

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

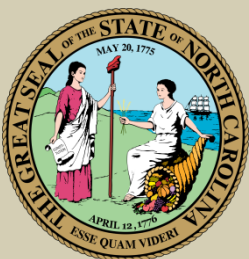


AVERY COUNTY CLERK OF SUPERIOR COURT

NEWLAND, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2019



NCOSA
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Lisa F. Daniels, Avery County Clerk of Superior Court

This report presents the results of our financial related audit at Avery County Clerk of Superior Court. Our work was performed by authority of Article 5A of Chapter 147 of the *North Carolina General Statutes* and was conducted in accordance with the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

The results of our audit identified deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the *Audit Findings, Recommendations, and Responses* section of this report.

North Carolina General Statutes require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this report.

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor



**Beth A. Wood, CPA
State Auditor**

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As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Avery County Clerk of Superior Court. There were no special circumstances that caused us to conduct the audit, but rather it was performed as part of our effort to periodically examine and report on the financial practices of state agencies and institutions.

The voters of each county elect a Clerk of Superior Court for a four-year term. Clerks are responsible for all clerical and record-keeping functions of the superior court and district court. The Clerks' Offices collect, invest, and distribute assets in a fiduciary capacity. For example, the Clerks' Offices collect fines and court costs, hold cash and property bonds, administer estates on behalf of minors, and distribute resources to governmental and private parties as required.

The North Carolina Administrative Office of the Courts (NCAOC) provides statewide support services for the courts, including court programs and management services; information technology; human resources services; financial, legal, and legislative support; and purchasing services. In addition, the NCAOC prepares and administers the court system's budget.

The general objective of this financial related audit was to identify improvements needed in internal control over selected fiscal matters. Management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Errors or fraud may nevertheless occur and not be detected because of the inherent limitations of internal control. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or that compliance with policies and procedures may deteriorate. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

Our audit scope covered the period July 1, 2018 through March 31, 2019. During our audit, we considered internal control related to the following objectives:

Cash – The Clerk’s Office collects various fines, fees, and court costs daily, as well as collections for bonds, judgments, and other matters. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for cash receipts. We also examined internal controls designed to ensure compliance with laws and regulations related to depositing cash receipts. During the audit period, the Clerk collected \$1,870,813 in cash.

Estates – The Clerk’s Office ensures all estates are charged an application fee plus an assessment based on the value of the estate’s inventory. An estate inventory is to be filed by the representative of the estate. We examined internal controls designed to ensure that the Clerk properly obtains an inventory for each estate in compliance with laws and regulations. We also examined internal controls designed to ensure compliance with laws and regulations related to the appropriate assessment and collection of estate fees. During the audit period, the Clerk collected \$19,658 in estate fees.

The Clerk’s Office ensures that all estate guardians are properly bonded based on the value of the annual estate inventory. An annual estate inventory is to be filed by the estate guardian of a minor or incapacitated adult. We examined internal controls designed to ensure that the Clerk properly obtains an inventory for each guardianship in compliance with laws and regulations. We also examined internal controls designed to ensure that bonds assessed and collected are sufficient and in compliance with laws and regulations. During the audit period, auditors examined \$253,784 in estate guardian bonds retained by the Clerk.

Escheats – The Clerk’s Office transfers abandoned property to the State. The transfer results when the person legally entitled to the property fails to make a valid claim on the property within a prescribed period of time. After that time, all abandoned property held by the Clerk is required to be transferred to the North Carolina Department of State Treasurer. We examined internal controls designed to ensure that the Clerk properly identifies escheatable funds. We also examined internal controls designed to ensure compliance with laws and regulations related to escheating unclaimed funds after a prescribed period of time. During the audit period, the Clerk transferred \$4,861 in escheats to the State Treasurer.

Trusts – The Clerk’s Office receives, administers, and disburses trust funds for minors and incapacitated adults. We examined internal controls designed to ensure that disbursements from minor and incapacitated adult trust accounts are proper to ensure compliance with laws and regulations. As of March 31, 2019 the Clerk had \$213,276 in trust accounts.

To accomplish the audit objectives, auditors gained an understanding of the Clerk's internal control over matters described in the *Audit Objectives and Scope* section of this report and evaluated the design of the internal control. Auditors then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, auditors interviewed personnel, observed operations, reviewed policies, analyzed accounting records, and examined documentation supporting recorded transactions and balances, as considered necessary in the circumstances. Whenever sampling was used, we applied a nonstatistical approach, but chose sample sizes comparable to those that would have been determined statistically. As a result, we were able to project our results to the population as applicable but not quantify the sampling risk. This approach was determined to adequately support audit conclusions.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components: (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

We conducted this audit in accordance with the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. 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.

Based on the results of audit procedures described in the *Methodology* section of this report, auditors identified deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

1. IMPROPER SYSTEM ACCESS INCREASED RISK OF UNDETECTED ERRORS AND FRAUD

Staff in the Clerk's office had the ability to change and/or delete information in the Financial Management System (FMS), resulting in inadequate segregation of duties. The Clerk's Office handled \$1,870,813 in receipts during the audit period July 2018 to March 2019.

Specifically, one out of 7 (14%) employees had both bookkeeper and head cashier access rights in FMS. As a result, the employee could have potentially misappropriated funds by voiding receipts, updating financial account information, and disbursing funds to unauthorized individuals.

Improper segregation of duties increased the risk that errors, unauthorized transactions, and fraud could go undetected. While no fraud was identified during the audit period, an increased risk of undetected fraud existed because access rights and duties were not properly segregated.

According to the Clerk, the small staff size makes it difficult to achieve proper segregation of duties. Additionally, the Clerk was not aware that the North Carolina Administrative Office of the Courts (AOC) had provided monitoring procedures to serve as compensating controls for the inappropriate access.

Adequate segregation of duties is required by the *Clerk of Superior Court Financial Policies and Procedures Manual*. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provide a cross-check of the work of other employees.

Recommendation: The Clerk should reassign system access rights to properly segregate duties in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. If it is not practical to segregate all incompatible duties, then effective monitoring procedures should be implemented to reduce the risk of errors or fraud.

Clerk's Response: See page 7 for the Clerk's response to this finding.

2. UNTIMELY OR FAILURE TO COMPEL ESTATE INVENTORY FILINGS

The Clerk's Office did not compel the timely filing of estate inventories in accordance with state law.

Auditor examined all 26 estates that required an inventory to be filed in the audit period. Nine (34%) estates were not compelled or not compelled timely. Specifically,

- For 5 (19%) estates, the Clerk's written requests requiring inventory filings were issued 43 to 99 days after the three-month inventory deadline.
- For 4 (15%) estates, the Clerk failed to issue written requests requiring inventory filings.

Failure to compel timely filing of inventories delays the family of the deceased in finalizing the estate. It could also result in unauthorized transactions from the estate including, but not limited to, the removal of estate assets without the knowledge of qualified heirs.

According to the Clerk, tracking reports from the North Carolina Court Information System were not properly monitored to ensure filings were compelled timely.

North Carolina General Statute 28A-20 and the *North Carolina Clerk of Superior Court Procedures Manual*, Chapter 74, require the filing of an estate inventory within three

months after the Clerk's appointment of the estate's personal representative. If an inventory is not filed, the Clerk must send a written request requiring the personal representative to file the inventory or explain why the personal representative should not be replaced.

Recommendation: The Clerk should ensure appropriate action is taken to compel the timely filing of estate inventories, including timely review of the tracking reports.

Clerk's Response: See page 7 for the Clerk's response to this finding.

3. FAILURE TO ASSESS AND COLLECT BONDS OR TIMELY COMPEL INVENTORY FILINGS FOR ESTATES OF MINORS AND INCAPACITATED ADULTS

The Clerk's Office did not assess and collect bonds¹ to protect wards (minors or incapacitated adults) or compel the timely filing of guardianship estate inventories in accordance with state law.

Auditors examined all ten guardianship estates for wards that required bonds and the filing of an annual inventory of the ward's assets and found:

- Two (20%) guardianship estates without bonds even though assets in these estates totaled \$5,354 and required \$6,692 in bonds.
- One (10%) guardianship estate where the Clerk's written request requiring an inventory filing was issued 11 months after the annual inventory deadline.

Failure to assess and collect bonds from guardians and compel the timely filing of inventories could result in financial loss to the ward if the guardian misuses the assets in the estate. Additionally, the Clerk and State may be liable for the financial loss if bonds are not collected and/or sufficient.

According to the Clerk, employee oversight resulted in the failure to assess and collect bonds at the time guardian was appointed. In addition, proper monitoring procedures were not in place to ensure inventory filings were compelled timely.

North Carolina General Statutes 35A-1230 and 35A-1231 require the Clerk to assess and collect sufficient bonds before appointing a guardian to the estate. *North Carolina General Statute 35A-1238* states that the Clerk shall be liable for all loss and damages sustained. *North Carolina General Statutes 35A-1264 and 35A-1265* require the annual filing of an inventory of the ward's personal property. If an inventory is not filed, the Clerk must send a written request requiring the guardian to file the inventory or explain why the guardian should not be removed.

Recommendation: The Clerk should implement effective monitoring procedures, such as a secondary review, to ensure bonds are assessed and collected. In addition, the Clerk should ensure tracking reports provided by the North Carolina Court Information System are properly monitored to ensure that estate inventories are compelled timely.

Clerk's Response: See page 8 for the Clerk's response to this finding.

¹ *North Carolina General Statutes 35A-1230 and 35A-1231* require bonds for estate guardians to equal 125% of the ward's personal property (if under \$100,000) or 110% of personal property (if over \$100,000). Bond amounts should be reviewed upon the filing of the inventory and each account to ensure sufficiency.



State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT
AVERY COUNTY
NEWLAND, NC

LISA F. DANIELS, CLERK
EX OFFICIO JUDGE OF PROBATE

GARY GAVENUS
RESIDENT JUDGE

IMPROPER SYSTEM ACCESS INCREASED RISK OF UNDETECTED ERRORS AND FRAUD

Recommendation: The Clerk should reassign system access rights to properly segregate duties in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. If it is not practical to segregate all incompatible duties, then effective monitoring procedures should be implemented to reduce the risk of errors or fraud.

The Clerk agrees with the above finding of improper system access. The bookkeeper has head cashier access rights in order to complete close out each day. Assistant Clerks or Elected Clerk are now reviewing and signing the daily void report when the bookkeeper processed voids the previous day.

UNTIMELY OR FAILURE TO COMPEL ESTATE INVENTORY FILINGS

Recommendation: The Clerk should ensure appropriate action is taken to compel the timely filing of estate inventories, including timely review of the tracking reports.

The Clerk agrees with the above finding of untimely or failure to compel Estate inventory filings. The Estate Clerk will begin reviewing daily the summary session in VCAP as well as the Estate Tracking System to timely issue notices to file the inventory.

FAILURE TO ASSESS AND COLLECT BONDS OR TIMELY COMPEL FILINGS FOR ESTATES OF MINORS AND INCAPACITATED ADULTS

Recommendation: The Clerk should implement effective monitoring procedures, such as a secondary review, to ensure bonds are assessed and collected. In addition, the Clerk should ensure tracking reports provided by the North Carolina Court Information System are properly monitored to ensure that estate inventories are compelled timely.

The Clerk agrees with the above finding. The two cases without bonds have been corrected as follows:

Bond is now in place in one of the guardianships and emailed to Auditors and the other file has been modified to Guardian of the Person which requires no bond. Estate Clerk is now reviewing the summary session report and Estate tracking report daily to make sure notices are issued in a timely manner.

I now have monitoring procedures in place to reduce any risk or fraud as well as timely review of estates and guardianship bonds and filings.


Lori Daniel
Avery Clerk of Superior Court

6-11-19

ORDERING INFORMATION

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This audit was conducted in 170.5 hours at an approximate cost of \$17,562.