

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



DARE COUNTY CLERK OF SUPERIOR COURT

MANTEO, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2018



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The Taxpayers' Watchdog

STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

June 22, 2018

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Dean M. Tolson, Dare County Clerk of Superior Court

This report presents the results of our financial related audit at Dare 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 are 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



**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 Dare 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, 2017 through March 31, 2018. 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 \$10,015,415 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 \$135,781 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, \$327,000 in bond forfeitures were set aside.

Escheats – The Clerk’s Office transfers abandoned property to the State. The transfer results when the person legally entitled to the property fails to make a valid claim on the property within a prescribed period of time. After that time, all abandoned property held by the Clerk is required to be transferred to the North Carolina Department of State Treasurer. We examined internal controls designed to ensure that the Clerk properly identifies escheatable funds. We also examined internal controls designed to ensure compliance with laws and regulations related to escheating unclaimed funds after a prescribed period of time. During the audit period, the Clerk transferred \$138,195 in escheats to the State Treasurer.

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 the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. 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 it.

FAILURE TO ACCURATELY ASSESS OR COLLECT ESTATE INVENTORY FEES

The Clerk's Office did not accurately assess or collect estate inventory fees in accordance with state law.

Auditors examined all 75 estates in the audit period in which a final inventory was filed. Fees totaling \$806 for 16 (21%) estates were not accurately assessed or collected when the final inventory was filed. Specifically,

- For 7 (9 %) estates, fees were not accurately assessed, resulting in the Clerk's Office collecting \$584 less than required.
- For 5 (7%) estates, fees totaling \$195 were not collected when the final inventory was filed. Also, there was no evidence in the files to support fee collection attempts and/or reasons for collection delays.
- For 4 (5%) estates, fees were not accurately assessed, resulting in the Clerk's Office collecting \$27 more than required.

As a result, there were delays and the potential for loss in the collection of estate costs and fees.

According to the Clerk, the volume of estate cases has increased over the years and only one person handles estates. The failure to accurately assess and collect the fees resulted from a lack of proper review.

North Carolina General Statute 7A-307(a)(2) requires the Clerk to assess and collect the estate fees at the time the final inventory is filed.

Recommendation: The Clerk should follow state law to ensure appropriate action is taken to assess and collect estate costs and fees at the time the final inventory is filed. In addition, the Clerk should implement effective monitoring procedures, such as a detailed review of fee calculations prior to approval of the final inventory, to ensure the accuracy of fee assessments and collections. The Clerk should also implement policies and procedures to facilitate and document continuing efforts of identifying, tracking, and compelling the collection of outstanding fees not paid at the time of the final inventory filing.

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



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

DARE COUNTY

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JERRY R. TILLET
RESIDENT JUDGE

DEAN M. TOLSON, CLERK
EX OFFICIO JUDGE OF PROBATE
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The Honorable Beth A. Wood, State Auditor
Office of the State Auditor
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0600

June 19, 2018

Dear Auditor Wood:

This is our response to the State Auditor's letter of June 13, 2018 outlining the audit finding and recommendation discussed in our exit conference.

We appreciate the work of the State Auditor's office and the courteous service exhibited in this audit process.

I concur with the audit finding and recommendation. We have taken corrective action to bring our office into full compliance. Specifically, we have collected 6 of the 12 estate fees totaling \$522 of the \$764 previously uncollected. The other 6 cases are expected to comply with the notices to pay. The 4 cases where the fees were over-collected have been refunded and are in compliance.

Internal policies have been implemented to ensure the accuracy of fee assessments and collections. This includes the proper identifying, tracking, and compelling the collection of outstanding fees. We will work with our FMA to ensure we are remaining compliant. We will also have a second employee review the estate court cost calculation and collection for accuracy prior to approval of the final account.

It is our intention to fully comply with all standards as set forth by the NCAOC and the general statutes of the State of North Carolina.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Dean M. Tolson".

Dean M. Tolson
Dare County Clerk of Superior Court

ORDERING INFORMATION

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