



STATE OF NORTH CAROLINA

DURHAM COUNTY CLERK OF SUPERIOR COURT

FINANCIAL RELATED AUDIT

JANUARY 2013

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR

DURHAM COUNTY CLERK OF COURT

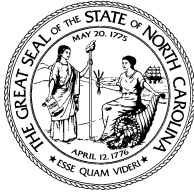
DURHAM, NORTH CAROLINA

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THE HONORABLE ARCHIE L. SMITH, III,

CLERK OF SUPERIOR COURT



Beth A. Wood, CPA
State Auditor

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AUDITOR'S TRANSMITTAL

January 18, 2013

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Archie L. Smith, III, Durham Clerk of Superior Court

This report presents the results of our financial related audit at the Durham 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 performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

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 Responses* 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 cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

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BACKGROUND

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at the Durham County Clerk of Court. There were no special circumstances that caused us to conduct the audit, but rather it was performed as part of our effort to periodically examine and report on the financial practices of state agencies and institutions.

The voters of each county elect a Clerk of Superior Court for a four-year term. Clerks are responsible for all clerical and record-keeping functions of the superior court and district court. The Clerks' Offices collect, invest, and distribute assets in a fiduciary capacity. For example, the Clerks' Offices collect fines and court costs, hold cash and property bonds, administer estates on behalf of minors, and distribute resources to governmental and private parties as required.

The North Carolina Administrative Office of the Courts (NCAOC) provides statewide support services for the courts, including court programs and management services; information technology; human resources services; financial, legal, and legislative support; and purchasing services. In addition, the NCAOC prepares and administers the court system's budget.

AUDIT SCOPE AND OBJECTIVES

The general objective of this financial related audit was to identify improvements needed in internal control over selected fiscal matters. 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. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

Our audit scope covered the period November 1, 2011 through October 31, 2012. During our audit, we considered internal control related to the following accounts and objectives:

Cash - This classification includes cash on deposit with private bank accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. We also examined internal control designed to ensure compliance with laws and regulations related to depositing cash receipts and escheating unclaimed funds after a prescribed period of time. As of October 31, 2012, the Clerk had \$1,340,639.96 in cash on deposit with private banks.

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 distributions from the accounts are proper, including internal control designed to ensure compliance with laws and regulations governing distributions where applicable. As of October 31, 2012, the Clerk had \$4,008,636.15 in trust accounts.

Cash Bonds – We examined internal control designed to ensure compliance with laws and regulations governing the distribution of forfeited cash bonds. These laws and regulations require the Clerk to remit such funds to the county once a final judgment of forfeiture is entered. As of October 31, 2012, the Clerk had \$703,439.61 in cash bonds.

METHODOLOGY

To accomplish our audit objectives, we gained an understanding of internal control over matters described in the *Audit Scope and Objectives* section of this report and evaluated the design of the internal control. We then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and balances. Whenever sampling was used, we applied a nonstatistical approach but chose sample sizes comparable to those that would have been determined statistically. As a result, we were able to project our results to the population but not quantify the sampling risk.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components, which are (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

We conducted this audit in accordance with generally accepted government auditing standards applicable to performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

RESULTS AND CONCLUSIONS

The results of our audit disclosed deficiencies in internal control and/or instances of noncompliance or other matters that are considered reportable under generally accepted government auditing standards. These items are described in the *Audit Findings and Responses* section of this report. Management's responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

AUDIT FINDINGS AND RESPONSES

1. MAGISTRATES' COLLECTIONS NOT DEPOSITED TIMELY

Magistrate collections were not submitted in accordance with established policies, and thus the funds were not deposited within one day of receipt as required by state law. As a result, there is an increased risk of loss or misappropriation of cash collections.

The *Clerk of Superior Court Financial Policies and Procedures Manual* issued by the Administrative Office of the Courts states that magistrates should submit receipts, funds, and paperwork to the Clerk of Superior Court's cashier's office at the end of each shift. If the magistrate's shift ends after the Clerk's office hours, submission should be made during the next business day. In addition, North Carolina General Statute 147-77 requires collected funds to be deposited daily.

We reviewed all the magistrates' receipt logs for the period from November 1, 2011 through October 31, 2012. During that time magistrates submitted 878 receipts to Clerk's cashier's office. We identified 206 receipts totaling \$357,240 that were submitted two or more business days after receipt. We identified one magistrate that held a \$250 receipt for 29 business days. The magistrate held this receipt after subsequent receipts had been deposited.

Recommendation: The Clerk's Office should strengthen controls over magistrates' receipts to ensure that all funds collected are submitted to the cashiers as prescribed by the Administrative Office of the Courts policy and procedures manual and deposited daily as required by statute.

Agency Response: Our Durham County Magistrate's Office is and has been aware of the need for daily deposits. As a result of the need for security in the form of armed escort by the Durham County Sheriff's Office in the transportation of cash deposits, magistrates have not made daily deposits when such armed escort has not been available.

Insofar as the Clerk does not have the statutory authority to compel adherence with G.S. 147-77 upon sister governmental offices or divisions, the Clerk must depend upon voluntary cooperation to achieve this goal. Although compliance has been sought by the Clerk's Office in the past, I have renewed this request to those persons most involved in this process and trust that daily deposits will be made.

Magistrates are aware that receipted funds are to be timely deposited. The incident concerning a 29 business day delay in making a \$250 deposit is an anomaly that I hope will not be repeated.

AUDIT FINDINGS AND RESPONSES (CONCLUDED)

2. INAPPROPRIATE INFORMATION SYSTEMS ACCESS

The Clerk's Office has given staff information system access rights that are inconsistent with proper segregation of duties. Proper segregation of duties involves assigning responsibilities such that the duties of one employee automatically provide a cross-check on the work of other employees. When incompatible duties are not segregated, there is an increased risk of errors or fraud occurring without detection.

Failure to segregate duties also represents noncompliance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. The manual establishes guidelines to maintain adequate segregation of duties and states that segregation of duties is important enough to be adopted whether efficiency or inefficiency is the consequence.

During our review of the information systems access, we noted four employees with head bookkeeper access or cashier access in the Financial Management System (FMS) that also had the ability to update case information in the Automated Criminal Infractions System (ACIS).

Update capabilities to enter, change or delete information increases the risk that criminal citations could be inappropriately waived in ACIS resulting in unauthorized entries or possible misappropriation of assets.

This issue has been resolved. Subsequent to the audit period ending date, the Clerk took steps to terminate incompatible access rights.

ORDERING INFORMATION

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This audit required 175.5 audit hours at an approximate cost of \$12,636. The cost represents .2% of the \$6,827,418.15 in total assets subjected to audit.