



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
NORTH SHORE ANIMAL LEAGUE AMERICA, INC.

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

JUNE 2, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

ELKIN WOODS

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

July 25, 2017

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

Madam:

In accordance with instructions contained in Appointment No. 31464, dated April 25, 2016 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the North Shore Animal League America, Inc., hereinafter referred to as the "Fund." The Fund's home office is located at 750 Port Washington Boulevard, Port Washington, NY 11050.

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 trustees review the activities of the Fund at least annually and note the same in the minutes. (See item 4 of this report)

The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals 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, 2015 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 agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 6 of this report)

The examiner recommends that the Fund issue annuities with rates that adhere to the maximum rates recommended by the American Council on Gift Annuities. (See item 6 of this report)

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

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2010. This examination covers the period from January 1, 2011 through December 31, 2015. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2015 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, 2015 to determine whether the Fund's filed 2015 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 North Shore Animal League America, Inc. (the “Organization”) is organized to provide, promote and advance the humane protection, care and treatment of animals by any and all means; to foster kindness to animals and to promote their welfare in every manner possible by humane education and otherwise; to purchase, publish, print and circulate literature to promote kindness to animals and the work of the Organization. Under the provisions of its by-laws, the Organization is allowed to issue gift annuity agreements and it has done so since 1995. A special permit was granted to the Organization by the Department on February 2, 2006, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

PG Calc, Incorporated provides administrative services on behalf of the Fund, including account calculations, the maintenance of an annuitant database and the processing of annuity payments and forms, including Form 1099 and 1096 Transmittal Forms. Reliance Trust Company of Delaware provides custodial and investment services pursuant to a managing agent and custody agreement on behalf of the Fund.

The management of the organization and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to no less than three nor more than 15 regular voting trustees. As of December 31, 2015, the board consisted of five trustees. The trustees elect a Chairperson/Secretary, a President, a Treasurer, and one or more vice presidents. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

The examiner requested copies of the board minutes for the examination period. The Fund responded that there are no minutes presented to the board of trustees relating to the activities of the Fund. As such, there was no indication that the board reviewed the activities of the Fund, including approval of the purchases and sales of the Fund's investments.

The examiner recommends that the Fund's board of trustees review the activities of the Fund at least annually and note the same in the minutes.

The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.

## 5. SIGNIFICANT FINANCIAL INFORMATION

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

	<u>December 31,</u> <u>2010</u>	<u>December 31,</u> <u>2015</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	\$ <u>2,558,113</u>	\$ <u>2,535,714</u>	\$ <u>(22,399)</u>
Liabilities	\$ <u>1,795,465</u>	\$ <u>1,169,885</u>	\$ <u>(625,580)</u>
Minimum required fund balance	\$ 179,547	\$ 116,988	\$ (62,559)
Excess fund balance (surplus)	<u>583,101</u>	<u>1,248,841</u>	<u>665,740</u>
Total annuity fund balance	\$ <u>762,648</u>	\$ <u>1,365,829</u>	\$ <u>603,181</u>
Total liabilities and annuity fund balance	\$ <u>2,558,113</u>	\$ <u>2,535,714</u>	\$ <u>(22,399)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 100 with annual payment amounts of \$235,953 as of December 31, 2010 to a total of 74 with annual payment amounts of \$171,561 as of December 31, 2015.

The increase in annuity fund balance is attributable primarily to a decrease in actuarial reserves.

The Fund's admitted assets, as of December 31, 2015, were mainly invested in common stocks (67.95%) and bonds (27.01%). 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 the 9 gift annuity agreement forms used by the fund for gift annuities issued in New York during the examination period noted that in 2 instances, the Fund used gift annuity agreement forms that differed from the gift annuity agreements filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

The examiner’s review of a sample of 9 annuities issued during the examination period revealed that in 1 out of 9 annuities, the Fund exceeded the annuity rate recommended by the American Council on Gift Annuities.

The examiner recommends that the Fund issue annuities with rates that adhere to the maximum rates recommended by the American Council on Gift Annuities.

## 7. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York Segregated Gift Annuity Fund Annual Statement ("Annual Statement") are as follows for these line items:

1. Instructions for Completing Line 20.3 (Total Annuity Fund Balance) in the Liabilities and Annuity Fund Balance section of the Annual Statement for the years 2014, 2013, and 2012 state, in part, that:

"Line 20.3 Total Annuity Fund Balance:

'Current Year' Column: The difference of the Total Assets (Page 2, Line 9) and Total Liabilities (Page 2, Line 19). This amount must equal to the sum of Lines 20.1 and 20.2, as well as the amount on Page 3, Line 15. 'Prior Year' Column: Report prior year's Total Annuity Fund Balance."

2. Instructions for Completing Line 15 (Annuity Fund Balance at end of year) in the Income and Disbursement section of the Annual Statement for the years 2014, 2013, and 2012 state, in part, that:

"Line 15 'Current Year' Column: Must equal the sum of Lines 13 and 14, as well as Page 2, Line 20.3. 'Prior Year' Column: Report prior year's Annuity Fund Balance at end of year."

The Fund reported Annuity Fund Balance of \$1,431,126 in the Income and Disbursements page of its 2014 Annual Statement, an amount which does not equal the reported Annuity Fund Balance of \$1,428,977 in page 2, line 20.3 of its 2014 Annual Statement.

The Fund reported Annuity Fund Balance of \$1,181,392 in the Income and Disbursements page of its 2013 Annual Statement, an amount which does not equal the reported Annuity Fund Balance of \$1,185,746 in page 2, line 20.3 of its 2013 Annual Statement.

The Fund reported Annuity Fund Balance of \$787,803 in the Income and Disbursements page of its 2012 Annual Statement, an amount which does not equal the reported Annuity Fund Balance of \$781,880 in page 2, line 20.3 of its 2012 Annual Statement.

3. Instruction for Completing the Exhibit of Annuities In Force, namely column 1 “Reserve,” for all years during the examination period (January 1, 2011 through December 31, 2015) state, in part, that:

“Column 1 ‘Reserve’ - The amount reported on Line 1 (i.e., the current year) should agree with the amount reported at Page 2, Line 10b.”

The Fund reported \$1,169,885 in page 2, line 10b in its 2015 Annual Statement; however, the Fund reported a reserve of \$1,017,291 in column 1, line 1 in the exhibit of annuities in force of its 2015 Annual Statement, an amount which does not agree with that reported in page 2, line 10b. The examiner determined that the Fund should have reported a reserve of \$1,169,885 in its exhibit of annuities in force.

The Fund reported \$1,199,336 in page 2, line 10b in its 2014 Annual Statement; however, the Fund reported a reserve of \$1,042,901 in column 1, line 1 in the exhibit of annuities in force of its 2014 Annual Statement, an amount which does not agree with that reported in page 2, line 10b. The examiner determined that the Fund should have reported a reserve of \$1,199,336 in its exhibit of annuities in force.

The Fund reported \$1,368,099 in page 2, line 10b in its 2013 Annual Statement; however, the Fund reported a reserve of \$1,189,651 in column 1, line 1 in the exhibit of annuities in force of its 2013 Annual Statement, an amount which does not agree with that reported in page 2, line 10b. The examiner determined that the Fund should have reported a reserve of \$1,368,099 in its exhibit of annuities in force.

The Fund reported \$1,441,878 in page 2, line 10b in its 2012 Annual Statement; however, the Fund reported a reserve of \$1,253,807 in column 1, line 1 in the exhibit of annuities in force of its 2012 Annual Statement, an amount which does not agree with that reported in page 2, line 10b. The examiner determined that the Fund should have reported a reserve of \$1,441,878 in its exhibit of annuities in force.

The Fund reported \$1,678,641 in page 2, line 10b in its 2011 Annual Statement; however, the Fund reported a reserve of \$1,459,688 in column 1, line 1 in the exhibit of annuities in force of its 2011 Annual Statement, an amount which does not agree with that reported in page 2, line 10b. The examiner determined that the Fund should have reported a reserve of \$1,678,641 in its exhibit of annuities in force.

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

## 8. 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 examiner recommends that the Fund's board of trustees review the activities of the Fund at least annually and note the same in the minutes.	5
B	The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
C	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.	7
D	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	7
E	The examiner recommends that the Fund issue annuities with rates that adhere to the maximum rates recommended by the American Council on Gift Annuities.	7
F	The examiner recommends that the Fund prepare its annual statements according to the Department's annual statement instructions.	10

Respectfully submitted,

\_\_\_\_\_/s/  
Elkin Woods  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Elkin Woods

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

*APPOINTMENT NO. 31464*

*NEW YORK STATE*

***DEPARTMENT OF FINANCIAL SERVICES***

*I, MARIA T. VULLO, Acting 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:*

***ELKIN WOODS***

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

***SEGREGATED GIFT ANNUITY FUND OF THE  
NORTH SHORE ANIMAL LEAGUE AMERICA, 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 25th day of April, 2016*

*MARIA T. VULLO  
Acting Superintendent of Financial Services*

*By:*

*Mark McLeod*

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

