



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ELLIS HOSPITAL FOUNDATION, INC.

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

AUGUST 31, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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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

June 20, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31309, dated August 17, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Ellis Hospital Foundation, Inc., hereinafter referred to as the "Fund." The Fund's home office is located at 1101 Nott Street, Schenectady, New York 12308.

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'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 Ellis Hospital Foundation, Inc. (the “Foundation”) is organized for the purpose of assisting Ellis Hospital in developing and expanding its services to the community by: mobilizing and coordinating the efforts of community leaders; providing a focal point and recipient for philanthropic support; stimulating a source of support; and, granting funds to Ellis Hospital. Under the provisions of its by-laws, the Foundation is permitted to issue gift annuity agreements and it has done so since 1997. A special permit was granted to the Foundation by the Department on March 7, 2000, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. Operations related to the issuance and maintenance of gift annuity agreements are handled by the Fund. Preparation of the segregated gift annuity filings for New York is handled by The Bookkeeping Agency, John Freeston (proprietor). All functions related to benefit payments to annuitants, investments, accounting and tax preparation, are handled by KeyBank National Association (“KeyBank”), the Fund’s custodian and investment manager.

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 29 regular voting trustees. As of December 31, 2014, the board consisted of 26 trustees. The board of trustees elects a chair of the board, vice chair(s), secretary, treasurer, and such additional officers as deemed necessary and appropriate. 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 decline during the period under review:

| | December 31, <u>2009</u> | December 31, <u>2014</u> | <u>(Decrease)</u> |
|--|-----------------------------|-----------------------------|----------------------|
| Admitted assets | <u>\$1,769,950</u> | <u>\$762,444</u> | <u>\$(1,007,506)</u> |
| Liabilities | <u>\$1,178,423</u> | <u>\$527,886</u> | <u>\$ (650,537)</u> |
| Minimum required fund balance | \$ 117,842 | \$ 52,789 | \$ (65,053) |
| Excess fund balance (surplus) | <u>473,685</u> | <u>\$181,770</u> | <u>(291,915)</u> |
| Total annuity fund balance | <u>\$ 591,527</u> | <u>\$234,559</u> | <u>\$ (356,968)</u> |
| Total liabilities and annuity fund balance | <u>\$1,769,950</u> | <u>\$762,444</u> | <u>\$(1,007,506)</u> |

The decrease in assets, liabilities and annuity fund balance reflects a decrease in annual payments in annuities despite an increase in annuities in force. Annual payments decreased from \$159,947 as of December 31, 2009 to \$70,060 as of December 31, 2014; in contrast, annuities in force increased from 45 as of December 31, 2009 to 57 as of December 31, 2014.

The decrease in assets and annuity fund balance is also attributable to a decrease in the market value of assets due to market conditions. The decrease in liabilities is also due to the termination of two large annuity contracts of two major benefactors with annuities of over one million dollars in value.

The Fund's admitted assets, as of December 31, 2014, were mainly invested in common stocks (93.34%).

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: 17.42% invested in the securities of iShares Barclays Intermediate Government Exchange Traded Fund (“ETF”); 17.03% invested in the securities of Victory Diversified Stock Fund; 15.09% invested in the securities of Harbor International Fund Open-End Fund; and 10.43% invested in the securities of Aston/Fairpointe Mid Cap Fund. The Fund’s current concentration in the ETF and three mutual funds above make 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.

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 is the recommendation 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 |

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. 31309

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

ELLIS HOSPITAL FOUNDATION, 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 17th day of August, 2015

ANTHONY J. ALBANESE
Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
ASSISTANT CHIEF - LIFE BUREAU

