



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
CAZENOVIA COLLEGE

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

JULY 25, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

PETER AGUH

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Shirin Emami
Acting Superintendent

February 22, 2016

Honorable Shirin Emami
Acting Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31138, dated April 8, 2014 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Cazenovia College, hereinafter referred to as “the Fund.” The Fund’s home office is located at 22 Sullivan Street, Cazenovia, NY 13035.

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’s review of the Fund’s treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (See item 5 of this report)

The examiner recommends that the Fund prepare its annual statements according to the Department’s instructions. (See item 6 of this report)

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2009. This examination covers the period from January 1, 2009 through December 31, 2013. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2013 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, 2013 to determine whether the Fund's filed 2013 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification.

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 Cazenovia College (the “College”) is an independent, co-educational, liberal arts college founded in 1824 in Cazenovia, New York. It is organized for the purpose of educating its students in the liberal arts and sciences and in professional fields so as to foster commitment to a life informed by intellectual, ethical, and aesthetic values; to develop skills necessary for the pursuit of a meaningful vocation; and to inspire dedication to the ideal of service in their communities. The College offers undergraduate and continuing education programs, and it’s primarily funded by tuition, auxiliary services revenue, and other student fees charged for programs offered.

Under the provisions of its by-laws, the College is permitted to issue gift annuity agreements and it has done so since 2007. A special permit was granted to the College by the Department on May 13, 2009, 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. Other specific functions are handled by its custodian, the NBT Bank, namely:

- provide the charity with copies of all IRS Form 1099-R’s to be attached to their IRS Form 1096;
- provide the charity with an annual Gift Annuity Reserve report and a FASB Liability report for its charitable gift annuity program;
- advise the charity when its required reserves computed in accordance with Section 4217 of New York State Insurance Law reach \$500,000 and assist the charity in obtaining a Special Permit from New York State Department of Financial Services to continue to issue charitable gift annuities;
- assist the charity with the preparation of New York State Segregated Gift Annuity Fund Annual Statement.

The management of the Cazenovia College and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 36 regular voting trustees. As of December 31, 2013, the board consisted of 26 trustees. The trustees elect a Chair of the Board, a Vice Chair, a Secretary, and a Treasurer. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. SIGNIFICANT FINANCIAL INFORMATION

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

	<u>December 31,</u> <u>2009</u>	<u>December 31,</u> <u>2013</u>	<u>Increase</u>
Admitted assets	<u>\$119,011</u>	<u>\$214,782</u>	<u>\$95,771</u>
Liabilities	<u>\$ 34,962*</u>	<u>\$ 82,464*</u>	<u>\$47,502</u>
Minimum required fund balance	<u>\$ 3,496*</u>	<u>\$ 8,243*</u>	<u>\$ 4,747</u>
Excess fund balance (surplus)	<u>80,552*</u>	<u>124,075*</u>	<u>43,523</u>
Total annuity fund balance	<u>\$ 84,049*</u>	<u>\$132,318*</u>	<u>\$48,269</u>
Total liabilities and annuity fund balance	<u>\$119,011</u>	<u>\$214,782</u>	<u>\$95,771</u>

Note: Amounts denoted with an asterisk were determined during the examination. See item 6 of this report.

The increase in assets, liabilities and surplus reflects an increase in the total number of annuities in force. Annuities increased from two with annual payment amounts of \$3,100 as of December 31, 2009 to a total of three with annual payment amounts of \$7,700 as of December 31, 2013.

The Fund's admitted assets, as of December 31, 2013, were all invested in common stocks (100%).

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 2013 annual statement on file, the Fund reported: 36.7% invested in the securities of SPDR S&P 500 Exchange Traded Fund (“ETF”) Trust; 20.3% invested in the securities of iShares Barclays 7-10 Year TR ETF; 17.3% invested in the securities of iShares Core Total U.S. Bond ETF; and 11.7% invested in the securities of iShares Barclays 1-3 Year TR ETF.

The Fund's current concentration in the four exchange traded funds makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in these 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 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 ("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.

5. TREATMENT OF ANNUITANTS

The examiner reviewed the three entire annuity files, as the exam is the first for the Fund, 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. Based upon the examination review, no significant findings were noted.

6. ANNUAL STATEMENT REPORTING

The Instructions for Completing Line 10a (additional reserve required by Regulation 126) in the Liabilities and Annuity Fund Balance section of the New York State Segregated Gift Annuity Fund Annual Statement for each of the years during the exam period (January 1, 2009 through December 31, 2013), state:

Instructions for Completing Line 10a for 2013 Annual Statement state (in part), that:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2013, report on this line 15% of the amount reported on Line 10, for both current and prior years.)”

Instructions for Completing Line 10a for 2012 Annual Statement state (in part), that:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2012, report on this line 15% of the amount reported on Line 10, for both current and prior years.)”

Instructions for Completing Line 10a for 2011 Annual Statement state (in part), that:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2011, report on this line 15% of the amount reported on Line 10, for both current and prior years.)”

Instructions for Completing Line 10a for 2010 Annual Statement state (in part), that:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2010, report on this line 15% of the amount reported on Line 10.) ‘Prior year’ column: report 10% of the amount on Line 10.”

Instructions for Completing Line 10a for 2009 Annual Statement state (in part), that:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2009, report on this line 10% of the amount reported on Line 10.) ‘Prior year’ column: report 5% of the amount on Line 10.”

The Fund reported "Net present value of annuities" of \$71,674 as of December 31, 2013. In accordance with the annual statement instructions cited above, the Fund should have reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$10,751, an amount consisting of 15% of the net present value of annuities. In addition, the Fund calculated line 20.1, "Minimum required fund balance" incorrectly; this amount should be 10% of net reserve of \$82,425, or \$8,243. The Fund therefore overstated net reserve and total liabilities by \$20,606, and understated total annuity fund balance by the same amount. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$132,318 as of December 31, 2013.

The Fund reported "Net present value of annuities" of \$74,316 as of December 31, 2012. In accordance with the annual statement instructions cited above, the Fund should have reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$11,147, an amount consisting of 15% of the net present value of annuities. In addition, the Fund calculated line 20.1, "Minimum required fund balance" incorrectly; this amount should be 10% of net reserve of \$85,463, or \$8,646. The Fund therefore overstated net reserve and total liabilities by \$21,366, and understated total annuity fund balance by the same amount. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$121,280 as of December 31, 2012.

The Fund reported "Net present value of annuities" of \$76,946 as of December 31, 2011. In accordance with the annual statement instructions cited above, the Fund should have reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$11,542, an amount consisting of 15% of the net present value of annuities. In addition, the Fund calculated line 20.1, "Minimum required fund balance" incorrectly; this amount should be 10% of net reserve of \$88,488, or \$8,849. The Fund therefore overstated net reserve and total liabilities by \$22,122, and understated total annuity fund balance by the same amount. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$112,383 as of December 31, 2011.

The Fund reported "Net present value of annuities" of \$47,191 as of December 31, 2010. In accordance with the annual statement instructions cited above, the Fund should have reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$7,079, an amount

consisting of 15% of the net present value of annuities. In addition, the Fund calculated line 20.1, "Minimum required fund balance" incorrectly; this amount should be 10% of net reserve of \$54,270, or \$5,427. The Fund therefore overstated net reserve and total liabilities by \$13,567, and understated total annuity fund balance by the same amount. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$97,258 as of December 31, 2010.

The Fund reported "Net present value of annuities" of \$31,784 as of December 31, 2009. In accordance with the annual statement instructions cited above, the Fund should have reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$3,178, an amount consisting of 10% of the net present value of annuities. In addition, the Fund calculated line 20.1, "Minimum required fund balance" incorrectly; this amount should be 10% of net reserve of \$34,962, or \$3,496. The Fund therefore overstated net reserve and total liabilities by \$3,496, and understated total annuity fund balance by the same amount. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$84,049 as of December 31, 2009.

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

The Department's instructions for the 2013 Annual Statement, namely line item 20.3 (Total Annuity Fund Balance), in its Assets and Liabilities page states, in part:

"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."

The Department's instructions for the 2013 Annual Statement, namely line item 15 (Annuity Fund Balance at end of year), in its Income and Disbursements page states, in part:

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.

Note: The instructions for the 2009, 2010, 2011, and 2012 annual statements express the same instructions for the annuity fund balance.

The Fund erroneously reported Annuity Fund Balance of \$111,751 in the Income and Disbursements page of its 2013 Annual Statement which did not agree with the amount reported for Annuity Fund Balance of \$111,712 in the Assets and Liabilities page of its 2013 Annual Statement, which amount was also inaccurate due to the incorrect amount reported for the additional reserve required by Regulation 126. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$132,318 in its 2013 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$99,915 in the Income and Disbursements page of its 2012 Annual Statement which did not agree with the amount reported for Annuity Fund Balance of \$99,914 in the Assets and Liabilities page of its 2012 Annual Statement, which amount was also inaccurate due to the incorrect amount reported for the additional reserve required by Regulation 126. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$121,280 in its 2012 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$90,261 in the Income and Disbursements page of its 2011 Annual Statement which agreed with the amount reported for Annuity Fund Balance of \$90,261 in the Assets and Liabilities page of its 2011 Annual Statement, both amounts were inaccurate due to the incorrect amount reported for the additional reserve required by Regulation 126. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$112,383 in its 2011 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$83,689 in the Income and Disbursements page of its 2010 Annual Statement which did not agree with the amount reported for Annuity Fund Balance of \$83,692 in the Assets and Liabilities page of its 2010 Annual Statement, which amount was also inaccurate due to the incorrect amount reported for the additional reserve required by Regulation 126. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$97,258 in its 2010 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$44,484 in the Income and Disbursements page of its 2009 Annual Statement which did not agree with the amount reported for Annuity Fund Balance of \$80,552 in the Assets and Liabilities page of its 2009 Annual Statement, which amount was also inaccurate due to the incorrect amount reported for the

additional reserve required by Regulation 126. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$84,049 in its 2009 Annual Statement.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

7. 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 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 prepare its annual statements according to the Department’s instructions.	10
D	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	12

Respectfully submitted,

_____/s/
Peter Aguh
Senior Insurance Examiner

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

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

_____/s/
Peter Aguh

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31138

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:

PETER AGUH

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
CAZENOVIA COLLEGE**

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 8th day of April, 2014

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:


MICHAEL MAFFEI

ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

