

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



MADISON COUNTY CLERK OF SUPERIOR COURT

MARSHALL, NORTH CAROLINA

FINANCIAL RELATED AUDIT

AUGUST 2016



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The Taxpayers' Watchdog



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STATE OF NORTH CAROLINA

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AUDITOR'S TRANSMITTAL

August 19, 2016

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Mark A. Cody, Madison County Clerk of Superior Court

This report presents the results of our financial related audit at Madison 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 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 Madison 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 January 31, 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 \$1,481,480 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 \$23,645 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, \$52,000 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 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. DEFICIENCIES IN BANK RECONCILIATIONS

Required reconciling adjustments identified by the NC Administrative Office of the Courts (NCAOC) were not recorded in the Financial Management System. These adjustments totaled \$1,724 and dated back as late as 2014. When identified adjustments to the bookkeeping and banking records are not investigated and recorded, the risk increases that an error or misappropriation could occur and not be detected in a timely manner.

The Clerk said his employees did not know they needed to make the adjustments reported on the NCAOC's bank reconciliations. He added that the head bookkeeper believed NCAOC had already made the adjustments when it prepared the bank reconciliations.

The *Clerk of Superior Court Financial Policies and Procedures Manual* require an employee of the Clerk's Office to review bank reconciliations each month. As part of that review, adjusting entries should be made for current month bank transactions and previous month's book adjustments.

Recommendation: The Clerk's Office should thoroughly review the NCAOC prepared bank reconciliation each month and investigate all adjusting entries listed and, when appropriate, make adjusting entries in the Financial Management System in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*.

Clerk's Response: The deficiencies in bank reconciliations go back to the time when NCAOC offered to prepare reconciliations for any county that requested this service. It made good sense to me to allow them to do this since they are not involved in the day to day financial business in our office. It had previously been difficult to find someone in a small office like mine that was not involved in the day to day finances in the office.

When I allowed NCAOC to start preparing bank reconciliations, I assumed that they were making any adjustments when they prepared them. We are now reviewing bank reconciliations and making any necessary adjustments.

2. UNTIMELY AND FAILURE TO COMPEL ESTATE INVENTORY FILINGS

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

Auditors found that 17 of 19 (89%) estates in the audit period that required an inventory to be filed were not compelled or not compelled timely. The Clerk failed to issue written requests requiring inventory filings for 13 estates. In addition, written requests requiring inventory filings were issued 33 to 83 days after the three-month inventory deadline for four estates.

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 failure to compel could also delay the family of the deceased from finalizing the estate.

According to the Clerk, insufficient training for estate personnel resulted in written requests not being sent to estate representatives.

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.

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.

Clerk's Response: We intend to issue notices and follow up with the new order to file that came out in April 2016. If fiduciaries cannot file a complete inventory in 90 days, and have good reasons, as it sometimes happens, we will ask them to explain why and ask for an extension.

As to the removal of assets by fiduciaries after being appointed and filing of the inventory, this office knows of no such instances but realizes it may be possible. What we have seen is assets being removed in the final days before someone passes away. Sometimes we have seen assets hidden or held from fiduciaries by other heirs, thus leading to a delay in filing.

My staff and I explain what the responsibilities are for a fiduciary and why it is important to file accurate inventories at the time of opening the estate.

ORDERING INFORMATION

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This audit was conducted in 217 hours at an approximate cost of \$21,509.