

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA



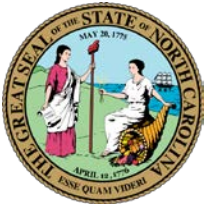
SWAIN COUNTY CLERK OF SUPERIOR COURT

BRYSON CITY, NORTH CAROLINA
FINANCIAL RELATED AUDIT
JUNE 2018



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STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

June 27, 2018

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Hester G. Sitton, Swain County Clerk of Superior Court

This report presents the results of our financial related audit at Swain 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 deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are 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 Swain 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 \$1,219,974 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 \$13,047 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, \$395,450 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, as well as funds due to other applicable parties. 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 \$1,095 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 deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

1. FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE STATE TREASURER OR OTHER APPLICABLE PARTIES

The Clerk's Office did not identify and transfer unclaimed funds to the North Carolina Department of State Treasurer (Treasurer) or other applicable parties in accordance with state law. During the audit period, the Clerk's Office transferred 49 unclaimed items totaling \$1,095 to the Treasurer.

Auditors examined the March 2018 aging report¹ for items held over one year and identified 32 unclaimed items totaling \$90,652. Sixteen (50%) items totaling \$6,190 remained on deposit with the Clerk as of the time of our audit and should have been transferred to the Treasurer or other applicable parties. Specifically,

- Nine (28%) items totaling \$3,750 in forfeited bonds should have been transferred to the County Finance Officer during the periods 2009-2016.
- Seven (22%) items totaling \$2,440 in unclaimed funds should have been transferred to the Treasurer or rightful owner during the periods 2012-2017. There was no evidence of attempts to contact the rightful owners.

As a result, the return of unclaimed funds to the rightful owners has been delayed. Additionally, there is 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 North Carolina students attending state-supported colleges and universities. Finally, the delay in forfeited funds remitted to the County reduces the amount of funds available to benefit the local school system.

According to the Clerk, she was unaware that her office needed to review the monthly aging reports¹. Additionally, it was her understanding that rightful owners should be contacting her office to collect their unclaimed property.

North Carolina General Statute 116B-53(c) and the *North Carolina Clerk of Superior Court Escheats Manual*, Section C1, sets forth the process by which the Clerks are to identify funds eligible for escheat, which includes reviewing the monthly aging reports¹. This same review also identifies funds that should be disbursed to the County or rightful owners. Further, *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 should follow state law and the *North Carolina Clerk of Superior Court Escheats Manual* to ensure the identification and timely transfer of all unclaimed funds to the Treasurer or other applicable parties. Additionally, the Clerk should ensure responsible employees receive proper training and implement effective monitoring procedures over the escheat process, such as a periodic review of aging reports¹.

Clerk's Response: See page 8 for the Clerk's response to this finding.

¹ The monthly aging report reflects all case level account funds being held by the Clerk and the amount of time the funds have remained in the Clerk's office without any activity.

2. UNTIMELY COMPLETION OF BANK RECONCILIATIONS

The Clerk's Office did not timely record in the Financial Management System the bank reconciliation adjustments that the North Carolina Administrative Office of the Courts (NCAOC) identified.

Auditors found that all nine of the bank reconciliations prepared during the audit period contained a total of \$455 required reconciling adjustments that were recorded from 37 days to over two years after NCAOC prepared the reconciliations.

Because identified adjustments to the bookkeeping and banking records were not investigated and recorded in a timely manner, there was an increased risk that errors or misappropriation could go undetected.

According to the Head Bookkeeper, manual adjusting entries were created for some of the entries following receipt of the bank reconciliation. Due to the small staff size and other responsibilities taking precedence, she forgot to enter the manual entries into the Financial Management System until a later date.

The *Clerk of Superior Court Financial Policies and Procedures Manual* requires reconciliations be performed monthly and completed no later than the last day of the following month. The bank reconciliation is considered complete when all reconciling adjustments have been made in the Financial Management System.

Recommendation: The Clerk should investigate all adjusting entries listed and make all required entries in the Financial Management System in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual* in order to complete the bank reconciliation process. In addition, the Clerk should prioritize the responsibilities of the staff and implement monitoring procedures to ensure that entries are made in the Financial Management System timely.

Clerk's Response: See page 9 for the Clerk's response to this finding.

3. 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.

Auditors examined all 20 estates in the audit period that required an inventory to be filed. Eleven (55%) estates were not compelled or not compelled timely. Specifically,

- For 9 (45%) estates, the Clerk's written requests requiring inventory filings were issued 35 to 145 days after the three-month inventory deadline.
- For 2 (10%) estates, the Clerk failed to issue written requests requiring inventory filings.

Failure to compel timely filing of inventories delays the family of the deceased in finalizing the estate. It could also result in unauthorized transactions from the estate including, but not limited to, the removal of estate assets without the knowledge of qualified heirs.

According to the Clerk, she has a small staff who perform many responsibilities including estates. As a result, other job duties took precedence and the Clerk's Office did not review the North Carolina Court Information System tracking reports frequently enough to ensure filings were compelled timely.

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 should follow state law and *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. In addition, the Clerk should consider working with the staff in prioritizing responsibilities to ensure timely compelling efforts.

Clerk's Response: See page 10 for the Clerk's response to this finding.



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WILLIAM H. COWARD
SENIOR RESIDENT SUPERIOR COURT JUDGE

June 19, 2018

Agency Audit Finding Response

1. Failure to Identify and transfer unclaimed funds to the State Treasurer or other applicable parties.

OSA Recommendation: The Clerk should follow state law and the North Carolina Clerk of Superior Court Escheats Manual to ensure the identification and timely transfer of all unclaimed funds to the Treasurer or other applicable parties. Additionally, the Clerk should ensure responsible employees receive proper training and implements effective monitoring procedures over the escheat process, such as a periodic review of aging reports.

Agency Response: The concern raised is valid. It is important to note no fraud was identified. The Clerks office always strives to follow state law and to respond to all matters in a timely manner.

Responsible employees will follow OSA recommendations.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Hester G. Sitton".

Hester G. Sitton
Clerk of Superior Court
Swain County



HESTER G. SITTON, CLERK
EX OFFICIO JUDGE OF PROBATE

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WILLIAM H. COWARD
SENIOR RESIDENT SUPERIOR COURT JUDGE

June 19, 2018

Agency Audit Finding Response

2. Untimely Completion of Bank Reconciliation.

OSA Recommendations: The Clerk should investigate all adjusting entries listed and make all required entries in the Financial Management System in accordance with the Clerk of Superior Court Financial Policies and Procedures Manual in order to complete the bank reconciliation process. In addition, the Clerk should prioritize the responsibilities of the staff and implement monitoring procedures to ensure that entries are made in the Financial Management System timely.

Agency Response: I agree with the findings. Bookkeeper has been instructed to complete reconciliations in a timely manner as per Clerk of Superior Court Policies and Procedures Manual. No fraud was identified.

Responsible employees will follow OSA recommendations.

Respectfully submitted.

Hester G. Sitton
Clerk of Superior Court
Swain County

★ ★ ★



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June 19, 2018

Agency Audit Finding Response

3. Untimely or Failure to Compel Estate Inventory Filings

OSA Recommendations: The Clerk should follow state law and 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. In addition, the Clerk should consider working with the staff in prioritizing responsibilities to ensure timely compelling efforts.

Agency Response: The concern raised is valid. The clerk will review NC Court Information System tracking reports in a more timely manner and compel timely filing of estate inventories.

Responsible employees will follow OSA recommendations.

Respectfully submitted.

Hester G. Sitton
Clerk of Superior Court
Swain County

ORDERING INFORMATION

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This audit was conducted in 187.5 hours at an approximate cost of \$19,313.