

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

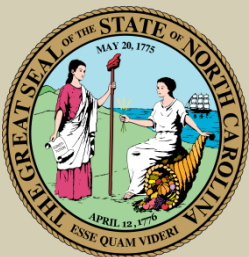


## RUTHERFORD COUNTY CLERK OF SUPERIOR COURT

RUTHERFORDTON, 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 Steve H. Owens, Rutherford County Clerk of Superior Court

This report presents the results of our financial related audit at Rutherford 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 an 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 cursive script 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 Rutherford 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 February 28, 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 \$4,030,355 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 \$118,256 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 \$15,828,378 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 \$73,480 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 February 28, 2019, the Clerk had \$706,489 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 a deficiency in internal control and an 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.

FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE STATE TREASURER, RIGHTFUL OWNER, OR THE COUNTY

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

Auditors examined the February 2019 aging report<sup>1</sup> for items held over one year and identified 65 unclaimed items totaling \$94,233. Twenty-six (40%) out of the 65 unclaimed items totaling \$9,059 remained on deposit with the Clerk as of the time of our audit that should have been transferred to the Treasurer, rightful owners, or the County. Specifically,

- Sixteen (25%) items totaling \$5,609 in unclaimed funds should have been transferred to the Treasurer during the periods 2017 and 2018.
- Eight (12%) items totaling \$3,150 in forfeited bonds should have been transferred to the County Finance Officer during the periods 2013-2018.
- Two (3%) items totaling \$300 in unclaimed funds should have been transferred to the rightful owner during the periods 1996 and 2009. There was no evidence of attempts to contact the rightful owners.

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.<sup>2</sup> Finally, the delay in forfeited funds remitted to the County reduces the amount of funds available to benefit the local school system.

According to the Clerk, his staff was not properly trained on how to review items on the monthly aging report and to identify money that needs to be returned to the Treasurer or other applicable parties.

*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, the County, 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 ensure responsible employees receive proper training and implement effective monitoring procedures over the escheat process, such as a periodic review of aging reports.

*Clerk's Response:* See page 6 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 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) and 116B-60(d)

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





**STEVE H. OWENS**  
**CLERK OF SUPERIOR COURT**  
*Rutherford County, North Carolina*

**CLERK OF COURT**

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**FAILURE TO IDENTIFY AND TRANSFER UNCLAIMED FUNDS TO THE STATE TREASURER OR OTHER APPLICABLE PARTIES**

**OSA Recommendation:** The Clerk should ensure responsible employees receive proper training and implement effective monitoring procedures over the escheat process, such as a periodic review of aging reports.

**Agency Response:**

We agree that twenty-six (26) items did remain on deposit with the Clerk as of the time of this audit and should have been transferred to the proper account.

The sixteen (16) cases totaling \$5,609 in unclaimed funds were from trying to contact heirs from both closed estates and estates that were never opened. The aging report is being reviewed monthly.

The eight (8) forfeited bonds totaling \$3,150 are from cash failure to appear bonds. The two (2) unclaimed funds totaling \$300 are from posted cash bonds that should have been returned after cases were disposed of in court. Again the aging report is being reviewed monthly.

The Deputy Clerk is reviewing the monthly aging report and then the report is returned to the Assistant Clerk and then is reviewed by our FMA (Financial Management Analyst) for further review. As of May 23, 2019 all of the twenty-six (26) items have already been properly addressed.

Sincerely,

**Steve H. Owens**  
Clerk of Superior Court

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# ORDERING INFORMATION

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This audit was conducted in 204 hours at an approximate cost of \$21,012.