

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

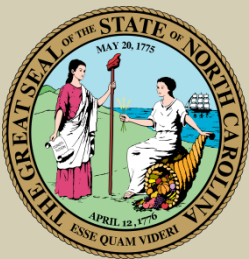


MITCHELL COUNTY CLERK OF SUPERIOR COURT

BAKERSVILLE, NORTH CAROLINA

PERFORMANCE AUDIT

AUGUST 2020



NC OSA
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 Janet L. Cook, Mitchell County Clerk of Superior Court

This report presents the results of our performance audit at Mitchell County Clerk of Superior Court. Our work was performed by authority of Chapter 147, Article 5A 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 *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

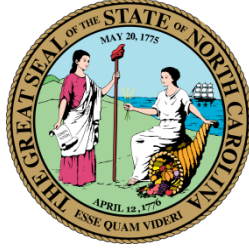


Beth A. Wood, CPA
State Auditor

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Chapter 147, Article 5A 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.

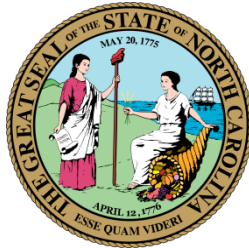


BACKGROUND

As authorized by Chapter 147, Article 5A of the *North Carolina General Statutes*, we have conducted a performance audit at Mitchell 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.



OBJECTIVES, SCOPE, AND METHODOLOGY

The general objective of this performance 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. See Appendix on page 9 for internal control components and underlying principles that were significant to our audit objectives.

Our audit scope covered the period July 1, 2019 through January 31, 2020. 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 \$1,470,926 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 \$24,587 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 \$1,014,257 in estate guardian bonds retained by the Clerk.

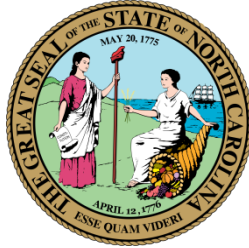
Escheats – The Clerk’s Office transfers abandoned property to the State. The transfer results when the person legally entitled to the property fails to make a valid claim on the property within a prescribed period of time. After that time, all abandoned property held by the Clerk is required to be transferred 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 \$16,166 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, 2020, the Clerk had \$215,542 in trust accounts.

To accomplish the audit objectives, auditors gained an understanding of the Clerk's internal control over matters 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.

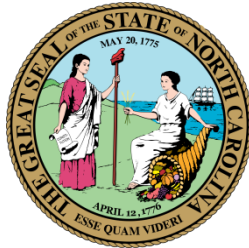
As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components: (1) control environment, (2) risk assessment, (3) control activities, (4) information 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.



RESULTS AND CONCLUSIONS

Based on the results of audit procedures described in the *Objectives, Scope, and 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 *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.



FINDINGS, RECOMMENDATIONS, AND RESPONSES

1. 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 \$24,587 in estate fees during the audit period July 2019 to January 2020.

Auditors examined all 31 estates in the audit period for which a final inventory was filed. A total of \$847 in fees for seven (22%) estates were not accurately assessed or collected when the final inventory was filed. Specifically,

- For two (6%) estates, fees were not accurately assessed. This resulted in the Clerk's Office collecting \$12 more than required for one estate and \$74 less than required for one estate.
- For five (16%) estates, fees totaling \$761 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, new employees responsible for estate fee calculations were not properly trained on the fee calculation and collection process. Further, monitoring procedures were not in place to ensure that fees were accurately assessed and collected when the final inventory was 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 ensure responsible employees receive proper training on the calculation and collection of estate fees. In addition, the Clerk should implement monitoring procedures such as reviewing fee calculations for accuracy and identifying uncollected fees at the time of final inventory filings.

Clerk's Response: See page 7 for the Clerk's response to this finding.

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

The Clerk's Office did not assess and collect sufficient bonds¹ to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 15 guardianship estates for wards that required bonds and found two (13%) guardianship estates with insufficient bonds. Assets in the two estates totaled \$663,235 and required \$735,344 in bonds. However, the Clerk only assessed and collected \$728,052 in bonds.

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.

FINDINGS, RECOMMENDATIONS, AND RESPONSES

Failure to assess and collect sufficient bonds from guardians could result in financial loss to the ward if the guardian missuses 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, employees responsible for guardianship estates were not properly trained which led to a misunderstanding of how to calculate the required bond amounts. Further, monitoring procedures were not in place to ensure the bonds were sufficient for guardianship estates.

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 ensure responsible employees receive proper training on the calculation of required bond amounts. In addition, the Clerk should implement monitoring procedures such as a continual review of ward assets to ensure the bond collected remains sufficient.

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



State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT
MITCHELL COUNTY
 BAKERSVILLE, NC

JANET L. COOK, CLERK
 EX OFFICIO JUDGE OF PROBATE

GARY M. GAVENUS
 RESIDENT JUDGE

July 29, 2020

The Honorable Beth A. Wood, State Auditor
 Office of the State Auditor
 2 South Salisbury Street
 20601 Mail Service Center
 Raleigh, NC 27699-0600

Dear Auditor Wood:

I would like to express my appreciation to you and your staff. The recommendations coming from our audit will help my office run more efficient and accurate. It was a pleasure to work with your staff during this audit in March and again in June. Please see the following information as to how our office is striving to improve and maintain all recommendations.

FAILURE TO ACCURATELY ASSESS AND COLLECT ESTATE INVENTORY FEES

Recommendation: The Clerk should ensure responsible employees receive proper training on the calculation and collection of estate fees. In addition the Clerk should implement monitoring procedures such as reviewing fee calculations for accuracy and identifying uncollected fees at the time of final inventory filings.

Response: We concur with the finding by your office and as a result we have made changes in estate personnel. We would also like to note that the changes we made were made prior to the audit because the current estate clerk caught some mistakes by the prior estate clerk and immediately notified the Clerk of Court.

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

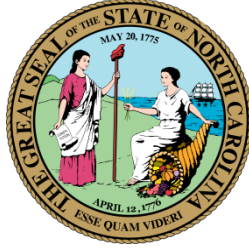
Recommendation: The Clerk should ensure responsible employees receive proper training on the calculation of required bond amounts. In addition, the Clerk should implement monitoring

procedures such as a continual review of ward assets to ensure the bond collected remains sufficient.

Response: We concur with the finding by your office and as a result the estate clerk is aware of how to properly calculate bonds. We are already in the process of collecting the correct bond on the 2 files in question.

A handwritten signature in blue ink, reading "Janet Cook", is positioned above a horizontal line.

Mitchell County Clerk of Superior Court



APPENDIX

Internal Control Components and Underlying Principles Significant to the Audit Objectives

Our general audit objective was to identify improvements needed in internal control over selected fiscal matters.

Internal control components and underlying principles that were significant to our audit objectives are identified in the table below.

	Audit Objectives			
	Cash	Estates	Escheats	Trusts
Control Environment				
1. The oversight body and management should demonstrate a commitment to integrity and ethical values.	X	X	X	X
2. The oversight body should oversee the entity's internal control system.	X	X	X	X
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.	X	X	X	X
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.				
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.				
Risk Assessment				
6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.				
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.	X	X	X	X
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.				
9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.	X	X	X	X

Control Activities				
10. Management should design control activities to achieve objectives and respond to risks.	X	X	X	X
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.				
12. Management should implement control activities through policies.	X	X	X	X
Information and Communication				
13. Management should use quality information to achieve the entity's objectives.	X	X	X	X
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.	X	X	X	X
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.	X	X	X	X
Monitoring Activities				
16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.	X	X	X	X
17. Management should remediate identified internal control deficiencies on a timely basis.	X	X	X	X

ORDERING INFORMATION

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

For additional information, contact the
North Carolina Office of the State Auditor at 919-807-7666



This audit required 189.5 hours at an approximate cost of \$19,708.