

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR  
BETH A. WOOD, CPA



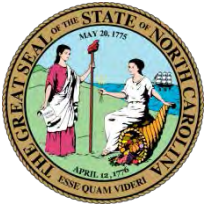
## DAVIDSON COUNTY CLERK OF SUPERIOR COURT

LEXINGTON, NORTH CAROLINA  
FINANCIAL RELATED AUDIT  
NOVEMBER 2015



**NCOSA**  
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



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## AUDITOR'S TRANSMITTAL

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November 2, 2015

The Honorable Pat McCrory, Governor  
The General Assembly of North Carolina  
The Honorable Brian L. Shipwash, Davidson County Clerk of Superior Court

This report presents the results of our financial related audit at Davidson 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 deficiencies in internal control and/or instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are 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 black ink that reads 'Beth A. Wood'.

Beth A. Wood, CPA  
State Auditor



**Beth A. Wood, CPA**  
**State Auditor**

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As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Davidson 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.

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, 2014 through February 28, 2015. During our audit, we considered internal control related to the following objectives:

*Cash* – The Clerk’s Office collects various fines, fees, and court costs daily, as well as collections for bonds, judgments, and other matters. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for cash receipts. We also examined internal controls designed to ensure compliance with laws and regulations related to depositing cash receipts. During the audit period, the Clerk collected \$10,879,998.56 in cash.

*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 controls designed to ensure that the Clerk properly obtains an inventory for each estate in compliance with laws and regulations. We also examined internal controls 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 \$229,984.66 in estate fees.

*Bond Forfeitures* – The Clerk’s Office ensures that all motions or orders to set aside bond forfeitures meet specified criteria and are supported by required documentation. We examined internal controls designed to ensure compliance with laws and regulations related to the processing of these bond forfeitures. During the audit period, \$1,203,050.00 in bond forfeitures were set aside.

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 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: (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.

Based on the results of audit procedures described in the *Methodology* section of this report, auditors identified deficiencies in internal control and/or instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's response is presented after each audit finding. We did not audit the response, and accordingly, we express no opinion on the response.

*Government Auditing Standards* require that we add explanatory comments to the report when we disagree with an audit finding response or when the response is inconsistent or conflicts with the finding or recommendation. In accordance with this requirement and to ensure that the nature and seriousness of the findings are not minimized or misrepresented, we have provided an auditor response where appropriate.

#### 1. IMPROPER SYSTEM ACCESS

System access rights that are inconsistent with proper segregation of duties were assigned to an employee. An employee had cashier rights in the Financial Management System (FMS) and update access in the Criminal Court Information System (CCIS). In addition, a former employee had update access within CCIS even though the employee was no longer employed by the Clerk's Office.

While no instances of fraud were identified during the audit period, the access rights assigned to the employee could have allowed the individual to misappropriate funds by collecting cash from a criminal payment, bypassing receipt entry into FMS, and updating CCIS to indicate all costs have been paid.

During the audit period, the North Carolina Administrative Office of the Courts (NCAOC) executed the update functionality within CCIS and in doing so, access rights were automatically assigned within the system based on outdated roles and responsibilities. Appropriate communication between the two parties prior to this system update did not take place to ensure employee access rights were consistent with proper segregation of duties. As a result, the Clerk was unaware of the access rights assignments within the criminal system until it was brought to his attention by the auditors.

Adequate segregation of duties is required by the *Clerk of Superior Court Financial Policies and Procedures Manual*. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provide a cross-check of the work of other employees.

As a result of our audit, the Clerk corrected the access deficiencies by taking measures to revoke the CCIS access rights for those employees in question. All access deficiencies were corrected as of June 26, 2015.

*Recommendation:* Prior to the implementation of, or changes to, computer systems used in the Clerk's Office, the Clerk should be proactive in working with NCAOC to ensure access rights are properly assigned and are consistent with proper segregation of duties in accordance with guidance contained in the *Clerk of Superior Court Financial Policies and Procedures Manual*.

*Auditor Response:*

**The Clerk's Response to Finding 1 includes:**

- A misrepresentation of facts, and
- Demonstrates a lack of understanding of the audit and what it represents.



**A misrepresentation of facts:**

The Clerk asserts that the audit finding states that he, the Clerk, “allowed a cashier to have access rights that are inconsistent with proper segregation of duties.” His assertion is incorrect. The Auditor’s Office makes no such statement in its finding. The report states, as is required, that the situation exists and the existence of that situation opens the Clerk’s Office to the risk of fraud.

The Clerk asserts that he never gave permission for the granting of the access rights. Again, the finding does not state that the Clerk gave permission for the access rights. The report clearly states that these rights were granted as a result of actions taken by the North Carolina Administrative Office of the Courts (NCAOC) and the report states that NCAOC acknowledges this fact.

**Demonstrates a lack of understanding of the audit and what it represents:**

The Clerk asserts that improper access rights should never have been reported in the audit report of the Davidson County Clerk’s Office because he, the Clerk, states it was not his doing.

One of the objectives of the audit of the Davidson County Clerk’s Office was to audit policies and procedures to ensure cash is protected and to report the findings. This finding identified an increased risk for fraud (the cashier having access to the Financial Management System AND the Criminal Court Information System). No matter who was responsible for granting the access rights, the risk for fraud existed **at the Clerk’s Office** (*emphasis added*), not at NCAOC, and therefore was appropriately reported in the Davidson County Clerk’s Office report.

This audit report is intended to provide information, especially when there are findings, that will, among other things, alert users (NCAOC, General Assembly, Governor, Citizens of North Carolina) to areas that need to be corrected. Excluding this finding from the Clerk’s report would result in a failure to meet the intended objective of the audit and demonstrates a lack of understanding, by the Clerk, for the audit process.

*Clerk’s Response:*

See pages 10 thru 15 for the Clerk’s response.

2. UNTIMELY COLLECTION OF ESTATE FEES

The Clerk’s Office did not collect fees on estate inventories in accordance with state law, resulting in a delay and potential loss in the collection of court costs and fees.

Auditors examined 36 of 171 estates in the audit period that required an inventory to be filed and identified 25 (69%) estates in which fees of \$12,936 were not collected when the inventory was filed, nor was there evidence in the file that the Clerk’s Office sought collection of these fees at the time of the inventory filing by the personal representative. Fees were collected 8 to 102 days after the inventory was filed for 21 of the 36 estates, while the inventories for the four remaining estates had been filed but estate fees had not been collected at the time of our audit.

According to the Clerk, fees are billed to the personal representative after the accounting for the estate is completed by his staff.

*North Carolina General Statute 7A-307(a)(2)* requires the Clerk to assess and collect the estate fees at the time the inventory is filed.

*Recommendation:* The Clerk's Office should follow state law and ensure appropriate action is taken to collect estate fees at the time inventories are filed.

*Auditor's Response:*

**The Clerk's Response to Finding 2 includes:**

- Defense of a process used by the Clerk that is noncompliant with state law,
- NCAOC policy references, to support the Clerk's position, that are not related to estates,
- An interpretation of the law defining "filed" that is not supported by NCAOC, and
- A misrepresentation of facts.

**Defense of a process used by the Clerk that is noncompliant with state law**

The Clerk's process for collecting estate fees described in his response is not in compliance with state law. The Clerk's response asserts that he determines when an inventory is considered filed and when fees are assessed, regardless of when the inventory is presented to the Clerk for filing by the personal representative.

*North Carolina General Statute 7A-307(a)(2)* requires the fee shall be computed from the information reported in the inventory and shall be paid when the inventory is **filed with the clerk** (*emphasis added*). The Clerk's assertion that he has discretion as to when an inventory is considered filed is not supported by this statute.

*North Carolina General Statute 28A-20-1* requires the filing of an estate inventory within three months after the clerk's appointment of the estate's personal representative, upon oath, and requires the inventory be recorded by the clerk. In his response, the Clerk asserts that he does not attempt to collect a fee until his office has "fulfilled our duty to review the 90 day inventory pursuant to NCGS 28A-20-1 to ensure its completeness and accuracy." This assertion is not supported by the referenced law.

In fact, the current statute considers that the 90 day inventory that is filed may not be complete or may contain errors so the statutes speak to the fee being collected at the 90 day filing and then allows for adjustments later in a supplementary inventory as is evidenced by G.S. 7A-307(a)(2), which states "...this fee shall be computed from the information **reported** in the inventory" (*emphasis added*) and G.S. 28A-20-3, which allows for the update or correction of a previous inventory filing by the personal representative.

**NCAOC policy references, to support the Clerk's position, that are not related to estates**

The Clerk's response incorrectly references NCAOC Rules of Recordkeeping (RRK) as a defense for the untimely collection/attempts to collect inventory filing fees. The Clerk references Rule 3.4 Comment B and Rule 4.4 Comment B. Rule 3 of the RRK applies to Civil District and Civil Superior and Rule 4 applies to Small Claims Cases Assigned to Magistrates, again, neither which are applicable to the administration of Estates. It is Rule 6, which is not referenced in the Clerk's response, that applies to the administration of Estates and Rule 6 does not support the current process practiced by the Davidson County Clerk.

**An interpretation of the law defining "filed" that is not supported by NCAOC**

The Clerk's response asserts that the legal interpretation of the word "filed" "requires more than a strict reading of the plain language." He further asserts that as the Ex-Officio Judge of Probate, he has the power to interpret the law in this matter.

While a clerk has exclusive jurisdiction in certain matters related to probate, exclusive jurisdiction does not give a clerk the authority to interpret a statute in a manner that is contrary to the plain language of the statute. The Supreme Court of the United States has held, "The starting point for interpreting a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." *Consumer Product Safety Commission et al. v. GTE Sylvania, Inc. et al.*, 447 U.S. 102 (1980).

**A misrepresentation of facts**

In this response, the Clerk incorrently references the number of files reviewed by the auditors. The finding clearly states the auditors examined 36 of 171 estates in the audit period.

Additionally, the Clerk's response attempts to confuse the issue by stating the amount of fees his office collected and the average collection time for inventory fees. The amount collected and the average collection time are irrelevant to the finding. The issue reported in the finding is the untimely collection of estate fees by the Clerk's Office as a result of the Clerk's current process and that the current process is not in compliance with state law.

The Clerk's response that OSA does not apply the same standards when auditing different clerks across the state is inaccurate. OSA applies the same standards to all clerk audits. To address the Clerk's claim, the OSA sent an auditor independent of both the Davidson County Clerk of Superior Court audit and his referenced clerk to review the same sample of estate files. The second auditor drew the same results and conclusions as the initial audit team; therefore, the Clerk's claim was unfounded. In fact, the initial audit team offered to meet with the Clerk and go over his files and his findings; however, the Clerk refused the offer.

**Other Points of Clarification**

The Clerk also asserts that the Auditor's interpretation of the collection of the 90 day inventory fees is rigid and unrealistic. He attached a resolution from the NC Conference of Clerks of Superior Court as part of his response. The resolution is not authoritative and has no bearing on this finding.

Further, the Clerk stated that there is a lack of support from NCAOC in defense of the Clerk's opposition to the audit finding. He attached an email from the NCAOC General Counsel that he asserts is supportive of his process for collection of fees. The response from NCAOC states that the "opinion is based on information you provided, so if I misstate anything please let me know as it may change my opinion." Because the Clerk did not include the information provided to the NCAOC General Counsel as part of his response, we cannot conclude on its relevance.

*Clerk's Response:*

See pages 10 thru 15 for the Clerk's response.

DAVIDSON COUNTY RESPONSE TO ALLEDGED AUDIT FINDINGS

(1) Improper System Access Finding Response

I do not concur with the State Auditor's finding that I allowed a cashier to have system access rights that are inconsistent with proper segregation of duties. The segregation of duties conflict occurred when NCAOC Technical Services Division (TSD) provided the access without acquiring the mandatory form (AOC-A-151) from me or my designees. Giving any one of my employees access to any AOC system without the AOC-A-151 form is in direct violation of NCAOC's own written security policy and procedure. The NCAOC Director has acknowledged that this was not a failure of my office and has accepted full responsibility. Upon my request for a review of this matter, NCAOC TSD confirmed that the cashier in question never accessed the CCIS-CC system.

I did not grant permission nor did I have knowledge that this conflict had occurred. TSD never disclosed CCIS users through their semi-annual audit reports that all Clerks rely on to evaluate employee system accesses. It is a reasonable expectation that TSD would never violate their own written policy nor in the transition to a new criminal CCIS system give any clerk access or privileges that were inconsistent with the access or privileges they possessed under the ACIS system it replaced.

The retired employee cited in the audit finding was removed from all other systems, however NCAOC TSD failed to remove the employee who retired 4 ½ years ago from the CCIS system. This issued (leaving retired employees on the system) occurred in many other Clerk's offices across the state. In the instances cited, TSD unilaterally set up across the state a segregation of duties conflict in its rush to roll out the CCIS system. As Clerk of Superior Court I do not develop, maintain, manage, nor implement new systems. My role as Clerk of Superior Court is to oversee who has access to the various AOC systems with the internal control of utilizing the AOC-A-151 form. Better planning and oversight by NCAOC leadership should have, and in the future, needs to take place.

I was in favor of this issue being reported as a statewide internal weakness discovered by the State Auditor's office in my audit, but I strongly objected to a finding that would reflect negatively on any Clerk of Superior Court Office. I completed the proper AOC-A-151 forms to remove these two individuals within minutes of being told of the situation. The State Auditor is adamant to make a finding on myself and other Clerks across the state for this issue regardless of who created the conflict. The North Carolina Conference of Clerks of Superior Court has passed a resolution objecting to this finding that I have attached as part of my response.

**(see Exhibit 1)**

## DAVIDSON COUNTY RESPONSE TO ALLEGED AUDIT FINDINGS

## (2) Untimely Collection of Estate Fees

I do not concur with the State Auditor's finding that my office did not collect fees on estate inventories in accordance with state law, resulting in a delay in the collection of court costs and fees.

When a 90-Day accounting is received in my office for review, my office stamps it "filed" so there is a record of when we received it. The inventory is not filed within the file nor is it recorded at that time. My office receives many inventories in the mail which prohibits the collection of the fee at the time we receive it. As the Ex-Officio Judge of Probate, I interpret "filed" as a process that requires actions of both the fiduciary and my office. First, the fiduciary must bring the filing to the office within the time period specified by statute. Second, my office is required pursuant to statute to review the inventory and assess a fee. My office reviews and often requests additional information before approving the 90 day inventory. Once we approve the inventory it is at that time considered "filed". Once filed, my office enters it into VCAP and immediately sends out a notice to pay the appropriate fees determined by our assessment if they were not previously paid.

The State Auditor requested 48 estate files to be reviewed. They report reviewing 31. The State Auditor report states, "\$12, 936 fees were not collected when the inventory was filed." From their interpretation this means when it was presented to my office. The State audit report fails to mention that my office collected \$24,838.17 from the 48 files they had requested. The average collection times for inventory fees were less than 27 days (26.86 day average) from the time that we received the inventory, and only 6.82 days (average) from the time we approved it. These facts, in conjunction with my interpretation of the word "filed" as it relates to 90-day inventories, reveals that my office is very efficient in the timely collection of fees and refutes the inferences and allegations of "untimely collection."

The State Auditor's report states, "nor was there evidence in the file that the clerk's office sought collection". My office does not attempt to collect a fee until we have fulfilled our duty to review the 90day inventory pursuant to NCGS 28A-20-1 to ensure its completeness and accuracy. Once we approve the 90-day inventory we collect the fees promptly by sending a notice. It may take several weeks when working with pro-se individuals who are not used to handling estates to obtain the details needed to support the assets listed to ensure we assess the proper fee. My own internal audit of the 90-day inventory procedure demonstrates an efficient and effective process that is, under my judicial discretion and interpretation, within the law.

Pursuant to the NCAOC Rules of Recordkeeping ("RRK") 3.4 Comment B and 4.4 Comment B, the clerk of court has the discretion to accept or reject a filing when presented without the appropriate fees associated with the filing. Both of these rules have instructed that in those situations it is perfectly acceptable to file an inventory without payment of the filing fee as long as efforts were made to collect the fee by notifying the filer.

DAVIDSON COUNTY RESPONSE TO ALLEGED AUDIT FINDINGS

It is my opinion that the legal interpretation of the word "filed" in the context of the 90-day inventory requires more than a strict reading of the plain language. It requires an understanding and balancing of the interpretation of the intent to: (1) collect fees in NCGS 7A; and (2) the duty of the Clerk that must be performed to properly review, compute, and assess the fees in 28A. In a majority of cases this review and assessment cannot be performed at the time the 90-day inventory is initially received by my office.

As the Ex-Officio Judge of Probate I adduce that I have judicial discretion to manage and control the file to comply with the law as well as interpret the law in this matter. I tender that the State Auditor's rigid interpretation is not a realistic application of the law as it applies to the collection of 90-Day inventory fees and will cause most offices in the state to have this finding if they are consistent in their auditing practices. I opine that this finding is unjustified. The North Carolina Conference of Clerks of Superior Court has passed a resolution objecting to this finding that I have attached as part of my response. **(see Exhibit 1)**

There is a lack of support from NCAOC in defense of the various practices across the State despite the fact that AOC General Counsel and AOC's Director of Internal Audit supported my process for collecting 90-Day inventory fees. **(see Exhibit 2)** Many offices across the state perform a review of the 90-day inventory to ensure it is a true and accurate reflection of the estate assets prior to filing it and recording it.

A review of another Clerk of Court Office was made that did not receive this specific or any estate finding under the same auditing scope. The same audit team that evaluated my county performed the audit immediately following mine. Upon the review, with photographic evidence (of the estates that were requested by the State Auditor's Office), of this county's files exposed practices far more out of compliance than my single estates issue. Not only were documents in several instances not file stamped as an office practice, but it was also a practice to not make an effort to collect all estate fees until the end of the estate at the final accounting if they were not paid up front. This county received no audit finding with blatant improper practices. I could understand a difference in standards if it was a different auditing team, but it was the same team that audited my estates division.

I brought these documented facts of inconsistency to the elected State Auditor's attention on September 10, 2015. The audit report for this county has not changed as of the date of this response on September 25, 2015. In another county, the State Auditor's office has retracted a "No findings" audit and now intends on making a formal finding of the CCIS conflict on them. I have no confidence in the arbitrary and capricious application of auditing standards performed by the State Auditor's Office on the Clerks across the state. There is no way for the general public reviewing these reports to draw a comparison or inference in the practices from County to County under the current standards.



EXHIBIT I

**EXECUTIVE COMMITTEE OF THE NC CONFERENCE  
OF CLERKS OF SUPERIOR COURT**



**RESOLUTION OBJECTING TO FINDINGS BY THE STATE AUDITOR**

Whereas, the Technical Service Division (TSD) of the North Carolina Administrative Office of the Courts (NCAOC) granted access to CCIS-CC without the required authorization from the hiring authority;

Whereas, TSD of NCAOC failed to notify the elected Clerk of Courts in the State of this action;

Whereas, the Clerks cannot accept responsibility for an action undertaken independently by the statewide administrative division of the NCAOC without prior knowledge of the elected CSC;

Whereas, the State Auditor is making a finding on the individual Clerk of Courts effected by this action;

Whereas, it must be noted that fees are routinely collected at time of approval of the filing;

Whereas, this may occur subsequent to the machine clock stamping of the instrument presented;

Whereas, insofar as it is the duty of the Clerk to approve (i.e.: audit) filed instruments;

Whereas, it is not possible to approve all instruments simultaneously as of the moment of machine clock stamping;

Whereas, a finding by the Auditor's Office does not take into account the statutory requirement that accountings must be approved by the Clerk and as such said filing(s) are antithetical to the proper and orderly administration of decedent's estates under NC law; now, therefore, be it

**Resolved**, that the Executive Committee of the North Carolina Conference of Clerks of Superior Court:

1. Objects to the NC State Auditor's findings regarding these two issues;
2. Believes that NCAOC should be held solely accountable for the CCIS-CC segregation of duties conflict issue;
3. Believes elected Clerks should have the judicial discretion to establish their own interpretation of the statutes when there is an obvious conflict between our duty to collect fees (NCGS § 7A-307(2)) and our duty to review and assess costs (NCGS § 28A-20-1), particularly in light of the currently adopted NCAOC Rules of Recordkeeping that ratify such discretion.

Respectfully submitted this the 21st day of September, 2015.



EXHIBIT 2

**Shipwash, Brian L.**

---

**From:** Best, Pamela W.  
**Sent:** Monday, April 27, 2015 3:20 PM  
**To:** Shipwash, Brian L.  
**Cc:** Jennings, Bud P.; Samuel, Jordan T.; Funderburk, Amy L.  
**Subject:** Fees upon "filing" of estate inventory

Brian,

I am writing in response to your question regarding a possible audit finding by an auditor with the State Auditor's office concerning your office's procedure for filing estate inventories. I am basing my opinion on the information you provided, so if I misstate anything please let me know as it may change my opinion.

Clerk's procedure:

1. Personal representative, or agent (attorney) for PR, presents a completed inventory (AOC-E-505) for filing.
2. Staff in your office clock stamps the inventory to document the day and time it was received.
3. Estate staff in your office review the inventory to verify all the necessary information is included.
4. If the inventory is:
  - a. in proper order, the inventory is placed in the corresponding estate file and indexed in VCAP.
    - i. Your office then determines and assesses costs.
      1. Costs are paid at the time of filing; or
      2. Costs are billed to the filer, who is required to pay within X days. To date, no one has failed to pay costs.
    - b. not in proper order, your staff returns the inventory to the individual who filed it with instructions on what additional information is required.
      - i. Your office marks out the original clock stamp before returning the inventory
      - ii. When the revised inventory is presented to your office it is again clock stamped, reviewed, and approved for filing and indexed in VCAP.
      - iii. Your office then determines and assesses costs.
        1. Costs are paid at the time of filing; or
        2. Costs are billed to the filer, who is required to pay within X days. To date, no one has failed to pay costs.

EXHIBIT 2 (cont)

You have been advised by an auditor in the State Auditor's office that failure to collect fees at the time of receiving the inventory is an audit finding. I disagree and have conferred with Jordan Samuel, AOC internal auditor, that our auditing staff would not issue an audit finding. The reasons we do not believe an audit finding is justified are that:

1. The fee is "... computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk." G.S. 7A-307(a)(2)
2. The inventory is not actually filed until your staff determines the inventory is complete, and at that time the inventory is indexed in VCAP and placed in the corresponding estate file.
3. The Rules of Recordkeeping for the Clerks of Superior Court, state "The clerk should not refuse to accept any filing not accompanied by all appropriate fees. The clerk should notify the filer or the filer's attorney and the court of any costs that are due. The clerk should note that costs are due in the court's file." Rule III, Civil

**Pamela Weaver Best**  
**General Counsel**  
**Office of General Counsel**  
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