



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
CANCER CARE, INC.

CONDITION:

DECEMBER 31, 2012

DATE OF REPORT:

AUGUST 7, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

MOSHE STEMPEL

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Anthony J. Albanese  
Acting Superintendent

November 25, 2015

Honorable Anthony J. Albanese  
Acting Superintendent of Financial Services  
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30918, dated March 18, 2013 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Cancer Care, Inc., hereinafter referred to as “the Fund,” at its home office located at 275 Seventh Avenue, New York, NY 10001.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

The report indicating the results of this examination is respectfully submitted.

## 1. EXECUTIVE SUMMARY

The examiner recommends that the Fund's board of directors or investment committee review the purchases and sales activities of the Fund at least annually and note the same in the minutes. (See item 4 of this report)

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2012 filed annual statement. (See item 5 of this report)

The Fund is not currently writing any new annuities. The Fund issued two annuities during the exam period, both to an existing client. (See item 6 of this report)

The examiner's review of the Fund's treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (See item 7 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2007. This examination covers the period from January 1, 2008 through December 31, 2012. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2012 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2012 to determine whether the Fund's filed 2012 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner also reviewed the corrective actions taken by the Fund with respect to the violations, recommendations and comment contained in the prior report on examination. The results of such review are contained in item 8 of this report.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations, or rules or which require explanation or description.

### 3. DESCRIPTION OF FUND

Cancer Care, Inc. (the “Corporation”) is organized for the purpose of providing emotional support, information, and patient services to people with cancer and their loved ones. Under the provisions of its by-laws, the Corporation is permitted to issue gift annuity agreements and it has done so since 1989. A special permit was granted to the Corporation by the New York State Insurance Department on December 29, 1993, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund solicits new business from potential annuitants and deposits amounts received into its annuity account with the Bank of New York, the Fund’s custodian. All annuity benefit payments are made from the Corporation’s operating account. The Corporation has a service agreement with Hemmenway & Reinhardt, Inc. to prepare the annual statements, calculate the reserves, and process gifts, terminations and annuity benefit payments on behalf of the Fund. The Corporation maintains a service agreement with Hirtle, Callaghan, and Co. to invest the Fund’s assets, select intermediaries to effect transactions, and to appoint investment advisors to manage portions of the account assets.

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 36 and the number of regular voting trustees shall not be less than nine. As of December 31, 2012, the board consisted of 33 trustees. The trustees elect a President, Executive Vice-President, not more than three vice-presidents, a Secretary, an Assistant Secretary, a Treasurer and an Assistant Treasurer. The nomination and election procedures of the trustees and their term of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

The examiner requested the board of trustees' minutes for the examination period. The Fund was unable to provide the examiner with copies of the Fund's board minutes.

The examiner recommends that the Fund's board of directors or investment committee review the purchases and sales activities of the Fund at least annually and note the same in the minutes.

## 5. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the Fund's financial growth (decline) during the period under review:

	<u>December 31,</u> <u>2007</u>	<u>December 31,</u> <u>2012</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$729,852</u>	<u>\$646,331</u>	<u>\$(83,521)</u>
Liabilities	<u>\$246,047</u>	<u>\$169,975</u>	<u>\$(76,072)</u>
Minimum required surplus	\$ 24,605	\$ 16,998	\$ (7,607)
Unassigned funds (surplus)	<u>459,200</u>	<u>459,358</u>	<u>158</u>
Total surplus	<u>\$483,805</u>	<u>\$476,356</u>	<u>\$(7,449)</u>
Total liabilities and surplus	<u>\$729,852</u>	<u>\$646,331</u>	<u>\$(83,521)</u>

The decrease in assets, liabilities and surplus reflects a decrease in the total number of annuities in force. Annuities decreased from 31 with annual payment amounts of \$40,832 as of December 31, 2007 to a total of 25 with annual payment amounts of \$21,795 as of December 31, 2012.

Admitted assets decreased as there were five years of annuity payouts totaling about \$100,000, compared to only two new contracts written for \$20,000. Liabilities decreased by about 30% since the deaths exceeded the contracts written.

The Fund's admitted assets, as of December 31, 2012, were mainly invested in common stocks (97.94%).

## 6. SIGNIFICANT EVENT

The Fund is not currently writing any new annuities. The Fund issued two annuities during the exam period, both to an existing client.

## 7. TREATMENT OF ANNUITANTS

The examiner reviewed a sample of annuity files to determine whether the annuitants were treated fairly and in accordance with the provisions of the annuity agreements. The examination also consisted of a review of the various controls involved, a check of the accuracy of the computations and the tracing of accounting data to the books of account. Based upon the sample reviewed, no significant findings were noted.

## 8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comment contained in the prior report on examination and the subsequent actions taken by the Fund in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Fund violated Section 1110(a) of the New York Insurance Law by using annuity agreement forms that were not filed with the Superintendent.</p> <p>The Fund consulted with Department attorneys regarding how to rectify this violation. The Department attorneys instructed the Fund to write a letter indicating what the Fund considers may have happened in the past and that the Fund does not plan on issuing new annuities, but if the Fund issues new annuities, it would have the forms reviewed. The letter should also include a list of all annuities written in NY that are still active and those that terminated, as well as a representative sample of the contracts the Fund has used in the past. The Fund sent the letter to the Department attorneys as requested.</p>
B	<p>The examiner recommended that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously submitted.</p> <p>See item A above for the Fund's response to this recommendation.</p>
C	<p>The examiner recommended that the Fund maintain minutes for the meetings of the board of trustees and its authorized committees.</p> <p>A similar recommendation is contained in this report.</p>
D	<p>The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain statements signed by its board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law and get the signature of each board member indicating that they received and read the prior report on the examination.</p> <p>The Fund maintains statements signed by its board members indicating that they received and read the prior report on examination.</p>

<u>Item</u>	<u>Description</u>
E	<p>The examiner recommended that the Fund change all its service agreements in the name of The Segregated Gift Annuity Fund of the Cancer Care, Inc., in place of Cancer Care, Inc.</p> <p>The Fund executed a new agreement with its actuary, Hemmenway and Reinhardt, with the requested name change. The Fund also changed the name on its account with the Bank of New York to reflect the requested name change.</p>
F	<p>The examiner recommended that the Fund comply with the annual statement instructions and sign the Jurat page with two principal officers' signature and get the same notarized.</p> <p>The Fund's filed annual statements contained the signed Jurat page with the notarized signatures of its two principal officers.</p>
G	<p>The examiner recommended that the Fund comply with the annual statement instructions and report all required information on "Notes to Financial Statements" appropriately.</p> <p>The Fund instructed its actuary, Hemmenway and Reinhardt, to correct the Notes to Financial Statements in the filings for 2011, 2012, and prospectively. The examination revealed that the Fund prepared its Notes to Financial Statements correctly for its 2012 annual statement.</p>
H	<p>The Fund understated its assets and surplus by \$14,637. The examiner recommends that the Fund exercise proper care in the preparation of its future annual statements.</p> <p>A review of the Fund's reconciliation of its 2012 annual statement to its general ledger and asset account statements revealed that the Fund's 2012 annual statement was prepared properly.</p>

9. SUMMARY AND CONCLUSIONS

Following is the recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund's board of directors or investment committee review the purchases and sales activities of the Fund at least annually and note the same in the minutes.	5

Respectfully submitted,

\_\_\_\_\_/s/  
Moshe Stempel  
Insurance Examiner

STATE OF NEW YORK     )  
  )SS:  
COUNTY OF NEW YORK    )

MOSHE STEMPEL, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

\_\_\_\_\_/s/  
Moshe Stempel

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

*APPOINTMENT NO. 30918*

*NEW YORK STATE*

***DEPARTMENT OF FINANCIAL SERVICES***

*I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:*

***MOSHE STEMPEL***

*as a proper person to examine the affairs of the*

***SEGREGATED GIFT ANNUITY FUND OF THE  
CANCER CARE, INC.***

*and to make a report to me in writing of the condition of said*

***FUND***

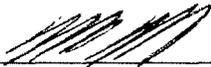
*with such other information as he shall deem requisite.*

*In Witness Whereof, I have hereunto subscribed my name  
and affixed the official Seal of the Department  
at the City of New York*

*this 18th day of March, 2013*

*BENJAMIN M. LAWSKY  
Superintendent of Financial Services*

*By:*

*  
MICHAEL MAFFEI*

*ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU*

