

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



## ROBESON COUNTY CLERK OF SUPERIOR COURT

LUMBERTON, 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 12, 2017

The Honorable Roy Cooper, Governor  
The General Assembly of North Carolina  
The Honorable Shelena G. Smith, Robeson County Clerk of Superior Court

This report presents the results of our financial related audit at Robeson 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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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 Robeson 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 \$8,015,716 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 \$78,723 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, \$1,526,450 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.

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**UNTIMELY OR FAILURE TO 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 79 estates in the audit period that required an inventory to be filed. Twenty-three (29%) estates were not compelled or not compelled timely. Specifically,

- For 16 (20%) estates, the Clerk's written requests requiring inventory filings were issued 35 to 157 days after the three-month inventory deadline.
- For 7 (9%) estates, the Clerk failed to issue written requests requiring inventory filings.

Additionally, fees totaling \$10,051 for 15 estates were not collected at the time of the inventory filing, nor was there evidence in the file 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.

The Clerk's Office did not review the tracking reports from the North Carolina Court Information System frequently enough to ensure filings are compelled timely. In addition, the Estates Clerk said that it was office policy to only collect fees when the final inventory is filed.

*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 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 including, but not limited to, a more timely review of the tracking reports. Additionally, the Clerk should collect estate costs and fees each time an inventory is filed and maintain documentation in the file to support fee collection attempts at the time of the inventory filing.

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

## CLERK'S RESPONSE



SHELENA SMITH, CLERK  
EX OFFICIO JUDGE OF PROBATE

CLERK OF SUPERIOR COURT  
ROBESON COUNTY

PO BOX 1084  
LUMBERTON, NC 28359-1084

ROBERT F. FLOYD, JR.  
SENIOR RESIDENT JUDGE

JAMES GREGORY BELL  
RESIDENT JUDGE

May 19, 2017

**Re: Audit Response**

This letter is in response to the Audit Findings and Recommendations discussed at the exit conference on May 9, 2017. I do concur with the audit finding. However, as mentioned to the auditors, the assistant clerk assigned to send notices to personal representatives in areas hard hit by flooding after Hurricane Matthew independently made the decision not to send notices for a period of time just after the flooding. This decision was made in an effort to avoid placing additional burdens on already stressed citizens of the county. Additionally, there have been instances where estate fees were not collected at the time of the inventory filing but were collected prior to final inventory approval. Often in these instances, the fees were not collected at the time of inventory filings because the inventory was received by this office by mail, or because the estate does not have liquid assets sufficient to pay court costs at the time of inventory filing. The fee, in this type of scenario, would be collected prior to final inventory approval. The fees are not likely lost. The estate filings are not finally approved and the personal representative is not discharged until the fees are paid.

Corrective action was taken immediately to remedy this finding. Presently, the tracking report is reviewed on the first and fifteenth of each month by the assistant clerk, and notices are sent out accordingly to ensure the timely filing of estate inventories. Additionally, fees are collected each time an inventory is filed. In instances where inventory fees are not collected at the time of filing, the estate clerk issues a statement for collection of fees and maintains documentation in the file to support fee collection attempts at the time of the inventory filing.

The Office of the Clerk of Superior Court for Robeson County makes every effort to ensure estates are handled efficiently, and in compliance with the statutory requirements. It is our goal every day to do so while being mindful of the sensitive nature of estate matters, and with compassion toward those parties involved.

With kind regards,

Shelena Smith  
Clerk of Superior Court, Robeson County

SS/ss



# ORDERING INFORMATION

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