



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
TRUSTEES OF HAMILTON COLLEGE

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

AUGUST 1, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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SEGREGATED GIFT ANNUITY FUND

OF THE

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EXAMINER:

JOCELYNE TURENE

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Acting Superintendent

June 6, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31169, dated May 8, 2014 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Trustees of Hamilton College, hereinafter referred to as “the Fund.” The Fund’s home office is located at 198 College Hill Road, Clinton, NY 13323.

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 Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 5 of this report)

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund's securities. (See item 6 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 comment contained in the prior report on examination. The results of such review are contained in item 7 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 Hamilton College (the “College”) is organized for the purpose of operating and maintaining an institution of higher education for the instruction and education of liberal arts leading to the awarding of Bachelor of Arts degrees. Under the provisions of its by-laws, the College is permitted to issue gift annuity agreements and it has done so since 1987. A special permit was granted to the organization by the Department on June 25, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund solicits new gift annuities and maintains the annuity files at its home office. All other operations related to the issuance, maintenance and settlement of annuity agreements are handled by Kaspick and Company, LLC (“Kaspick”), a California-based financial advisor. Kaspick & Company is also the Fund’s investment manager. TIAA-CREF Trust Company is the custodian of the Fund’s assets.

The management of the College and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 36 regular voting trustees. As of December 31, 2013, the board consisted of 36 trustees, which breakdown is as follows: 24 Charter Trustees and 12 Alumni Trustees. The trustees elect a President, Vice President for Finance and Secretary to the Board of Trustees. 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 table indicates the Fund's financial growth (decline) during the period under review:

	<u>December 31,</u> <u>2008</u>	<u>December 31,</u> <u>2013</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$6,639,028</u>	<u>\$7,886,365</u>	<u>\$1,247,337</u>
Liabilities	<u>\$5,099,159</u>	<u>\$4,741,671</u>	<u>\$ (357,488)</u>
Minimum required fund balance	\$ 509,916	\$ 474,167	\$ (35,749)
Excess fund balance (surplus)	<u>1,029,953</u>	<u>2,670,526</u>	<u>1,640,573</u>
Total annuity fund balance	<u>\$1,539,869</u>	<u>\$3,144,693</u>	<u>\$1,604,824</u>
Total liabilities and annuity fund balance	<u>\$6,639,028</u>	<u>\$7,886,364</u>	<u>\$1,247,336</u>

The increase in admitted assets and annuity fund balance reflects an increase in market value of the Fund's investments in common stocks.

The decrease in liabilities reflects a decrease in annuities in force. Annuities decreased from 220 with annual payment amounts of \$628,646 as of December 31, 2008 to a total of 201 with annual payment amounts of \$560,002 as of December 31, 2013.

The Fund's admitted assets, as of December 31, 2013, were invested mainly in common stocks (92.51%) and bonds (6.82%). All bonds held were investment grade.

## 5. TREATMENT OF ANNUITANTS

Section 1110(a) of the New York Insurance Law states, in part:

“. . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . .”

The examiner’s review of the five gift annuity agreement forms used by the Fund for gift annuities issued in New York during the examination period noted that in all five instances, the Fund used gift annuity agreement forms that differed from the gift annuity agreements filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

## 6. CUSTODIAN

The Fund's custodian is TIAA-CREF Trust Company ("TIAA-CREF"). TIAA-CREF Trust Company uses Charles Schwab & Company, Inc. ("Charles Schwab") as the sub-custodian of the Fund's assets. The examiner determined that Charles Schwab is not a licensed bank or trust company.

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund's securities.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the comment contained in the prior report on examination and the subsequent actions taken by the Fund in response to the comment:

<u>Item</u>	<u>Description</u>
A	The Fund incurred a significant decrease in unassigned funds and total surplus during 2008, due to realized and unrealized losses, in its stock and mutual fund investments. The Fund still maintains the minimum surplus and reserves pursuant to Section 1110(b) of the New York Insurance Law.

The Fund's annuity fund balance increased during the examination period.

## 8. 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 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.	6
B	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	6
C	The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund's securities.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Jocelyne Turene  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Jocelyne Turene

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

APPOINTMENT NO. 31169

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:

**JOCELYNE TURENE**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
TRUSTEES OF HAMILTON COLLEGE**

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 8th day of May, 2014

BENJAMIN M. LAWSKY  
Superintendent of Financial Services

By:

  
MICHAEL MAFFEI

ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU

