



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
NEW YORK CITY BALLET, INC.

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

AUGUST 22, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

CHACKO THOMAS

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Acting Superintendent

March 14, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31159, dated April 9, 2014 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the New York City Ballet, Inc., hereinafter referred to as “the Fund,” at its home office located at 20 Lincoln Center, New York, NY 10023.

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 board of trustees, or a committee thereof, approve all investment transactions 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, 2013 filed annual statement. (See item 5 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using annuity agreement forms that were not filed with the Superintendent. The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent. (See item 6 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (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 June 15, 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 New York City Ballet (the “Ballet”) is organized for the purpose of presenting, developing, and encouraging the highest excellence in the performing arts, specifically the ballet. Under the provisions of its by-laws, the Ballet is permitted to issue gift annuity agreements and it has done so since 1997. A special permit was granted to the Ballet by the Department on June 15, 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 except annuity payments and preparation of the annual statements are handled by the Fund.

Wells Fargo Bank (“Wells Fargo”) is the custodian of the Fund's assets and issues annuity benefit payments to annuitants on behalf of the Fund. Wells Fargo also prepares the draft annual statements for the Fund.

The management of the Ballet and the Fund and all of its affairs and property are entrusted to a board of directors. The number of elected directors shall be not less than 10 and shall be such number as is elected or otherwise determined from time to time by a majority of the entire Board. As of December 31, 2013, the board consisted of 46 directors. The directors elect the President, Vice President, Secretary, and Treasurer, and such other officers as are from time to time designated by the Board of Directors. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

The examiner reviewed the board of directors' 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, or a committee thereof, approved the purchases and sales of investments during the examination period.

The examiner recommends that the board of directors, or a committee thereof, approve all investment transactions and note such approvals in the minutes.

5. 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>\$925,503</u>	<u>\$1,281,694</u>	<u>\$356,191</u>
Liabilities	<u>\$755,800</u>	<u>\$ 810,197</u>	<u>\$ 54,397</u>
Minimum required fund balance	\$ 75,580	\$ 81,020	\$ 5,440
Excess fund balance (surplus)	<u>94,123</u>	<u>390,477</u>	<u>296,354</u>
Total annuity fund balance	<u>\$169,703</u>	<u>\$ 471,497</u>	<u>\$301,794</u>
Total liabilities and annuity fund balance	<u>\$925,503</u>	<u>\$1,281,694</u>	<u>\$356,191</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 40 with annual payment amounts of \$88,738 as of December 31, 2009 to a total of 45 with annual payment amounts of \$97,444 as of December 31, 2013.

The Fund's admitted assets, as of December 31, 2013, were invested mainly in common stocks (90.55%).

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 a sample of annuities issued in New York during the examination period revealed that the Fund used annuity agreement forms that differed from annuity agreement forms on file with the Superintendent.

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

The examiner’s review of a sample of four annuity contracts terminated revealed that in one of the four cases reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.

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 board of directors, or a committee thereof, approve all investment transactions and note such approvals in the minutes.	5
B	The Fund violated Section 1110(a) of the New York Insurance Law by using annuity agreement forms that were not filed with the Superintendent.	7
C	The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent.	7
D	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	7

Respectfully submitted,

_____/s/
Chacko Thomas
Senior Insurance Examiner

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

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

_____/s/
Chacko Thomas

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31159

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:

CHACKO THOMAS

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
NEW YORK CITY BALLET, 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 9th day of April, 2014

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:


MICHAEL MAFFEI

ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

