

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

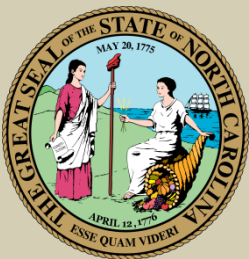


## SCOTLAND COUNTY CLERK OF SUPERIOR COURT

LAURINBURG, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2019



**NCOSA**  
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



**Beth A. Wood, CPA**  
State Auditor

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0600  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
<https://www.ncauditor.net>

## AUDITOR'S TRANSMITTAL

---

The Honorable Roy Cooper, Governor  
The General Assembly of North Carolina  
The Honorable W. Philip McRae, Clerk of Superior Court

This report presents the results of our financial related audit at Scotland 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

## TABLE OF CONTENTS

---



**Beth A. Wood, CPA**  
**State Auditor**

	PAGE
BACKGROUND .....	1
AUDIT OBJECTIVES AND SCOPE.....	2
METHODOLOGY .....	3
RESULTS AND CONCLUSIONS .....	4
AUDIT FINDINGS AND RECOMMENDATIONS .....	5
STATE AUDITOR'S RESPONSE .....	6
RESPONSE FROM THE SCOTLAND COUNTY CLERK OF SUPERIOR COURT ....	7
ORDERING INFORMATION .....	10

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Scotland 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 \$1,751,699 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 \$26,501 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 \$993,242 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 \$57,846 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 has \$848,483 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 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 and Recommendations* section of this report. Management's responses are presented after the audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

*Government Auditing Standards* require that we add explanatory comments to the report whenever we disagree with an audit finding response or when planned corrective actions do not adequately address the recommendation. In accordance with this requirement and to ensure that the nature and seriousness of the finding is not minimized or misrepresented, we have provided comments to the Clerk's response when appropriate.

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

The Clerk's Office did not assess and collect sufficient<sup>1</sup> bonds to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 20 guardianship estates for wards that required bonds and found five (25%) guardianship estates with insufficient bonds. Assets in the five estates totaled \$1,347,658 and required \$1,490,884 in bonds. However, the Clerk only assessed and collected \$165,802 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.

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.

---

<sup>1</sup> *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.



## STATE AUDITOR'S RESPONSE

The Office of the State Auditor (OSA) is required to provide additional explanation when an agency's response could potentially cloud an issue, **mislead the reader**, or inappropriately minimize the importance of auditor findings.

Generally Accepted Government Auditing Standards state,

"When the audited entity's comments are inconsistent or in conflict with the findings, conclusions, or recommendations in the draft report, or when planned corrective actions do not adequately address the auditor's recommendations, the auditors should evaluate the validity of the audited entity's comments. If the auditors disagree with the comments, they should explain in the report their reasons for disagreement."

**Therefore, OSA offers the following two clarifications.**

First, the Clerk's response misleads the reader about the extent of our audit and what the results indicate. The Clerk states:

"It is gratifying to know that your audit failed to uncover any dishonesty or financial loss. Other than the five files in question, it is a positive indication that nothing worthy of mention was revealed after this office was exhaustively examined for over two weeks by your team of professional auditors."

The Clerk's response is misleading because our audit **was not** exhaustive and provides **no assurance** that all significant problems have been identified. **As described** in the "Audit Objectives and Scope" section of this report, our audit procedures were limited to an examination of "internal controls" over selected fiscal matters. In other words, we reviewed the design and effectiveness of selected policies and procedures that the Clerk's Office uses to accomplish its organizational objectives. We did not perform an exhaustive examination of the Clerk's operations or transactions. Consequently, our audit **is not** a positive indication that no other significant problems exist.

Second, the Clerk's response inappropriately minimizes the importance of the auditor findings by trying to explain away the errors.

The reader should note that the Clerk's Office failed to comply with state law regarding the sufficiency of estate bonds **25% of the time**. That error rate indicates that the policies and procedures (internal control) the Clerk established to achieve its objectives are not working effectively. While it is appropriate to determine why the errors occurred so that internal controls can be improved, the Clerk's Office should not use those reasons to excuse or minimize noncompliance with state law.



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

W. PHILIP McRAE,  
CLERK OF SUPERIOR COURT &  
EX OFFICIO JUDGE OF PROBATE

SCOTLAND COUNTY  
P. O. BOX 769  
LAURINBURG, N.C. 28353

TANYA T. WALLACE,  
SENIOR RESIDENT  
SUPERIOR COURT JUDGE

June 17, 2019

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

Dear Auditor Wood,

This responds to your letter dated May 9, 2019, concerning your audit earlier this year.

It is gratifying to know that your audit failed to uncover any dishonesty or financial loss. Other than the five files in question, it is a positive indication that nothing worthy of mention was revealed after this office was exhaustively examined for over two weeks by your team of professional auditors.

I agree that the actual finding is literally correct as to each of the five files. However since the finding is so concise and stark, I am taking this opportunity to point out some details as to the circumstances of each file.

The first file was by far the largest dollar-wise, over one-million dollars. My staff and I crafted an effective plan to protect the assets as specified in a written order contained in the file. The fiduciary only had access to funds valued less than half of the amount of the bond which is well within statutory specifications.

As was pointed out by a member of your staff, this file would not have drawn attention had it been better documented

June 17, 2019  
The Honorable Beth A. Wood, State Auditor  
Page Two

with written acknowledgments and commitments from each financial institution involved. We should have been more precise by reporting the additional steps not reflected in the file.

Interestingly enough, when the former guardian applied to administer the decedent estate after the ward's death, every single heir waived the bond requirement.

In the second file the "assets" were mostly tangible personal property given to the ward by her mother who was also the guardian. The guardian was the ward's primary caregiver and also had physical custody over the ward's minor child. As such, she needed legal control over the ward's automobile to transport the child to school each day.

The ward's guardian ad litem agreed with the court's assessment that the ward's assets were nominal and, equitably, no useful purpose would be served using her meager assets to obtain a bond. However, the statute requires compliance even under these extraordinary circumstances.

In the third file a proper commercial bond was initially posted, but the corpus grew over several years and the amount of the bond should have grown with it. Hopefully situations like this will be eliminated with the new tickler on the latest version of the A.O.C. accounting form.

In the fourth file a proper bond was posted based on good faith estimates in the initial application. The actual assets were later determined to be somewhat greater, but an opportunity to increase the bond was overlooked prior to the ward's death shortly thereafter.

The fifth file involved a mother/guardian applying for insurance benefits arising from the death of her child's father. Initially the claim was contingent and there were no assets over which to require a bond. The attorney representing the guardian allowed the guardian to get control of the proceeds without properly notifying the court.

June 17, 2019  
The Honorable Beth A. Wood, State Auditor  
Page Three

All of your recommendations are well taken and will be implemented.

In light of your audit, my staff and I have cured all deficiencies to the best of our ability as appropriate. We also revived efforts to keep ourselves well educated on the subject and better prioritize matters of this nature.

We don't have the luxury of working in a quiet room with no interruptions. However, we are committed to be more systematic and diligent in our efforts amidst the myriad of distractions within our busy office.

Thanking you for the cordial manner in which your office has dealt with my office and with best personal regards, I am

Very truly yours,



W. Philip McRae

WPM/wpm

# ORDERING INFORMATION

---

COPIES OF THIS REPORT MAY BE OBTAINED BY CONTACTING:

Office of the State Auditor  
State of North Carolina  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0600

Telephone: 919-807-7500  
Facsimile: 919-807-7647  
Internet: <https://www.ncauditor.net>

To report alleged incidents of fraud, waste or abuse in state government contact the  
Office of the State Auditor Fraud Hotline: **1-800-730-8477**  
or download our free app.



<https://play.google.com/store/apps/details?id=net.ncauditor.ncauditor>



<https://itunes.apple.com/us/app/nc-state-auditor-hotline/id567315745>

For additional information contact:  
Brad Young  
Director of External Affairs  
**919-807-7513**



---

This audit was conducted in 206 hours at an approximate cost of \$21,218.