

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



MACON COUNTY CLERK OF SUPERIOR COURT

FRANKLIN, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2016



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The Taxpayers' Watchdog



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STATE OF NORTH CAROLINA

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AUDITOR'S TRANSMITTAL

July 8, 2016

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Victor H. Perry, Macon County Clerk of Superior Court

This report presents the results of our financial related audit at Macon 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 item 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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Article V, Chapter 147 of the North Carolina General Statutes, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Macon 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, 2015 through February 29, 2016. 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 \$2,089,248 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 \$78,599 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, \$176,999 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 as applicable 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 a deficiency in internal control and an 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.

UNTIMELY OR FAILURE TO COMPEL ESTATE INVENTORY FILINGS OR FEE COLLECTION

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

Auditors found that 26 of 54 (48%) estates in the audit period that required an inventory to be filed were not compelled or not compelled timely. The Clerk's written requests requiring inventory filings were issued 31 to 87 days after the three-month inventory deadline for 18 estates. In addition, the Clerk failed to issue written requests requiring inventory filings for eight estates. For 44 estates where an inventory had been filed, auditors identified eight (18%) estates in which fees of \$746 were not collected when the inventory was filed.

In addition to the delay and potential loss in fee collections, the Clerk's failure to timely compel the filing of inventories could result in unauthorized transactions from the estate including, but not limited to, the removal of estate assets without the knowledge of qualified heirs. The untimely compelling could also delay the family of the deceased from finalizing the estate.

According to the Clerk, the review of the tracking report for estates needing to be compelled to file was not performed timely. Also, personal representatives were not made to pay the required fees at the time the inventory was filed. Instead, the fees were allowed to be paid at the final inventory.

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 send a written request requiring the personal representative to file the inventory or explain why the personal representative should not be replaced. Additionally, *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 the *North Carolina Clerk of Superior Court Procedures Manual* to ensure appropriate action is taken to compel the timely filing of estate inventories, as well as collect estate fees at the time inventories are filed.

Clerk's Response: I concur with the finding. Before the audit began, I implemented a tickler system to track estates and to therefore help us be timely in compelling estate inventories and accounts; however, we had not gotten current all of the estate files examined during the audit period. Going forward, we will use both the AOC estates tracking system and our own tickler system to get and keep our estate filings current.

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