

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

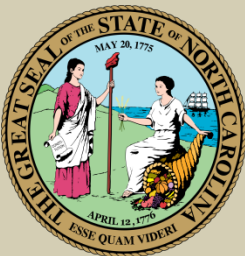


BUNCOMBE COUNTY CLERK OF SUPERIOR COURT

ASHEVILLE, 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 Steven D. Cogburn, Buncombe County Clerk of Superior Court

This report presents the results of our financial related audit at Buncombe 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 a deficiency in internal control and an instance of noncompliance that is considered reportable under *Government Auditing Standards*. This item is described in the *Audit Findings, Recommendations, and Responses* section of this report.

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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 Buncombe 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 January 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 \$17,562,891 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 \$395,602 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 \$15,955,244 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 \$1,107,445 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 January 31, 2019, the Clerk had \$877,606 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 a deficiency in internal control and an instance of noncompliance that is considered reportable under *Government Auditing Standards*. This item is described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's response is presented after the audit finding. We did not audit the response, and accordingly, we express no opinion on it.

FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE RIGHTFUL OWNER OR THE COUNTY

The Clerk's Office did not identify and transfer unclaimed funds to the rightful owners or the County in accordance with state law.

Auditors examined the January 2019 aging report¹ for items held over one year and identified 114 unclaimed items totaling \$1,105,021. Sixteen (14%) items totaling \$38,546 remained on deposit with the Clerk as of the time of our audit that should have been transferred to the rightful owners or the County. Specifically,

- Twelve (10%) items totaling \$36,400 in unclaimed funds should have been transferred to the rightful owner during the periods 2014-2018. There was no evidence of attempts to contact the rightful owners.
- Four (4%) items totaling \$2,146 in forfeited bonds should have been transferred to the County Finance Officer during the periods 2013-2018.

As a result, the return of unclaimed funds to the rightful owners has been delayed. Additionally, the delay in forfeited funds remitted to the County reduces the amount of funds available to benefit the local school system.

According to the Clerk, his staff was not properly trained on how to review items on the monthly aging report.

North Carolina General Statute 116B-53(c) and the *North Carolina Clerk of Superior Court Escheats Manual*, Section C1, require the Clerk's Office to identify funds eligible for escheat, which includes reviewing the monthly aging reports. This same review also identifies funds that should be disbursed to the rightful owners or the County.

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 6 for the Clerk's response to this finding.

¹ The monthly aging report reflects all case level account funds being held by the Clerk and the amount of time the funds have remained in the Clerk's Office without any activity.



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

STEVEN D. COGBURN, CLERK
EX OFFICIO JUDGE OF PROBATE

ASHEVILLE, NC
June 5, 2019

ALAN Z. THORNBURG
SENIOR RESIDENT JUDGE

MARVIN P. POPE, JR.
RESIDENT JUDGE

This is our response to the State Auditor's letter of May 24, 2019 outlining the audit finding discussed in our exit conference on June 4, 2019.

We appreciate the work of the State Auditor's office and the courteous and professional service exhibited in this audit process.

OSA AUDIT FINDING:

FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE RIGHTFUL OWNER OR COUNTY

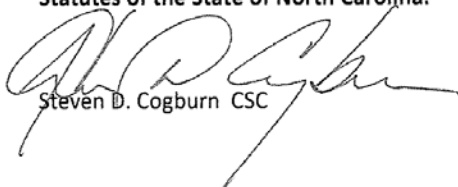
RECOMMENDATION: The Clerk should ensure responsible employees receive proper training. The Clerk should implement effective monitoring procedures over the escheat process, such as a periodic review of aging reports.

RESPONSE:

I concur with the audit findings and recommendations. We have implemented new processes to review the aging reports which are available each month. The head bookkeeper and the responsible clerk in the areas of criminal, civil, special proceedings and estates shall review, date and sign the report once completed. The bookkeeper will report completion to the elected clerk.

Attempts to contact the rightful owner of funds will be documented for audit purposes. We will also engage the assistance of our Financial Management Analyst in August to insure all escheatable items are escheated in a timely manner or we will document why we are not escheating the funds at that time.

It is our intention to fully comply with all the standards as set forth by the NCAOC and the General Statutes of the State of North Carolina.


Steven D. Cogburn CSC

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