



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

NEW YORK PUBLIC LIBRARY, ASTOR, LENOX AND TILDEN

FOUNDATIONS

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

MAY 22, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

JAMES WANG

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

June 20, 2016

Honorable Maria T. Vullo  
Superintendent of Financial Services  
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31321, dated May 14, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the New York Public Library, Astor, Lenox and Tilden Foundations, hereinafter referred to as the “Fund,” at its home office located at Fifth Avenue and 42<sup>nd</sup> Street, Room 73, New York, New York 10018

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 diversify its investment holdings. (See item 4 of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement (“ISS”). The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS’s risk, return, and time horizon objectives. (See item 4 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 5 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2009. This examination covers the period from January 1, 2010 through December 31, 2014. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2014 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, 2014 to determine whether the Fund's filed 2014 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner reviewed the prior report on examination which did not contain any violations, recommendations or comments.

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

The New York Public Library, Astor, Lenox and Tilden Foundations (“the Library”) is organized for the purpose of establishing, operating, and maintaining a free public library and reading room in the city of New York. Under the provisions of its by-laws, the Library is permitted to issue gift annuity agreements and it has done so since 1993. A special permit was granted to the Library by the Department on August 28, 1995, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

Operations related to the issuance of annuity agreements are handled by the Fund. State Street Bank and Trust Company (“State Street”) is the custodian and investment manager of the Fund’s investments and issues annuity benefit checks to the annuitants. State Street sub-contracts the preparation of the annual statement to The Bookkeeping Agency, John C. Freeston, CFSC and Proprietor.

The management of the Library and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to not more than 48 nor less than 25 regular voting trustees. As of December 31, 2014, the board consisted of 39 trustees. The trustees elect a chairman, vice chairman, treasurer, secretary and president. The nomination and election procedures of the trustees and their term of office are set by the by-laws.

#### 4. SIGNIFICANT FINANCIAL INFORMATION

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

	<u>December 31,</u> <u>2009</u>	<u>December 31,</u> <u>2014</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$6,250,871</u>	<u>\$6,199,599</u>	<u>\$ (51,272)</u>
Liabilities	<u>\$4,756,052</u>	<u>\$4,865,145</u>	<u>\$ 109,093</u>
Minimum required fund balance	\$ 475,605	\$ 486,515	\$ 10,910
Excess fund balance (surplus)	<u>1,019,214</u>	<u>847,939</u>	<u>(171,275)</u>
Total annuity fund balance	<u>\$1,494,819</u>	<u>\$1,334,454</u>	<u>\$(160,365)</u>
Total liabilities and annuity fund balance	<u>\$6,250,871</u>	<u>\$6,199,599</u>	<u>\$ (51,272)</u>

The decrease in assets is attributable to gross amounts transferred to general funds of the corporation.

The decrease in the annuity fund balance reflects a decrease in the Fund's assets compared to the increase in the Fund's liabilities.

The increase in liabilities reflects an increase in the total number of annuities in force. Annuities increased from 388 with annual payment amounts of \$683,018 as of December 31, 2009 to a total of 392 with annual payment amounts of \$727,233 as of December 31, 2014.

The Fund's admitted assets, as of December 31, 2014, were invested mainly in common stocks (97.78%).

Section 1409(a) of the New York Insurance Law states,

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

According to the 2014 annual statement, the Fund reported: 40.16% invested in the securities of Russell 1000 Non-Lend Collective Trust Fund (“CTF”); 28.61% invested in the securities of Passive Bond Market Index CTF; and 14.28% invested in the securities of EAFE Index CTF. The Fund’s current concentration in the three funds makes it highly unlikely that the Fund’s other assets could provide a variability to offset the risks inherent in the funds.

The examiner recommends that the Fund diversify its investment holdings. A trustee using reasonable care, skill and caution should diversify the Fund’s assets. A diversification is proper when it disperses the investments’ risks consistent with the Investment Strategy Statement’s (“ISS”) risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Section 1409 of the New York Insurance Law is instructive. Limiting exposure to any assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in the investment in that institution are offset by the rest of the portfolio. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the ISS’s risk, return, and time horizon parameters.

The examiner recommends that the Fund adopt an Investment Strategy Statement. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS’s risk, return, and time horizon objectives.

## 5. 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.

The examiner's review of a sample of 16 annuity contracts terminated revealed that in 6 (37.50%) of the cases reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.

## 6. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund diversify its investment holdings.	6
B	The examiner recommends that the Fund adopt an Investment Strategy Statement (“ISS”). The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS’s risk, return, and time horizon objectives.	6
C	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	7

Respectfully submitted,

\_\_\_\_\_/s/  
James Wang  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
James Wang

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

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:

**JAMES WANG**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
NEW YORK PUBLIC LIBRARY, ASTOR, LENOX AND TILDEN FOUNDATIONS**

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 14th day of May, 2015

BENJAMIN M. LAWSKY  
Superintendent of Financial Services

By:

*Mark McLeod*

MARK MCLEOD  
ASSISTANT CHIEF - LIFE BUREAU

