



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
RENSSELAER POLYTECHNIC INSTITUTE

CONDITION:

DECEMBER 31, 2011

DATE OF REPORT:

OCTOBER 26, 2012

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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SEGREGATED GIFT ANNUITY FUND

OF THE

RENSSELAER POLYTECHNIC INSTITUTE

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EXAMINER:

MICHAEL PEKULY

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Anthony J. Albanese  
Acting Superintendent

October 2, 2015

Honorable Anthony J. Albanese  
Acting Superintendent of Financial Services  
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30797, dated September 7, 2012 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Rensselaer Polytechnic Institute, hereinafter referred to as “the Fund.” The Fund’s home office is located at 110 8<sup>th</sup> Street, Troy, New York 12180.

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'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, 2011 filed annual statement. (See item 4 of this report)

The examiner recommends that the number of the policy form appear on each annuity agreement. (See item 5 of this report)

The examiner recommends 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. (See item 6 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2006. This examination covers the period from January 1, 2007 through December 31, 2011. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2011 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, 2011 to determine whether the Fund's filed 2011 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 action 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 7 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 Rensselaer Polytechnic Institute is organized for the purpose of maintaining a school for instruction in mathematics, civil engineering, chemistry, mineralogy, geology, botany, literature and the arts. Under the provisions of its by-laws, the University is permitted to issue gift annuity agreements and it has done so since 1992. A special permit was granted to the University by the Department on October 20, 1992, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

During the examination period, the Fund outsourced its custodial services to Kaspick & Company, LLC (“Kaspick & Company”), TIAA-CREF Trust Company, and Investors Bank and Trust Company (IBT), which is a part of State Street Bank. Kaspick & Company and TIAA-CREF Trust Company are members of the TIAA-CREF group family of companies. The TIAA-CREF Trust Company acts as the primary custodian of the reserve assets of the Fund. Some services provided by Kaspick & Company and TIAA-CREF Trust Company were outsourced to Charles Schwab & Company (“Charles Schwab”) via a sub-custodial arrangement. Kaspick & Company and TIAA-CREF Trust Company, through its sub-custodian, Charles Schwab, purchases and sells the investments of the Fund and collects interest and dividend payments. Kaspick & Company performs the Fund’s accounting functions, prepares the Fund’s 1099R statement, and administers the disbursements of annuitant checks. All other operations related to the issuance, maintenance, and settlement of annuity agreements are handled by the Fund.

The management of the University and the Fund and all of its affairs and property are entrusted to a board of trustees. According to the by-laws, the number of trustees is limited to thirty-five (35) active voting trustees. As of December 31, 2011, the board consisted of 28 active trustees and one (1) active ex-officio trustee, Lou Rosamilla, the Mayor of Troy, N.Y. In addition to the active voting trustees, there were nine (9) trustees emeriti, four (4) honorary trustees and two (2) special committee members as of December 31, 2011. The active trustees elect the President, the Provost, various 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 (decline) during the period under review:

	December 31, <u>2006</u>	December 31, <u>2011</u>	Increase (Decrease)
Admitted assets	<u>\$2,578,585</u>	<u>\$3,451,613</u>	<u>\$ 873,028</u>
Liabilities	<u>\$1,368,484</u>	<u>\$2,524,181</u>	<u>\$1,155,697</u>
Minimum required surplus	\$ 136,848	\$ 252,418	\$ 115,570
Unassigned funds (surplus)	<u>1,073,253</u>	<u>675,014</u>	<u>(398,239)</u>
Total surplus	<u>\$1,210,101</u>	<u>\$ 927,432</u>	<u>\$(282,669)</u>
Total liabilities and surplus	<u>\$2,578,585</u>	<u>\$3,451,613</u>	<u>\$ 873,028</u>

The increase in assets and liabilities partially reflects an increase in the total number of annuities in force. Annuities increased from 81 with annual payment amounts of \$183,250 as of December 31, 2006 to a total of 113 with annual payment amounts of \$299,639 as of December 31, 2011. The increase in admitted assets is also due to an increase in the market value of common stocks. The decrease in surplus is attributable to an increase in the Fund's reserve liabilities which stems from the increase in the cash value of annuities in force.

The Fund's admitted assets, as of December 31, 2011, were almost entirely invested in common stocks (98.08%). All of the fund's investments were held by Charles Schwab through a sub-custodial arrangement. No bonds were held by the Fund as of the end of the exam period.

## 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.

During the examiner's review of eight (8) New York annuity agreements, the examiner noted that six (6) out of the eight (8) agreements did not contain the form number associated with the form that was accepted by the Department. All other elements of the agreements were in compliance with the accepted forms on the Department's file.

The examiner recommends that the number of the policy form appear on each annuity agreement.

## 6. CUSTODIANS

Office of General Counsel (OGC) Opinion No. 96-50 states, in part:

“...It has been the long-standing position of this Department that an insurer’s securities may be held only by a licensed bank and or trust company. The Department’s rationale behind this requirement is to insure that the securities are properly safeguarded. It has been the Department’s opinion that securities brokerage houses are not regulated closely enough to permit them to serve as custodians for admitted assets, despite the convenience they would provide to an insurer....”

The Fund’s custodian is the TIAA-CREF Trust Company. The custodian maintains Charles Schwab & Company, Inc. (“Charles Schwab”) as a sub-custodian of the Fund’s legal reserve assets. The examiner determined that Charles Schwab is a brokerage firm, not a licensed bank or trust company. Additionally, all of the Fund’s admitted assets are held by Charles Schwab as sub-custodian of the Fund.

The examiner recommends 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.

## 7. 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 each citation:

<u>Item</u>	<u>Description</u>
A	The examiner recommended that the Fund maintain all of its assets with a bank or trust company as custodian.  A similar recommendation appears in this report on examination.

## 8. 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 number of the policy form appear on each annuity agreement.	6
B	The examiner recommends 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.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Michael Pekuly  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Michael Pekuly

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

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:

**MICHAEL PEKULY**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
RENSSELAER POLYTECHNIC INSTITUTE**

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 7th day of September, 2012

BENJAMIN M. LAWSKY  
Superintendent of Financial Services

By:



MICHAEL MAFFEI  
ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU

