



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
MUSEUM OF MODERN ART

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

MARCH 6, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

TARN KHERA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Shirin Emami
Acting Superintendent

February 4, 2016

Honorable Shirin Emami
Acting Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31158, dated April 9, 2014 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Museum of Modern Art, hereinafter referred to as “the Fund,” at its home office located at 11 West 53rd Street, New York, NY 10019.

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, 2013 filed annual statement. (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, 2008. This examination covers the period from January 1, 2009 through December 31, 2013. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2013 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, 2013 to determine whether the Fund's filed 2013 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 recommendation 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

The Museum was founded in 1929 as an educational institution. Its mission is to encourage an ever deeper understanding and enjoyment of modern and contemporary art by its diverse local, national and international audiences. Under the provisions of its by-laws, the Museum is permitted to issue gift annuity agreements and it has done so since February 17, 1999. A special permit was granted to the Museum by the Department on March 9, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. Operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. Operations related to accounting, preparation of the annual report and tax forms, and annuity payments are outsourced to Hemmenway & Reinhardt.

The Bank of New York Mellon is the custodian of the Fund's investments and investment management is provided by CFS Advisory Services.

The management of the Museum and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 45 regular voting trustees. The number of trustees as of December 31, 2013 totaled 42. The trustees elect a Chairman, a President, a Director, a Secretary, and a Treasurer. The nomination and election procedures of the trustees and their term 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>2008</u>	December 31, <u>2013</u>	<u>Increase</u>
Admitted assets	<u>\$1,829,335</u>	<u>\$2,158,891</u>	<u>\$329,556</u>
Liabilities	<u>\$1,717,966</u>	<u>\$1,725,508</u>	<u>\$ 7,542</u>
Minimum required surplus	\$ 171,797	\$ 172,551	\$ 754
Unassigned funds (surplus)	<u>(60,428)</u>	<u>260,832</u>	<u>321,260</u>
Total surplus	<u>\$ 111,369</u>	<u>\$ 433,383</u>	<u>\$322,014</u>
Total liabilities and surplus	<u>\$1,829,335</u>	<u>\$2,158,891</u>	<u>\$329,556</u>

The increase in assets, liabilities, and surplus reflects an increase in the total number of annuities in force. Annuities increased from 57 with annual payment amounts of \$187,955 as of December 31, 2008 to a total of 59 with annual payment amounts of \$190,967 as of December 31, 2013.

The increase in assets and surplus is primarily attributable to better conditions in the stock market since 2008, resulting in increased asset values.

The Fund's admitted assets, as of December 31, 2013, were mainly invested in common stocks (96.98%). All bonds held were investment grade.

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. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendation and violation 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 purchase and sale of all investments and that such approvals be noted in the board minutes.</p> <p>The Fund's board approved the purchases and sales of all investments and the approvals were noted in the board minutes.</p>
B	<p>The Fund violated Section 1110(b) of New York Insurance Law by failing to maintain admitted assets at least equal to 110% of its reserves on its outstanding agreements for the year 2008.</p> <p>The Fund remediated the deficiency in admitted assets on September 3, 2009.</p>

Respectfully submitted,

_____/s/
Tarn Khera
Insurance Examiner

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

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

_____/s/
Tarn Khera

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31158

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:

TARN KHERA

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
MUSEUM OF MODERN ART**

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 9th day of April, 2014

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:


MICHAEL MAFFEI

ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

