



STATE OF NORTH CAROLINA

WASHINGTON COUNTY CLERK OF SUPERIOR COURT

FISCAL CONTROL AUDIT

PLYMOUTH, NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

LESLIE W. MERRITT, JR., CPA, CFP

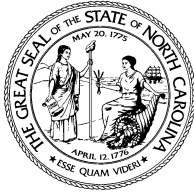
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THE HONORABLE DENISE MOULDEN, CLERK OF SUPERIOR COURT



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AUDITOR'S TRANSMITTAL

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

This report presents the results of our fiscal control audit of the Washington 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 instances of noncompliance that are considered reportable under *Government Auditing Standards*. These matters are described in the Audit Finding and Recommendation 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 Washington 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 December 1, 2006, through May 31, 2007. During our audit, we considered internal control 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 controls designed to ensure that the Clerk properly safeguards and accounts for these assets. As of May 31, 2007, the Clerk had \$65,571.97 in Cash and Cash Equivalents.

Investments - This classification includes money market accounts. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for these assets. We examined evidence to support compliance with finance-related laws and regulations over these assets. These laws and regulations set timing requirements for investing funds. As of May 31, 2007, the Clerk had \$283,946.43 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 these funds. We examined evidence to support compliance with finance-related laws and regulations. These laws and regulations set guidelines for the administration of these accounts. As of May 31, 2007, the Clerk had \$295,426.50 in Trust accounts.

OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)

Deposits Payable – This classification includes funds deposited with the Clerk pending the filing of a claim and the entry of an order by the Clerk or a Judge determining the persons to whom the funds are to be paid. We examined evidence to support compliance with finance-related laws and regulations. These laws and regulations set timing requirements for investing funds. As of May 31, 2007, the Clerk had \$17,213.85 in the Deposits Payable account.

METHODOLOGY

To accomplish our audit objectives, we gained an understanding of internal controls, 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 that are considered reportable under *Government Auditing Standards*. These items are described in the Audit Finding and Recommendation section of this report.

AUDIT FINDING AND RECOMMENDATION

UNTIMELY INVESTMENTS

The Clerk's office held money for three cases in the Clerk of Superior Court checking account for over a year instead of investing it within the sixty day requirement established by law. In addition to noncompliance with General Statutes, this results in lost interest income for the owner.

According to G.S. 7A-112(b), "money in a single account in excess of \$2,000 receipted by the Clerk that is expected to remain on deposit with the Clerk in excess of 6 months shall be invested by the Clerk within 60 days of receipt in investments." Three cases had no activity recorded in the file for over a year. The money for each of these cases had originally been receipted in 2004, 2005, and 2006.

Recommendation: The Clerk should monitor and review accounts routinely and consistently to ensure that investments are made timely as required by law.

Clerk's Response: ***All accounts where money was being held in excess of 6 months have been invested.***

It was determined that said money was being held pending orders from the court. There had been correspondence with the attorney involved but the file did not reflect that correspondence. It was not the intent of the Clerk to exhibit noncompliance. We had not received the final order to disburse the money.

The Clerk will implement procedures to prevent this occurrence in the future by reviewing reports that show aging accounts on a regular basis. Also, any future correspondence will be noted by the clerk involved. Any monies being held that approach the 60-day deadline and that we may hold for greater than 6 months **will be** invested.

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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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