

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

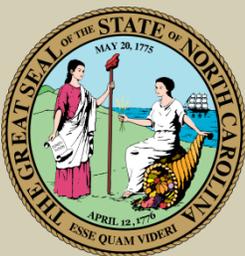


BLADEN COUNTY CLERK OF SUPERIOR COURT

ELIZABETHTOWN, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2019



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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 Nicola S. Dennis, Bladen County Clerk of Superior Court

This report presents the results of our financial related audit at Bladen 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

TABLE OF CONTENTS

	PAGE
BACKGROUND	1
AUDIT OBJECTIVES AND SCOPE	2
METHODOLOGY	3
RESULTS AND CONCLUSIONS	4
AUDIT FINDINGS, RECOMMENDATIONS, AND RESPONSES	5
ORDERING INFORMATION	10

Article V, Chapter 147 of the *North Carolina General Statutes*, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Bladen 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 February 28, 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 \$2,654,278 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 \$39,133 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 \$528,685 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 \$42,084 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 February 28, 2019, the Clerk has \$839,244 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. FAILURE TO COMPEL INVENTORY FILINGS OR ASSESS AND COLLECT SUFFICIENT BONDS FOR ESTATES OF MINORS AND INCAPACITATED ADULTS

The Clerk's Office did not compel the timely filing of guardianship estate inventories or assess and collect sufficient¹ bonds to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 19 guardianship estates for wards that required bonds and the filing of an annual inventory of the ward's assets. For nine (47%) of the guardianship estates, the Clerk's Office failed to issue written requests requiring inventory filings and failed to assess and collect sufficient bonds. Specifically,

- For five (26%) of the guardianship estates, the Clerk failed to compel an annual inventory. Because no inventory was filed, the bond amount required could not be determined.
- For four (21%) of the guardianship estates, bonds assessed and collected were insufficient as of the last inventory filing. Assets in these estates totaled \$107,472 and required \$134,340 in bonds. However, the Clerk only assessed and collected \$21,800. The Clerk also failed to compel an annual inventory filing.

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

According to the Clerk, monitoring procedures were not in place to ensure inventories were compelled and bonds were sufficient for the guardianship estates.

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 ensure tracking reports from the North Carolina Court Information System are properly monitored to ensure the timely compelling of estate inventories. In addition, the Clerk should implement effective monitoring procedures, such as a continual review of ward assets to ensure the bond assessed and collected remains sufficient.

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.

2. UNTIMELY OR FAILURE TO COMPEL ESTATE INVENTORY FILINGS OR FEE COLLECTION

The Clerk's Office did not compel the timely filing of estate inventories or collect estate fees in accordance with state law. The Clerk's Office collected \$39,133 in estate fees during the audit period July 2018 to February 2019.

Auditors examined all 16 estates in the audit period that required an inventory to be filed. For three (19%) estates, the Clerk failed to issue written requests requiring inventory filings.

Auditors also examined all 39 estates in the audit period in which a final inventory was filed. A total of \$750 in fees for 11 (28%) estates were not accurately assessed or collected when the final inventory was filed. These fees remained uncollected as of the time of our audit. Specifically,

- For nine (23%) estates, fees totaling \$733 were not collected when the final inventory was filed. Also, there was no evidence in the file to support fee collection attempts and/or reasons for collection delays.
- For two (5%) estates, fees were not accurately assessed, resulting in the Clerk's Office collecting \$17 less than required.

As a result, there were delays and the potential loss in the collection of estate costs and fees. Additionally, the Clerk's failure to compel the timely filing of inventories could allow unauthorized transactions to occur, such as the removal of estate assets without the knowledge of qualified heirs. It could also delay the family of the deceased from finalizing the estate.

According to the Clerk, there were two reasons for the errors.

1. The Clerk's staff did not properly monitor the tracking reports from the North Carolina Court Information System to ensure filings were compelled timely.
2. The Clerk's staff did not follow procedures on collecting estate costs and fees before finalizing due to oversight.

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. Additionally, North Carolina General Statute 7A-307(a)(2) requires the Clerk to assess and collect the estate fees at the time the final inventory is filed.

Recommendation: The Clerk should ensure appropriate action is taken to compel the timely filing of estate inventories, including timely review of the tracking reports. In addition, the Clerk should implement monitoring procedures and document efforts to identify, track, and compel the collection of outstanding fees.

Clerk's Response: See page 9 or the Clerk's response to this finding.

3. FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE STATE TREASURER

The Clerk's Office did not identify and transfer unclaimed funds to the North Carolina Department of State Treasurer (Treasurer) in accordance with state law.

Auditors examined the February 2019 aging report² for items held over one year and identified 114 unclaimed items totaling \$800,138. Thirty-four (30%) items totaling \$72,791 remained on deposit with the Clerk as of the time of our audit that should have been transferred to the Treasurer during the periods 2005-2018.

As a result, the return of unclaimed funds to the rightful owners has been delayed. Additionally, there is a potential loss of earnings on the Unclaimed Property Fund, or Escheats Fund. A loss of Escheats Fund earnings reduces the amount of funds available for transfer to the North Carolina State Education Assistance Authority.³

According to the Clerk, employees misinterpreted the North Carolina Administrative Office of the Courts policies and procedures related to the timely review of the monthly aging reports.

*North Carolina General Statutes*⁴ and the *North Carolina Clerk of Superior Court Escheats Manual*⁵ require the Clerk's Office to:

- Review monthly aging reports to identify funds that should be disbursed to the rightful owners or escheated.
- Determine that unclaimed funds are eligible for delivery to the Treasurer and transfer those funds at the appropriate time.

Recommendation: The Clerk should ensure responsible employees receive proper training. The Clerk should also implement effective monitoring procedures over the escheat process, such as a periodic review of aging reports.

Clerk's Response: See page 9 for the Clerk's response to this finding.

² The monthly aging report reflects all case level account funds being held by the Clerk and the amounts of time funds have remained in the Clerk's office without any activity.

³ The State Education Assistance Authority provides loans and grants to North Carolina students attending state-supported colleges and universities

⁴ NCGS 116B-53(c), and 116B-60(d)

⁵ Sections C1 and C2



State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT
BLADEN COUNTY

NICOLA S. DENNIS, CLERK
EX OFFICIO JUDGE OF PROBATE

ELIZABETHTOWN, N.C. 28337

DOUGLAS B. SASSER
SENIOR RESIDENT JUDGE

The Honorable Beth A. Wood, State Auditor
Office of the State Auditor
2 South Salisbury Street
20601 Mail Service Center
Raleigh, N.C. 27699-0600

Re: Audit Response

Dear Ms. Wood:

This letter is in response to the State Auditor's Audit Findings and Recommendations in a letter dated June 18, 2019. I concur with the Audit Findings and Recommendations.

Audit Findings and Recommendations

1. Failure to Compel Inventory Filings or assess and collect sufficient Bonds for Estates of Minors and Incapacitated Adults

OSA Recommendation: The Clerk should ensure tracking reports from the North Carolina Court Information System are properly monitored to ensure the timely compelling of estate inventories. In addition, the Clerk should implement effective monitoring procedures, such as a continual review of ward assets to ensure the bond assessed and collected remains sufficient.

Agency Response: This is a valid finding and corrective actions have been taken to ensure compliance with AOC policies and procedures. Some of the issues with enough bonds were oversights and we do have in place a new procedure for monitoring both issues. We are currently caught up with our notices as of the date of this report and will be following our new procedures in the future to ensure accurate records.

2. Untimely or Failure to Compel Estate Inventory Filings or Fee Collection.

OSA Recommendation: The Clerk should ensure appropriate action is taken to compel the timely filing of estate inventories, including timely review of the tracking reports. In addition, the Clerk should implement monitoring procedures and document efforts to identify, track, and compel the collection of outstanding fees.

Agency Response: I concur with audit finding and recommendation. We have a new procedure in place to dedicate as much attention to this as needed or planned. We now have caught up on our filings as of this date. We will be monitoring more closely both issues to become more efficient in the future.

3. Failure to Identify and Transfer Unclaimed funds to the State Treasurer.

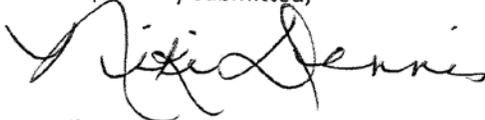
OSA Recommendation: The Clerk should ensure responsible employees receive proper training. The Clerk should also implement effective monitoring procedures over the escheat process, such as a periodic review of aging reports.

Agency Response: This is a valid finding and corrective actions have been taken to ensure compliance with AOC policies and procedures. AOC has been working with our office for quite some time on the surplus funds that were being held. As of this date we have already escheated this money and the State Treasurer will receive the unclaimed money in October of this year. The monthly aging reports will be reviewed periodically to ensure the timely transfer of all unclaimed funds to the Treasurer.

As of the date of this letter we have internal policies implemented to ensure that fees are accurately assessed and properly identified, tracked and collected at the time of the final inventory filing. We will work closely with our Financial representative from AOC to ensure our compliance of all issues. Our goal here is to have efficient records for the citizens of Bladen County.

I do appreciate the audit review team who served Bladen County. They were always pleasant and very professional at all times.

Respectfully submitted,



Niki S. Dennis
Clerk of Superior Court
Bladen County

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This audit was conducted in 248.5 hours at an approximate cost of \$25,595.50.