

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



## MARTIN COUNTY CLERK OF SUPERIOR COURT

WILLIAMSTON, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2017



**NCOSA**  
The Taxpayers' Watchdog

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



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## AUDITOR'S TRANSMITTAL

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June 13, 2017

The Honorable Roy Cooper, Governor  
The General Assembly of North Carolina  
The Honorable Tonya C. Leggett, Martin County Clerk of Superior Court

This report presents the results of our financial related audit at Martin 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 cursive script 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 Martin 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 \$1,731,856 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 \$41,483 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, \$146,250 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 each audit finding. We did not audit the response, and accordingly, we express no opinion on it.

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FAILURE TO TIMELY COMPEL ESTATE INVENTORY FILINGS OR FEE COLLECTION

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

Auditors examined all 20 estates in the audit period that required an inventory to be filed. For two (10%) estates, the Clerk's written requests requiring inventory filings were issued 47 to 77 days after the three-month inventory deadline. Additionally, fees totaling \$1,540 for six estates were not collected at the time of the inventory filing, nor was there evidence in the files to support fee collection attempts and/or reasons for collection delays.

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 Office only had one employee responsible for compelling estate inventories. The employee had other responsibilities and sometimes got behind in performing those duties. The Clerk's office policy on fee collection was to allow certain types of estates to pay fees at final inventory instead of when the inventory is filed. This policy applies to estates involving a wrongful death lawsuit or estates involving a family that the Clerk's Office knew on a personal level.

*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 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 fees at the time inventories are filed. The Clerk 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**

TONYA C. LEGGETT, CLERK  
EX OFFICIO JUDGE OF PROBATE  
PHONE: (252) 809-5100  
FAX: (252) 809-5101

**MARTIN COUNTY**  
WILLIAMSTON, NC 27892

P.O. Box 807  
305 E. MAIN ST.

May 25, 2017

Beth Wood  
State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699

Dear Ms. Wood,

Please find my response to the audit findings stated below.

**FAILURE TO TIMELY COMPEL ESTATE INVENTORY FILINGS OR FEE COLLECTION**

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

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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 Office only had one employee responsible for compelling estate inventories. The employee had other responsibilities and sometimes got behind in performing those duties. The Clerk's office policy on fee collection was to allow certain types of estates to pay fees at final inventory instead of when the inventory is filed. This policy applies to estates involving a wrongful death lawsuit or estates involving a family that the Clerk's Office knew on a personal level.

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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 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 fees at the time inventories are filed. The Clerk should also consider training another employee to perform the compelling responsibilities.

**Agency Response:** After review of the files in question, I agree with the finding and recommendations, which are not willful on the part of this office.

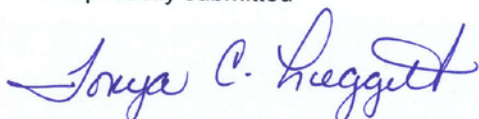
As to the untimely collection of fees, we immediately discontinued the practice of collecting fees at the closing of the estate. That practice ceased to exist on March 16, 2017. As to the files examined by the auditor, I personally contacted each executor/administrator and collected all fees due by the first week of April 2017. Since March 16, 2017 all estate fees have been paid upon the filing of the inventory.

As to the failure to compel inventories. This office uses the estates tracking program provided by the North Carolina Administrative Office of the Courts. This program does not generate notice of the inventory due until the time has actually expired. In an effort to prevent such a finding this office provides notice to the fiduciary at the time of qualification, which was explained and proven to the auditors. The estate clerk (1 assistant clerk) works the estate tracking reports on the first of each month, so if there is any delay in compelling the filings it would be no more than a 30 day delay. In any case of a longer time period the estate clerk has had contact with the fiduciary and extended the time for filing, which will be noted in the file. To address the files in which your audit refers, it needs to be noted that due to an absence of, an already under staffed office, it does appear that there was lapse in the notices at the beginning of 2017. ***It is important to note that there is no evidence or claim of any loss/removal or any unauthorized transactions of any estate assets.***

***As a result of this same finding across the state,*** the North Carolina Administrative Office of the Courts, are currently developing a new estate program to correct any and all issues relating to this finding. The anticipated roll out of this program was been backed up several times, but I believe the roll out will be September or October of 2017.

As to the recommendation that I should train another employee to perform the compelling responsibilities. Prior to 2009 there were two employees assigned to that division and shared that task. Once the NC Administration Office of the Courts reinstates the position that was taken from my office in 2009, I will have an adequate staff level to insure all divisions of my office are in compliance.

Respectfully submitted



Tonya C. Leggett, Clerk of Superior Court  
Martin County

# ORDERING INFORMATION

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