



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
SAGE COLLEGES

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

NOVEMBER 25, 2015

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

June 30, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31324, 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 Sage Colleges, hereinafter referred to as the "Fund." The Fund's home office is located at 65 First Street Troy, NY 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 Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination. (See item 4 of this report)

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'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, 2014 filed annual statement. (See item 5 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 6 of this report)

The examiner recommends that the Fund prepare its annual statements in accordance with the Department's instructions. (See item 7 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 also reviewed the corrective actions taken by the Fund with respect to the recommendations contained in the prior report on examination. The results of such review are contained in item 8 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 Sage Colleges formally consisted of four divisions, namely: Russell Sage College, Sage Junior College of Albany, Sage Graduate School and Sage Evening College (“the Colleges”). In 2001, the Sage Junior College of Albany and the Sage Evening College merged to become the Sage College of Albany. The Sage Colleges now consists of three divisions: Russell Sage College, Sage Graduate School and Sage College of Albany. The Colleges were organized for the purpose of educating individuals in the liberal arts and preparing them for professional roles in the workplace. Under the provisions of its by-laws, the Colleges are permitted to issue gift annuity agreements and it has done so since 1993. A special permit was granted to the Colleges by the Department on May 2, 1995, authorizing them to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund issues gift annuity agreements, calculates annuity benefit payments and retains the original individual agreements at its home office. All other operations related to the maintenance and settlement of annuity agreements are outsourced to U.S. Trust Bank of America (“BoA”). BoA is also the Fund’s custodian and investment manager.

The management of the Colleges and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 30 regular voting trustees. As of December 31, 2014, the board consisted of 26 trustees. The trustees elect a chairperson, one or more vice chairpersons, a president and a secretary. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

Section 312(b) of the New York Insurance Law states, in part:

“(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer’s files confirming that such member has received and read such report....”

The Fund failed to maintain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.

The Fund did not maintain minutes for activities of the Fund for the years ended December 31, 2010 and 2011. In addition, the examiner obtained and reviewed copies of minutes of the Fund’s investment sub-committee to the board of trustees for the years ended December 31, 2012, 2013, and 2014. The minutes reviewed did not contain any indication that the investment sub-committee approved the purchases and sales of any investment transactions.

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 table indicates the Fund's financial decline during the period under review:

	<u>December 31,</u> <u>2009</u>	<u>December 31,</u> <u>2014</u>	<u>(Decrease)</u>
Admitted assets	<u>\$632,067</u>	<u>\$523,861</u>	<u>\$(108,206)</u>
Liabilities	<u>\$375,239*</u>	<u>\$302,857</u>	<u>\$ (72,382)</u>
Minimum required fund balance	\$ 37,524*	\$ 30,286**	\$ (7,238)
Excess fund balance (surplus)	<u>219,305*</u>	<u>190,718**</u>	<u>(28,587)</u>
Total annuity fund balance	<u>\$256,828*</u>	<u>\$221,004</u>	<u>\$ (35,824)</u>
Total liabilities and annuity fund balance	<u>\$632,067</u>	<u>\$523,861</u>	<u>\$(108,206)</u>

* The amounts were determined during the prior examination.

** The amounts were determined by the examiner during the current examination. (See item 7 of this report)

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 22 with annual payment amounts of \$55,502 as of December 31, 2009 to a total of 17 with annual payment amounts of \$44,352 as of December 31, 2014.

The Fund's admitted assets, as of December 31, 2014, were invested mainly in common stocks (97.39%).

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. Based upon the sample reviewed, no significant findings were noted.

7. ANNUAL STATEMENT REPORTING

The Instructions for Completing Line 20.1 (Minimum required fund balance) in the Liabilities and Annuity Fund Balance section of the New York State Segregated Gift Annuity Fund Annual Statement for 2014 and 2013, state:

Instructions for Completing Line 20.1 for the 2014 and 2013 annual statements state, in part, that:

“‘Current Year’ Column: A minimum required fund balance equal to 10% of the net reserve reported at Line 12 must be reported at this Line. Refer to Section 1110(b) of the New York Insurance Law. ‘Prior Year’ Column: Report prior year’s minimum required fund balance.”

The Fund reported in the Assets and Liabilities page of its 2014 Annual Statement, “Net Reserve” of \$302,857 and “Minimum required fund balance” of \$21,153. In accordance with the annual statement instructions cited above, the Fund should have reported “Minimum required fund balance” of \$30,286, 10% of net reserve of \$302,857. The Fund therefore understated minimum required fund balance by \$9,133 and overstated excess fund balance (surplus) by the same amount. Taking into account the above, total annuity fund balance as of December 31, 2014 was unaffected by the offsetting misstatements.

The Fund reported in the Assets and Liabilities page of its 2013 Annual Statement, “Net Reserve” of \$339,755 and “Minimum required fund balance” of \$37,373. In accordance with the annual statement instructions cited above, the Fund should have reported “Minimum required fund balance” of \$33,975, 10% of net reserve of \$339,755. The Fund therefore overstated minimum required fund balance by \$3,398 and understated excess fund balance (surplus) by the same amount. Taking into account the above, total annuity fund balance as of December 31, 2013 was unaffected by the offsetting misstatements.

The examiner recommends that the Fund prepare its annual statements in accordance with the Department’s instructions.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations contained in the prior report on examination and the subsequent actions taken by the Fund in response to each recommendation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommended that the board of trustees or a committee thereof, review the Fund's investments and approve the purchase and sale of all investments at least annually, and note such approvals in the minutes. This is a repeat recommendation.</p> <p>The examiner's review revealed that there was no evidence of the recommended review. A similar recommendation is contained in this report. (See item 4 of this report)</p>
B	<p>The examiner recommended that the Fund perform monthly bank reconciliations.</p> <p>The accounting staff of the Sage Colleges reconciles the investment statements of the Fund which includes the cash portion of the investment account. Due to the recommendation, this is currently being done on a monthly basis.</p>
C	<p>The examiner recommended that the Fund complete its filed annual statement in accordance with the Instructions for Completing the New York State Segregated Annuity Annual Statement. This is a repeat recommendation.</p> <p>The examiner's review revealed errors in the preparation of the Annual Statement. A similar recommendation is contained in this report. (See item 7 of this report)</p>
D	<p>The examiner recommended that the Fund prepare and maintain a general ledger, trial balances and transaction registers that reconcile to its annual statements.</p> <p>The Sage Colleges' fiscal year is July through June and this is the period in which the Colleges' general ledger, trial balances and transactions are maintained. Since the annual statements are for a calendar year basis, not the Sage Colleges fiscal year, the Colleges are unable to provide cumulative general ledgers, trial balances or transactions registers on the calendar year basis. When the Fund prepares the annual statement, the calendar year statement provided by U.S. Trust Bank of America Corporation is the source document for the annual statement filing.</p>

9. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination.	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.	5
C	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
D	The examiner recommends that the Fund prepare its annual statements in accordance with the Department's instructions.	8

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. 31324

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:

KINGS ANKRAH

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
SAGE COLLEGES**

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

