



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

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

NOVEMBER 12, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

HASAN AHMED

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Shirin Emami
Acting Superintendent

February 18, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31156, 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 Keuka College, hereinafter referred to as “the Fund.” The Fund’s home office is located at 141 Central Avenue, Keuka Park, NY 14478.

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 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, 2013 filed annual statement. (See item 5 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by failing to submit to the Superintendent amended gift annuity agreement forms prior to using such forms. This is a repeat violation. The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously submitted by the Fund to the Superintendent. This is a repeat recommendation. The examiner recommends that the Fund maintain copies on file of the Department letters that acknowledge the submission of the annuity agreements. This is a repeat recommendation. (See item 6 of this report)

The examiner recommends that the Fund prepare its annual statements in accordance with the Department's annual statement instructions. (See item 7 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 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 Keuka College (the “College”) is organized for the purpose of providing a diverse, student-centered, liberal arts based learning community for those with a range of educational goals, including undergraduate degrees, professional training, and advanced study. Under the provisions of its by-laws, the College is permitted to issue gift annuity agreements and it has done so since 1999. A special permit was granted to the College by the Department on October, 04, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund handles the issuance of annuity agreements, prepares the filed annual statements, and maintains the accounting records and individual annuity files at its principal office. Canandaigua National Bank and Trust Company (“Canandaigua”) performs a number of services on behalf of the Fund, including: managing the Fund’s investments; maintaining the Fund’s assets as custodian; and issuing gift annuity payments.

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 40 regular voting trustees. As of December 31, 2013, the board consisted of 34 trustees. The trustees elect the chair, the vice chair, the secretary, and the treasurer. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

The examiner reviewed the Keuka College Investment Committee minutes. The minutes did not contain any indication that the committee specifically approved the purchases and sales of the Fund's investments during the examination period.

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 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>\$917,874</u>	<u>\$1,109,237</u>	<u>\$191,363</u>
Liabilities	<u>\$805,144</u>	<u>\$ 724,408</u>	<u>\$ (80,736)</u>
Minimum required surplus	\$ 80,514	\$ 72,441	\$ (8,073)
Unassigned funds (surplus)	<u>32,216</u>	<u>312,388</u>	<u>280,172</u>
Total surplus	<u>\$112,730</u>	<u>\$ 384,829</u>	<u>\$272,099</u>
Total liabilities and surplus	<u>\$917,874</u>	<u>\$1,109,237</u>	<u>\$191,363</u>

The decrease in liabilities and minimum required surplus reflects a decrease in the total number of annuities in force. Annuities decreased from 64 with annual payment amounts of \$98,873 as of December 31, 2008 to a total of 57 with annual payment amounts of \$91,175 as of December 31, 2013.

The increase in assets and unassigned funds (surplus) is attributable to unrealized gains reflected in the Fund's investments. Specifically, the Fund reported unrealized capital gains of \$233,951 in 2009 and \$109,842 in 2010.

The Fund's admitted assets, as of December 31, 2013, were mainly invested in common stocks (96.59%).

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.

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 reviewed a sample of three gift annuities issued in New York during the examination period. The examiner noted that in all cases reviewed, the policy forms the Fund used were not filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by failing to submit to the Superintendent amended gift annuity agreement forms prior to using such forms. This is a repeat violation. The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously submitted by the Fund to the Superintendent. This is a repeat recommendation. The examiner recommends that the Fund maintain copies on file of the Department letters that acknowledge the submission of the annuity agreements. This is a repeat recommendation.

7. ANNUAL STATEMENT REPORTING

The Instructions for Completing Line 11 (Gross amount transferred to general funds of the corporation) in the Income and Disbursements section of the New York State Segregated Gift Annuity Fund Annual Statement for each of the years during the examination period (January 1, 2009 through December 31, 2013), state:

“Line 11

Report any gross amount transferred to the general funds of the corporation/ reporting entity from the Segregated Gift Annuity Fund in the current year and prior year.”

The Fund reported disbursements of “Matured annuities” of \$94,043 in 2013, (\$8,692) in 2012, and \$18,460 in 2011 on line 10.3 in the Disbursements section of the annual statements. The Fund also reported disbursements of “Deceased/Matured annuitant transfers” of \$39,700 in 2010 and \$(687) in 2009 on line 10.3 in the Disbursements section of the annual statements. The examiner determined that the Fund should have reported these amounts on line 11, Gross amount transferred to general funds of the corporation, for all annual statements filed during the examination period.

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

8. 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 Fund violated Section 1110(a) of the New York Insurance Law by failing to submit to the Superintendent amended gift annuity agreement forms prior to using such forms.</p> <p>The Fund failed to take corrective action in response to this prior report violation. (See item 6 of this report)</p>
B	<p>The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously submitted by the Fund to the Superintendent.</p> <p>The Fund failed to take corrective action in response to this prior report recommendation. (See item 6 of this report)</p>
C	<p>The examiner recommends that the Fund maintain copies on file of the Department letters that acknowledge the submission of the annuity agreements.</p> <p>The Fund failed to take corrective action in response to this prior report comment. (See item 6 of this report)</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 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
B	The Fund violated Section 1110(a) of the New York Insurance Law by failing to submit to the Superintendent amended gift annuity agreement forms prior to using such forms. This is a repeat violation.	7
C	The examiner recommends that that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously submitted by the Fund to the Superintendent. This is a repeat recommendation.	7
D	The examiner recommends that that the Fund maintain copies on file of the Department letters that acknowledge the submission of the annuity agreements. This is a repeat recommendation.	7
E	The examiner recommends that the Fund prepare its annual statements in accordance with the Department's annual statement instructions.	8

Respectfully submitted,

_____/s/
Hasan Ahmed
Insurance Examiner

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

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

_____/s/
Hasan Ahmed

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31156

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:

HASAN AHMED

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
KEUKA COLLEGE**

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

