

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



NEW HANOVER COUNTY CLERK OF SUPERIOR COURT

WILMINGTON, 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 11, 2018

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Jan G. Kennedy, New Hanover County Clerk of Superior Court

This report presents the results of our financial related audit at New Hanover 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 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 New Hanover 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 February 28, 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 \$34,413,002 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 \$388,558 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, \$1,504,949 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 \$427,124 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 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 TRANSFER OF UNCLAIMED FUNDS TO THE STATE TREASURER

The Clerk's Office did not transfer unclaimed funds to the North Carolina Department of State Treasurer (Treasurer) in accordance with state law. During the audit period, the Clerk's Office transferred 915 unclaimed items totaling \$427,124 to the Treasurer.

Auditors examined 66 of 915 unclaimed items totaling \$125,049 that were transferred to the Treasurer during the audit period. Nineteen (29%) of the items should have been transferred in prior years. Specifically,

- Eighteen (27%) items totaling \$3,018 in unclaimed funds should have been transferred to the Treasurer during the periods 2013-2016.
- One (2%) item totaling \$200 should have been transferred to the Treasurer in 2011.

As a result, the return of unclaimed funds to the rightful owners was delayed. Additionally, there was a potential loss of earnings on the Unclaimed Property Fund, or Escheats Fund. A loss of Escheats Fund earnings reduces the amount of funds available for transfer to the North Carolina State Education Assistance Authority which provides loans and grants to worthy and needy North Carolina students attending state-supported colleges and universities.

According to the Clerk, the items were transferred late because employees did not understand the North Carolina Administrative Office of the Courts (NCAOC) policies and procedures for timely submission of unclaimed funds to the Treasurer.

North Carolina General Statute 116B-60(d) and the *North Carolina Clerk of Superior Court Escheats Manual*, Section C2, sets forth the process by which the Clerks determine that unclaimed funds are eligible for delivery to the Treasurer, and the act of transferring such funds to the Treasurer at the appropriate time.

Recommendation: The Clerk's Office should follow state law and the North Carolina Clerk of Superior Court Escheats Manual to ensure the timely transfer of all unclaimed funds to the Treasurer. Additionally, the Clerk should contact NCAOC to ensure all employees receive proper training in the timely transfer of unclaimed funds.

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

General Court of Justice
5th Judicial District
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY
WILMINGTON, NORTH CAROLINA 28402

JAN G. KENNEDY, CLERK
Ex Officio Judge of Probate

P.O. BOX 2023
910-772-6603

June 4, 2018

Agency Audit Finding Response

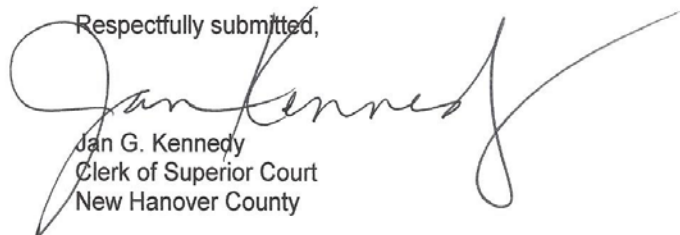
1. Untimely Transfer of Unclaimed Funds to the State Treasurer

OSA Recommendation: The Clerk's Office should follow state law and the North Carolina Clerk of Superior Court Escheats Manual to ensure the timely transfer of all unclaimed funds to the Treasurer. Additionally, the Clerk should contact NCAOC to ensure all employees receive proper training in the timely transfer of unclaimed funds.

Agency Response: The concern raised is valid. It is important to note that no fraud was identified and that the Clerk's Office always follows state law and strives to respond to all matters in a timely manner.

Implementation and training has already started by all departments in the Clerk's Office.

Respectfully submitted,



Jan G. Kennedy
Clerk of Superior Court
New Hanover County

ORDERING INFORMATION

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This audit was conducted in 204 hours at an approximate cost of \$21,012.