



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
DOMINICAN FRIARS GUILDS

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

OCTOBER 6, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

IKENNA ONYEGWARA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

February 8, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31597, dated August 10, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Dominican Friars Guilds, hereinafter referred to as “the Fund,” at its home office located at 141 East 65<sup>th</sup> Street New York, NY 10065.

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 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 directors, 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 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 filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms not previously filed with the Superintendent. (See item 6 of this report).

The examiner recommends that the Fund use on all annuity benefit payment checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. (See item 6 of this report).

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities. (See item 7 of this report).

The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Annual Statement. (See item 8 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 recommendation contained in the prior report on examination. The results of such review are contained in item 9 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 Dominican Friars Guilds (the “Association”) is organized for the purpose of promoting the missionary charitable and religious activities of the Province of Saint Joseph of the Dominican Order, also known as the Order of Preachers, within the U.S. and throughout the world to publicize the aforementioned works, etc. The Association has been issuing gift annuity agreements since 1984. A permit was granted to the Association by the Department on October 18, 2007, for the purpose of issuing 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.

The Fund’s custodian is Neuberger Berman.

The management of the Association and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is set at five regular voting directors. As of December 31, 2016, the board consisted of five directors. The directors elect the Vice-President, the Secretary, the Treasurer, and the Assistant Treasurer. The President is the Provincial of the Province of Saint Joseph. The Executive Director is a Dominican named by the Provincial Chapter of the Province of Saint Joseph. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

The examiner requested the board of director's minutes for the examination period. The Fund provided the examiner with the 2014 board minutes and stated that "with the exception of the November 2014 meeting, the DFG directors did not have any updates to report at these bi-annual meetings during 2012-2016."

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

The examiner reviewed the board of directors' minutes to determine whether 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 directors, 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>2011</u>	<u>December 31,</u> <u>2016</u>	<u>Increase</u>
Admitted assets	\$ <u>701,248</u>	\$ <u>775,340</u>	\$ <u>74,092</u>
Liabilities	\$ <u>668,122</u> *	\$ <u>697,860</u> *	\$ <u>29,738</u>
Minimum required fund balance	\$ 66,812*	\$ 69,786*	\$ 2,974
Excess fund balance (surplus)	<u>(33,687)</u> *	<u>7,694</u> *	<u>41,381</u>
Total annuity fund balance	\$ <u>33,126</u> *	\$ <u>77,480</u> *	\$ <u>44,354</u>
Total liabilities and annuity fund balance	\$ <u>701,248</u>	\$ <u>775,340</u>	\$ <u>74,092</u>

\*2011 and 2016 amounts recalculated by the examiner. (See item 8 of this report)

The increase in assets and liabilities reflects an increase in the total number of annuities in force. Annuities increased from 18 with annual payment amounts of \$57,847 as of December 31, 2011 to a total of 31 with annual payment amounts of \$71,049 as of December 31, 2016.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in bonds (19.37%) and common stocks (68.03%). 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 2 gift annuity agreement forms used by the fund for gift annuities issued in New York during the examination period noted that in both 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 filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms not previously filed with the Superintendent.

The examiner’s review of a sample of benefit payments made to annuitants during the examination period revealed that the Fund makes annuity payments from an account maintained in the name of the Association.

The examiner recommends that the Fund’s use on all annuity benefit payment checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.

7. CUSTODIAN

The Fund's custodian is Neuberger Berman. The examiner determined that Neuberger Berman is not a licensed bank or trust company.

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.

## 8. ANNUAL STATEMENT REPORTING

A review of the annual statements for the examination period shows that the Fund did not report any amount on each Page 2 for Line 10a, additional reserve required by Regulation 126. This resulted in the Fund reporting incorrect amounts for: line 12, net reserve; line 20.1, minimum required balance; line 20.2, excess fund balance; and line 20.3, total annuity fund balance. The following table shows the amount reported by the Fund and the corrected amount calculated by the examiner, and the differences between each.

	Net present value of annuities	Additional reserve required by Reg. 126	Net Reserve	Minimum required fund balance	Excess fund balance (surplus)	Total Annuity Fund Balance
<b><u>2012</u></b>						
Fund	\$565,808	\$ 0	\$ 565,808	\$ 56,581	\$ 92,884	\$ 149,465
Examiner	<u>565,808</u>	<u>84,871</u>	<u>650,679</u>	<u>65,068</u>	<u>(475)</u>	<u>64,593</u>
Excess/(deficit)	<u>\$ 0</u>	<u>\$(84,871)</u>	<u>\$(84,871)</u>	<u>\$ (8,487)</u>	<u>\$ 93,359</u>	<u>\$ 84,872</u>
<b><u>2013</u></b>						
Fund	\$601,486	\$ 0	\$601,486	\$ 60,149	\$ 25,125	\$ 85,274
Examiner	<u>601,486</u>	<u>90,223</u>	<u>691,709</u>	<u>69,171</u>	<u>(74,120)</u>	<u>(4,949)</u>
Excess/(deficit)	<u>\$ 0</u>	<u>\$(90,223)</u>	<u>\$(90,223)</u>	<u>\$ (9,022)</u>	<u>\$ 99,245</u>	<u>\$ 90,223</u>
<b><u>2014</u></b>						
Fund	\$622,157	\$ 0	\$622,157	\$ 62,216	\$ 46,526	\$ 108,742
Examiner	<u>622,157</u>	<u>93,324</u>	<u>715,481</u>	<u>71,548</u>	<u>(56,130)</u>	<u>15,418</u>
Excess/(deficit)	<u>\$ 0</u>	<u>\$(93,324)</u>	<u>\$(93,324)</u>	<u>\$ (9,332)</u>	<u>\$102,656</u>	<u>\$ 93,323</u>
<b><u>2015</u></b>						
Fund	\$608,284	\$ 0	\$608,284	\$60,829	\$ 74,603	\$ 135,431
Examiner	<u>608,284</u>	<u>91,243</u>	<u>699,527</u>	<u>69,953</u>	<u>(25,764)</u>	<u>44,188</u>
Excess/(deficit)	<u>\$ 0</u>	<u>\$(91,243)</u>	<u>\$(91,243)</u>	<u>\$ (9,124)</u>	<u>\$100,367</u>	<u>\$ 91,243</u>
<b><u>2016</u></b>						
Fund	\$606,835	\$ 0	\$606,835	\$ 60,684	\$107,811	\$ 168,495
Examiner	<u>606,835</u>	<u>91,025</u>	<u>697,860</u>	<u>69,786</u>	<u>7,683</u>	<u>77,469</u>
Excess/(deficit)	<u>\$ 0</u>	<u>\$(91,025)</u>	<u>\$(91,025)</u>	<u>\$ (9,103)</u>	<u>\$100,128</u>	<u>\$ 91,025</u>

Based on the above analysis, the Fund therefore understated the net reserves and the minimum required fund balance during each year of the examination period.

The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Annual Statement.

## 9. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
A	<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 Fund failed to take corrective action. Although the Fund stated that it switched funds from Merrill Lynch to Neuberger Berman, the examiner determined that Neuberger Berman is not a licensed bank or trust company.</p>

## 10. 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 directors 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 directors, 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 filed with the Superintendent.	7
D	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms not previously filed with the Superintendent.	7
E	The examiner recommends that the Fund use on all annuity benefit payment checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.	7
F	The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.	8
G	The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Annual Statement.	10

Respectfully submitted,

\_\_\_\_\_/s/  
Ikenna Onyegwara  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Ikenna Onyegwara

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

*APPOINTMENT NO. 31597*

*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:*

***IKENNA ONYEGWARA***

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

***SEGREGATED GIFT ANNUITY FUND OF THE  
DOMINICAN FRIARS' GUILDS***

*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 10th day of August, 2017*

*MARIA T. VULLO  
Superintendent of Financial Services*

*By:*

*Mark McLeod*

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

