



STATE OF NORTH CAROLINA

FRANKLIN COUNTY CLERK OF SUPERIOR COURT

FISCAL CONTROL AUDIT

LOUISBURG, NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

LESLIE W. MERRITT, JR., CPA, CFP

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THE HONORABLE ALICE F. HUNTER



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AUDITOR'S TRANSMITTAL

The Honorable Michael F. Easley, Governor
The General Assembly of North Carolina
The Honorable Alice F. Hunter, Clerk of Superior Court

This report presents the results of our fiscal control audit of the Franklin 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 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 management of financial resources.

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 Franklin 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 management of financial resources. 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 August 1, 2006, through January 31, 2007. During our audit, we considered select internal controls and compliance related to the following accounts and control objectives:

Cash and Cash Equivalents – This classification includes change funds and cash on deposit with private bank accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. As of January 31, 2007, the Clerk had \$456,516.05 in Cash and Cash Equivalents.

Investments – This classification includes certificates of deposit and pooled savings accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. We also examined evidence to support compliance with finance-related laws and regulations over these assets. These laws and regulations set limits on authorized investments, set timing requirements for investing funds, provide for the Clerk to receive a fee for administering the investments and provide for allocation of interest to the beneficial owner or owners of the funds. As of January 31, 2007, the Clerk had \$1,387,281.41 in Investments.

Trusts – This classification includes funds held by the Clerk for minors, incapacitated adults, and others according to the terms of a court order, will or deed. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for trust accounts. We also examined evidence to support compliance with finance-related laws and regulations. These laws and regulations set guidelines for the receipt, administration and disbursement of these accounts. As of January 31, 2007, the Clerk had \$1,474,740.91 in Trust accounts.

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/or instances of noncompliance or other matters that are considered reportable under *Government Auditing Standards*. These items are described in the Audit Findings and Recommendations section of this report.

AUDIT FINDINGS AND RECOMMENDATIONS

1. CONTROLS OVER MAGISTRATE CASH COLLECTIONS

Controls over magistrate cash collections are not adequate. There are no procedures in place requiring timely deposit of magistrate cash collections. Also, funds collected by magistrates are not kept secure and separate from their personal funds. Failure to properly safeguard assets increases the risk of unauthorized transactions and misappropriation of assets.

The Clerk of Superior Court Financial Policies and Procedures Manual describes sound internal controls over magistrate collections, including controls applicable to the timely deposit of cash collections and maintaining cash collections secure and separate from personal funds.

Recommendation: The Clerk should establish adequate internal controls over magistrate cash collections in accordance with the Clerk of Superior Court Financial Policies and Procedures Manual.

Clerk's Response: Proper procedures have been reviewed with the magistrates and the bookkeeper to insure that all collections by the magistrates are receipted by the clerk on a daily basis. The magistrates have bank bags to hold their daily collections. A locked file cabinet has been provided to keep collections secure.

2. EXCESS COMMISSION FEE NOT RETURNED TO OWNERS

The Clerk is not refunding commission fees charged in excess of the cumulative investment earnings on trust accounts as required by law. In our tests of six accounts closed during the audit period, we identified two accounts where the interest earned was less than the original commission charged and the excess fee was not returned to the owner. *North Carolina General Statutes 7A-308.1(d)* states in part that any fees charged in excess of the cumulative investment earnings on an account shall be refunded to the beneficial owner or owners when all funds in that account are finally withdrawn and distributed by the Clerk.

Recommendation: We recommend that the Clerk implement procedures to review accounts prior to withdrawal to identify commission fees taken in excess of interest earned, and if necessary, return excess fees to the owner.

Clerk's Response: A procedure for reviewing the opening balance of a trust account and the amount of commission taken has been implemented to insure that any commission refunds will be made prior to the closing of a trust account.

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ORDERING INFORMATION

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