



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
GENESEO FOUNDATION INC.

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

AUGUST 17, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

IJEOMA NDIKA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

December 12, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31729, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Geneseo Foundation Inc., hereinafter referred to as the “Fund.” The Fund’s home office is located at 1 College Circle, Geneseo, New York 14454.

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 adopt an Investment Strategy Statement (“ISS”) that refers 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 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 5 of this report)

The examiner recommends that the Fund disburse the residual value of the terminated annuity in accordance with the terms of the annuity contract. (See item 5 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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, 2017 to determine whether the Fund's filed 2017 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 actions taken by the Fund with respect to the violation and recommendations contained in the prior report on examination. The results of such review are contained in item 6 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

#### A. History

The Geneseo Foundation, Inc. (the “Foundation”) is organized for the purpose of receiving, holding, administering and distributing funds and property for the encouragement and promotion of education at the State University of New York College at Geneseo. The Foundation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1993. A permit was granted to the Foundation by the Department on December 29, 1993, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

State Street Bank and Trust Company is the custodian of the Fund’s assets. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. The Fund’s annual statements are prepared by Mengel, Metzger and Barr Company LLP, an independent CPA firm.

#### C. Corporate Governance

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to 40 regular voting directors. As of December 31, 2017, the board consisted of 27 directors. The voting members of the board elect the chairperson, vice chairperson, treasurer and secretary. The president is an ex officio member of the board. 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 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>2017</u>	Increase (Decrease)
Admitted assets	<u>\$693,529</u>	<u>\$625,880</u>	<u>\$ (67,649)</u>
Liabilities	<u>\$356,342</u>	<u>\$197,257</u>	<u>\$(159,085)</u>
Minimum required fund balance	\$ 35,634	\$ 19,726	\$ (15,908)
Excess fund balance (surplus)	<u>301,552</u>	<u>408,897</u>	<u>107,344</u>
Total annuity fund balance	<u>\$337,187</u>	<u>\$428,623</u>	<u>\$ 91,436</u>
Total liabilities and annuity fund balance	<u>\$693,529</u>	<u>\$625,880</u>	<u>\$ (67,649)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. The increase in total annuity fund balance is due to the release of reserves based on the termination of annuities. Annuities decreased from 34 with annual payment amounts of \$54,807 as of December 31, 2012 to a total of 14 with annual payment amounts of \$33,157 as of December 31, 2017.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in bonds (38.49%), and common stocks (61.26%). All bonds held were investment grade.

The Fund stated that it did not have an Investment Strategy Statement during the examination period.

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers 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.

The examiner's review of a sample of eight annuity contracts terminated during the examination period revealed that in all cases (100%), the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

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.

The examiner's review of a sample of eight annuity contracts terminated during the examination period revealed that in 2 out of 8 cases (25%), the Fund failed to disburse the residual value of the annuity contract in accordance with the terms of the annuity contract.

The examiner recommends that the Fund disburse the residual value of the terminated annuity in accordance with the terms of the annuity contract.

## 6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation and recommendations 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	<p>The examiner recommended that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.</p> <p>The examiner's review of Finance committee meeting minutes revealed that the Fund now approves the sales and purchases of its investments and notes such approvals in its minutes.</p>
B	<p>The examiner recommended that the Fund adjust the interest rate of 9.5% paid to the annuitant to 9.8% and reimburse the difference in annual income of \$15 from 2011 until present.</p> <p>The Fund stated that it attempted to pay the interest but the estate of the annuitant was closed in 2013 prior to the filing of the report.</p>
C	<p>The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms which were not filed with the Superintendent.</p> <p>The examiner did not find the use of any annuity agreement forms as the Fund did not issue any new annuities since 2011.</p>
D	<p>The examiner recommended that the Fund file with the Superintendent annuity agreement forms with the wording updated to reflect the uses and purposes of its gifts.</p> <p>The examiner did not find the use of any annuity agreement forms as the Fund did not issue any new annuities since 2011.</p>
E	<p>The examiner recommended that the Fund prepare its annual statements in accordance with the Department's instructions.</p> <p>The Examiner's review of the annual statements for the examination period did not indicate any deviation from the Department's instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.</p>

## 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 adopt an Investment Strategy Statement that refers 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
B	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
C	The examiner recommends that the Fund disburse the residual value of the terminated annuity in accordance with the terms of the annuity contract.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Ijeoma Ndika  
Senior Insurance Examiner

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

Ijeoma Ndika, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/s/  
Ijeoma Ndika

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

APPOINTMENT NO. 31729

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:

**IJEOMA NDIKA**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
GENESEO FOUNDATION, INC.**

and to make a report to me in writing of the condition of said

**FUND**

with such other information as she 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 13th day of April, 2018

MARIA T. VULLO  
Superintendent of Financial Services

By:

*mal m leod*

MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

