

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

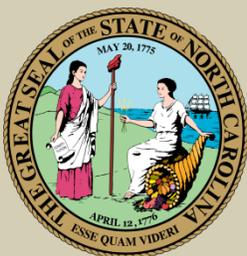


PENDER COUNTY CLERK OF SUPERIOR COURT

BURGAW, 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 Elizabeth Craver, Pender Clerk of Superior Court

This report presents the results of our financial related audit at Pender 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 Pender 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 \$5,956,781 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 \$74,296 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 \$2,844,812 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 \$101,254 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 has \$1,328,562 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

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

Auditors examined the January 2019 aging report¹ for items held over one year and identified 216 unclaimed items totaling \$520,543. A total of 121 (56%) items totaling \$69,673 remained on deposit with the Clerk as of the time of our audit that should have been transferred to the Treasurer during the periods 2001-2018.

As a result, the return of unclaimed funds to the rightful owners has been delayed. Additionally, there is 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.²

According to the Clerk, turnover in key staff positions prevented timely review of monthly aging reports and delayed follow-up on potential escheat items.

*North Carolina General Statutes*³ and the *North Carolina Clerk of Superior Court Escheats Manual*⁴ 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.

Recommendation: The Clerk should initiate a cross-training program of all positions, which would allow other staff to perform duties in the event there is additional turnover in the future.

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 AND INCAPACITATED ADULTS

The Clerk’s Office did not assess and collect sufficient⁵ bonds to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 32 guardianship estates for wards that required bonds and found five (16%) guardianship estates with insufficient bonds. Assets in the five estates totaled \$988,338 and required \$1,094,073 in bonds. However, the Clerk only assessed and collected \$379,250 in bonds.

¹ The monthly aging report reflects all case level account funds being held by the Clerk and the amount of time the funds have remained in the Clerk’s office without any activity
² The State Education Assistance Authority provides loans and grants to North Carolina students attending state-supported colleges and universities
³ NCGS 116B-53(c), and 116B-60(d)
⁴ Sections C1 and C2
⁵ *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.

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 requires 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 7 for the Clerk's response to this finding.



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

ELIZABETH H. CRAVER
EX OFFICIO JUDGE OF PROBATE

PENDER COUNTY
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June 3, 2019

Re: Audit Response

This letter is in response to the State Auditor's letter dated May 20, 2019. It outlines the Audit Findings and Recommendations for the 2019 Financial Audit from the Pender County Clerk's Office.

First, let me thank the Office of the State Auditor for the courteous service that the members of the audit team expressed while in our office.

We accept your Audit Findings and Recommendations. We have taken corrective action to comply with all recommendations of this report. I think that it was an oversight because of an exchange in positions due to retirement, termination and division transfers that caused the lack of knowledge for certain procedures. However, they have since been informed of these issues, attended multiple classes and are handling matters appropriately at this time.

The matters involving Escheats have been worked on by our current bookkeeper since she came into that role but it had not been done in quite some time prior to her so she had the older Escheats as well as the current ones to get on track. Almost every one of my Clerks are cross-trained and able to work in other divisions.

As with all the Clerks' offices across our great State, we are often short-handed and get a little behind temporarily. Thank you for your patience and guidance on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Craver", written over a horizontal line.

Elizabeth H. Craver
Clerk of Superior Court, Pender County

ORDERING INFORMATION

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This audit was conducted in 270 hours at an approximate cost of \$27,810.