



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
CATHOLIC CHARITIES, DIOCESE OF BROOKLYN

CONDITION:

DECEMBER 31, 2012

DATE OF REPORT:

NOVEMBER 27, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

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EXAMINER:

MICHAEL PEKULY

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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 5, 2015

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

Sir:

In accordance with instructions contained in Appointment No. 30919, 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 Catholic Charities, Diocese of Brooklyn, hereinafter referred to as “the Fund,” at its home office located at 191 Joralemon Street, Brooklyn, NY 11201.

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

## 1. EXECUTIVE SUMMARY

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. (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 violated Section 1110(a) of the New York Insurance Law by using gift annuity forms that were not filed with the Superintendent. The examiner recommends that the Fund submit to the Superintendent all gift annuity agreement forms that were used during the examination period that have not been previously filed and accepted by the Superintendent. (See item 6 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 recommendation contained in the prior report on examination. The results of such review are contained in item 7 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

The Catholic Charities, Diocese of Brooklyn is organized for the purpose of aiding, supporting and advising Catholics within the Diocese of Brooklyn, NY. Under the provisions of its by-laws, the Diocese is permitted to issue gift annuity agreements and it has done so since 1994. A special permit was granted to the Diocese by the Department on August 25, 1997, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. The Fund is responsible for the recordkeeping of the annuity contracts including the recordkeeping of deceased annuitants, including death certificates.

The Fund's custodian is Fiduciary Trust Company International ("Fiduciary"). Fiduciary manages the majority of the functions of the Fund, including investment management, the intake of gifts, including stocks, preparation of the Fund's income tax returns, generation of payments to annuitants, and distribution of annuity payments to annuitants.

The management of the Catholic Charities Diocese of Brooklyn and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to between 10 and 25 regular voting trustees. As of December 31, 2012, the board consisted of 19 trustees. The trustees elect the President, Vice President, Secretary, and Treasurer. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

Section 312 of the New York Insurance Law states, in part:

“(a) The superintendent shall forward to every insurer or other person examined a copy of the report on examination as filed for public inspection . . . (b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer’s files confirming that such member has received and read such report . . .”

The Fund failed to maintain statements signed by each board member indicating that they received and read the prior report on examination.

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 reviewed the board of trustees’ minutes to determine if the board approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the board approved the purchases and sales of investments during the examination period.

The examiner recommends that the board of trustees, or a committee thereof, approve the purchase and sale of all investments and that such approvals be noted in respective minutes. This is a repeat recommendation.

## 5. SIGNIFICANT FINANCIAL INFORMATION

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

	December 31, <u>2007</u>	December 31, <u>2012</u>	<u>(Decrease)</u>
Admitted assets	\$ <u>1,744,510</u>	\$ <u>1,511,800</u>	\$( <u>232,710</u> )
Liabilities	\$ <u>938,711</u>	\$ <u>812,615</u>	\$( <u>126,096</u> )
Minimum required surplus	\$ 93,871	\$ 81,261	\$ (12,610)
Unassigned funds (surplus)	<u>711,928</u>	<u>617,924</u>	<u>(94,004)</u>
Total surplus	\$ <u>805,799</u>	\$ <u>699,185</u>	\$( <u>106,614</u> )
Total liabilities and surplus	\$ <u>1,744,510</u>	\$ <u>1,511,800</u>	\$( <u>232,710</u> )

Note: Any decreases are due to rounding

The decrease in assets, liabilities and surplus reflects a decrease in the total number of annuities in force. Annuities decreased from 58 with annual payment amounts of \$122,856 as of December 31, 2007 to a total of 44 with annual payment amounts of \$96,004 as of December 31, 2012. The decrease in assets, liabilities and surplus is also attributable to the decrease in the Fund's bond holdings, from a market value of \$455,701 as of December 31, 2007 to \$385,110 as of December 31, 2012.

The Fund's admitted assets, as of December 31, 2012, were mainly invested in common stocks (61.55%) and bonds (25.47%). All bonds held were investment grade.

## 6. 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.

Section 1110(a) of the New York Insurance Law states, in part,

“...Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants...”

The examiner’s review of three gift annuity agreements issued in New York during the examination period revealed that, in two instances, the Fund used gift annuity agreement forms that deviated from those filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity forms that were not filed with the Superintendent. The examiner recommends that the Fund submit to the Superintendent all gift annuity agreement forms that were used during the examination period that have not been previously filed with the Superintendent.

The examiner reviewed 17 annuity terminations that occurred during the examination period. The terminations involved 11 annuitants. For four annuities involving three annuitants, the Fund failed to maintain adequate proof of the annuitant's death. For two annuitants, no death claim documentation was maintained. For the other annuitant, only a letter acknowledging the annuitant's death was maintained.

The examiner recommends that the Fund maintain a copy of the annuitant’s death certificate or other authenticated documentation in the annuitant’s file to support the termination of the annuity.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation contained in the prior report on examination and the subsequent action taken by the Fund in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommended that the board of directors, or a committee thereof, approve the purchase and sale of all investments and that such approvals be noted in respective minutes.</p> <p>The examiner's review indicated that the Fund again failed to provide any evidence that the board approved the purchases and sales of investments.</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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.	5
B	The examiner recommends that the board of trustees, or a committee thereof, approve the purchase and sale of all investments and that such approvals be noted in respective minutes. This is a repeat recommendation.	5
C	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity forms that were not filed with the Superintendent.	7
D	The examiner recommends that the Fund submit to the Superintendent all gift annuity agreement forms that were used during the examination period that have not been previously filed with the Superintendent.	7
E	The examiner recommends that the Fund maintain a copy of the annuitant's death certificate or other authenticated documentation in the annuitant's file to support the termination of the annuity.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Michael Pekuly  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Michael Pekuly

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

APPOINTMENT NO. 30919

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:

**MICHAEL PEKULY**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
CATHOLIC CHARITIES DIOCESE OF BROOKLYN**

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

