

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



GRANVILLE COUNTY CLERK OF SUPERIOR COURT

OXFORD, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2017



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STATE OF NORTH CAROLINA
Office of the State Auditor



Beth A. Wood, CPA
State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0600
Telephone: (919) 807-7500
Fax: (919) 807-7647
<http://www.ncauditor.net>

AUDITOR'S TRANSMITTAL

June 13, 2017

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable J. Yancey Washington, Granville County Clerk of Superior Court

This report presents the results of our financial related audit at Granville 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 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 black ink that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor



TABLE OF CONTENTS

	PAGE
BACKGROUND	1
AUDIT OBJECTIVES AND SCOPE.....	2
METHODOLOGY.....	3
RESULTS AND CONCLUSIONS	4
AUDIT FINDINGS, RECOMMENDATIONS, AND RESPONSES.....	5
APPENDIX	
CLERK’S RESPONSE	6
ORDERING INFORMATION.....	13

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

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Granville 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, 2016 through January 31, 2017. 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 \$1,924,271 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 \$77,623 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, \$648,585 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. This approach was determined to adequately support audit conclusions.

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 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 it.

UNTIMELY OR 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 delays and potential loss in the collection of estate costs and fees.

Auditors examined all 29 estates in the audit period that required an inventory to be filed. Five (17%) estates were not compelled or not compelled timely. Specifically,

- For 3 (10%) estates, the Clerk's written requests requiring inventory filings were issued 37 to 84 days after the three-month inventory deadline.
- For 2 (7%) estates, the Clerk failed to issue written requests requiring inventory filings.

In addition to the delays and potential loss in fee collections, the Clerk's failure to compel the timely 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. It could also delay the family of the deceased from finalizing the estate.

According to the Clerk, the employee responsible for compelling estate inventories had other responsibilities which, at times, cause the employee to fall behind in performing these duties. In addition, no other employees were trained to perform the compelling responsibilities when the employee is out of the office.

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. The Clerk's Office should also consider training another employee to perform the compelling responsibilities.

Clerk's Response: See page 6 for the Clerk's response to this finding.

CLERK'S RESPONSE



State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT

J. YANCEY WASHINGTON, CLERK
EX OFFICIO JUDGE OF PROBATE
PHONE: (919) 690-4800

GRANVILLE COUNTY
OXFORD, NC 27565
COURIER # 17-02-01

ROBERT H. HOBGOOD
SENIOR RESIDENT SUPERIOR COURT JUDGE

HENRY W. HIGHT, JR.
RESIDENT SUPERIOR COURT JUDGE

June 8, 2017

Beth A. Wood
North Carolina State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0600

Re: 2017 State Audit of the Granville County Clerk of Superior Court's Office

Dear Ms. Wood:

I am in receipt of the letter from your office of May 16, 2017, regarding the 2017 audit of the Granville County Clerk's Office ("the 2017 audit"). I understand that the Granville County Clerk's Office will have one audit finding as a result of the 2017 audit, and I appreciate the opportunity to respond to this issue.

Audit Finding: Untimely or Failure to Compel Estate Inventory Filings

A restatement of this audit finding is as follows:

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

Auditors examined all 29 estates in the audit period that required an inventory to be filed. Five (17%) estates were not compelled or not compelled timely. Specifically,

- For 3 (10%) estates, the Clerk's written requests requiring inventory filings were issued 37 to 84 days after the three-month inventory deadline.
- For 2 (7%) estates, the Clerk failed to issue written requests requiring inventory filings.

In addition to the delays and potential loss in fee collections, the Clerk's failure to compel the timely 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. It could also delay the family of the deceased from finalizing the estate.

According to the Clerk, the employee responsible for compelling estate inventories had other responsibilities which, at times, cause the employee to fall behind in performing these

Beth A. Wood
North Carolina State Auditor
June 8, 2017
Page 2

duties. In addition, no other employees were trained to perform the compelling responsibilities when the employee is out of the office.

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. (Audit Findings and Recommendations, Granville County Clerk of Superior Court's 2017 Audit).

Office of State Auditor Recommendations:

I understand the recommendations from your office to be as follows:

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. The Clerk's Office should also consider training another employee to perform the compelling responsibilities. (Audit Findings and Recommendations, Granville County Clerk of Superior Court's 2017 Audit).

Response

1. *Statement of Agreement*

I believe the audit finding to be accurate.

2. *Corrective Measures Taken*

- a. The Granville County Clerk's Office has taken measures to address the finding in the 2017 audit, including the following:
 - i. Letter to the Granville County Bar: Following the conclusion of the on-site review and upon a preliminary discussion with the auditors who performed the work in this office, I understood the 2017 audit would likely result in the above-stated finding. I thereafter sent a letter to members of the Granville County Bar whose practice routinely includes handling estates in and before the Granville County Clerk's Office. Additionally, we recorded this letter for future reference on the public record as a Registration filing, and said registration bears the Granville County File Number 17-R-41.

Beth A. Wood
North Carolina State Auditor
June 8, 2017
Page 3

A copy of this letter is attached hereto as “Exhibit A”. I believe that it was necessary to send this letter to our local bar because the custom and practice in this office that had been in place for decades was not in congruity with what has subsequently been adopted, state-wide as the best interpretation of Article 20 of Chapter 28A of the North Carolina General Statutes. I also note, that prior to being elected Clerk of Superior Court, I handled estates in seven (7) counties, and their practices as to the filing and compelling of inventories were at the time more similar to the Granville County Clerk’s Office’s previous protocol than what has been most recently sanctioned as the best practice.

- ii. Implementation of New Policy for Compelling Estate Inventories: Beginning at the end of March 2017 and following sending the attached letter to the Granville County Bar, our office began implementing the new policy set forth in that letter.
 - iii. Training Additional Staff: In accordance with the recommendation from the State Auditor’s Office, I have assigned an experienced Deputy Clerk who already works extensively with Estates and Special Proceedings to help the one Assistant Clerk previously responsible for the timely compelling of inventories.
- b. I am aware the Administrative Office of the Courts (“AOC”) has taken steps and is continuing to work to address the issues related to the timely compelling of estate inventories in clerk’s offices across the state, and these actions include:
- i. Revising the Rules of Recordkeeping Procedures for the Office of the Clerk of Superior Court. My understanding is that this has been undertaken to make clearer the clerk’s responsibility in compelling inventories in estates. Again, based upon my experience, until this issue has been most recently highlighted by the State Auditor’s Office, many clerk’s offices followed a protocol that was similar to that of the Granville County Clerk’s Office, so the new procedures represent a substantial change across the state in many instances.
 - ii. AOC’s designing a new estates program. This program will help clerk’s offices address the management and tracking of estates in general and is due to be released to pilot counties later this year. I serve on the committee to advise AOC’s programmers from the

Beth A. Wood
North Carolina State Auditor
June 8, 2017
Page 4

prospective of an end user of the program, and I look forward to its implementation as being a giant and much needed step forward in technology for clerk's offices statewide.

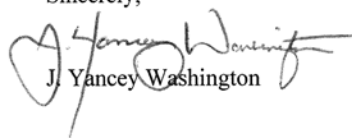
iii. AOC's supporting legislation that makes clear clerks have the authority to extend the time to file an inventory.

iv. Introducing and promulgating form AOC-E-516 entitled "Order to Extend Time to File". This form makes it a great deal easier for clerks to document that an extension of time for a party to present a given estate filing has, in fact, been granted.

c. Conclusion

I take pride in the work performed by the Granville County Clerk's Office on a daily basis. As illustrated by the corrective measures which we have taken within our office that are outlined above, I view this audit as an opportunity for the Granville County clerk's office to improve on this specific issue. I am also grateful that as a result of this same finding in a number of clerk's offices across the state, AOC has and is continuing to make efforts to provide clerks with improved tools that are essential to performing our daily tasks as expected. I found the state auditors who visited the Granville County Clerk's Office to be courteous and efficient in their work. Thank you for the time and service your staff rendered to my office and in turn, the citizens of Granville County and North Carolina.

Sincerely,



J. Yancey Washington

JYW/
Attachment

K:\38_UNIT_Clerk\Bookkeeping\State Audit 2017\Response to State Audit 6-5-17.docx

EXHIBIT A



FILED

17341

State of North Carolina 2017 MAR 27 A 8:33
General Court of Justice GRANVILLE CO. C.S.C.
CLERK OF SUPERIOR COURT
BY: [Signature]
GRANVILLE COUNTY
OXFORD, NC 27565
COURIER # 17-02-01

J. YANCEY WASHINGTON, CLERK
EX OFFICIO JUDGE OF PROBATE
PHONE: (919) 890-4800

ROBERT H. HOBGOOD
SENIOR RESIDENT SUPERIOR COURT JUDGE
HENRY W. HIGHT, JR.
RESIDENT SUPERIOR COURT JUDGE

March 24, 2017

Mr. Roderick Allen
Attorney at Law
2586 West Lyon Station Road
Creedmoor, NC 27522

Re: Change of Policy Providing Notice for and Compelling Inventories in Estates

Dear Mr. Allen:

I am writing to let you know of a significant change in our policy regarding the way we track and compel the filing of Inventories in Estates. We have traditionally carried out the process of tracking and compelling Inventories as follows:

1. We send a Notice to File (AOC-E-501) (Attached is a copy) to a personal representative, if more than ninety (90) days have passed since the date of qualification, and that personal representative has not filed the required Inventory.
2. If the personal representative did not file the required Inventory within the additional thirty (30) days allowed on the Notice above, our office has routinely sent a second Notice to File, marked "FINAL NOTICE", which again by the language on the form, provides an additional thirty (30) days for the personal representative to file the required Inventory.
3. If upon the expiration of the thirty (30) days provided for in the 2nd and Final Notice to File, the personal representative has still not filed the required Inventory, our practice has been to issue an Order to File (AOC-E-502) and have said Order served on the personal representative by the appropriate sheriff's department.

Controlling law regarding the filing and compelling of Inventories provides "every personal representative and collector, within three months after the qualification of that personal representative or collector, shall return to the clerk, on oath a just, true and perfect inventory..." (N.C. Gen. Stat. §28A-20-1). G.S. §28A-20-2 states: "If the Inventory ... is not filed as prescribed, the clerk of superior court *must* issue an order requiring the personal representative or collector to file it within the time specified in the order not less than 20 days, or to show cause why the personal representative or collector should not be removed from office... (N.C. Gen. Stat. §28A-20-2(a))

EXHIBIT A

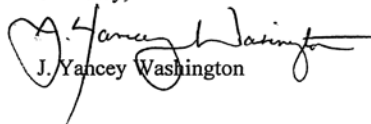
Roderick Allen
March 24, 2017
Page 2

(Emphasis added). There is actually no specific statutory authority for the "Notice to File" (AOC-E-501) and that this form is merely a courtesy notice from Clerks' Offices to personal representatives.

In compliance with the above-law, our office from this date forward will send one Notice to File¹ (AOC-E-501) to a personal representative sixty (60) days after he or she qualifies. This Notice will inform the personal representative and by copy, his or her attorney, that the Inventory is due within thirty (30) days. If the Inventory is not filed within ninety (90) days of the date of qualification, in compliance with G.S. §28A-20-2(a), we will issue an Order to File to be served by the appropriate sheriff's department. If you need additional time to value the assets of an estate, please submit a motion and order for that purpose.

Thanks for working with us through this policy change. Please call if you have any questions.

Sincerely,


J. Yancey Washington

JYW/

¹ Notice to File (AOC-E-501), is presently being revised. The new form, which I anticipate will be in use later this spring, will state an actual date upon which the Inventory is due which should eliminate any confusion as to the due date.

EXHIBIT A

STATE OF NORTH CAROLINA		<small>File No.</small> _____
_____ County		In The General Court Of Justice Superior Court Division Before The Clerk
IN THE MATTER OF THE ESTATE OF:		NOTICE TO FILE
<small>Name Of Decedent/Trust/Ward</small> _____ <small>Name And Address Of Fiduciary</small> T O _____ _____		<input type="checkbox"/> INVENTORY <small>AOC-E-505 is the Inventory form used with decedent's estates. AOC-E-510 is the Inventory form used with guardianship estates. AOC-E-511 is the Inventory form used with a trust under a will.</small> <input type="checkbox"/> ANNUAL ACCOUNT <small>AOC-E-506 is the Annual Account form used in all types of estates.</small> <input type="checkbox"/> FINAL ACCOUNT/AFFIDAVIT <small>AOC-E-204 is the Affidavit form used only when property has been collected by affidavit. AOC-E-506 is the Final Account form used in all other types of estates. G.S. 28A-20-2; 28A-21-1 to 28A-21-4; 28A-25-3; 36C-2-208, -209</small> <input type="checkbox"/> <i>Estate</i> <input type="checkbox"/> <i>Trust</i> <input type="checkbox"/> <i>Guardianship</i>
<p>The inventory/account/affidavit indicated above in the Notice To File list is now due.</p> <p>You are reminded that if the required inventory/account/affidavit is not filed within thirty (30) days of this Notice, the law of North Carolina requires the Clerk to issue process to compel its filing. To avoid compulsory process, please file the inventory/account/affidavit within thirty (30) days. You should notify your attorney of this Notice.</p> <p>The required form number listed in the Notice To File box is available via the North Carolina Court system website at www.nccourts.org/Forms/FormSearch.asp.</p> <p>If you are filing an annual/final account, you must submit receipts, official copies of cancelled checks, or other vouchers in support of all payments.</p> <p>Your prompt attention to this matter is required.</p>		
<small>Copy To</small> _____ _____	<small>Date</small> _____ <small>Signature</small> _____ <input type="checkbox"/> <i>Deputy CSC</i> <input type="checkbox"/> <i>Assistant CSC</i> <input type="checkbox"/> <i>Clerk Of Superior Court</i>	
<p><small>Comments:</small> _____ _____</p>		
<p>Original-Fiduciary Copy-File and Attorney</p>		
<p><small>AOC-E-501, Rev. 4/16 © 2016 Administrative Office of the Courts</small></p>		

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<https://itunes.apple.com/us/app/nc-state-auditor-hotline/id567315745>

For additional information contact:
Tim Hoegemeyer
General Counsel
919-807-7670

