



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

MOORE COUNTY CLERK OF SUPERIOR COURT

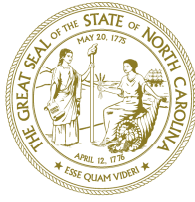
AUDIT REPORT

CARTHAGE, NORTH CAROLINA

For the Period August 1, 2008 through January 31, 2009

NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS

INTERNAL AUDIT



Financial Services Division

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March 31, 2010

The Honorable Susan A. Hicks
Moore County Clerk of Superior Court
P.O. Box 936
Carthage, NC 28327

Dear Ms. Hicks,

This report presents the results of our audit of the Moore County Clerk of Superior Court's office for the period August 1, 2008 through January 31, 2009. Our work was performed by authority of G.S. 7A-343(3a). The objective of a clerk of superior court audit is to gather and evaluate evidence about internal control over selected matters, compliance with laws, regulations and policies, and the extent to which assets and resources are accounted for and safeguarded. In addition case files are reviewed for compliance with laws, regulations, procedures, and the rules of recordkeeping. Should the audit reveal information indicating that abuse may have occurred, the audit objective may be extended to include internal control designed to prevent abuse and to determine whether the abuse did in fact occur and its impact. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary business practice.

The results of our audit disclosed deficiencies in internal control and instances of noncompliance that we considered reportable. These matters are described in the Audit Findings and Recommendations section of this report.

Final audit reports are public records, and copies of audit reports may be obtained by following the instructions listed in the back of this report.

George E. Dennis
Director of Internal Auditing

cc: Judge John W. Smith, Director, N.C. Administrative Office of the Courts
Rex A. Whaley, Chief Financial Officer, N.C. Administrative Office of the Courts

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BACKGROUND INFORMATION

The Clerk of Superior Court (Clerk or CSC) is a constitutional officer of the State of North Carolina. In accordance with the North Carolina General Statutes (GS), the Clerk is elected in each county by the voters of that county. The county commissioners of each county must provide and furnish an office for the Clerk in the courthouse or other suitable place in the county seat, and the North Carolina Administrative Office of the Courts (NCAOC) provides for the expenses of the Clerk. The Clerk appoints assistant and deputy clerks in his or her office to assist in performing the various duties required of the Clerk.

Some of the duties and responsibilities of the Clerk are initially set forth in G.S. 7A-103. The Clerk is responsible for all clerical and record-keeping functions of the superior court and district court, and keeps those records according to rules established by the director of the NCAOC. It is the responsibility of the Clerk to collect, correctly record and appropriately disburse all monies received by the courts. Funds collected by the Clerk may be due to the State Treasurer for support of the General Court of Justice or other state agencies, to the county for officer fees or facility fees, to the local school board for fines and forfeitures, to local municipalities for officer fees or facility fees, to individuals or entities for a variety of reasons including, but not limited to, restitution, payments on a judgment, refund of a cash bond or entitlement of funds upon satisfactory proof of ownership. Financial transactions of the Clerk are recorded in the Financial Management System (FMS). Financial transactions may also be reflected in other automated systems of the Clerk, such as the Automated Criminal Infractions System (ACIS), Civil Case Processing System (VCAP) or Judgment Abstracting (JA).

The Clerk also has numerous judicial functions. The Clerk is judge of probate - that is, the Clerk oversees the probate of wills (proceedings to determine if a paper writing is a valid will) and the administration of estates of the deceased, trusts, minors and people who are incompetent. The Clerk also hears a variety of special proceedings such as adoptions, incompetency determinations and partitions of land. The Clerk is empowered to issue arrest and search warrants, conduct initial appearance hearings for criminal defendants, and exercise the same powers as a magistrate with respect to taking waivers of trial and pleas of guilty to minor littering, traffic, wildlife, boating, marine fisheries, alcoholic beverage, state park recreation, and worthless-check offenses.



OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS

OBJECTIVES, SCOPE, AND METHODOLOGY

As authorized by G.S. 7A-343(3a), we have conducted an audit of the Moore County Clerk of Superior Court. Audits are performed as part of our effort to examine and report on the financial practices of Clerks' offices.

The objective of an audit is to gather and evaluate evidence about internal control over selected fiscal matters; compliance with laws, regulations, and policies; and the extent to which assets and resources are accounted for and safeguarded. In addition case files are reviewed for compliance with laws, regulations, procedures, and the rules of recordkeeping. Should any information arise during the audit indicating that abuse may have occurred, the audit objective may be extended to include internal control designed to prevent abuse and to determine whether the abuse did in fact occur and its impact. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary business practice.

The Clerk is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Because of inherent limitations in internal control, error or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

To accomplish our audit objectives, we gained an understanding of the office's internal control over matters described above and evaluated the design of the internal control. We then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that may reveal significant deficiencies in internal control.

Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records and examining documentation supporting recorded transactions and balances.

Our audit scope is the period August 1, 2008 through January 1, 2009 and includes the following areas and accounts:

Internal Control – System access and capabilities are reviewed for FMS, ACIS, and VCAP to determine potential weaknesses in internal control. Cash counts are performed to verify cash on hand for cashiers and magistrates on duty. Procedures for voiding receipts, daily Mainframe Cash Receipting (MFCR) close-out, and monthly reconciliations of checking and investment accounts are examined for adherence to NCAOC policies. Procedures are reviewed concerning security of cash, documents, evidence and fixed assets.

Bank Accounts – Bank reconciliations are reviewed to determine timeliness in reconciling and adherence to NCAOC outstanding check policy. Listings of pledged securities are examined as well as the agreements required with financial institutions for proper collateralization of funds the Clerk is holding in excess of Federal Deposit Insurance Corporation coverage.

General Ledger – General ledger accounts are analyzed for balances and proper account reconciliation procedures. Specific reviews are performed to substantiate the flow of funds through the many different accounts the Clerk is responsible for, including jury fees, partial payments, judgments, cash bonds, escheated funds and trusts. Aging schedules are examined in order to

OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS

verify the promptness of payouts, the validity of balances, and to identify specific cases to review.

Accounts Payable – Payment authorizations are reviewed for appropriate signature approval and segregation of duties in the disbursement function. Disbursements of governmental fees are reviewed for proper payees. Multiple payments to the same non-governmental payees are assessed for legitimacy.

Deposits – Deposits to the Clerk’s bank account and to the State Treasurer’s bank account are reviewed to ensure deposits are made in a timely fashion and according to NCAOC policies.

Manual Receipts – The Clerk’s recordkeeping for manual receipts is evaluated to determine whether timely processing and proper accounting for those manual receipts and manual receipt books is being done.

Cash Receipting – Detail listings of MFCR receipts are examined for variances of expected amounts in certain general ledger accounts. Discrepancies and other selected transactions are traced back to the original case files to prove accuracy in amounts collected and recordation to correct accounts.

Case Files – Various types of case files, which may include criminal, infraction, civil, estate, special proceeding and miscellaneous cases, are reviewed for the proper administrative procedures and correct collection and recordation of costs, fees and fines. Any differences between final judgments or dismissals in case files, as compared to dispositions in the respective criminal (ACIS) and civil (VCAP) systems are scrutinized. For case files requiring judgment abstraction due to attorney, appointment or technology fees, the civil system is examined to ensure compliance with North Carolina law.

Trust Accounts – Trust accounts are reviewed to determine if receipts and disbursements are in compliance with state laws and regulations. Existing trust accounts are reviewed for correct fee assessment and necessary information required for eventual payout. Selected trust files closed during the audit period are inspected to verify that correct amounts are paid to the appropriate beneficiaries.

RESULTS

The results of our audit disclosed deficiencies in internal control and/or instances of noncompliance in other matters that we considered reportable in the following areas: internal control and general ledger. These matters are described in the Audit Findings and Recommendations section of this report.

AUDIT FINDINGS AND RECOMMENDATIONS

INTERNAL CONTROL

1. SYSTEM ACCESS CONTROLS

The Clerk of Superior Court Financial Policies and Procedures Manual (CSC Financial Policies Manual) states that head bookkeepers, head cashiers, and cashiers should not have the ability to add or change data (update access) in ACIS. The CSC Financial Policies Manual is silent with respect to update access in VCAP since this system was not in effect during the last update of the CSC Financial Policies Manual. Nonetheless, the risk associated with bookkeepers, head cashiers, and cashiers having update access in VCAP is similar to the risk associated with those same individuals having update access in ACIS.

Two bookkeepers have update access in ACIS and VCAP. Eight cashiers have update access in ACIS and seven cashiers have update access in VCAP. This access gives these employees the ability to waive criminal citations in ACIS, satisfy judgments in VCAP, and also authorize and process payments in VCAP. With this access, assets could be misappropriated and unauthorized entries made in the two systems.

Recommendation:

- Access rights should be changed so that the bookkeepers and cashiers do not have update access in either ACIS or VCAP by completing and forwarding the "Security Approval" (AOC-A-151) form to NCAOC Technology Services Division.

Clerk's Response:

- After reviewing the Security Audit the following changes were faxed to Security Approval on January 8, 2010: In VCAP I changed add/update to inquiry for three cashiers, two criminal clerks, one head bookkeeper, and one head cashier. In ACIS I changed the clerk's secured menu to inquiry for one head bookkeeper and one head cashier. In FMS I deleted access and/or inquiry for two head cashiers and two cashiers. The reason two cashiers and one head bookkeeper have update access in VCAP is because these employees are not only cashiers or bookkeeper, but do small claims. I do not have enough staff to segregate these duties and have cross training in place to cover the office during vacation, sick, or furlough leave. The same is true for four cashiers, who have ACIS update access. We have an office rule in the criminal division if you receipt a payoff on a traffic offense you cannot dispose of the case in ACIS.

2. KEY SECURITY

Keys to various locations, including the safe and evidence room are stored in an unlocked desk drawer. While a sign-in/sign-out log is used to keep track of keys in use, access is not limited to specific employees.

Recommendation:

- Keys to sensitive areas should be adequately secured, and access should be limited to as few employees as possible.

Clerk's Response:

- As of May 18, 2009 we made the following policy – The bookkeeping department will keep



AUDIT FINDINGS AND RECOMMENDATIONS

the keys to the evidence rooms and anyone wanting access to these rooms will initial a log in and out sheet with the date and times. The criminal department will do an annual inventory of their evidence rooms. The safe is located in the evidence room on the first floor. There is a separate key to unlock the safe after signing out the key to the evidence room so access to the evidence room does not allow access to the safe.

GENERAL LEDGER

3. PROPERTY BONDS

The Clerk of Superior Court Procedures Manual (CSC Procedures Manual) provides guidance for taking criminal appearance secured bonds. Chapter 22 of the CSC Procedures Manual advises that the trustee designation should include the elected Clerk's name, the name of the office, and a successor trustee designation in the successor to the office (e.g., "Jane Doe, Clerk of Superior Court of Black County or her successor"). In addition, NCAOC counsel previously has advised that naming only the office as trustee (e.g., "Clerk of Superior Court of Black County") is sufficient.

We examined all deed of trust criminal appearance bonds held by the Clerk. Of the deeds examined, 13 did not comply with the recommendations of the CSC Procedures Manual or advice of NCAOC counsel. In ten of the deeds of trust, the Clerk's name was listed individually as the trustee, however, the title of the office held was absent, and no successor trustee was provided in the document. In two of the deeds of trust, the elected Clerk's name and name of the office were present; however, there was no provision for a successor trustee. In one of the deeds of trust, the Clerk's name was listed individually as the trustee, and while the document allowed a successor trustee, it did not identify the office holder as the successor trustee.

Recommendations:

- A substitution of trustee should be recorded for the 13 deeds of trust to amend the trustee to one of the following acceptable designations:
[1] "Clerk of Superior Court of Moore County", or
[2] <Name of Clerk>, Clerk of Superior Court of Moore County or his/her successor
- The two options listed above should be required in the future when taking deeds of trust for secured bonds.

Clerk's Response:

- We found in the body of the 13 deeds of trust in question the following statement, "The designation Grantor, Trustee, and Beneficiary as used herein shall include parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context." The attorneys involved with the deeds of trust are of the opinion that the foregoing language is sufficient and therefore have declined to amend them. As of May 18, 2009 we updated the Bond Policy of Moore County to say, "The deed of trust shall name Susan A. Hicks, Clerk of Superior Court of Moore County, Trustee, or her successor, and shall be payable to the State of North Carolina." As of this date eleven deeds of trust have been released and we only have two of the 13 outstanding.



ORDERING INFORMATION

To request a copy of the audit report, contact the Communications Office:

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