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OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

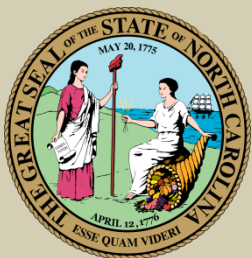


HERTFORD COUNTY CLERK OF SUPERIOR COURT

WINTON, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JULY 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 Shirley Johnson, Hertford Clerk of Superior Court

This report presents the results of our financial related audit at Hertford 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 black ink that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

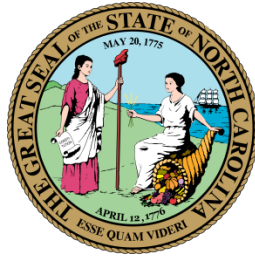


**Beth A. Wood, CPA
State Auditor**

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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.



INDEPENDENT AUDITOR'S REPORT

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Hertford 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 \$2,175,372 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 \$34,599 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 \$576,378 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 \$8,837 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, the Clerk had \$409,313 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.

RESULTS AND CONCLUSIONS

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 multiple systems, resulting in inadequate segregation of duties. The Clerk’s Office handled \$2,175,372 in receipts during the audit period July 2018 to March 2019.

Specifically, five out of 10 (50%) employees had inappropriate access to the Financial Management System (FMS), the Civil Case Processing System (VCAP), and/or the Criminal Court Information System (CCIS) as follows:

- Three (30%) employees had both head cashier rights in FMS and update access in CCIS. As a result, the employees could have potentially misappropriated funds by voiding receipts in FMS, updating CCIS to indicate all costs have been paid, and deleting criminal case information. Additionally, these employees had VCAP access where they could have potentially misappropriated funds in the same manner for civil payments and could also delete civil case information.
- Two (20%) employees had both cashier rights in FMS and update access in CCIS. As a result, the employees could have potentially misappropriated funds by collecting cash from a criminal payment, bypassing receipt entry into FMS, and updating CCIS to indicate all costs have been paid.

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.

The Clerk did not ensure that system access rights assigned to staff resulted in proper segregation of duties. According to the Clerk, she was not aware that the North Carolina Administrative Office of the Courts had provided monitoring procedures to serve as compensating controls for employees with 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 the Clerk should improve oversight over the duties and implement effective monitoring procedures to reduce the risk of errors or fraud.

Clerk’s Response: See page 10 for the Clerk’s response to this finding.

2. FAILURE TO SAFEGUARD CASH

The Clerk’s Office did not properly safeguard cash by failing to perform daily cash closeout procedures. The Clerk’s Office handled \$2,175,372 in receipts during the audit period July 2018 to March 2019.

Auditors examined 65 of 184 business days during the audit period in which daily closeout procedures should have been performed. Procedures were not properly performed on 12 (18%) of the 65 days. Specifically,

- Eight (12%) daily cash closeouts were not performed. The receipts from each day were included in the following day's closeout.
- Four (6%) daily cash closeouts did not receive a subsequent, independent review.

Failure to perform daily cash closeouts procedures increased the risk that errors and fraud could go undetected. While no fraud was identified during the audit period, an increased risk of undetected fraud existed because daily cash closeouts were not properly performed.

According to the Clerk, she did not ensure that a backup was available to perform the daily cash closeout procedures in the absence of the head cashier. In addition, other staff have not been properly trained to perform daily cash closeout procedures.

The *Clerk of Superior Court Financial Policies and Procedures Manual* requires daily cash closeout procedures be performed, including counting cash, preparing the daily cash summary, and preparing the deposit. Additionally, a subsequent review of the deposit is required to ensure the amount on the bank deposit slip matches the amount recorded for the daily closeout.

Recommendation: The Clerk should ensure a head cashier is available to complete the daily closeout procedures each business day in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. Additionally, the Clerk should ensure other staff is properly cross-trained to perform daily cash closeout procedures.

Clerk's Response: See page 10 for the Clerk's response to this finding.

3. UNTIMELY OR 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 all 68 unclaimed items that were transferred to the Treasurer during the audit period and found 11 (16%) items totaling \$7,597 that should have been transferred to the Treasurer during the periods 2015-2017.

Additionally, auditors examined the March 2019 aging report¹ for items held over one year and identified 57 unclaimed items totaling \$292,893. Twenty-two (39%) items totaling \$13,641 remained on deposit with the Clerk as of the time of our audit that should have been transferred to the Treasurer during prior periods.

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

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.

Escheats Fund. A loss of Escheats Fund earnings reduces the amount of funds available for transfer to the North Carolina State Education Assistance Authority.²

According to the Clerk, items were transferred late because employees misinterpreted the North Carolina Administrative Office of the Courts policies and procedures for timely submission of unclaimed funds to the Treasurer.

*North Carolina General Statutes*³ and the *North Carolina Clerk of Superior Court Escheats Manual*⁴ 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 10 for the Clerk's response to this finding.

4. 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 sufficient⁵ bonds to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 35 guardianship estates for wards that required bonds and the filing of an annual inventory of the ward's assets. For all 35 (100%) 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 18 (51%) of the guardianship estates, the Clerk failed to compel an annual inventory filing. Because no inventory was filed, the bond amount required could not be determined.
- For 16 (46%) of the guardianship estates, bonds assessed and collected were insufficient because they were based on preliminary estimates of the value of assets in the estates. The Clerk assessed and collected \$466,675 in bonds. However, the sufficiency of the bonds could not be determined because the Clerk failed to compel an annual inventory filing.

² The State Education Assistance Authority provides loans and grants to worthy and needy North Carolina students attending state-supported colleges and universities.

³ NCGS 116B-53(c), and 116B-60(d)

⁴ Sections C1 and C2

⁵ *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.

- For 1 (3%) of the guardianship estates, the bond assessed and collected was insufficient as of the last inventory filing. Assets in this estate totaled \$795,211 and required \$874,732 in bonds. However, the Clerk only assessed and collected \$83,178. 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, she did not monitor the compelling of annual inventories or follow state law related to the assessment of sufficient bonds for guardians because she did not have the time or resources to monitor the compelling of estates properly.

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 follow state law to ensure appropriate action is taken to compel the timely filing of guardianship estate inventories, as well as assess and collect sufficient bonds to protect ward assets. In addition, the Clerk should implement monitoring procedures, such as a continual review of ward assets to ensure the bond collected remains sufficient.

Clerk's Response: See page 11 for the Clerk's response to this finding.

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

The Clerk Office's did not compel the timely filing of estate inventories or collect estate fees in accordance with state law. The Clerk's Office collected \$34,599 in estate fees during the audit period July 2018 to March 2019.

Auditors examined all 24 estates in the audit period that required an inventory to be filed. For 21 (88%) estates, the Clerk failed to issue written requests requiring inventory filings.

Auditors also examined all 35 estates in the audit period in which a final inventory was filed. Fees totaling \$242 for three (9%) estates were not accurately assessed or collected when the final inventory was filed and remained uncollected as of the time of our audit.

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, she did not monitor the tracking reports or assign that responsibility to other staff.

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 11 for the Clerk's response to this finding.



SHIRLEY G. JOHNSON, CLERK
EX OFFICIO JUDGE OF PROBATE

CLERK OF SUPERIOR COURT
HERTFORD COUNTY

PO BOX 86
WINTON, NC 27986

CYA. GRANT, SR.
RESIDENT JUDGE

July 17, 2019

Beth A. Wood, CPA
Office of the State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0601

This is our response to the State Auditor's letter of July 15, 2019 outlining the audit findings and recommendations discussed in our exit conference.

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

Improper System Access Increased Risk of Undetected Errors and Fraud

I concur with the audit finding and recommendations. We will work with our FMA and AOC to limit our conflicting access as much as possible. Where we can't segregate all the access duties, we will monitor the reports indicating the activity done by the clerk with CCIS access while cashiering. The Bookkeeper monitors the daily void receipts journal to ensure any voids were appropriate and approved by cashiers and Head cashiers and as Clerk I review and signoff on every void.

Failure To Safeguard Cash

I concur with the audit finding and am currently working to have additional backup head cashiers to insure the Cash Management policies are met with the proper closeout and deposit of receipts daily. The former employee has retired and the replacement has been properly trained. I will work with my FMA to ensure we have sufficient back up, in place to insure coverage when the head cashier is not available.

Failure to Identify and Transfer Unclaimed Funds To The State Treasurer

I concur with the audit finding and recommendation. We are taking corrective action to bring our office into full compliance. Specifically, in August when the escheats process is scheduled to begin we will request assistance from our Financial Management Analyst to ensure 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 standards as set forth by the NCAOC and the general statutes of the State of North Carolina.

Failure To Compel Inventory Filings Or Assess And Collect Sufficient Bonds For Estates Of Minors And Incapacitated Adults

I concur with the finding. We are in the process of implementing a system with the help of our Field Support Staff, since we are so short staffed to send the Notice to file prior to a filing's due date. If the filing becomes overdue we will have the order to file served on the fiduciary, followed by the order to Appear and Show Cause.

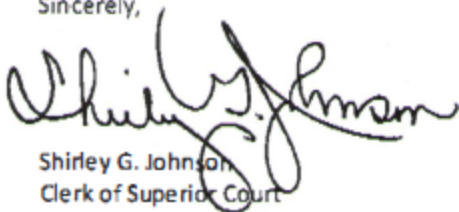
We will use the Guardianship bond Log job aid provided by AOC to track and document bond requirements and ensure sufficiency of the bond upon each filing. The insufficient bond amount reported was due to an erroneous inventory filing. Funds reported were payable to beneficiaries and not payable to the estate.

Untimely or Failure To Compel Estate Inventory Filings Or Fee Collection

I concur with the audit finding and recommendation. We are taking corrective action to bring our office into full compliance. Internal policies have been implemented to ensure the accuracy of fee assessments and collections. This includes the proper identifying, tracking, and compelling the collection of outstanding fees. We will audit each file when an account is filed to ensure estate costs are accurately assessed and collected prior to approval of the final account.

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

Sincerely,



Shirley G. Johnson
Clerk of Superior Court
Hertford County
Winton, NC 27986

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