



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF  
THE FOUNDATION OF CVPH MEDICAL CENTER, INC.

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

NOVEMBER 21, 2014

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

November 23, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31149, 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 Foundation of CVPH Medical Center, Inc., hereinafter referred to as “the Fund.” The Fund’s home office is located at 75 Beekman Street, Plattsburgh, NY 12901.

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”). Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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)

## 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 October 20, 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

Foundation of CVPH Medical Center, Inc. (the “Foundation”) is organized for the purpose of publicly soliciting and receiving funds for the primary benefit of the Champlain Valley Physicians Hospital Medical Center (the “Hospital”) and its affiliates, so long as such entities are operated as not-for-profit organizations, and for the purpose of improving the health and well-being of the inhabitants of the North Country. Under the provisions of its by-laws, the Hospital is permitted to issue gift annuity agreements and it has done so since 2009. A special permit was granted to the Hospital by the Department on October 20, 2009 authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Foundation works with potential contributors to determine whether or not they would be interested in a charitable gift annuity. The Foundation uses PG Calc software to determine the rate of return, tax savings, and other gift details. The Foundation also drafts the agreement for signature, takes copies of identification, reviews the disclosure statement and sends checks for deposit to Community Bank. The Foundation houses the original signed agreements and copies of documents. The Finance Committee of the Foundation of CVPH sets the investment guidelines for these funds. The Fund’s custodian is Community Bank. Community Bank is also the Fund’s investment manager. Community Bank deposits the check, issues payments to the annuitants (routing them through the Foundation so that the Fund can send along a personal note) and annually sends 1099-R forms for tax purposes.

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to a minimum requirement of three regular voting trustees. As of December 31, 2013, the board consisted of 17 trustees. The trustees elect a President, one or more Vice Presidents, 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:

	December 31, <u>2009</u>	December 31, <u>2013</u>	<u>Increase</u>
Admitted assets	\$ <u>125,128</u>	\$ <u>447,964</u>	\$ <u>322,836</u>
Liabilities	\$ <u>0</u>	\$ <u>145,537</u>	\$ <u>145,537</u>
Minimum required fund balance	\$ 0	\$ 14,554	\$ 14,554
Excess fund balance (surplus)	<u>125,128</u>	<u>287,873</u>	<u>162,745</u>
Total annuity fund balance	\$ <u>125,128</u>	\$ <u>302,427</u>	\$ <u>177,299</u>
Total liabilities and annuity fund balance	\$ <u>125,128</u>	\$ <u>447,964</u>	\$ <u>322,836</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 0 contracts and no annual payment amounts as of December 31, 2009 to a total of 4 with annual payment amounts of \$143,361 as of December 31, 2013.

The increase in assets and annuity fund balance is also attributable to "gross amounts transferred in from the general funds of the corporation" of \$125,000 in 2009.

The Fund's admitted assets, as of December 31, 2013, were invested solely in common stocks (94.93%).

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: 27.08% of its admitted assets invested in the securities of Core Fixed Income FD #64 mutual fund; 25.00% invested in the securities of Large Cap Growth FD #57 mutual fund; 24.86% invested in the securities of Large

Cap Value FD #60 mutual fund; and 10.10% invested in the securities of Core Intl Equity FD #95 mutual fund. The Fund's current concentration in the four mutual funds makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the 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 ("ISS") 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. Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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 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. Based upon the sample reviewed, no significant findings were noted.

## 6. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2013 for Schedule A - Part 3 - Common Stocks state, in part:

“IMPORTANT NOTE: Mutual funds (funds that invest in stocks, bonds, options or currencies) are to be reported in Schedule A – Part 3 - Common Stocks.”

The Fund reported Market value of money market mutual funds of \$447,908 in its 2013 Annual Statement, namely Schedule B. The examiner determined that the Fund erroneously reported the mutual funds referenced in the table below as money market mutual funds in Schedule B of its 2013 Annual Statement:

Name of mutual fund	Market value
Core Fixed Income FD #64	\$ 121,303.91
Large Cap Value FD #60	\$ 111,379.69
Large Cap Growth FD #57	\$ 111,973.73
Small Cap Value FD #58	\$ 16,610.67
Small Cap Growth FD #67	\$ 18,739.01
Core Intl Equity FD #95	\$ 45,244.48
Total market value	\$ 425,251.49

The Fund therefore should have reported mutual funds of \$425,251.49 in Schedule A - Part 3 - Common Stocks and money market mutual funds of \$22,656.20 in Schedule B of its 2013 Annual Statement.

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

## 7. SUMMARY AND CONCLUSIONS

Following are the 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. Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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.	8

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. 31149

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:

**ELKIN WOODS**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
FOUNDATION OF CYPH MEDICAL CENTER, 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

