

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

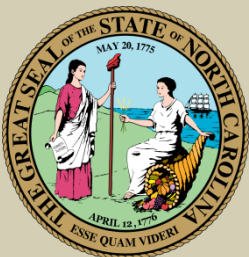


NASH COUNTY CLERK OF SUPERIOR COURT

NASHVILLE, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2019



NCOSA
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Linda Thorne, Nash County Clerk of Superior Court

This report presents the results of our financial related audit at Nash 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 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 Nash 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, 2018 through February 28, 2019. 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 \$8,116,593 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 \$135,452 in estate fees.

The Clerk’s Office ensures that all estate guardians are properly bonded based on the value of the annual estate inventory. An annual estate inventory is to be filed by the estate guardian of a minor or incapacitated adult. We examined internal controls designed to ensure that the Clerk properly obtains an inventory for each guardianship in compliance with laws and regulations. We also examined internal controls designed to ensure that bonds assessed and collected are sufficient and in compliance with laws and regulations. During the audit period, auditors examined \$4,643,890 in estate guardian bonds retained by the Clerk.

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 \$65,571 in escheats to the State Treasurer.

Trusts – The Clerk’s Office receives, administers, and disburses trust funds for minors and incapacitated adults. We examined internal controls designed to ensure that disbursements from minor and incapacitated adult trust accounts are proper to ensure compliance with laws and regulations. As of February 28, 2019, the Clerk had \$3,562,993 in trust accounts.

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. IMPROPER SYSTEM ACCESS INCREASED RISK OF UNDETECTED ERRORS AND FRAUD

Staff in the Clerk's Office had the ability to change and/or delete information in multiple systems, resulting in inadequate segregation of duties. The Clerk's Office handled \$8,116,593 in receipts during the audit period July 2018 to February 2019.

Specifically, six out of 33 (18%) employees had inappropriate access to the Financial Management System (FMS) and/or the Criminal Court Information System (CCIS) as follows:

- Four (12%) employees had both cashier rights in FMS and update access in CCIS. As a result, the employees could have potentially misappropriated funds by collecting cash from a criminal payment, bypassing receipt entry into FMS, and updating CCIS to indicate all costs have been paid. In addition, one of these employees also had access that allowed the employee to delete criminal case information.
- One (3%) employee had both head cashier and cashier rights in FMS which allowed the same person to potentially misappropriate funds by closing their own register and/or voiding their own receipts. The same employee also had update access in CCIS and could have potentially misappropriated funds as described above.
- One (3%) employee had both bookkeeper and cashier rights in FMS which allowed the same person to potentially misappropriate funds by collecting cash, updating financial account information, and disbursing funds to unauthorized individuals.

Improper segregation of duties increased the risk that errors, unauthorized transactions, and fraud could go undetected. While no instances of fraud were identified during the audit period, an increased risk of undetected fraud existed because access rights and duties were not properly segregated.

The Clerk did not ensure that system access rights assigned to staff resulted in proper segregation of duties. According to the Clerk, the small staff size at the Rocky Mount location makes it difficult to achieve proper duty segregation. While the Clerk was aware of procedures put in place by the North Carolina Administrative Office of the Courts to serve as compensating controls for the inappropriate access, the Clerk did not ensure these procedures were implemented.

Adequate segregation of duties is required by the *Clerk of Superior Court Financial Policies and Procedures Manual*. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provide a cross-check of the work of other employees.

Recommendation: The Clerk should reassign system access rights to properly segregate duties in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. If it is not practical to segregate all incompatible duties, then effective monitoring procedures should be implemented to reduce the risk of errors or fraud.

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

2. FAILURE TO ACCURATELY ASSESS AND COLLECT ESTATE INVENTORY FEES

The Clerk's Office did not accurately assess and collect estate inventory fees in accordance with state law. The Clerk's Office collected \$135,452 in estate fees during the audit period July 2018 to February 2019.

Auditors examined 65 of 183 estates in the audit period in which a final inventory was filed. Fees totaling \$452 for eight (13%) estates were not accurately assessed or collected when the inventory was filed. Specifically,

- For two (3%) estates, fees were not accurately assessed, resulting in the Clerk's Office collecting \$248 less than required.
- For three (5%) estates, fees were not accurately assessed, resulting in the Clerk's Office collecting \$156 more than required.
- For three (5%) estates, fees totaling \$48 were not collected when the final inventory was filed, and there was no evidence in the files to support subsequent collection efforts. These fees remained uncollected as of the time of our audit.

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

According to the Clerk, employee oversight led to unintentional mistakes in calculating the fees and not collecting the required amounts when the final inventories were filed.

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 implement effective monitoring procedures such as reviewing fee calculations for accuracy and identifying uncollected fees at the time of final inventory filing.

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

3. FAILURE TO ASSESS AND COLLECT SUFFICIENT BONDS FOR ESTATES OF MINORS AND INCAPACITATED ADULTS

The Clerk's Office did not assess and collect sufficient¹ bonds to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 34 guardianship estates for wards that required bonds and found four (12%) guardianship estates with insufficient bonds. Assets in the four estates totaled \$13,663 and required \$17,079 in bonds. However, the Clerk only assessed and collected \$3,000 in bonds.

Failure to assess and collect sufficient bonds from guardians could result in financial loss to the ward if the guardian misuses the assets in the estate. Additionally, the Clerk and the State may be liable for the financial loss if bonds are not sufficient.

¹ *North Carolina General Statutes 35A-1230 and 35A-1231* require bonds for estate guardians to equal 125% of the ward's personal property (if under \$100,000) or 110% of personal property (if over \$100,000). Bond amounts should be reviewed upon the filing of the inventory and each account to ensure sufficiency.

According to the Clerk, employee oversight led to mistakes in calculating the bond amounts.

North Carolina General Statutes 35A-1230 and 35A-1231 require the Clerk to assess and collect sufficient bonds before appointing a guardian to the estate. *North Carolina General Statute 35A-1238* states that the Clerk shall be liable for all loss and damages sustained.

Recommendation: The Clerk should implement monitoring procedures such as a continual review of ward assets to ensure the bond assessed and collected remains sufficient.

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



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

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QUENTIN T. SUMNER
SUPERIOR COURT JUDGE
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June 5, 2019

The Honorable Beth A. Wood, State Auditor
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Raleigh, NC 27699-0600

Dear Auditor Wood:

I am providing this letter in connection with your audit of the Nash County Clerk of Superior Court for the period of July 1, 2018 through Feb. 28, 2019. I concur with the audit findings and recommendations.

Audit Finding 1 -- Improper system access increased risk of undetected errors and fraud. Staff in the Clerk's office had ability to change and/or delete information in multiple systems, resulting in inadequate segregation of duties.

Recommendation -- The Clerk should reassign system access rights to properly segregate duties in accordance with the Clerk of Superior Court Financial Policies and Procedures Manual. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provides a cross-check of the work of other employees.

Clerk's Response: I have reassigned system access rights in order to properly segregate duties in accordance with the Clerk of Superior Court Financial Policies and Procedures Manual. Effective monitoring procedures have been implemented to reduce the risk of errors and fraud. The small staff in the Rocky Mount office makes it difficult to achieve proper duty segregation, but I have corrected this issue.

Audit Finding 2 -- Failure to accurately access and collect estate inventory fees in accordance with state law.

Recommendation -- The Clerk should implement effective monitoring procedures such as reviewing fee calculations for accuracy and identifying uncollected fees at the time of final inventory filing.

Clerk's Response -- Notices to pay have been issued to the estates in which fees were not accurately assessed, resulting in collecting less than required. Refunds have been issued to the estates that were over collected. I have implemented monitoring procedures to accurately identify uncollected fees at the time of final inventory filing by having a second employee review the court cost calculations for accuracy.

Audit Finding 3 – Failure to access and collect sufficient bonds for estates of minors and incapacitated adults.

Recommendation – The Clerk should implement monitoring procedures such as a continual review of ward assets to ensure the bond assessed and collected remains sufficient.

Clerk's Response -- I have implemented monitoring procedures in the estates division to ensure that the correct bond is posted for each estate that requires a bond and these estates will be monitored at each annual account filing. Each of the guardianship estates that are at issue in this finding have been corrected or are in the process of being corrected and each one, except one, was a result of the previous clerk's orders. One estate is now closed; a bond has now been posted in an estate where a bond was not required; and in one estate I am currently compelling the guardian to appear before the court to show cause as to why she has not filed a final account or posted a bond. She will be removed as guardian of the estate and possibly held in contempt if she does not comply. The final estate in question is now in compliance with the amount of the blanket bond posted on behalf of the Nash County Department of Social Services, who is the general guardian of this estate. I will assure that proper bonds will be posted in ALL estates that require one in the future and they will be monitored by continual review of the wards' assets.

I and my staff appreciate the work of the State Auditor's office and the courteous service exhibited in this audit process. We intend to fully comply with all standards set forth by the Administrative Office of the Courts and the general statutes of the State of North Carolina.

Respectfully submitted,



Linda L. Thorne, Clerk
Nash County Clerk of Superior Court

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This audit was conducted in 236 hours at an approximate cost of \$24,308.