

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



RUTHERFORD COUNTY CLERK OF SUPERIOR COURT

RUTHERFORDTON, NORTH CAROLINA

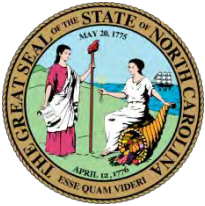
FINANCIAL RELATED AUDIT

SEPTEMBER 2015



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STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

September 18, 2015

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Steve Owens, Rutherford County Clerk of Superior Court

This report presents the results of our financial related audit at the Rutherford 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, reading "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 the Rutherford 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 \$4,892,815 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 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 \$79,093 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, \$443,660 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 responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

1. IMPROPER SYSTEM ACCESS

System access rights that are inconsistent with proper segregation of duties were assigned to employees. Four employees had cashier rights in the Financial Management System (FMS) and update access in the Criminal Court Information System (CCIS). One of the four employees also had update access to the Automated Criminal/Infractions System (ACIS). In addition, two individuals had update access within CCIS even though they were 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 employees could have allowed the individuals to misappropriate funds by collecting cash for a criminal payment, bypassing the receipt entry in FMS, and updating CCIS or ACIS to indicate that the 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 not made aware of the access rights assignments within CCIS until it was brought to his attention by the auditors.

Per the Clerk, the removal of conflicting accesses has not been made due to the limited number of staff in the Clerk's Office nor has NCAOC established procedures to compensate for the risk created by having access to FMS and ACIS and/or CCIS.

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.

Recommendations: The Clerk should ensure that 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*.

Also, 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*.

Clerk's Response: As stated, the limited number of staff in the Clerk's office has created the necessity of staff members to have access to the different systems to ensure that service is available to members of the public at all times. Security separation forms had been promptly forwarded to AOC to ensure that accesses were terminated for employees no longer employed by the Clerk's office. I have reviewed and will continue to review all security audits as required to ensure all staff are properly assigned. It is apparent that AOC used old information when creating a security list for the new CCIS system and when submitted to the Clerk – immediate deletions were made for any necessary listed staff members. Exception forms have been filed for staff members who need multiple systems access.

2. UNTIMELY ESTATE FEE COLLECTION

The Clerk's Office did not compel the timely payment of estate fees required by general statutes, resulting in a delay and potential loss of court costs and fees.

Auditors examined 32 of 77 estates in the audit period that required an inventory to be filed and identified seven (22%) estates in which fees of \$1,284 were not collected when the inventory was filed.

According to the Clerk, because the Clerk's Office is not able to deduct the fees owed from the estate and the estate cannot be closed without paying all fees, the Clerk's Office had not been sending notices to the personal representative to notify them of the owed fees.

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 to ensure appropriate action is taken to collect fees at the time inventories are filed and implement procedures to compel the payment of fees when not paid at the time the inventory is filed.

Clerk's Response: Our office strives to handle estates in an efficient manner and to comply with statutory requirements. The practice of the Clerk to not refuse a filing if costs are not in hand is guided by the Rules of Recordkeeping as promulgated by the NCAOC. Said Rules 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."

Procedures are actively in place to collect all estate fees prior to the discharge of a representative. The files examined include matters where no funds were available as personal property in the estate to pay statutory fees in the estate at the time of the filing of the inventory or matters in which an inventory was mailed in without fee included. We always collect these fees as soon as practical. Once this was brought to our attention by the auditors, immediate action was taken by mailing notices to have fees paid. The clerk had already noted the appropriate fees due in each file. The estate clerks always collect any and all fees prior to the approval of the final accounts and the closing of all estate files to ensure there is no loss in fee collections.

ORDERING INFORMATION

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