any person, firm, company or corporation undertaking, for a consideration, the scheduled receipt of a debtor's moneys or evidences thereof for the purpose of distribution among certain specified creditors in payment or partial payment of the debtor's obligations.
- **Deferred Deposit Loan Service** – any person engaged in the business of making deferred deposit loans for a fee, service charge or other consideration.
- **Foreign Collection Agency** – any person meeting the qualifications to do business as a collection agency in this State, but located outside of the State, collecting claims from residents of the State on behalf of residents of another state.
- **High-Interest Loan Service** – any person engaged in the business of providing high-interest loans for a fee, service charge or other consideration.
- **Installment Loan Service** – any person engaged in the business of lending, except for deferred deposit, high-interest, and title loans, for a fee, service charge or other consideration.
- **Money Transmitting Service** – any person engaged in the business of selling or issuing checks, receiving for transmission or transmitting money or credits, or both.
- **Title Loan Service** – any person engaged in the business of providing title loans for a fee, service charge or other consideration.
- **Trust Company** – a corporation or limited-liability company that is available to act as a fiduciary in this State and undertaking to act as a fiduciary in the regular course of its business.

The Division's administrative office is located in Carson City, with another office in Las Vegas where the Commissioner is located. Staff at both offices perform

investigations and examinations. In fiscal year 2008, the Division had a total of 31 authorized positions. In November 2008, the Legislature's Interim Finance Committee approved an additional 10 examiner positions.

The Division is self-funded with three budget accounts. The first account is an operating account where most of the Division's expenditures are recorded. Revenues consist primarily of depository assessments, and license and examination fees. The second account is used to record expenditures related to investigations of license applicants and other special investigations. The account is funded by application fees. The third account is used to record expenses related to the Division's Certified Public Accountant who reviews financial information provided by applicants and existing licensees, in addition to conducting independent licensee audits. The account is funded through an annual assessment on licensed financial institutions. Exhibit 2 shows revenues for all budget accounts during fiscal year 2008.

Exhibit 2

**Revenues by Type
Fiscal Year 2008**

Type of Revenue	Amount
Assessments - Depository Institutions	\$2,307,039
License Fees - Collection Agencies	458,845
Examination Fees	372,989
CPA Assessments	174,870
License Fees - Check Cashing / Deferred Deposit Services	142,325
Application Fees	102,692
License Fees - Small Loan Companies	96,822
Fines	65,000
Interest	60,958
License Fees - Banks	51,260
License Fees - Trust Companies	31,585
License Fees - Money Order Companies	26,767
License Fees - Debt Adjusters	5,875
License Fees - Thrift Companies	5,250
License Fees - Credit Unions	3,300
Appropriations	100
Total	\$3,905,677

Source: State accounting system.

Scope and Objectives

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218.737 to 218.893. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit focused on the Division's regulatory, financial, and administrative activities for calendar year 2008, and includes activities through May 2009 for certain issues. The objectives of our audit were to determine whether:

- The Division performed timely examinations of non-depository institutions.
- The Division's financial and administrative practices were carried out in accordance with applicable state laws, regulations, policies, and procedures.

We did not have access to all of the Division's records during our audit because NRS 218.780 prohibits the Legislative Auditor from examining the Division's records relating to depository institutions. Therefore, our audit focused on other activities of the Division. This restriction did not limit the procedures performed to accomplish the objectives for this audit.

Findings and Recommendations

Examinations of Non-Depository Licensees

The Division did not always perform timely examinations of non-depository licensees. Non-depository licensees include collection agencies and companies that provide services such as check cashing, high-interest and title loans. These licensees often deal with individuals with a financial hardship. Therefore, examinations are important to ensure consumers are protected against unethical business practices, and violations are promptly detected and corrected. During our audit, the Interim Finance Committee approved the Division's request for additional staff to help ensure examinations are performed when required.

Examinations Not Always Performed Timely

The Division did not always perform required examinations timely. Of 50 non-depository licensees tested, 24 (48%) did not receive a timely examination during 2008. These licensees received their examination an average of 8 months late. In addition, the Division did not consistently use a risk-based approach for scheduling examinations to ensure higher-risk licensees were examined before lower-risk licensees. When examinations are not performed timely, consumers are not adequately protected against unethical business practices, and compliance violations may not be detected and corrected in a timely manner.

Various statutes require an annual examination of licensed non-depository institutions.¹ Division policy defines the procedures for conducting an examination and the examination rating system. Upon completion of an examination, the examiner shall rate the licensee on a scale of satisfactory, needs improvement, or unsatisfactory as follows:

- **A rating of "Satisfactory" indicates that the licensee and the management of the licensee have demonstrated substantial compliance with applicable laws and regulations and that any deficiencies noted in the report can be corrected by the licensee with a minimum of regulatory supervision.**

¹ See Appendix B for Nevada Revised Statutes applicable to examinations of non-depository licensees.

- A rating of “Needs Improvement” indicates that the licensee and the management of the licensee have demonstrated less than satisfactory compliance, or instances and situations involving a lack of compliance with applicable state and federal laws and regulations and that regulatory supervision is required.
- A rating of “Unsatisfactory” indicates that the licensee and the management of the licensee have demonstrated substantial lack of compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report.

According to Division policy, a licensee who receives an unsatisfactory rating may be reexamined within 6 months or less.

The Division did not consistently use a risk-based approach for scheduling examinations. The purpose of a risk-based approach is to ensure available resources are allocated to the areas that matter most, such as high-risk licensees. Although staff indicated they had implemented a risk-based approach for scheduling examinations, our testing revealed higher-risk licensees were not consistently examined prior to lower-risk licensees. For example, licensees with a satisfactory rating on their prior examination were reexamined before licensees with an unsatisfactory rating. Exhibit 3 is a summary of our examination test results.

Exhibit 3

Summary of Examination Test Results

Prior Exam Rating	Exam Requirement	Number Tested	Exams Untimely	Percent Untimely	Average Months Late⁽¹⁾
Satisfactory	12 months	20	9	45%	4
Needs Improvement	12 months	15	5	33%	2
Unsatisfactory	6 months	5	4	80%	5
None - Initial Exam	12 months	10	6	60%	20
Total		50	24	48%	8

Source: Auditor review of Division records.

⁽¹⁾ Number of months past exam requirement.

Licensees receiving an unsatisfactory examination should receive close regulatory supervision because of their increased risk of non-compliance. In addition, licensees without timely initial examinations pose a higher level of risk because little is known about their operations. We identified an installment loan service that had its initial examination over 5 years after it was licensed, and a collection agency licensed in July 2004 had not been examined as of April 2009.

Management indicated that due to a lack of staffing, examinations had not been performed timely. The current Commissioner analyzed the Division's staffing needs and requested 10 additional examiner positions during the 2007-2008 Legislative Interim. In November 2008, the Interim Finance Committee approved the request to help ensure examinations are performed as required by law. As of May 2009, all of the Division's 31 authorized examiner positions were filled.

Records Retention Schedule Not Followed

The Division did not follow its records retention schedule for maintaining licensee files for 6 years. Instead, examination working papers, including correspondence with the licensee, were retained for about 1 to 2 years, until the licensee's next examination was completed. At that time, all prior working papers were shredded. Licensee files are official state records and should be retained to support work performed and any future actions needed.

NRS 239.080 establishes that official state records may be disposed of only in accordance with an approved schedule of retention and disposition. Further, it states agencies must submit the schedules to the Committee to Approve Schedules for the Retention and Disposition of Official State Records for approval. The Division's approved schedule states:

Licensee Files

This record series is used to document all active financial institutions holding active licensees. The files may include: applications, renewals, articles of incorporations (and amendments), lists of officers, reports required by statute or regulation and special reports as may be called for, examinations, investigations, complaints, financial statements, related correspondence, and similar documents. Retain these records for a period of six (6) calendar years from the calendar year in which the license expires and is not renewed.

The Division indicated that the practice of shredding prior examination work papers began a number of years ago in reaction to a lack of storage space. After we informed management that examination records were not retained as required, they indicated the Division would immediately comply with the approved records retention schedule. However, procedures should be developed to help ensure new and existing staff are aware of the records retention requirements.

Recommendations

1. Revise the examination scheduling process to ensure higher-risk licensees, those with an unsatisfactory rating and new licensees, receive an examination prior to lower-risk licensees.
2. Develop procedures to help ensure staff follow the Division's approved records retention schedule.

Financial and Administrative Controls Need Improvement

The Division can improve controls over its financial and administrative activities, including revenues, travel expenditures, equipment inventory records, and personnel requirements. For example, controls were not in place to ensure revenues were adequately safeguarded and staff deposited payments timely. In addition, travel costs were higher than necessary, and travel reimbursements were not always accurate. Furthermore, staff did not maintain accurate property and equipment inventory records. Finally, the Division did not always comply with state personnel requirements. During our audit, management took action to start addressing control weaknesses as they were identified.

Better Controls Are Needed Over Revenues

The Division can improve controls over revenues. Control weaknesses included: (1) payments not adequately safeguarded, (2) payments not always deposited timely, (3) collections not compared to deposits, (4) payments returned to licensees without adequate approval, and (5) accounts receivable not reported when required. Controls are important because the Division collected and deposited about \$3.9 million during 2008. Without proper safeguards in place, there is an increased risk that theft or loss could occur and go undetected.

Payments Not Adequately Safeguarded

The Division did not adequately secure and restrict access to payments received. Payments were stored in an unlocked safe which remained open throughout the day and accessible by all staff. For instance, in addition to access by accounting staff, licensing personnel routinely access the safe to return payments if the amount

submitted was incorrect or an application was incomplete. Not securely storing checks received increases the risk that payments could become lost or stolen. This risk increases with the number of people who have access to the safe.

State Accounting Policies and Procedures recommend entry to safekeeping devices be limited to as few people as possible. In addition, NRS 353A.020 requires a plan which limits access to assets of the agency to persons who need the assets to perform their duties. Access to checks was not restricted because the Division lacks written procedures addressing controls over safeguarding payments received.

Revenue Not Always Deposited Timely

The Division has been unable to comply with state law that requires timely bank deposits. Although three previous audit reports recommended the agency comply with state deposit requirements, we found that large payments received in Las Vegas were not deposited timely. Of 40 payments received in Las Vegas during 2008, 13 were not deposited timely. Twelve of the untimely deposits were at least \$10,000 and ranged from 1 to 11 days late. State law requires agencies to make a deposit by the next business day when \$10,000 or more has been accumulated. When deposits are untimely, the risk of losing payments increases and the State loses the opportunity to earn interest income.

The Division has difficulty meeting the state's deposit requirements because it does not want to make bank deposits in Las Vegas. Although NRS 353.250 requires agencies to make a deposit by the next business day when \$10,000 or more has been accumulated, payments received in the Las Vegas office are mailed to the Carson City office for deposit. Therefore, by the time the Carson City office receives the payments, it is often too late to meet state deposit requirements. In addition, there is an increased risk that theft or loss could occur when money is mailed from one office to another.

In 2001, we reported that payments greater than \$10,000 were not deposited timely, and payments received in the Las Vegas office were mailed to the Carson City office for deposit. Therefore, we recommended the Division:

- **Deposit money timely as required by NRS 353.250.**
- **Deposit money received in Las Vegas at a local bank.**

In accepting the prior audit recommendations, the Division indicated it would evaluate the possible discontinuance of accepting payments in its Las Vegas office. However, during 2008 the Las Vegas office received nearly \$750,000 in payments that were sent to Carson City for deposit.

Collections Not Compared to Deposits

The Division does not have a process in place to verify that all money collected is deposited. Reconciliations are not performed between total payments received and amounts deposited, by someone independent of the collection and deposit process. Without periodic reconciliations of collections to deposits, a loss of funds could occur and go undetected.

Good internal controls require the total amount of payments received each day be recorded and verified against deposits by someone independent of the receipts and deposit process. Since only one employee is involved in the deposit process, the Division lacks assurance that all payments received have been deposited. A verification process is not in place because staff did not have adequate guidance such as policies and procedures.

Payments Returned to Licensees Without Adequate Controls

The Division has not developed adequate controls for returning payments to licensees. Adequate approval is not always obtained, and various methods are used to return payments. Staff return payments due to incomplete applications or inaccurate amounts. During 2008, Division records indicate 64 payments were returned.

Of 18 returned payments we tested, 12 lacked supporting documentation. The only record indicating the payment was returned was a notation made on the Division's check log. Because of concerns that funds could have been misappropriated, we sent confirmation requests to five payers to verify the returned payments were never cashed by the bank. Each payer confirmed their check was never cashed.

Procedures should be developed to limit the number of returned payments to the extent possible, and ensure those payments that must be returned are adequately documented and approved. Without this documentation, management cannot ensure payments were properly returned or refunded.

Accounts Receivable Not Reported to State Controller

Accounts receivable were not reported to the State Controller as statutorily required. As of June 30, 2008, Division records indicate it had \$55,000 in fines receivable. When accounts receivable are not reported, the Controller and other users of this information are not informed of all debts owed the State.

NRS 353C.120 requires each agency to submit to the State Controller periodic reports of debts owed to the agency. State Accounting Policies and Procedures require agencies to report accounts receivable on a quarterly basis. A majority of Division receivables are from assessed fines, which are included in the state's definition of an accounts receivable.

Receivables were not properly reported because the Division lacks policies and procedures establishing a clear definition of an accounts receivable. Preparing and submitting accounts receivable reports will also allow management the ability to efficiently track amounts due to the agency while complying with state law.

Controls Over Employee Travel and Reimbursement Are Weak

The Division has not established adequate controls over employee travel. Control weaknesses included: (1) least expensive method of travel not used, (2) mileage estimates used instead of actual, and (3) inadequate policies for claiming mileage from home to a licensee. A majority of the Division's travel costs are associated with examiner travel. During calendar year 2008, the Division paid approximately \$22,800 in personal vehicle reimbursements, with about \$13,000 (57%) paid to the four examiners in the Carson City office.

Least Expensive Method of Travel Not Used

Staff did not use the least expensive method of travel when conducting state business. Our review of employee travel claims revealed examiners traveling over 50 miles one-way use their personal vehicles instead of using a state motor pool vehicle and car pooling. For instance, three examiners traveled to Elko for one bank examination and drove separately costing a total of \$1,113 for 1 week. The examiners traveled on the same days and times, and stayed at the same hotel. Using one motor pool vehicle, the Division would have spent only \$237, saving an estimated \$876 in

travel costs. This examination lasted 3 weeks. Exhibit 4 shows the details of this example.

Exhibit 4

**Example of Personal Vehicle Mileage Claimed vs. Using Motor Pool
Mileage Claimed by Three Examiners for 1 Week**

Date	Location	Miles Claimed From Employee's Residence			Total
		Examiner A Reno	Examiner B Carson City	Examiner C Carson City	
01/12/09	Home to Elko	310	335	307	952
01/13/09	Elko (Daily) ⁽¹⁾	10	15	15	40
01/14/09	Elko (Daily) ⁽¹⁾	10	15	15	40
01/15/09	Elko (Daily) ⁽¹⁾	10	15	15	40
01/16/09	Elko to Home	310	335	307	952
Total Miles		650	715	659	2,024
Mileage Rate ⁽²⁾		\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55
Total Cost		\$357.50	\$393.25	\$362.45	\$1,113.20
Estimated Motor Pool Cost ⁽³⁾					\$ 236.52
Estimated Savings Using Motor Pool					\$ 876.68

Source: Auditor review of Division records.

⁽¹⁾ Distance from hotel to licensee location is 2.6 miles round trip.

⁽²⁾ Federal standard mileage rate adopted for state travel.

⁽³⁾ Based on State Motor Pool Division rates of \$25 per day and \$.16 per mile for a compact vehicle.

The State Motor Pool Division provides a ready means of transportation for employees on state business, reducing the need for private vehicles. The Department of Business and Industry's policy states travel shall be by the least expensive method available, and if more than one staff member is traveling to the same event, a motor pool vehicle should be shared.

Another example of excessive travel costs involved four Carson City examiners traveling to Las Vegas for the same training. One of the examiners chose to drive his personal vehicle instead of traveling by air with the others, resulting in an additional \$137 in travel costs. Specific travel policies and procedures would ensure all employees are aware of the Division's travel guidelines and how to determine the most cost effective means of travel.

Estimates Used Instead of Actual Mileage

Some examiners used estimates instead of actual mileage to claim travel to and from a licensee's place of business. For instance, one examiner claimed 830 miles during 1 month, when the actual distance was only 710 miles. The examiner was reimbursed about \$60 more than what should have been paid if actual miles driven were claimed. Exhibit 5 shows the details of this example.

Exhibit 5

Example of Mileage Estimates Claimed One Examiner's Monthly Travel Expense Reimbursement

Trip Number	Carson City Office To:	Mileage Claimed Round Trip	Actual Mileage Round Trip⁽¹⁾	Excess Mileage Claimed
1	Fallon	140	125	15
2	William Avenue	10	5	5
3	Fallon	140	122	18
4	Reno ⁽²⁾	70	60	10
5	Fernley	120	93	27
6	Reno ⁽²⁾	70	60	10
7	Reno ⁽²⁾	70	60	10
8	Reno ⁽²⁾	70	60	10
9	Fallon	140	125	15
Total Mileage		830	710	120
Mileage Rate ⁽³⁾		\$ 0.505	\$ 0.505	\$ 0.505
Total Cost		\$ 419.15	\$ 358.55	\$ 60.60

Source: Auditor review of Division records.

⁽¹⁾ Per Microsoft Bing Maps from Carson City office to licensee location.

⁽²⁾ Employee's travel claim did not specify which branch location visited; therefore, the downtown branch location was used.

⁽³⁾ Federal standard mileage rate adopted for state travel.

Inadequate Policies for Claiming Mileage From Home to a Licensee

The Division does not have adequate policies for claiming mileage when examiners travel from home to a licensee's place of business. Currently, the Division allows employees to claim all mileage when traveling from home to a licensee's business, even when the mileage driven is less than the employee's normal commute. One travel claim we tested was for the reimbursement of 1 month's travel. This claim included \$280 for mileage less than the normal commute, which could be disallowed in the future depending on policies adopted by the Division. Additionally, some examiners claim round-trip mileage from each licensee visited during the day. Because more than

one round trip can be claimed, examiners sometimes claim more miles than actually driven.

To illustrate, the official duty station for the two examiners living in Reno is Carson City, about a 60 mile round-trip commute. Examiners are not allowed to claim mileage when commuting to and from Carson City. However, round-trip mileage is claimed when examiners travel from their home to the licensee's location in Reno, and back home at the end of the day. Therefore, examiners receive a mileage reimbursement even though they drove less than their normal commute.

Some governmental entities only allow reimbursement of mileage in excess of normal commuting mileage. For instance, Arizona has a statewide policy to exclude normal commuting miles from business miles when traveling between a personal residence and a temporary duty station. Therefore, depending on policies adopted by the Division, the mileage from home to a licensee, which is less than the normal commute, may be disallowed.

Comprehensive Policies Are Needed

The Division needs to develop comprehensive policies and procedures to ensure staff have a clear understanding of travel policies. In addition to issues identified regarding vehicle reimbursements, we found staff did not have a clear understanding of all U.S. General Services Administration (GSA) rules and rates adopted for use in Nevada. For example, staff did not claim incidental charges properly. Employees claimed the \$3 incidental charge in conjunction with meal per diems. Federal Travel Regulations and Department of Business and Industry policy clearly indicate that incidental expenses cannot be used to supplement meal or other per diem allowances.

The State Administrative Manual, Section 206, states that because of the variety of situations faced by agencies, it is important for agencies to adopt agency specific policies. In addition, all agencies should carefully review state travel requirements and adopt detailed policies including the conditions under which an employee will be allowed to claim mileage while using the employee's personal vehicle and conditions under which incidentals may be claimed.

Management indicated that they will be taking steps to ensure travel costs are properly claimed in the future. During our audit, management instructed staff to review

prior travel claims and identify specific problem areas. In addition, this review was intended to help develop specific policies and procedures to address the agency's travel issues.

Property and Equipment Inventory Records Not Accurate

The Division did not maintain accurate property and equipment records. Some equipment could not be located, certain disposed items were not removed from the agency's inventory report, and some equipment was on hand but not listed on the inventory report. Of 25 assets tested, we identified 9 discrepancies:

- **Equipment Unable to Locate** – Three computers acquired between 1997 and 2000 were listed on the agency's inventory report and could not be located.
- **Disposed Items Not Removed From Inventory** – A projector, computer, and printer acquired between 1998 and 2001 were disposed of but not removed from the agency's inventory report.
- **Equipment Not Listed on Inventory Records** – Three computers were observed at the Carson City office but not listed on the agency's inventory report.

Most of the inventory problems occurred in Carson City. During our audit, the Division conducted an inventory of all items listed for Carson City. Staff reported 11 of 25 items were missing. However, the inventory records indicate the missing items will remain on the agency's inventory for 1 year to see if they can be found. Nearly all of the missing items were computer equipment acquired between 1997 and 2001. Therefore, most equipment would be obsolete at this time. Staff was able to locate computer related equipment purchased in recent years.

Accurate property records are important to maintain accountability and enhance loss prevention. NRS 333.220 requires that agencies conduct annual physical inventories and reconcile the results to the state's inventory records. In addition, agencies are required to notify the State Purchasing Division when changes to property records occur. Reportable changes include equipment transfers, additions, correction, and deletions.

These problems occurred because the Division lacks written policies and procedures for controlling property and equipment. The 2008 annual inventory was reportedly completed by prior staff; however, documentation could not be located.

Additionally, staff could not locate any prior property and equipment listings showing asset assignments.

State Personnel Requirements Not Always Followed

The Division does not have adequate controls to ensure state personnel requirements are consistently followed. Work performance standards were not always communicated in writing, and performance evaluations were not always completed. In addition, employees did not have signed agreements to accrue compensatory time.

Work Performance Standards Not Communicated

The Division did not always communicate work performance standards to its employees. Of 10 classified employees tested, 3 employees had no work performance standards, and 1 employee did not have standards reflecting their current position. Problems occurred because the Division does not have procedures in place to ensure work performance standards are prepared and communicated to employees. State laws and regulations require agencies to develop work performance standards for all classified positions and provide employees a copy of the standards for their position. Standards must also be reviewed annually and amended when appropriate.

Work performance standards serve as a written statement of principal job assignments and the results expected from an employee. The lack of work performance standards increases the risk that an employee is unaware of job elements and expected results for satisfactory performance. In addition, standards serve as the basis for evaluating an employee's performance. Consequently, without established standards for rating purposes, it would be difficult to fairly evaluate an employee's performance.

Performance Evaluations Were Not Always Completed

The Division did not always complete performance evaluations when required. Of 10 classified employees tested, 4 employees had not received a performance evaluation during 2008. One employee had not received an evaluation since being hired in August 2006. NRS 284.340 requires annual evaluations for employees in the classified service that have achieved permanent status. Evaluations are required more frequently during an employee's probationary period.

Evaluations serve several purposes: (1) recognizing areas of improvement that can increase productivity, (2) assisting employees in developing additional skills, (3) recognizing exceptional performance, and (4) documenting shortcomings or substandard performance. Without evaluations, communications between management and staff may not be as effective, and the Division may not have recourse if the employee falls below standard.

Performance evaluations had not been conducted timely because the Division lacks a process to ensure supervisors conduct evaluations when required. Management indicated they are taking steps to ensure all employees receive timely evaluations.

Compensatory Time Agreements Needed

The Division did not have written agreements with its employees to allow compensatory time in lieu of cash payments when overtime was worked. All 10 classified employees tested did not have signed compensatory agreements and each accrued compensatory time during calendar year 2008. One employee accrued more than 120 hours, with a compensatory time balance of 216 hours at December 31, 2008.

NAC 284.250 requires a written agreement between the agency and employees to accrue compensatory time, if the method of compensating an employee is other than cash. Regulations also limit accrual of compensatory time to 120 hours unless there is specific authorization to accrue up to 240 hours. These agreements serve as a written document to ensure employees understand how overtime will be compensated. Furthermore, compliance with overtime laws is necessary to ensure the State is not monetarily liable to employees for overtime worked.

Required agreements were not prepared because the Division lacked policies and procedures to ensure the agreements were completed during the hiring process. After we informed the Division that compensatory time agreements were needed, management took action to ensure agreements were completed by employees accruing compensatory time.

Policies and Procedures Are Needed

The Division lacks adequate policies and procedures to guide its financial and administrative activities. Staff indicated they follow procedures developed for the

Department of Business and Industry. However, the Department's procedures do not adequately cover activities of the Division. Without complete policies and procedures, problems could reoccur if there is personnel turnover in key positions.

The lack of procedures contributed to numerous control weaknesses identified in this report. NRS 353A.020 requires each agency to develop written procedures to carry out their system of internal accounting and administrative control. This system of control includes procedures to reasonably ensure that programs comply with laws and operations are efficient. Furthermore, agencies are required to periodically review their system of control to ensure it is working as intended.

Recommendations

3. Establish policies and procedures to ensure money is adequately safeguarded and deposited timely.
4. Deposit money received in Las Vegas at a local bank.
5. Develop policies and procedures to ensure receipts are reconciled to deposits by someone independent of the receipt and deposit process.
6. Implement controls over returning payments and limit the number of returns to the extent possible.
7. Ensure all accounts receivable are reported to the State Controller when required.
8. Establish comprehensive policies and procedures to control travel costs and ensure travel reimbursements are accurate.
9. Develop policies and procedures to ensure an annual physical inventory is conducted, the inventory count is reconciled to state inventory records, and adequate documentation of inventory counts and transactions are maintained.
10. Develop policies and procedures to ensure performance evaluations and work performance standards are completed in accordance with state laws and regulations.

11. Establish policies and procedures to ensure compensatory time agreements are prepared for all classified employees accruing compensatory time.
12. Develop comprehensive policies and procedures over the Division's financial and administrative activities.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Division of Financial Institutions, we interviewed staff and reviewed statutes, regulations, policies, and procedures significant to the Division's operations. We also reviewed financial information, prior audit reports, budgets, legislative committee minutes, and other information describing the activities of the agency. Furthermore, we documented and assessed the Division's internal controls over accounts receivable, property and equipment, revenues, expenditures, personnel and payroll, and licensee examinations for non-depository institutions.

To determine if the Division performed timely examinations of non-depository institutions in accordance with state law, we obtained a list of all non-depository institutions licensed as of December 31, 2007. From the list, we randomly selected 50 licensees and reviewed Division records to identify whether an examination was conducted in 2008. We also identified the prior examination to calculate the length of time between examinations. For licensees receiving their initial examination, we compared the original license date to the initial examination date. Division records were also reviewed to verify timely responses and appropriate corrective actions were taken on licensees receiving an examination with a less than satisfactory rating.

To determine if the Division's financial and administrative practices were carried out in accordance with state laws, regulations, policies, and procedures, we evaluated the effectiveness of internal controls over revenues by selecting 100 payments to ensure payments received were properly recorded. Based on high dollar payments and various payment types, we then judgmentally selected 24 deposit amounts stated on the Division's check log to ensure payments recorded were deposited. Next, we calculated the number and amount of payments received in the Las Vegas office and determined if amounts were deposited in accordance with state law. Based on various payment types, we also selected 15 payments returned during 2008. For each returned payment selected, we reviewed file documentation for propriety and confirmed the

status of five payments returned with the payee. The five largest debit transactions were also reviewed for propriety. Finally, we reconciled total billings to total payments verifying amounts billed were collected and deposited.

Next, we tested the accuracy of accounts receivable records relating to assessed fines. We reviewed source documents establishing the amount owed and identified all payments made. We then determined if receivable reports were properly submitted to the State Controller.

To evaluate the appropriateness of the Division's expenditure transactions, we randomly selected 20 non-payroll expenditure transactions and tested for proper recording, approval, and compliance with laws, regulations, policies, and procedures. Transactions included at least 5 contract and 10 travel expenditures reviewed for compliance with requirements specific to these types of transactions. Additionally, we randomly selected six transactions and verified that they were recorded in the proper fiscal year. We also reviewed five randomly selected journal vouchers and the five largest credit entries to determine their propriety.

We then determined if the Division performed an annual physical inventory during 2008 and tested the accuracy of inventory records. Based on the inherent risk of loss or misuse, we judgmentally selected 10 assets on the Division's inventory lists to verify their physical existence. Five additional assets were tested at the Carson City office when assets initially selected could not be located on the inventory list. We also judgmentally selected 10 assets in a similar manner to determine whether these assets appeared on the inventory lists.

To evaluate compliance with personnel and payroll laws, we identified the Division's unclassified employees and verified their salaries agreed to the amount authorized in statute. We also verified these employees were not receiving compensation for overtime. From a listing of classified employees with accrued compensatory time during 2008, we selected 10 classified employees and determined compliance with personnel requirements including whether performance evaluations had been conducted timely and work performance standards had been communicated. We then randomly selected two pay periods to verify payroll transactions were processed correctly.

Our audit work was conducted from October 2008 through May 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218.821, we furnished a copy of our preliminary report to the Director of the Department of Business and Industry and the Commissioner of the Division of Financial Institutions. On September 17, 2009 we met with agency officials to discuss the results of our audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 31.

Contributors to this report included:

Tammy A. Goetze, CPA
Deputy Legislative Auditor

Rocky Cooper, CPA
Audit Supervisor

Appendix B

Nevada Revised Statutes for Examinations of Non-Depository Licensees

Check Cashing / Deferred Deposit, High-Interest & Title Loan Services

NRS 604A.730 Annual examinations by Commissioner; exceptions.

1. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he is licensed pursuant to the provisions of this chapter.

2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary.

(Added to NRS by 2005, 1706)

Collection Agencies

NRS 649.335 Retention and examinations of records and accounts.

1. Every collection agency shall keep all records concerning each of its accounts for at least 6 years following the completion of the last transaction concerning the account.

2. The Commissioner shall conduct an examination of the trust accounts and the records relating to debtors and customers of each collection agency licensed pursuant to this chapter at least once each year.

3. If there is evidence that a collection agency is not complying with the provisions of this chapter, the Commissioner may conduct an additional examination to determine whether a violation has occurred.

4. During the first year a collection agency is licensed, the Commissioner may conduct as many examinations as he deems necessary to ensure compliance with the provisions of this chapter.

(Added to NRS by 1969, 834; A 1983, 1718; 1987, 1894; 1989, 2035)

Debt Adjusters

NRS 676.270 Authorization of Commissioner to investigate business; free access required; compelling attendance of witnesses; fee.

1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his authorized representative may at any time and shall, at least once each year, investigate the business and examine the books, accounts, papers and records of any licensee.

2. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any other person engaged in an activity for which a license is required pursuant to the provisions of this chapter; and

(b) Any person whom the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

3. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, files, safes and vaults of such persons described in this section.

4. The Commissioner may require the attendance of any person and examine him under oath regarding:

(a) Any transaction or business regulated pursuant to the provisions of this chapter; or

(b) The subject matter of any audit, examination, investigation or hearing.

Appendix B

Nevada Revised Statutes for Examinations of Non-Depository Licensees (continued)

5. For each examination of a licensee, the Commissioner shall charge and collect from the licensee a fee for conducting the examination and in preparing and typing the report of the examination at the rate established pursuant to NRS 658.101.

(Added to NRS by 1973, 1492; A 1979, 956; 1983, 1327, 1814; 1987, 1996, 2227; 2005, 1884)

Foreign Collection Agencies

NRS 649.171 Certificate of registration; limitations on business practices; fees; disciplinary action; regulations.

1. A person who is not licensed in this State as a collection agency may apply to the Commissioner for a certificate of registration as a foreign collection agency.

2. To be issued and to hold a certificate of registration as a foreign collection agency, a person:

(a) Must meet the qualifications to do business as a collection agency in this State;

(b) Must not have any employees or agents present in this State who engage in the collection of claims and must not maintain any business locations in this State as a collection agency;

(c) Must submit proof to the Commissioner, upon application and upon each annual renewal of the certificate of registration, that the person and his employees and agents will not, in this State:

(1) Engage in the business of soliciting the right to collect or receive payment for another of any claim;

(2) Respond to a bid, proposal or invitation for the right to collect or receive payment for another of any claim, unless the bid, proposal or invitation is for the collection of claims owed by residents of another state; or

(3) Advertise or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim;

(d) When collecting claims against debtors who are present in this State, must:

(1) Limit his activities and those of his employees and agents to interstate communications by telephone, mail or facsimile;

(2) Limit his activities and those of his employees and agents to the collection of claims from residents of this State on behalf of residents of another state; and

(3) Comply with the requirements of NRS 649.305 to 649.375, inclusive, with regard to his activities and those of his employees and agents;

(e) Must pay:

(1) A fee to apply for a certificate of registration of not less than \$200 prorated on the basis of the registration year as determined by the Commissioner; and

(2) An annual renewal fee of not more than \$200;

(f) Must deposit and maintain a bond or an appropriate substitute for the bond in the same manner as an applicant or licensee pursuant to NRS 649.105, 649.115 and 649.119;

(g) Must maintain his accounts, books and records in accordance with generally accepted accounting principles and in accordance with the requirements of subsection 1 of NRS 649.335; and

(h) Must pay any fees related to any examination of his accounts, books and records conducted by the Commissioner pursuant to subsection 3.

3. The Commissioner may conduct an annual examination and any additional examinations pursuant to NRS 649.335 of the accounts, books and records of each person who holds a certificate of registration as a foreign collection agency.

4. The Commissioner may take disciplinary action pursuant to NRS 649.385, 649.390 and 649.395 against a person who holds a certificate of registration as a foreign collection agency for any act or omission that would be grounds for taking such disciplinary action under those sections.

5. The Commissioner shall adopt:

Appendix B

Nevada Revised Statutes for Examinations of Non-Depository Licensees (continued)

- (a) Regulations establishing the amount of the fees required pursuant to this section; and
 - (b) Any other regulations as may be necessary to carry out the provisions of this section.
- (Added to NRS by 2005, 1865; A 2007, 2501)

Installment Loan Services

NRS 675.400 Commissioner to examine licensee's business annually; fee.

1. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers and records of the licensee so far as they pertain to the business licensed under this chapter.

2. For each examination the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established pursuant to NRS 658.101.

3. All money collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

(Added to NRS by 1959, 236; A 1967, 977; 1979, 956; 1983, 1810; 1987, 1991, 2226; 2003, 3234)

Money Transmitting Services

NRS 671.120 Examination of licensee by Commissioner; entry upon premises and access to documents; fee; audit in lieu of examination.

1. Except as provided in subsection 4, once each year the Commissioner shall examine the financial accounts of each licensee and any other documents relevant to the conduct of the licensee's business, and the Commissioner may conduct examinations at additional times.

2. For the purpose of the examinations, the Commissioner may enter upon any of the business premises of a licensee or his agents and obtain access to the relevant documents. Any obstruction or denial of such an entry or access is a violation of this chapter.

3. For each examination the Commissioner shall charge and collect from the licensee a fee for conducting the examination and in preparing and typing the report at the rate established pursuant to NRS 658.101.

4. The Commissioner may accept a report of an audit of the licensee which covers the most recent fiscal year in lieu of conducting an examination.

(Added to NRS by 1977, 1086; A 1979, 956; 1983, 267, 1767; 1987, 1953, 2224)

Trust Companies

NRS 669.250 Fees for examination; frequency of examination.

1. For each examination of a trust company's books and records required or authorized under this chapter, the Commissioner shall charge and collect from the trust company a fee for conducting the examination and in preparing and typing the report of the examination at the rate established pursuant to NRS 658.101.

2. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

3. The Commissioner shall examine a licensee as often as he deems necessary.

(Added to NRS by 1969, 1188; A 1983, 1318, 1762; 1987, 1946, 2223; 2003, 3228)

Appendix C

Response From the Division of Financial Institutions

Jim Gibbons
Governor
Dianne Cornwall
Director

STATE OF NEVADA



George E. Burns
Commissioner
Steven W. Kondrup
Deputy Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY FINANCIAL INSTITUTIONS DIVISION

Paul V. Townsend, CPA – Legislative Auditor
Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Townsend:

As requested, the following is the Financial Institutions Division (FID) response to the recently completed Legislative Counsel Bureau (LCB) audit report. I want to extend our deep appreciation for the professional efforts of your staff in assisting the Division in identifying its operational strengths and weaknesses in order for us to capitalize on the strengths and correct the weaknesses. This audit provided valuable information regarding FID functions that I have not had the internal resources to review in depth since my appointment as Commissioner a couple of years ago when the mortgage, financial and economic crisis's began, and we continue to contend with currently.

The Financial Institutions Division accepts each of the recommendations made in the audit report as indicated by the attached "Division of Financial Institutions Response to Audit Recommendations" page. Our initial response to the Principal Findings of the audit report is as follows, including how each is being addressed:

Required examinations were not always performed timely. Of 50 non-depository licensees tested, 24 (48%) did not receive a timely examination during 2008. In addition, the Division did not consistently use a risk-based approach for scheduling examinations to ensure higher-risk licensees were examined before low-risk licensees. When examinations are not performed timely, consumers are not adequately protected against unethical business practices, and compliance violations may not be detected and corrected in a timely manner. (Page 10)

With the onset of the mortgage crisis and resulting financial crisis within a few months following the appointment of the current Commissioner in July 2007, the predominate demands on the resources of the Financial Institutions Division (FID) to contend with the rapidly deteriorating condition of depository institutions (banks, credit unions, thrifts, etc.) required a full assessment of the Financial Institutions Division's (FID) ability to meet this critical need and its statutory requirement to perform annual examinations of non-depository institutions. The assessment concluded that insufficient examination staff

CARSON CITY

1179 Fairview Drive, Suite 201
Carson City, NV 89701
(775) 687-5522 Fax (775) 687-5523

Web Address: <http://fid.state.nv.us>

LAS VEGAS

Office of the Commissioner
2785 E. Desert Inn Rd., Suite 180
Las Vegas, NV 89121
(702) 486-4120 Fax (702) 486-4563

resources existed to meet statutory requirements and resulted in development and submission in early 2008 of Work Program # C14014 to address the matter.

In recognition of the growing financial / economic crisis and insufficient staff resources to address all regulatory needs simultaneously, a strategic decision was made by the Division to risk base scheduling of non-depository examinations according to complaints received from the public and to pursue enforcement actions as deemed necessary in accordance with examination findings. Prioritization of depository examinations and the approach to emphasize consumer complaints in the non-depository arena as the first line indicator of risk to the public interest resulted in more non-depository enforcement actions and assessment of fines in 2008 than the determinable total of such in the previous 25 years of the FID's history.

The process of review and approval of Work Program #C14014 by the Director of the Department of Business & Industry, the Department of Administration - Budget Division, and the Legislative Council Bureau, resulted in the Work Program being presented to and approved by the Interim Finance Committee on 11/20/08.

The ten (10) new examiner positions approved by the IFC in the late Fall of 2008 began the process of posting, recruiting, interviewing and hiring this addition to staff, and was concluded by the end of 1st Quarter 2009. The full training and deployment of this additional staff to supplement the ever-increasing depository institution examination schedules and continue to conduct non-depository institution examinations in accordance with statutory requirements was completed by May 2009.

The Performance Indicators for the FID's FY 2010-11 Budget were established in accordance with Work Program # C14014 projections to accomplish 100% of annual examinations, including non-depository institutions, as required by statute. Prior to conclusion of the 2009 Legislative Session, the Division was on track to accomplish this overall goal and specific objectives.

At this time significant progress has been made, the Division's status of non-depository examinations is as follows. All examinations of unsatisfactory rated non-depositories are current, and it was anticipated that accomplishment of 100% of statutorily required exams would be achieved by 4th Quarter 2009:

LICENSEE TYPE	NUMBER OF LICENSEES	EXAMS TIMELY	EXAMS UNTIMELY	PERCENT UNTIMELY
604A High Interest Lender	614.00	555.00	59.00	10.63%
649 Collection Agency	543.00	505.00	38.00	7.52%
675 Installment Lender	33.00	28.00	5.00	17.86%
671 Money Transmitter	52.00	51.00	1.00	1.96%
TOTAL	1,242.00	1,139.00	103.00	9.04%

However, passage by the 2009 Legislature of SB 433 establishing unpaid furloughs of State employees as a means of addressing temporary State revenue shortfalls during the 2010-11 biennium is having a significant impact on the Financial Institutions Division's ability to fulfill its statutory requirement to perform annual examinations of non-depository institutions. An analysis of the Furlough Program upon FID staffing concluded that approximately 12% of productive examination hours for depository institutions and 13% of productive examination hours for non-depository institutions will be lost to comply with the Furlough Program requirements. Due to the necessity of depository examinations in the current financial crisis, it is anticipated that the resource allocation necessary to manage the safety and soundness stability of depository institutions will continue to take priority, and have to come from non-depository examination hours and result in approximately 25% of annual non-depository examinations not being completed.

Risk-based protocols of consumer complaints, unsatisfactory exam ratings and new licensees will continue to be utilized to determine those non-depository institution examinations conducted and those delayed.

As a result of the significant impact of the SB 433 Furlough Program requirements, the Financial Institutions Division anticipates that completing non-depository examinations in a timely manner as required by statute will not be fully implemented until one of the following events occurs:

- The economy improves, and sufficient increases in overall State revenue provide the basis for discontinuing the SB 433 Furlough Program.
- The SB 433 Furlough Program requirements sunset at the end of FY 2011.
- The Division is granted an exemption from the SB 433 Furlough Program.

The Division did not follow its records retention schedule for maintaining licensee files for 6 years. Instead, examination working papers, including correspondence with the licensee, were retained for about 1 to 2 years, until the licensee's next examination was completed. Licensee files are official state records and should be retained to support work performed and any future actions needed. (Page 12)

The FID acknowledges non compliance with the Department of Business and Industry's record and retention schedule number 190403 to maintain files including examination and related correspondence for a retention period of 6 years. It was determined that the errant practice of shredding examination work papers and written responses after a new examination is completed began a number of years ago in reaction to a lack of storage space. The FID immediately discontinued the remiss practice when it was brought to the attention of management by the LCB auditor, began to comply with Business and Industry records retention schedule 190403, and has been formulating an appropriate solution to storing its large volume of examination records.

Better controls are needed over the Division's revenues. Control weaknesses included: (1) payments not adequately safeguarded, (2) payments not always deposited timely, (3) collections not compared to deposits, (4) payments returned to licensees without adequate approval, and (5) accounts receivable not reported when required. Controls are important because the Division collected and deposited about \$3.9 million during 2008. Without proper safeguards in place, there is an increased risk that theft or loss could occur and go undetected. (Page 13)

The Division is keenly aware that proper safeguards are necessary to reduce the risk that theft or loss of revenues could occur and go undetected. The FID is fortunate to date that the weaknesses identified in the audit have not resulted in any such theft or loss of revenues to its knowledge. Accordingly, when these lackings were brought to management's attention, the Division immediately instituted internal control procedures of dual custody and control, timely depositing, separation of duties and independent reconciliation, as well as accounts receivable reporting. Written policy and procedure in these regards are being drafted to document the changes in functional practices that took place immediately.

In specific response to each of the findings cited in the audit report:

Payments Not Adequately Safeguarded

All payment delivery methods (mail, etc) are now received in dual custody (two staff present). Once payments are logged in this manner, the payment checks are maintained in dual control (double locking storage).

Revenue Not Always Deposited Timely

All licensees have now been instructed that payments are to be sent directly to the Carson City office for receipt processing. The largest payment types normally exceeding \$10,000 (annual assessments) are now required to be remitted electronically directly to the State Treasurer to avoid untimely processing. To address the remaining rare possibility of a payment being sent or hand delivered to the Las Vegas office, procedures

for processing such payments and depositing them in a local Las Vegas bank are being drafted and banking arrangements made.

Collections Not Compared to Deposits

Payments now received/logged in dual custody, and the deposit ledger completed by the Division Mgt Analyst are now reconciled by a staff member independent of these two separate functions.

Payments Returned to Licensees without Adequate Controls

All payments that are returned for various reasons are now processed by photocopying the check being returned, documenting supervisory approval for returning the payment on the photocopy with the reason for return, date of return and supervisor's signature with that of the staff member returning the payment. All payment returns are now being sent certified mail/return receipt requested.

Accounts Receivable Not Reported to State Controller

Accounts receivable are now reported to the State Controller as statutorily required by NRS 353C.120 on a quarterly basis.

Division staff did not use the least expensive method of travel when conducting state business. (Page 16)

It has been determined that practices of not using the least expensive method of travel evolved in the Carson City office largely due to a lack of on-site unclassified management to review and pre-approve travel plans and expenses, as well as less than specific policy for the Division in this regard. Once these weaknesses were brought to the attention of Division management by the LCB auditor, the Carson City examination team was immediately instructed to discontinue the errant practices and to administratively report to the Division's CPA for several purposes including the review and approval of travel plans and expenses to ensure they are done on a least cost basis. Policy and procedure specific to FID has been drafted to address each of the travel findings cited in the LCB audit report, as well as other related considerations, and is currently under management review to complete formal implementation.

The Division does not have adequate policies for claiming mileage when examiners travel from home to a licensee's place of business. (Page 18)

In conjunction with the travel policy and procedure specific to FID noted previously that has been drafted to address each of the findings cited in the LCB audit report, claiming mileage when examiners travel from home to a licensee's place of business has been specifically addressed. Upon notification by the LCB auditor of this finding, FID management immediately restated the common sense policy that only mileage in excess of normal commuting mileage is allowed. Expense reports submitted are now specifically scrutinized to ensure that examiners are only reimbursed for mileage actually driven in excess of their normal home-to-office commute.

Accurate property and equipment records were not maintained. (Page 20)

FID continues to research the 9 property and equipment items cited in the LCB audit report as unable to locate. Three of those nine have been located to date. Disposed items not removed from inventory have been properly reported. Equipment not listed on inventory records has also been reported. The Division has submitted corrected Property Disposition Report to Purchasing in each of these cases, as well as a corrected inventory report for accurate reporting and accountability. The FID will continue to do so as property and equipment items are located.

The Division does not have adequate policies and procedures in place to ensure state personnel requirements are consistently followed. Work performance standards were not always communicated in writing, and performance evaluations were not always completed. Furthermore, employees did not have signed agreements to accrue compensatory time. (Page 21)

Business and Industry policy and procedure regarding state personnel requirements are the basis for FID's

practices in this administrative area, and when followed can be considered adequate. The weaknesses cited in the LCB audit report in this regard were largely due to a lack of time and resources amidst major organizational changes in the Division and contending with the demands of the financial and economic crisis. Nevertheless, each of the cited weaknesses has been addressed by the Division as follows:

Work Performance Standards

The Division has now completed Work Performance Standards for each position and communicated them to each employee as applicable.

Performance Evaluations

All employees now have a current performance evaluation commensurate with their position and status in that position.

Compensatory Time Agreements

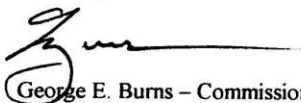
Signed “Election of Compensatory Time” agreements for each applicable staff member that would accrue compensatory time in lieu of cash payment have been completed.

Adequate policies and procedures are lacking to guide the Divisions financial and administrative activities. The lack of procedures contributed to numerous control weaknesses identified in this report. Without complete policies and procedures, problems could reoccur if there is personnel turnover in key positions. (Page 22)

This finding cited in the LCB audit report is warranted and acknowledged. As time and resources permit in the current plethora of crisis priorities, each will be addressed according to risk-based triage of the most significant to least significant.

The Financial Institutions Division is confident that the foregoing responses will adequately address the matters stated in the audit report. If there should be any further questions or additional information required in this regard, please do not hesitate to contact me.

Sincerely,



George E. Burns – Commissioner
Nevada Financial Institutions Division
Department of Business & Industry
2785 E. Desert Inn Rd., Ste 180
Las Vegas, NV 89121
Phone: 702-486-4120
Fax: 702-486-4563
gburns@fid.state.nv.us

cc: Dianne Cornwall, Director, Department of Business and Industry

Division of Financial Institutions Response to Audit Recommendations

Recommendation Number		<u>Accepted</u>	<u>Rejected</u>
1	Revise the examination scheduling process to ensure higher-risk licensees, those with an unsatisfactory rating and new licensees, receive an examination prior to lower-risk licensees.....	<u> X </u>	<u> </u>
2	Develop procedures to help ensure staff follow the Division's approved records retention schedule	<u> X </u>	<u> </u>
3	Establish policies and procedures to ensure money is adequately safeguarded and deposited timely	<u> X </u>	<u> </u>
4	Deposit money received in Las Vegas at a local bank	<u> X </u>	<u> </u>
5	Develop policies and procedures to ensure receipts are reconciled to deposits by someone independent of the receipt and deposit process	<u> X </u>	<u> </u>
6	Implement controls over returning payments and limit the number of returns to the extent possible.....	<u> X </u>	<u> </u>
7	Ensure all accounts receivable are reported to the State Controller when required.....	<u> X </u>	<u> </u>
8	Establish comprehensive policies and procedures to control travel costs and ensure travel reimbursements are accurate	<u> X </u>	<u> </u>
9	Develop policies and procedures to ensure an annual physical inventory is conducted, the inventory count is reconciled to state inventory records, and adequate documentation of inventory counts and transactions are maintained.....	<u> X </u>	<u> </u>
10	Develop policies and procedures to ensure performance evaluations and work performance standards are completed in accordance with state laws and regulations.....	<u> X </u>	<u> </u>
11	Establish policies and procedures to ensure compensatory time agreements are prepared for all classified employees accruing compensatory time.....	<u> X </u>	<u> </u>
12	Develop comprehensive policies and procedures over the Division's financial and administrative activities.....	<u> X </u>	<u> </u>
	TOTALS	<u> 12 </u>	<u> 0 </u>