



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
JEWISH MUSEUM

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

SEPTEMBER 12, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

MATTHEW POLVINO

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

May 15, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31600, dated April 20, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Jewish Museum, hereinafter referred to as the “Fund.” The Fund’s home office is located at 1109 Fifth Avenue, New York, NY 10128.

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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain 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 by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination. (See item 4 of this report)

The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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 Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters. (See item 5 of this report)

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (See item 6 of this report)

The examiner recommends that the Fund prepare its annual statements according to the Department's instructions. (See item 7 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2011. This examination covers the period from January 1, 2012 through December 31, 2016. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2016 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, 2016 to determine whether the Fund's filed 2016 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 and recommendations 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

The Jewish Museum (the “Museum”) is organized for the purpose of collecting, preserving, exhibiting and interpreting art and Jewish Culture. The Museum has been issuing gift annuity agreements since 1997, per Board resolution. A permit was granted to the Museum by the Department on April 25, 2003 for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Jewish Museum retains Cornerstone Institutional Investors, LLC (“Cornerstone”) to manage the investments of the Fund and act as the “back office” for the various functions that the Fund performs. Cornerstone in turn hires PG Calc to provide the database of gifts, make payments and provide the reserve and liability reporting required for the Fund and the annual filings. The Jewish Museum utilizes the services of OSGroup for the preparation of annual reports that are submitted to the Department.

First State Trust Company is the custodian for the Museum’s invested assets.

The management of the Museum 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 less than five (5) and no more than forty (40) regular voting trustees. As of December 31, 2016, the board consisted of 25 trustees. The trustees elect a Chairperson, a President, a Director, three (3) Vice-Chairpersons (without order of seniority), a Vice-President, a Treasurer, an Assistant Treasurer, a Secretary and an Assistant Secretary. 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:

“(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 provide 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 obtain 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 by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.

## 5. SIGNIFICANT FINANCIAL INFORMATION

The following summary table indicates the decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2011</u>	<u>December 31,</u> <u>2016</u>	<u>(Decrease)</u>
Admitted assets	\$ <u>1,779,740</u>	\$ <u>1,353,481</u>	\$( <u>426,259</u> )
Liabilities	\$ <u>1,553,492</u>	\$ <u>1,216,900</u>	\$( <u>336,592</u> )
Minimum required fund balance	\$ 155,349	\$ 121,690	\$ (33,659)
Excess fund balance (surplus)	<u>70,899</u>	<u>14,891</u>	<u>(56,008)</u>
Total annuity fund balance	\$ <u>226,248</u>	\$ <u>136,581</u>	\$ <u>(89,667)</u>
Total liabilities and annuity fund balance	\$ <u>1,779,740</u>	\$ <u>1,353,481</u>	\$( <u>426,259</u> )

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 22 with annual payment amounts of \$197,781 as of December 31, 2011 to a total of 20 with annual payment amounts of \$195,837 as of December 31, 2016.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in stocks (91.72%).

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 2016 annual statement on file, the Fund reported 35.92% of its admitted assets invested in the securities of Ridgeworth SEIX Core Bond I and 12.58% of its admitted assets invested in the securities of JHANCOCK2 GLOBAL Absolute. The Fund's current concentration in

the two securities make it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the funds.

Based upon the concentration in the above two funds, the examiner recommends that the Fund strengthen the diversification of its investment holdings. 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. 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 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.

## 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.

The examiner reviewed the two annuity contracts terminated during the exam period. The examiner determined that for one contract, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

## 7. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York Segregated Gift Annuity Fund Annual Statement ("Annual Statement"), namely Schedule B – Money Market Mutual Funds (for the 2014 and 2015 Annual Statements), state in part:

"Column 4 – Cost - Total should agree with the amount reported on Exhibit 2, Line 10, Column 3.

Column 5 – Market Value, End of Year - Total should agree with the amount reported on Page 2, Line 4; and Exhibit 2, Line 10, Column 4."

The Fund reported a market value for money market mutual funds of \$54,396 in Schedule B of its 2014 statement. However, in Exhibit 2, Line 10, Column 4 the Fund reported a market value of \$59,181.

The Fund reported a market value for money market mutual funds of \$62,122 in Schedule B of its 2015 statement. However, in Exhibit 2, Line 10, Column 4 the Fund reported a market value of \$59,181.

The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.

## 8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendations 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 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.</p> <p>The examination revealed that the Fund failed to take corrective action in response to this prior report violation. See item 4 of this report.</p>
B	<p>The Fund violated Section 1110(a) of New York Insurance Law when it used annuity agreement forms that were not filed with the Superintendent.</p> <p>The examination revealed that the Fund did not issue any new annuity agreements during the period under examination.</p>
C	<p>The examiner recommended that the Fund obtain adequate proof of death such as a certified copy of the death certificate and maintain such proof in the annuitants file.</p> <p>The examination revealed that the Fund failed to take corrective action in response to this prior report violation. See item 6 of this report.</p>
D	<p>The examiner recommended that the Fund comply with OGC Opinion No. 96-50 by contracting with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.</p> <p>The examination revealed that the Fund contracted with First State Trust Company, a licensed trust company, to serve as the Fund's custodian for the Fund's securities.</p>
E	<p>The examiner recommended that the Fund exercise due diligence in the preparation of future filed annual statements.</p> <p>The examination revealed no recurrence of the discrepancies noted.</p>

## 9. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations 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 obtain statements signed by its board members indicating that they received and read the prior report on examination.	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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.	7
D	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	8
E	The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.	9

Respectfully submitted,

\_\_\_\_\_/s/  
Matthew Polvino  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Matthew Polvino

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

**APPOINTMENT NO. 31600**

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, **MARIA T. VULLO**, 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:

**MATTHEW POLVINO**

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

**SEGREGATED GIFT ANNUITY FUND OF THE  
JEWISH MUSEUM**

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

**FUND**

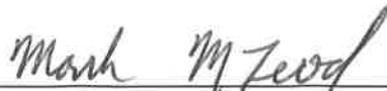
*with such other information as he shall deem requisite.*

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

*this 20th day of April, 2017*

**MARIA T. VULLO**  
*Superintendent of Financial Services*

By:



**MARK MCLEOD**  
**DEPUTY CHIEF - LIFE BUREAU**

