



ALAN WILSON
ATTORNEY GENERAL

February 8, 2011

Ms. Cynthia B. Forte
Register of Deeds
Berkeley County
P.O. Box 6122
Moncks Corner, SC 29461

Dear Ms. Forte:

We received your letter requesting an opinion of this Office concerning whether you, as a register of deeds, are required to file certain documents that, while meeting the legal prerequisites to recording, appear to be “unorthodox” and perhaps “sham type documents.”

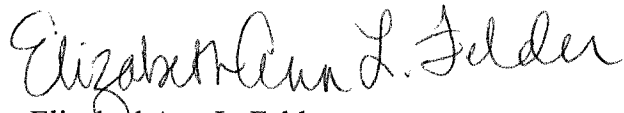
S.C. CODE ANN. § 30-9-30(B)(1) provides: “If a person presents a conveyance, mortgage, judgment, lien, contract, or other document to the clerk of court or the register of deeds for filing or recording, the clerk of court or the register of deeds may refuse to accept the document for filing if he reasonably believes that the document is materially false or fraudulent or is a sham legal process.” Further, if you have the same reasonable belief regarding a document that has been filed, you “may remove the document from the public records after giving thirty days’ written notice to the person on whose behalf the document was filed at the return address provided in the document.” S.C. CODE ANN. § 30-9-30(B)(2) For these purposes, “[s]ham legal process means a document that is not issued lawfully and that purports to be a judgment, lien, or order of a court or appropriate government entity, or otherwise purports to assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of a person or property.” S.C. CODE ANN. § 30-9-30(4)(a).

Accordingly, if you reasonably believe that a document presented for filing is materially false or fraudulent, or is a sham legal process, you are permitted by law to refuse to file the document or remove said document from the public records. The statute provides recourse for those who believe their document to be improperly refused for filing or improperly removed from filing, but S.C. CODE ANN. § 30-9-30(B)(3) is clear that the clerk of court or register of deeds “is not liable for damages,

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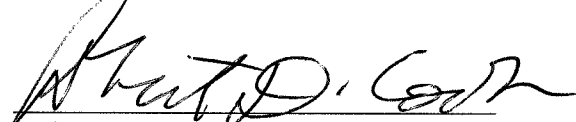
personally or in his official capacity, for the improper refusal or removal” of said document. If you have further questions, please do not hesitate to contact me.

Sincerely,



Elizabeth Ann L. Felder
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General