



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ROMAN CATHOLIC DIOCESE OF SYRACUSE

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

AUGUST 10, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

ADELIA GBADAMOSI

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

October 25, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31323, dated June 3, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Roman Catholic Diocese of Syracuse, hereinafter referred to as the “Fund.” The Fund’s home office is located at 230 East Onondaga Street, Syracuse, New York 13201.

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 approval in the minutes. (See item 4 of this report)

The examiner recommends that the Fund diversify its investment holdings. (See item 5 of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement (“ISS”). Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS’s risk, return, and time horizon objectives. (See item 5 of this report)

The Fund violated Section 1110(a) of 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 6 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 6 of this report)

The examiner recommends that the Fund prepare its filed annual statements according to the Department’s instructions. (See item 7 of this report)

2. SCOPE OF EXAMINATION

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.

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 Roman Catholic Diocese of Syracuse (the “Diocese”) is organized for the purpose of supporting, maintaining, aiding, advising and cooperating with any charitable, religious, benevolent, recreational, welfare or educational corporation, association, institution, committee, agency or activity existing within the state of New York or elsewhere and particularly within the bounds of the Roman Catholic Diocese of Syracuse, New York. Under the provisions of its by-laws, the Diocese is permitted to issue gift annuity agreements and it has done so since 1991. A special permit was granted to the organization by the Department on June 1, 2000, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. The Fund handles accounting functions and issues the gift annuity agreements.

Key Bank is the Fund’s custodian and investment manager. Key Bank also performs annual reserve valuation on behalf of the Fund, administers annuity benefit payments to annuitants, prepares 1099 tax forms and disburses the final residuum to the Diocese.

The management of the Diocese and the Fund and all of its affairs and property are entrusted to a board of trustees. The trustees are the Bishop, the Vicar-general and the Chancellor, which is called the body corporate. As of December 31, 2014, the board consisted of 3 trustees. The trustees elect a president, a vice president, a treasurer 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

The examiner reviewed the minutes of the board of trustees for the examination period to determine if the board approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the board approved the purchases and sales of the Fund's investments.

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 during the period under review:

	<u>December 31,</u> <u>2010</u>	<u>December 31,</u> <u>2014</u>	<u>Increase</u>
Admitted assets	\$ <u>114,624</u>	\$ <u>196,144</u>	\$ <u>81,520</u>
Liabilities	\$ <u>94,611</u>	\$ <u>155,144</u>	\$ <u>60,533</u>
Minimum required fund balance	\$ 9,461	\$ 15,514	\$ 6,053
Excess fund balance (surplus)	<u>10,552</u>	<u>25,486</u>	<u>14,934</u>
Total annuity fund balance	\$ <u>20,013</u>	\$ <u>41,000</u>	\$ <u>20,987</u>
Total liabilities and annuity fund balance	\$ <u>114,624</u>	\$ <u>196,144</u>	\$ <u>81,520</u>

Note: The Fund was not required to file an annual statement as of December 31, 2010.

The increase in assets, liabilities and annuity fund balance reflects an increase in annual payments despite a decrease in annuities in force. Annual payments increased from \$11,597 as of December 31, 2010 to \$14,417 as of December 31, 2014; in contrast, annuities in force decreased from 13 as of December 31, 2010 to a total of 11 as of December 31, 2014.

The increase in assets and annuity fund balance is also attributable an increase in the market value of investments in common stocks.

The Fund's admitted assets, as of December 31, 2014, were invested mainly in common stocks (96.52%).

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 25.88% invested in the securities of SPDR Barclays Exchange Traded Fund (“ETF”). The Fund's current concentration

in the ETF makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the ETF.

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.

The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives.

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's review of the four gift annuity agreement forms used by the Fund for gift annuities issued in New York during the examination period revealed that in all instances, the Fund used gift annuity agreements forms that differed from the gift annuity agreement forms filed with the Superintendent.

The Fund violated Section 1110(a) of 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.

The examiner's review of a sample of five annuity contracts terminated due to the death of the annuitant revealed that in three out the five cases reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract. In the three cases the Fund obtained copies of the obituaries.

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.

7. ANNUAL STATEMENT REPORTING

The Fund failed to report any amount for annuity payments to donors and others for all years during the examination period. In addition, the examiner compared the Fund's 2014 Annual Statement to the Department's instructions and noted the following discrepancies:

1. According to the 2014 annual statement instructions, the amount to be reported in the Exhibit of Annuities on page 3 should agree with line 10b of page 2. The Fund reported reserves at the end of December 2014 as \$144,800 in the Exhibit of Annuities in Force and \$155,144 on Line 10b of page 2. The examiner noted that the amount reported by the Fund in the Exhibit of Annuities in Force is the prior year's net present value of annuities.
2. According to the 2014 annual statement instructions, the Fund is required to report the annualized amount of annuity payments payable under those contracts at the beginning of the year and the annualized amount of annuity payments payable under contracts outstanding at year end. The Fund instead reported the average of the annuity payments made during the year.
3. According to the 2014 annual statement instructions, the total amount of annuity payments made during the year reported on Page 3, Line 8 should be approximately, an average of the amounts reported on Line 1, Column 3 and Column 9. The Fund reported annuity payment on Page 3 line 8 as \$0. However, the amount reported in line 1, column 3 in the Exhibit of Annuities is \$15,412 and column 9 is \$14,417, resulting in an examiner-calculated average of \$14,915. The Fund should have reported annuity payments on page 3, line 8 as \$14,915.

The examiner recommends that the Fund prepare its filed annual statements according to the Department's instructions.

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 examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approval in the minutes.	5
B	The examiner recommends that the Fund diversify its investment holdings.	7
C	The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives.	7
D	The Fund violated Section 1110(a) of the New York Insurance law by using gift annuity agreement forms that differed from gift annuity agreement forms that were filed with the Superintendent.	8
E	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.	8
F	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	8
G	The examiner recommends that the Fund prepare its filed annual statements according to the Department's instructions.	9

Respectfully submitted,

_____/s/
Adelia Gbadamosi
Senior Insurance Examiner

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

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

_____/s/
Adelia Gbadamosi

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31323

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:

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
ROMAN CATHOLIC DIOCESE OF SYRACUSE**

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 3rd day of June, 2015

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:

Mark M Cleod

MARK MCLEOD

ASSISTANT CHIEF - LIFE BUREAU

