

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



## VANCE COUNTY CLERK OF SUPERIOR COURT

HENDERSON, NORTH CAROLINA

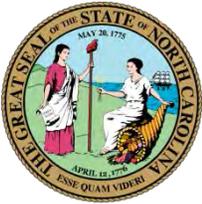
FINANCIAL RELATED AUDIT

NOVEMBER 2015



**NC**  **OSA**  
The Taxpayers' Watchdog

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



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## AUDITOR'S TRANSMITTAL

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November 18, 2015

The Honorable Pat McCrory, Governor  
The General Assembly of North Carolina  
The Honorable Deborah W. Finch  
Vance County Clerk of Superior Court

This report presents the results of our financial related audit at the Vance 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 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 cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

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**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 the Vance 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, 2014 through January 31, 2015. 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 \$2,840,071 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 \$57,631 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, \$753,070 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 but not quantify the sampling risk.

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 deficiencies in internal control and/or 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. 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 a delay and potential loss in the collection of court costs and fees.

Auditors examined 16 of 40 estates in the audit period that required an inventory to be filed and identified 11 (69%) that were not compelled or were not compelled timely to file inventories. The Clerk's Office failed to take action to compel the personal representative to file the inventory for seven estates. In addition, written requests requiring the inventory filings were issued 49 to 93 days late for the four remaining estates.

In addition to the delay and potential loss in fee collections, the untimely filing of inventories could delay the family of the deceased from finalizing the estate and could allow unauthorized transactions from the estate not being detected.

According to the Clerk, estate attorneys are allowed six months to file estate inventories because the attorneys prefer to do the final inventory, pay debts, and close the estate at the same time.

*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 give reason why the personal representative should not be replaced.*

*Recommendation:* The Clerk's Office 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.

*Clerk's Response:* I am in agreement with the accuracy of the findings of this audit regarding timely filings of Inventory of Decedent's Estate, which by statute, should be filed within ninety (90) days of the Qualification of the Personal Representative.

Our office was not consistently issuing a notice to file Inventory of Decedent's Estate after ninety-one (91) days from the date of qualification. The Inventory of Decedent's Estate is a just, true and perfect inventory of assets passing through the hands of the duly qualified Personal Representative. Our office has always been mindful that the family is going through a very emotional and painful time having just endured the loss of a loved one. It takes time to gather the extensive information necessary to adequately and appropriately complete the Inventory of Decedent's Estate and there are often extenuating circumstances that preclude the timely gathering of the necessary information. We strive daily to handle all matters including estates in a timely and efficient manner. Prior to February 16, 2015 if our office knew an attorney was diligently working on gathering the necessary information to complete the Inventory of Decedent's Estate we did not issue a notice because we did not want to upset the family any further or cause any undue stress in an already stressful and painful time. Our office is in constant communication with the attorneys and personal representatives that have been duly qualified to administer the estates in Vance County and we strive to communicate with the citizens of our community when our services are needed.

Effective February 16, 2015 we began issuing notices on the ninety-first (91st) day or soon thereafter. We use a tickler system in addition to the civil case processing system and we are well aware of the status of each estate in our office. Although we were not timely issuing the notice to file Inventory of Decedent's Estate we believe it is important to note that all estates reviewed during the audit now have a proper Inventory of Decedent's Estate filed with our office. Eleven (11) estates have been finalized before the due date and one Annual Account has been filed. Our main objective in the Vance County Clerk of Superior Court's Office has always been to close estates in a timely and effective manner.

In addition, we have been downsized by three positions to date. The Deputy Clerk tasked with the duty of maintaining the tickler system and issuing the notice to file Inventory of Decedent's estate is also required to perform many other duties and is stopped many times throughout the day to assist with other matters. As a result of the audit findings we have implemented a few changes that we believe will help our office to be even more efficient in its handling and disposition of estate matters. We are now in compliance with N.C.G.S. §28A-20. The notice to file Inventory of Decedent's Estate is being issued ninety-one (91) days after the date of qualification or as soon thereafter as possible. We are now appropriately documenting the files if there are circumstances that delay the filing of the 90 Day Inventory or the issuance of the notice.

### 2. IMPROPER SYSTEM ACCESS INCREASED RISK OF UNDETECTED ERRORS AND FRAUD

Staff in the Clerk's Office had the ability to change and/or delete information in multiple systems, resulting in inadequate segregation of duties. Improper segregation of duties increased the risk that errors, unauthorized transactions, and fraud could have occurred and remained undetected. The Clerk's Office handled \$2,840,071 in receipts during the audit period July 2014 to January 2015.

Specifically, two out of 19 employees had cashier rights in the Financial Management System (FMS) and update access to the Automated Criminal/Infractions System (ACIS) / Criminal Court Information System (CCIS), which allowed the same person to potentially enter or divert receipts and enter, change, or delete criminal case information.

While no instances of fraud were identified during the audit period, an increased risk of undetected fraud existed because access rights and duties were not properly segregated.

The Clerk's Office did not ensure that the initial system access rights assignments created the proper segregation of duties. Also during the audit period, the North Carolina Administrative Office of the Courts (NCAOC) executed the update functionality within CCIS and in doing so, access rights were automatically assigned within the system based on outdated roles and responsibilities. Appropriate communication between the two parties prior to this system update did not take place to ensure employee access rights were consistent with proper segregation of duties. As a result, the Clerk was unaware of the access rights assignments within the criminal system. Once the Clerk was made aware, CCIS update access for the two employees was removed by September 2015.

Adequate segregation of duties is required by the *Clerk of Superior Court Financial Policies and Procedures Manual*. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provide a cross-check of the work of other employees.

*Recommendations:* The Clerk should assign system access rights to properly segregate duties in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*.

Also, prior to the implementation of, or changes to, computer systems used in the Clerk's Office, the Clerk should be proactive in working with NCAOC to ensure access rights are properly assigned and are consistent with proper segregation of duties in accordance with guidance contained in the *Clerk of Superior Court Financial Policies and Procedures Manual*.

*Clerk's Response:* I am in agreement with the accuracy of the findings of this audit regarding improper system access.

The deputy clerk having cashier rights in FMS and update access to ACIS/CCIS was deleted from CCIS-clerk (CCIS-CC) and added as cashier. The CCIS-Cashier role will allow the cashier to perform her work duties without allowing the disposition of cases. This was offered to me on September 18, 2015 by AOC and I immediately completed and mailed a Security Approval Form AOC-A-151 and received verification back that the CCIS-CC access was changed to cashier. I further want to note we have district criminal court three times a week and due to the size of this office and workload this deputy clerk goes to district criminal court at least once a week. Therefore, at this time she still needs access to ACIS.

The deputy clerk having cashier rights in FMS and update access in CCIS was deleted from CCIS clerk's role and given inquiry only on August 6, 2015.

# ORDERING INFORMATION

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This audit was conducted in 351 hours at an approximate cost of \$32,994.