



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK  
AT BINGHAMTON, INC.

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

DECEMBER 11, 2015

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EXAMINER:

PHILIP YOUSSEF

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

September 22, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31311, dated November 18, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Foundation of the State University of New York at Binghamton, Inc., hereinafter referred to as the “Fund.” The Fund’s home office is located at 4400 Vestal Parkway East, Vestal, New York 13850.

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”). 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).

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2009. This examination covers the period from January 1, 2010 through December 31, 2014. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2014 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, 2014 to determine whether the Fund's filed 2014 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner reviewed the prior report on examination which did not contain any violations, recommendations or comments.

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 Foundation of the State University of New York at Binghamton, Inc. (the “Corporation”) is organized for the purpose and sole function to support the activities of the State University of New York at Binghamton (the “University”) by means of scholarships, grants to deserving students and support for other activities of the University. Under the provisions of its by-laws, the Corporation is permitted to issue gift annuity agreements and it has done so since 1993. A special permit was granted to the Corporation by the Department on April 19, 1995, 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 are handled by the Fund.

Wilmington Trust, N.A. is the custodian of the Fund’s assets.

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of directors. The Corporation revised its by-laws in June 2013. The number of directors is limited to 35 regular voting directors. As of December 31, 2014, the board consisted of 28 directors. The directors elect a chair, vice-chair, treasurer, and secretary. The chair shall be the chief executive officer of the Corporation. The nomination and election procedures of the directors 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>2014</u>	<u>Increase</u>
Admitted assets	<u>\$703,889</u>	<u>\$1,049,164</u>	<u>\$345,275</u>
Liabilities	<u>\$560,264</u>	<u>\$ 659,796</u>	<u>\$ 99,532</u>
Minimum required fund balance	\$ 56,026	\$ 65,980	\$ 9,954
Excess fund balance (surplus)	<u>87,599</u>	<u>323,388</u>	<u>235,789</u>
Total annuity fund balance	<u>\$143,625</u>	<u>\$ 389,368</u>	<u>\$245,743</u>
Total liabilities and annuity fund balance	<u>\$703,889</u>	<u>\$1,049,164</u>	<u>\$345,275</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 28 with annual payment amounts of \$71,581 as of December 31, 2009 to a total of 32 with annual payment amounts of \$85,646 as of December 31, 2014.

The increase in assets and annuity fund balance also reflects an increase in the market value of investments in common stocks.

The Fund's admitted assets, as of December 31, 2014, were invested mainly in common stocks (93.70%).

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 2014 annual statement on file, the Fund reported: 33.92% invested in the securities of Vanguard Total Stock Market Index Class Investor (2004) mutual fund; 19.00% invested in the securities of TCW Core Fixed Income Fund I mutual fund; 15.41% invested in the



securities of Vanguard Total Stock Market Index Class Investor (2011) mutual fund; 13.87% invested in the securities of Vanguard Short-term Bond Index Fund mutual fund; and 11.50% invested in the securities of Vanguard Total Stock Market Index Class Investor (2012) mutual fund. The Fund's current concentration in the five mutual funds makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in these 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 ("ISS"). 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. 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. 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

Respectfully submitted,

\_\_\_\_\_/s/  
Philip Youssef  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Philip Youssef

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

APPOINTMENT NO. 31311

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, ANTHONY J. ALBANESE, Acting 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:

**PHILIP YOUSSEF**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK AT BINGHAMTON, 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 18th day of November, 2015

ANTHONY J. ALBANESE  
Acting Superintendent of Financial Services

By:



MARK MCLEOD  
ASSISTANT CHIEF - LIFE BUREAU

