



# STATE OF NORTH CAROLINA

**FISCAL CONTROL AUDIT REPORT ON  
MECKLENBURG COUNTY CLERK OF SUPERIOR COURT  
CHARLOTTE, NORTH CAROLINA  
FOR THE PERIOD SEPTEMBER 1, 2003 THROUGH FEBRUARY 29, 2004**

**OFFICE OF THE STATE AUDITOR**

**RALPH CAMPBELL, JR.**

**STATE AUDITOR**

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**THE HONORABLE MARTHA H. CURRAN**



Ralph Campbell, Jr.  
State Auditor

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## AUDITOR'S TRANSMITTAL

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The Honorable Michael F. Easley, Governor  
The General Assembly of North Carolina  
The Honorable Martha H. Curran, Clerk of Superior Court

This report presents the results of our fiscal control audit of the Mecklenburg County Clerk of Superior Court for the period September 1, 2003 through February 29, 2004. 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 standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The objective of a fiscal control audit is to gather and evaluate evidence about selected internal control policies and procedures designed to ensure: (1) reliable financial accounting and reporting and/or (2) compliance with finance-related laws and regulations. Should any information arise during the audit indicating that significant abuse may have occurred, the audit objective may be extended to include internal control designed to prevent abuse and to determine whether the abuse did in fact occur and its impact. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice.

The results of our audit disclosed deficiencies in instances of noncompliance that are considered reportable under *Government Auditing Standards*. These matters are described in the Audit Findings and Recommendations 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 'Ralph Campbell, Jr.'.

Ralph Campbell, Jr.  
State Auditor

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## **BACKGROUND INFORMATION**

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The office of the Clerk of Superior Court is created by the North Carolina Constitution which mandates that there be a Clerk of Superior Court for each county. Under the constitution, it is the responsibility of the General Assembly to prescribe jurisdiction and the powers of the Clerk. Laws of the General Assembly regarding clerks must be uniformly applied in every county in the State.

Voters of each county elect the Clerk of Superior Court to a four-year term. Clerks are paid by the State, with their salaries scaled in accordance with the population of their counties. The Clerk appoints the assistants, deputies and employees in his or her office. The number of assistants and deputies that each clerk may employ varies from county to county depending on the volume of business. Assistant and deputy clerks are paid on a salary schedule fixed by the Administrative Office of the Courts based on education and years of service in the Clerk's office; the maximum and minimum salaries within that scale are fixed by the General Assembly.

The responsibilities of the Clerk are numerous and varied. The Clerk, as a judicial officer of the Superior Court, has judicial responsibilities. The Clerk is judge of probate; that is, the Clerk handles the probate of wills (proceedings to determine if a paper writing is a valid will) and the administration of estates of decedents, minors and incompetents. The Clerk also hears a variety of special proceedings such as adoptions, incompetency determinations and partitions of land and is empowered to issue arrest and search warrants and to exercise the same powers as a magistrate with respect to taking pleas of guilty to minor littering, traffic, wildlife, boating, marine fisheries, alcoholic beverage, State park recreation and worthless-check offenses.

The Clerk is also responsible for all clerical and record-keeping functions of the Superior Court and District Court. The Clerk operates a unified record-keeping system for all civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court, judgments, liens, lis pendens, and numerous other records required by law. The Clerk maintains the judgment docket, is custodian of evidence in civil and criminal trials, and issues civil summons and subpoenas. In addition, the Clerk invests money received and held by his or her office in trust and receives and administers insurance or other money on behalf of minors and incapacitated adults.

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# **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS**

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## **OBJECTIVES**

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes* and in accordance with the standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have conducted a fiscal control audit at the Mecklenburg County Clerk of Superior Court.

The objective of a fiscal control audit is to gather and evaluate evidence about selected internal control policies and procedures designed to ensure: (1) reliable financial accounting and reporting and/or (2) compliance with finance-related laws and regulations. Should any information arise during the audit indicating that significant abuse may have occurred, the audit objective may be extended to include internal control designed to prevent abuse and to determine whether the abuse did in fact occur and its impact. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice.

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. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

## **SCOPE**

Our audit scope covered the period September 1, 2003 through February 29, 2004 and included selected internal controls in the following areas:

### General

*Control Environment* - The control environment consists of the actions, policies, and procedures that reflect the overall attitude of top management about control and its importance to the entity. The control environment sets the tone of the organization, influencing the control consciousness of its employees.

*Information System Controls* - Information system controls include activities that relate to many computerized information system applications and support the effective functioning of application controls. Information system controls include access and end-user controls.

### Financial Accounting and Reporting

*Cash and Investment Cycle* - The cash and investment cycle generally consists of the activities associated with the custody of cash and investments. Financial statement accounts typically impacted by the cycle include cash, certificates of deposit, and other investments.

## **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONTINUED)**

*Cash Receipts Cycle* – The cash receipts cycle generally consists of the activities associated with the receipt of cash. All financial statement accounts are impacted by this cycle.

*Cash Disbursements Cycle* – The cash disbursements cycle generally consists of the activities associated with disbursing cash for items other than operating and payroll costs. All financial statement accounts are impacted by this cycle.

### **Finance-Related Compliance**

Listed below are the compliance areas with one or more examples of the criteria for each.

*Cash Management and Investments* – Laws and regulations set limits on authorized deposits and investments. Moneys are required to be deposited in approved depositories and invested in specific investment types. Accounts must be protected with adequate insurance and collateral. Also, disbursements that are unclaimed by payees for a prescribed time period are often required to be remitted to the State Treasurer in accordance with the State of North Carolina's Escheats and Abandoned Property Program.

*Deposit of Receipts* – Laws and regulations require deposit of moneys as soon as possible in order to safeguard assets and to enhance the cash management and investment program. Receipts over a specified amount are required to be deposited on a daily basis.

*Annual Financial Reporting* – Laws and regulations require preparation of annual financial report information in a prescribed format and within a prescribed timeframe. Financial statement information is required to be filed with the Administrative Office of the Courts timely after year-end.

*Case Files* – Laws and regulations set record maintenance and security requirements. Records are required to be filed in a secure location using a uniform indexing system.

*Costs and Fees* – Laws and regulations set costs and fees to be charged. Uniform costs and fees are required to be charged as established by State law.

*Special Provisions* – Laws and regulations impose specific requirements on particular entities or activities. Partial payment collections are required to be distributed in the order prescribed by State law. Other special provisions include the investment of accounts greater than \$2,000, record retention requirements, property held for safekeeping procedures, and review procedures over monthly aging reports.



## **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)**

### **METHODOLOGY**

To accomplish our audit objectives, we gained an understanding of internal control, performed tests of control effectiveness, and performed corroborating direct tests of the accounting records, reports, and/or compliance as we considered necessary in the circumstances. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and balances. Our procedures were more limited than would be necessary to give an opinion on internal control, and accordingly, we do not express such an opinion.

### **RESULTS**

The results of our audit disclosed deficiencies in instances of noncompliance that are considered reportable under *Government Auditing Standards*. These matters are described in the Audit Findings and Recommendations section of this report.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

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### **Matters Related to Financial Accounting, Reporting, or Compliance**

The following findings and recommendations were identified during the current audit and represent significant deficiencies in internal control over financial accounting and reporting or compliance with finance-related laws and regulations.

#### 1. INVESTMENT OF FUNDS

Funds were not invested in a timely manner as required by law. North Carolina General Statutes 7A-112(b) states in part that the Clerk shall invest an account in excess of \$2,000 that is reasonably expected to remain on deposit in excess of six months within 60 days. We tested 40 accounts or \$254,505.54 for compliance with the general statute. We noted 9 accounts or \$60,162.74 (24%) was not invested timely.

*Recommendation:* Accounts should be invested as required by North Carolina General Statutes 7A-112(b). The Clerk's personnel should monitor aging reports and funds as they are received to identify accounts in excess of \$2,000 that are reasonably expected to remain on deposit more than six months. These funds should be invested within the 60 days required.

*Clerk's Response:* Investment procedures listed below are being put in place in order to prevent this situation in the future.

1. When the Clerk receives funds for one account in excess of \$2,000, except cash bonds or to money received by the Clerk to be disbursed to government units, as provided by NCGS 7A-112(b), a determination will be made, within 60 days of receipt, if the funds can be reasonably be expected to remain on deposit for 6 months or more from the date of receipt.
2. If it is determined within 60 days of receipt that the funds are not reasonably expected to remain on deposit in excess of 6 months, a memorandum providing the reason for the determination will be placed in the file. If subsequent information is received concerning the funds remaining on deposit for more than 6 months, those funds shall be promptly invested.
3. If it is determined within 60 days of receipt that the funds are reasonably expected to remain on deposit in excess of 6 months, those funds shall be promptly invested.

## **AUDIT FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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### 2. ESCHEATING OF OLD JUDGMENTS, DEPOSITS PAYABLE AND TRUSTS

Funds were not escheated in a timely manner. We noted 14 accounts, \$209,005.55 out of 37, \$453,564.27 examined, or 46% of the amount tested that were not escheated in a timely manner. North Carolina General Statutes 116B-60 states an escheat report must be prepared and filed November 1 of each year and cover the 12 months preceding July 1 of that year. When accounts have been in the possession of the Clerk for over 365 days and an attempt has been made for property to be returned, if there is no response after the last transaction of communication with the apparent owner, the property is presumed abandoned and should be escheated.

*Recommendation:* We recommend that the Clerk's personnel review all liability accounts held more than 365 days to determine whether the funds can be disbursed to owner, held by the Clerk, or should be escheated.

*Clerk's Response:* We have listed below new procedures to ensure the timely disbursement of funds, or, if we are unable to disburse, we will escheat those funds according to the provision of NCGS 116B-60.

1. The Clerk will send a memo to all Supervisors explaining the need to review the Aging Reports each month and to have the funds disbursed, if appropriate, or to provide the status of each account in order for Bookkeeping to escheat funds as provided by State law or add information concerning the status on FMS.
2. Each month the Aging Report for the prior calendar month will be forwarded by Bookkeeping to each Supervisor with a cover memo indicating that a payment authorization or written explanation of the current status of each account must be received in Bookkeeping on or before the end of that current month.
3. If payment authorizations or written explanations of the current status of each account listed on the prior Aging Report are not received on the 10<sup>th</sup> day of the following month, a memo shall be sent notifying the Supervisor and copying the Clerk.

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## **DISTRIBUTION OF AUDIT REPORT**

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In accordance with General Statutes 147-64.5 and 147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

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The Honorable Beverly M. Perdue  
The Honorable Richard H. Moore  
The Honorable Roy A. Cooper, III  
Mr. David T. McCoy  
Mr. Robert L. Powell

Governor of North Carolina  
Lieutenant Governor of North Carolina  
State Treasurer  
Attorney General  
State Budget Officer  
State Controller

### **JUDICIAL BRANCH**

The Honorable Martha H. Curran  
The Honorable John M. Kennedy  
Mr. Steve Lusk

Mecklenburg County Clerk of Superior Court  
Director, Administrative Office of the Courts  
Deputy Director for Administrative Services  
Administrative Office of the Courts

### **LEGISLATIVE BRANCH**

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Mr. James D. Johnson

Director, Fiscal Research Division

June 28, 2004

## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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