

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA



JOHNSTON COUNTY CLERK OF SUPERIOR COURT

SMITHFIELD, NORTH CAROLINA
FINANCIAL RELATED AUDIT
JUNE 2017



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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
<http://www.ncauditor.net>

AUDITOR'S TRANSMITTAL

June 13, 2017

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Michelle C. Ball, Johnston County Clerk of Superior Court

This report presents the results of our financial related audit at Johnston 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 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 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 Johnston 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, 2016 through January 31, 2017. 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 \$11,604,338 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 \$126,414 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, \$1,769,600 in bond forfeitures were set aside.

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 generally accepted government auditing standards applicable to performance audits. 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 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. Management's response is presented after the audit finding. We did not audit the response, and accordingly, we express no opinion on it.

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, resulting in delays and potential loss in the collection of estate costs and fees.

Auditors examined 65 of 91 estates in the audit period that required an inventory to be filed. Eleven (17%) estates were not compelled or not compelled timely. Specifically,

- For 8 (12%) estates, the Clerk's written requests requiring inventory filings were issued 34 to 72 days after the three-month inventory deadline.
- For 3 (5%) estates, the Clerk failed to issue written requests requiring inventory filings.

In addition to the delays and potential loss in fee collections, the Clerk's failure to compel the timely filing of inventories could result in unauthorized transactions from the estate including, but not limited to, the removal of estate assets without the knowledge of qualified heirs. It could also delay the family of the deceased from finalizing the estate.

According to the Clerk, during the time of year the errors occurred, the workload in the estates department was unusually high which resulted in certain inventories not being 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 the *North Carolina Clerk of Superior Court Procedures Manual* to ensure appropriate action is taken to compel the timely filing of estate inventories. Additionally, the Clerk should monitor the workload in estates to ensure the timely filing of estate inventories during periods of high volume.

Clerk's Response: See page 6 for the Clerk's response to this finding.

CLERK'S RESPONSE



STATE OF NORTH CAROLINA
GENERAL COURT OF JUSTICE
CLERK OF SUPERIOR COURT

MICHELLE C. BALL, CLERK
Ex Officio Judge of Probate

JOHNSTON COUNTY
Post Office Box 297
207 East Johnston Street
Smithfield, NC 27577
Telephone: 919-209-5400
Facsimile: 919-209-5401

THOMAS H. LOCK
Senior Resident Superior Court Judge

May 30, 2017

Ms. Beth A. Wood, CPA
Office of the State Auditor
2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0600

Dear Ms. Wood:

Thank you for the correspondence dated May 17, 2017. As requested, I have reviewed your draft audit finding and am providing a written response below.

Clerk's Response:

The finding regarding untimely compelling or failure to compel Estate Inventory Filings is received. Upon review of state law and the *North Carolina Clerk of Superior Court Procedures Manual*, I concur that inventories must be compelled if not filed within 90 days. Your staff advises that they deem the compelling of filings timely if the Clerk sends correspondence, a notice, or an Order to file within 30 days of the Inventory due date.

In 2015, to deal with untimely filed inventories and accountings, our office implemented a system of giving notice to the personal representatives regarding timely filings at the time the estate is established by the use of appointment cards. The number of timely filings of inventories has increased greatly and continues to do so. The process will continue, as we also diligently send out Notices to File, Orders to File, and Orders to Appear and Show Cause for those who have not filed Inventories within the required 90 days. The Clerk of Superior Court is responsible for making this happen.

As of the date of receipt of your finding, all outstanding inventories have been received in our office. Additionally, we found no unauthorized transactions from any of the 11 estates specified, nor the removal of estate assets without the knowledge of qualified heirs.

I appreciate the professional nature of your audit staff that visited Johnston County and the service that you provide to our citizens to protect their assets and to hold government agencies to a high standard of conduct. If I can be of further assistance, please do not hesitate to contact me.

Best Regards,

A handwritten signature in cursive script that reads "Michelle C. Ball".

Michelle C. Ball
Clerk of Superior Court
Johnston County

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20601 Mail Service Center
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For additional information contact:
Tim Hoegemeyer
General Counsel
919-807-7670

