

1978 WL 35114 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 18, 1978

*1 Mrs. Virginia R. Eargle
Register of Mesne Conveyances
Aiken County
P.O. Box 537
Aiken, South Carolina 29801

Dear Mrs. Eargle:

You have recently inquired whether the Register of Mesne Conveyances Office or the Clerk of Court's Office in Aiken County should record and maintain articles of association.

Pursuant to § 33-51-40, '[q]ualified persons may form a professional association by executing and recording articles in the office of the Clerk of Court in the County in which the association's principal office is located.' The statute mandates that: [t]he Clerk shall record the articles of association, any amendments thereto or instruments of dissolution thereof in a separate book to be kept for that purpose. [Emphasis added].

Thus, the articles of association so filed are to be done so in the Office of the Clerk of Court. This conclusion is further substantiated by the language of § 33-51-40, which states that the articles of association 'shall not be required to be recorded or published elsewhere.'

Finally, since an out of state attorney would be unaware of any peculiar reasons or subtleties which might dictate recordation in the Register of Mesne Conveyances Office, and would instead rely upon the literal language of the Code of Laws of South Carolina, § 33-51-40, it would appear highly advisable that articles of association be recorded in the Office of the Clerk of Court as so mandated.

With best wishes I remain
Very truly yours,

Robert D. Cook
Staff Attorney

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