

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

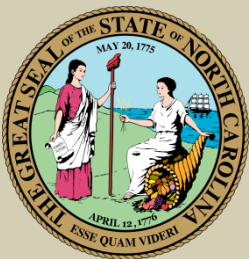


## WAKE COUNTY CLERK OF SUPERIOR COURT

RALEIGH, 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**

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The Honorable Roy Cooper, Governor  
The General Assembly of North Carolina  
The Honorable Blair Williams, Wake County Clerk of Superior Court

This report presents the results of our financial related audit at Wake 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 Wake 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 January 31, 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 \$65,826,419 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 \$1,160,156 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 \$14,750,113 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 \$580,108 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 January 31, 2019, the Clerk had \$13,609,145 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. FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE STATE TREASURER OR RIGHTFUL OWNER AND FAILURE TO NOTIFY APPARENT OWNERS

The Clerk's Office did not identify and transfer unclaimed funds to the North Carolina Department of State Treasurer (Treasurer) or rightful owners in accordance with state law.

The Clerk's Office was required to notify the apparent owner prior to transferring funds to the Treasurer. Auditors examined 70 of 436 unclaimed items requiring notice and found 31 (44%) items totaling \$17,352 where the Clerk's Office did not make a good faith effort to notify the apparent owner prior to transferring funds to the Treasurer.

Additionally, auditors examined the January 2019 aging report<sup>1</sup> for items held over one year and identified 285 unclaimed items totaling \$4,240,349. These items should have been transferred to the rightful owner or to the Treasurer during 2007-2017 but instead remained on deposit with the Clerk. There was no evidence that the Clerk's Office attempted to contact the rightful owners.

As a result, the return of unclaimed funds to the rightful owners has been 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.<sup>2</sup>

According to the Clerk, funds were not transferred and apparent owners were not notified because of employee oversight. Additionally, the escheat process was decentralized and there was a lack of communication between divisions about the process.

*North Carolina General Statutes*<sup>3</sup> and the *North Carolina Clerk of Superior Court Escheats Manual*<sup>4</sup> require the Clerk's Office to:

- Review monthly aging reports to identify funds that should be disbursed to the rightful owners or escheated.
- Determine that unclaimed funds are eligible for delivery to the Treasurer and transfer those funds at the appropriate time.
- Make a good faith effort to locate and provide notice to the apparent owner of unclaimed funds before transferring funds to the Treasurer.

*Recommendation:* The Clerk should improve supervision and monitoring over the escheat process to ensure employees properly transfer funds and notify apparent owners.

The Clerk should also consider implementing a centralized review over the monthly aging reports to compensate for any potential lack of communication between divisions.

*Clerk's Response:* See pages 7-8 for the Clerk's response to this finding.

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

<sup>2</sup> The State Education Assistance Authority provides loans and grants to worthy and needy North Carolina students attending state-supported colleges and universities.

<sup>3</sup> NCGS 116B-53(c), 116B-60(d), and 116B-59

<sup>4</sup> Sections C1, C2, and C5



### 2. 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 65 out of 443 estates that required an inventory to be filed in the audit period. Twenty-four (37%) estates were not compelled or not compelled timely. Specifically,

- For 14 (22%) estates, the Clerk failed to issue written requests requiring inventory filings.
- For 10 (15%) estates, the Clerk's written requests requiring inventory filings were issued 71-143 days after the three-month inventory deadline.

Failure to compel the 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, employees did not review the tracking reports from the North Carolina Court Information System frequently enough to ensure inventory 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 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 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.

*Clerk's Response:* See pages 8-9 for the Clerk's response to this finding.



BLAIR WILLIAMS, CLERK  
EX OFFICIO JUDGE OF PROBATE  
CLERK OF SUPERIOR COURT  
WAKE COUNTY  
PO BOX 351  
RALEIGH, NC 27602-0351  
O 919-792-4050

June 3, 2019

Honorable Beth E. Wood  
Office of the State Auditor  
2 S. Salisbury St.  
20601 Mail Center Road  
Raleigh, NC 27699-0600

Via Electronic Mail and U.S. Post

Dear Auditor Wood;

The issues raised by your office staff have their origins in the fact that the Wake County Clerk of Superior Court's office has traditionally been the most understaffed in relationship to its caseload of any Clerk's office in the state. As of last July, our office was at 93% of staffing level required to handle our caseload. The next closest County in the state was at 97%, and some of our neighboring counties are well over 100%. This was also the case when I served as an Assistant Clerk between 2006 and 2014. Because of this personnel deficit our office has prioritized our community interactions, and therefore reports like those mentioned in the audit while important to our office mission, have been regrettably lower on our priority list. Since taking office in December 2018 I am reorganizing staff, as well as upgrading practices to make this office more efficient, and address these issues.

**Audit Area: Escheats**

**Failure to Transfer Unclaimed Funds to the State Treasurer or Rightful Owner and Failure to Notify Apparent Owners**

**OSA Recommendations**

The Clerk should improve supervision and monitoring of the escheats process to ensure employees properly transfer funds and notify apparent owners.

The Clerk should also consider implementing a centralized review over the monthly aging reports to compensate for any potential lack of communication between divisions.

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### Clerk's Response

**Background:** The Clerk's office did not identify and transfer unclaimed funds to the North Carolina Department of the State Treasurer or rightful owners in accordance with state law. As a result, the return of unclaimed funds to the rightful owners has been delayed. As one of the State's fastest growing counties, the increase of criminal filings along with the prohibition of overtime for our employees has eliminated the time required to accurately and adequately process these Escheats Reports, along with a number of other reports mostly involving secondary procedural issues. Since these identified reports are not critical to the filings themselves, they have not been a priority of this office until recently.

**Clerk's Action Plan:** Our office has recently blessed by the addition of a team member with 25 years of corporate accounting experience whose sole responsibility will be to handle these reports, with the Escheats report being the top priority.

**Estimated Completion Date:** As of the date of this response our office has worked a one third (1/3) of the report at issue. It is our goal to have the Escheats report updated and current by the end of the calendar year.

**Audit Area:** Estates

### Untimely of Failure to Compel Estate Inventory Filings

#### OSA Recommendations

The Clerk should ensure appropriate action is taken to compel the timely filing of estate inventories, including, but not limited to, a more timely review of tracking reports.

### Clerk's Response

**Background:** The Clerk's office did not compel timely filing of estate inventories in accordance with state law. Failure to compel the 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.

Wake County has a history of sending out a courtesy notice to our citizens in an effort to allow each citizen the opportunity to make their filings before receiving an order to compel served by the sheriff. This has a twofold effect; one reducing the demands on the Sheriff's Office as well conveying a willingness to work to encourage rather than demand citizen action.

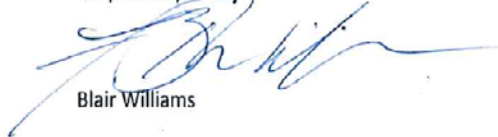
Our office courtesy notice of timely estate inventory and accounting filings was previously initiated after the due date, and is now done before the due date in accordance with the recent (October 2018) change to the Administrative Office of the Courts estates tracking module. Although our office is now utilizing the newest version estate tracking system, it does not allow batching of notices, but requires each notice be produced individually. The lack of batching notices is a major issue in an

office located in a County that is growing and is as large as ours. This lack of batching is one of many inefficiencies in our mandated technology that prevents our understaffed office from meeting the expectations of our community and the requirements by law.

Clerk's Action Plan: The Clerk intends to explore changing this historical practice, and utilizing technology provided with my personal resources, and to reallocate staff resources into collecting estate inventories and accountings. The office is considering discontinuing mailing notices, which is very staff time dependent and inefficient. The alternative would be to switch to electronic ones, allowing staff resources to be moved to the follow up and collection of delinquent inventories, including but not limited to the issuance of orders to compel in a timelier fashion. At the time of this audit response, our staff has advised against the discontinuance of mailing notices and I have yet to receive feedback from the local Bar about the discontinuance of this current practice.

Estimated Completion Date: Considering there is no imminent relief for our understaffed office, the goal is to receive feedback from the Estates Bar within 30 days and make a decision on the discontinuation of mailing notices. Regardless of the notices decision, and understanding some personal representatives will never comply, our goal is to reduce the rate of error in timely inventories and accountings to less than 8% by 2022.

Respectfully Yours,



Blair Williams

Wake County Clerk of Superior Court

# ORDERING INFORMATION

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This audit was conducted in 404 hours at an approximate cost of \$41,612.