



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
COMMUNITY FOUNDATION FOR GREATER BUFFALO, INC.

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

OCTOBER 27, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

KINGS ANKRAH

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

May 11, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31593, 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 Community Foundation for Greater Buffalo, Inc., hereinafter referred to as the “Fund.” The Fund’s home office is located at 726 Exchange Street, Buffalo, NY 14210.

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 the purchases and sales of all investments and note such approvals in the minutes. (See item 4 of this report)

The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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. (See item 5 of this report)

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (See item 6 of this report)

The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. (See item 7 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 8 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 2012. This examination covers the period from March 19, 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.

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 Community Foundation for Greater Buffalo, Inc. (“the Corporation”) is organized for the purpose of connecting people, ideas and resources to improve lives in Western New York. The Corporation has been issuing gift annuity agreements since 2003. A permit was granted to the Corporation, by the Department on March 19, 2012 for issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Corporation performs all functions relating to investment of gift annuity assets and reconciliation of accounts. All functions related to gift annuity administration services, benefit payment to annuitants and income tax services are handled by PG Calc on behalf of the Fund.

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to no less than 11 and no more than 25 regular voting directors. As of December 31, 2016, the board consisted of 20 directors. The directors elect a Chair, one or more Vice Chair(s), President/CEO, a Secretary, a Treasurer, and such additional officers as the Board may deem desirable. The nomination and election procedures of the board of directors and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

The examiner reviewed the Investment Committee minutes to determine whether the Investment Committee approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the committee approved the purchases and sales of investments during the examination period.

The examiner recommends that the board of trustees, 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:

	December 31, <u>2012</u>	December 31, <u>2016</u>	Increase (Decrease)
Admitted assets	<u>\$465,195</u>	<u>\$483,713</u>	<u>\$ 18,518</u>
Liabilities	<u>\$301,723</u>	<u>\$248,202</u>	<u>\$(53,521)</u>
Minimum required fund balance	\$ 30,172	\$ 24,820	\$ (5,352)
Excess fund balance (surplus)	<u>133,300</u>	<u>210,691</u>	<u>77,391</u>
Total annuity fund balance	<u>\$163,472</u>	<u>\$235,511</u>	<u>\$ 72,039</u>
Total liabilities and annuity fund balance	<u>\$465,195</u>	<u>\$483,713</u>	<u>\$ 18,518</u>

The increase in assets and annuity fund balance reflects the release of reserves due to the termination of some annuities and gains in investment income during the examination period. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 16 with annual payment amounts of \$36,607 as of December 31, 2011 to a total of 12 with annual payment amounts of \$31,737 as of December 31, 2016.

The Fund's admitted assets, as of December 31, 2016, were invested exclusively in 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 2016 filed annual statement, the Fund reported 100% of its admitted assets invested in the securities of the Vanguard Wellington Fund. The Fund's current concentration in this fund makes it highly unlikely that it could provide a variability to offset the risks inherent in the Vanguard Wellington Fund.

Based upon the concentration in above mutual fund, the examiner recommends that the Fund strengthen the diversification of its investment holdings. 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. 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.

The examiner was not able to adequately confirm the Fund's \$1 in cash on deposit with Bank of America. However, since the amount involved was not material, no changes were made to account ending balances noted above.

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.

The examiner's review of a sample of 4 annuity contracts terminated revealed that in 2 out of 4 (50%) cases reviewed, the Fund failed to obtain a copy of the death certificate.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

7. ANNUAL STATEMENT REPORTING

The Instructions for Completing Line 5 (report the full name and address of the custodian of the Segregated Gift Annuity Fund's assets) in the General Interrogatories of the New York State Segregated Gift Annuity Fund Annual Statement for all years during the examination period (March 19, 2012 to December 31, 2016) states:

“If the Segregated Gift Annuity Fund has answered “Yes” to this Interrogatory, report the full name and address of the custodian of the Segregated Gift Annuity Fund's assets.

If the Segregated Gift Annuity Fund has answered “No” to this Interrogatory, provide a full explanation.”

In the Fund's filed annual statements from 2012 to 2016, the Fund reported Vanguard Group, as its custodian, but it was not able to provide a custodial agreement evidencing such arrangement.

The instructions for Schedule A, Part 3, Common Stocks, for all years under examination, state the following, in part:

Column 1: CUSIP Identification - CUSIP identification numbers must be listed for all publicly traded securities. If the security/mutual fund was owned during the previous year, the CUSIP will be from the previous year's Statement. If the security was purchased in the current year, the CUSIP can be obtained from the broker's confirmation or certificate.

The examiner's review of the Fund's filed annual statements revealed that the Fund failed to enter the CUSIP number for Vanguard Wellington Fund for all years under examination.

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

8. CUSTODIAN

The Fund does not use the services of a custodian to ensure that its securities are properly safeguarded.

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.

9. 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 board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
B	The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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.	7
C	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	8
D	The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	9
E	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.	10

Respectfully submitted,

_____/s/
Kings Ankrah
Senior Insurance Examiner

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

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

_____/s/
Kings Ankrah

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31593

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:

KINGS ANKRAH

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
COMMUNITY FOUNDATION FOR GREATER BUFFALO, 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 10th day of August, 2017

*MARIA T. VULLO
Superintendent of Financial Services*

By:



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

