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VIA FACSIMILE (305) 856-4866
AND REGULAR MAIL

September 24, 2007

Norma Quintero
President
The Viscayans, Inc.
3251 South Miami Avenue
Miami, FL 33129

RE: REQUEST FOR ADVISORY OPINION 07-42

Dear Mrs. Quintero:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 20, 2007 and rendered its decision based on the facts stated in your letter.

You requested an opinion regarding potential voting conflicts between your service as member of the Vizcaya Trust and serving as President of the Vizcayans.

In your request, you advised the Commission that the Vizcaya Museum and Gardens Trust is a county board whose purpose is to serve as the governing board for Vizcaya. The Vizcaya Trust is charged with the responsibility of establishing rates and fees for Vizcaya and developing policies regarding membership, accreditation, gifts, outreach and fee waivers. The Vizcaya Trust is also responsible for negotiation and recommendation of agreements with Vizcaya support organizations.

Section 2-1111 of the Code of Miami-Dade County provides that the Vizcaya Trust board

shall be comprised of 23 members and include appointees from each member of the Board of County Commissioners, the Mayor and the County Manager. The enabling ordinance also requires that the President of the Vizcayans, the Guides and the Foundation of Villa Vizcaya serve as members of the Trust.

The Vizcayans is a private non-profit organization that was first chartered in 1957 to provide private financial support for the preservation and operation of Vizcaya. Towards that end, the Vizcayans serve as an advocacy group and operates several programs on behalf of Vizcaya including an endowment fund and a museum membership program.

The Vizcaya Trust is currently considering an extension of the operating agreement between The Vizcayans and the Trust. The operating agreement governs the relationship between the two entities.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits you to serve as a member of both boards and vote on matters concerning the Vizcayans as a member of the Vizcaya Trust. Section 2-11.1(v) provides that " no person... shall vote on any matter presented to an advisory board or a quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with the any of the persons or entities appearing before the board;(i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor."


Under the Ethics Commission's prior opinions, a board member or an enumerated person or entity must financially benefit from a decision for the board member to be directly affected. Since the Vizcayans is a non-profit entity, no board member may financially

benefit from his or her service or participation in the organization. Moreover, the structure of the Vizcaya Trust was designed so that Vizcaya support organizations could participate and vote on Trust policies and agreements that would affect the Vizcaya support organizations. Accordingly, you and other Vizcayan board members may vote on matters concerning the Vizcayans that come before the Trust since the non-profit status of the Vizcayans prohibits the President or any member from receiving any financial benefit as a result of his or her service to the Vizcayans.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding the opinion, please call the undersigned at (305) 579-2954 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director

cc: Joel Hoffman, Executive Director, Vizcaya
Museum and Gardens