



STATE OF NORTH CAROLINA

DARE COUNTY CLERK OF SUPERIOR COURT

MANTEO, NORTH CAROLINA

FINANCIAL RELATED AUDIT

NOVEMBER 2014

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR



Beth A. Wood, CPA
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
Internet
<http://www.ncauditor.net>

AUDITOR'S TRANSMITTAL

November 21, 2014

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Dean M. Tolson, Dare County Clerk of Superior Court

This report presents the results of our financial related audit at the Dare 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 identified a deficiency in internal control and an instance of noncompliance that is considered reportable under *Government Auditing Standards*. This issue is described in the *Audit Findings, Recommendations, 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 Dare County Clerk of Superior 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 OBJECTIVES AND SCOPE

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. Errors or fraud may nevertheless occur and not be detected because of the inherent limitations of internal control. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or that 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 July 1, 2013, through March 31, 2014. During our audit, we considered internal control related to the following objectives:

Escheats – The Clerk’s Office transfers abandoned property to the State. The transfer results when the person legally entitled to the property fails to make a valid claim on the property within a prescribed period of time. After that time, all abandoned property held by the Clerk is required to be transferred to the North Carolina Department of State Treasurer. We examined internal control designed to ensure that the Clerk properly identifies escheatable funds. We also examined internal control designed to ensure compliance with laws and regulations related to escheating unclaimed funds after a prescribed period of time. During the audit period, the Clerk transferred \$28,515 to the State Treasurer.

Estates – The Clerk’s Office ensures all estates are charged an application fee plus an assessment based on the value of the estate’s inventory. An estate inventory is to be filed by the representative of the estate. We examined internal control designed to ensure that the Clerk properly obtains an inventory for each estate in compliance with laws and regulations. We also examined internal control designed to ensure compliance with laws and regulations related to the appropriate assessment and collection of estate fees. During the audit period, the Clerk collected \$58,302 in estate fees.

Infractions – The Clerk’s Office is responsible for collecting traffic infraction costs and fines. We examined internal control over the disposition of traffic infractions to ensure that all disposed cases were supported by a receipt of fees or properly authorized court document in compliance with record-keeping laws and regulations. During the audit period, the Clerk collected \$729,164 in traffic infraction related costs.

METHODOLOGY

To accomplish the audit objectives, auditors gained an understanding of the Clerk's internal control over matters described in the *Audit Objectives and Scope* section of this report and evaluated the design of the internal control. Auditors then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, auditors interviewed personnel, observed operations, reviewed policies, analyzed accounting records, and examined documentation supporting recorded transactions and balances, as considered necessary in the circumstances. Whenever sampling was used, we applied a statistical approach to large populations and a nonstatistical approach to small populations. When using a nonstatistical approach, we 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, auditors applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components: (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

Based on the results of audit procedures described in the *Methodology* section of this report, auditors identified a deficiency in internal control and instance of noncompliance that is considered reportable under *Government Auditing Standards*. This item is described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's response is presented after the audit finding. We did not audit the response, and accordingly, we express no opinion on the response.

AUDIT FINDINGS, RECOMMENDATIONS, AND RESPONSES

FAILURE TO COMPEL THE FILING OF ESTATE INVENTORIES

The Clerk's Office failed to compel the filing of inventories for estates in accordance with state law, resulting in a loss or delay in the collection of court costs and fees.

Out of a population of 40, auditors examined eight estates in the audit period that required an inventory to be filed. None of the eight estates had inventories filed within three months, nor did the files include documentation that the Clerk took action to compel the personal representative to file the inventory. During the audit, six inventories remained unfiled and the fees were not collected. Two inventories were filed and the appropriate fees collected but the filings were between 42 and 134 days late.

North Carolina General Statute 28A-20 and the North Carolina Clerk of Superior Court Procedures Manual, Chapter 74, require the filing of an estate inventory within three months after the Clerk's appointment of the estate's personal representative. If an inventory is not filed, the Clerk must issue an order requiring the personal representative to file the inventory or give reason why the personal representative should not be replaced.

Recommendation: The Clerk's Office should implement procedures over estates to ensure appropriate action is taken to compel the filing of estate inventories in accordance with state law and the *North Carolina Clerk of Superior Court Procedures Manual*.

Clerk Response: We concur with the finding.

Our office strives to handle estates in an efficient manner and to comply with statutory requirements, while being mindful that the person handling the estate has just lost a loved one. We will take measures to ensure that appropriate actions are taken to compel timely filing of inventories and accountings. We will also implement a more stringent inner-office tracking measures to compel all delinquent filings and associated filing fees.

I agree that the Clerk's office should ensure that appropriate action is taken to enforce the timely filing of estate inventories. G.S. § 28A-20-2 requires the Clerk of Superior Court to issue an order requiring the personal representative or collector to file an inventory within the time specified in said order. Estate matters are sensitive, and circumstances beyond the personal representative's control may cause a personal representative to delay actions in order to obtain information to accurately reflect the assets of the decedent's estate. Once again, appropriate documentation will be placed in the file to show extensions granted or actions taken.

On November 1, 2013, I was sworn as Dare County's Clerk of Superior Court to fulfill the term of the retiring Clerk of Court. Since taking office we have developed policy and procedure to ensure compliance with North Carolina General Statutes. This policy has helped rectify the issues discovered during audit.

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ORDERING INFORMATION

Copies of this report may be obtained by contacting the:

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State of North Carolina
2 South Salisbury Street
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For additional information contact:

Bill Holmes
Director of External Affairs
919-807-7513

This audit required 195 audit hours at an approximate cost of \$14,820.