



STATE OF NORTH CAROLINA

SWAIN COUNTY CLERK OF SUPERIOR COURT

FISCAL CONTROL AUDIT

BRYSON CITY, NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

LESLIE W. MERRITT, JR., CPA, CFP

STATE AUDITOR

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THE HONORABLE HELEN C. STYLES, 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 Helen C. Styles, Clerk of Superior Court

This report presents the results of our fiscal control audit of the Swain 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 Swain 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 November 1, 2006, through April 30, 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 April 30, 2007, the Clerk had \$112,472.07 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 April 30, 2007, the Clerk had \$97,332.97 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-

OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)

related laws and regulations. These laws and regulations set guidelines for the receipt, administration and disbursement of these accounts. As of April 30, 2007, the Clerk had \$116,421.63 in Trust accounts.

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. DEFICIENT INTERNAL CONTROLS SURROUNDING TRUST INVESTMENTS AND ASSOCIATED LIABILITIES.

The Swain County Clerk of Superior Court office does not have adequate procedures in place to verify that trust investments and the associated liabilities are recorded. As a result, there is an increased risk of statutory non-compliance and material misstatements.

On May 30, 2006, the Clerk received funds to be held in trust for a beneficiary with instructions that the funds be invested. The investment was made the following day; however, a journal entry was not made to record these funds. Consequently, the Clerk's trusts investments and associated liabilities were each understated by \$18,484.84.

According to North Carolina General Statute §7A-108. *Accounting for fees and other receipts*: "...procedures for the receipt, deposit, protection, investment, and disbursement of all funds coming into the hands of the clerk of superior court" are required. In addition, a basic responsibility of management is to ensure that financial records are complete and accurately valued.

Recommendation: The Clerk should implement procedures to ensure that trusts investments and associated liabilities are fully recorded in a timely manner.

Clerk's Response: The Assistant Clerk you refer to in your first finding made a timely trust investment, I set up the accounts with the bank, but was not recorded timely, I have stressed the importance of checks and re-checks for timely recordation of the same. Our field representative works very closely with my staff and will be offering suggestions to me on better ways to cope with the ever-increasing duties of the bookkeeping department.

2. INADEQUATE SEGREGATION OF DUTIES

An employee of the Swain County Clerk of Superior Court office has Financial Management System access rights that are incompatible with adequate segregation of duties and not in compliance with the Clerk of Superior Court Financial Policies and Procedures Manual. Additionally, access controls are sometimes bypassed by sharing passwords. As a result, errors or misappropriations could occur and not be detected in a timely manner and it may be difficult to identify the responsible party.

An Assistant Clerk holds both Cashier and Head Bookkeeper access rights. These rights allow the Assistant Clerk to enter receipts, enter payment authorizations, and distribute funds. The Assistant Clerk also uses the password of a magistrate who has been granted Head Cashier rights. Head Cashier rights allow an employee to void receipts, close-out cashiers, re-open batches, and print closed batches.

AUDIT FINDINGS AND RECOMMENDATIONS (CONCLUDED)

According to the Clerk of Superior Court Financial Policies and Procedures manual, security “is maintained through the use of passkeys.” A specific user is assigned a passkey that determines the access they have to display and/or update screens. Thus, passkeys are intended to be unique to a specific user. The Manual further states “segregation of duties are important enough to be adopted whether efficiency or inefficiency is the consequence.” Accordingly, it is imperative that key internal control functions be appropriately segregated.

Recommendation: The Clerk should implement a policy prohibiting the sharing of passkeys in order to be in compliance with the Clerk of Superior Court Financial Policies and Procedures Manual and strengthen internal control. The Clerk should also evaluate and, to the extent necessary, reassign job duties and system access rights in order to better segregate duties to enhance internal control.

Clerk’s Response: My Assistant Clerks and I have been working to further segregate the duties of our office. I have secured clearance for two deputy clerks to be close-out cashiers and have requested another employee to train as a cashier.

Any and all password sharing in this office has been ceased with notice to all employees in all departments. My staff consists of six dedicated employees and we all try to do our individual jobs, but are often covering the duties of others, that are out for illness or vacations.

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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