



STATE OF NORTH CAROLINA

HERTFORD COUNTY CLERK OF SUPERIOR COURT

FISCAL CONTROL AUDIT

WINTON, NORTH CAROLINA

FOR THE PERIOD DECEMBER 1, 2005, THROUGH MAY 31, 2006

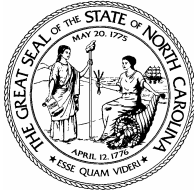
OFFICE OF THE STATE AUDITOR

LESLIE W. MERRITT, JR., CPA, CFP

STATE AUDITOR

**FISCAL CONTROL AUDIT REPORT ON
HERTFORD COUNTY CLERK OF SUPERIOR COURT
WINTON, NORTH CAROLINA
FOR THE PERIOD DECEMBER 1, 2005 THROUGH MAY 31, 2006**

THE HONORABLE SHIRLEY G. JOHNSON, CLERK OF SUPERIOR COURT



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AUDITOR'S TRANSMITTAL

The Honorable Michael F. Easley, Governor
The General Assembly of North Carolina
The Honorable Shirley G. Johnson, Clerk of Superior Court

This report presents the results of our fiscal control audit of the Hertford County Clerk of Superior Court for the period December 1, 2005, through May 31, 2006. 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 internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or abuse. 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 internal control and/or instances of noncompliance or other matters 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.

Leslie W. Merritt, Jr.

Leslie W. Merritt, Jr., CPA, CFP
State Auditor

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BACKGROUND INFORMATION

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

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 Hertford County Clerk of Superior Court.

The objective of a fiscal control audit is to gather and evaluate evidence about internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or abuse. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice. Our audit does not provide a basis for issuing an opinion on internal control, and consequently, we have not issued such an opinion.

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 December 1, 2005, through May 31, 2006, 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, 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/or performed direct tests of the accounts and transactions 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.

RESULTS

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

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AUDIT FINDINGS AND RECOMMENDATIONS

1. SEGREGATION OF DUTIES RELATED TO FINANCIAL MANAGEMENT SYSTEM (FMS) ACCESS RIGHTS

One employee's FMS access rights result in the capability to receipt funds, void receipts and close out cash drawers. A second employee's access rights allow the receipt of funds and access to bookkeeping functions.

The Clerk of Superior Court Financial Policies and Procedures Manual (Manual) provides that no employee should have access rights enabling that person to receipt funds as well as void receipts and close out cash drawers. The Manual also provides that no employee should have access rights to receipting functions in addition to bookkeeping functions. These access rights weaken the internal controls relative to the receipting of funds and the proper recording of transactions, which compromises the Clerk's ability to properly record, process and report accurate financial data.

Recommendation: Employee responsibilities should be segregated, and FMS access rights should be updated to comply with the Clerk of Superior Court Financial Policies and Procedures Manual.

Clerk's Response: The first finding falls under the segregation of duties related to Financial Management System (FMS) access rights. As to the one employee who had FMS access rights that allowed them the capability to receipt funds, void receipts and close out cash drawers has been remedied. As of October 4, 2006, her SCASH ability has been deleted through AOC Security. The second issue under this same category referred to one employee having access rights that allows them to receipt funds and access bookkeeping functions. It is clearly understood by the main bookkeeper that she is to re-examine all activities performed by said back-up bookkeeper in her absence immediately upon return.

2. INVESTMENT COMMISSION WITHHELD

For several beneficial owners, the bookkeeper has charged the 5% commission on initial funds invested and all subsequent funds placed with the Clerk. The Clerk has not monitored investments to determine if the amount of commission charged per account exceeded the maximum commission allowed by law.

North Carolina General Statute Chapter 7A-308.1(2) states that "on all funds to be invested by the clerk pursuant to G.S. 7A-112, a fee equal to five percent (5%) of each fund shall be assessed and collected, subject to the following conditions: (b) Over the life of an account, the fees charged on the initial funds and all funds subsequently placed with the clerk for that account shall not exceed the investment earnings on the account or one thousand dollars, whichever is less;.."

AUDIT FINDINGS AND RECOMMENDATIONS (CONCLUDED)

Recommendation: Appropriate steps should be taken to ensure that the proper commission is withheld and does not exceed the maximum allowed limit over the life of an account. In addition, the bookkeeper should review all investments (past and present) to recoup the improper fee withheld and properly disburse or invest the funds.

Clerk's Response: The second finding came under the heading of investment commission withheld. With the help of our field representative all cases in which the 5% commission exceeded the maximum amount allowed by law have been reversed from the commission account and placed in the individuals investment trust account by way of a check from this office.

ORDERING INFORMATION

Audit reports issued by the Office of the State Auditor can be obtained from the web site at www.ncauditor.net. Also, parties may register on the web site to receive automatic email notification whenever reports of interest are issued. Otherwise, copies of audit reports may be obtained by contacting the:

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