



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
ALBANY MEDICAL CENTER FOUNDATION, INC.

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

SEPTEMBER 13, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

HASAN AHMED

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

November 8, 2017

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

Madam:

In accordance with instructions contained in Appointment No. 31587, dated April 20th, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Albany Medical Center Foundation, Inc., hereinafter referred to as the “Fund.” The Fund’s home office is located at 43 New Scotland Avenue, Albany, NY 12208.

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 directors, 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 recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries to deviate from such recommendation, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters. (See item 5 of this report)

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. (See item 5 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 6 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2011. This examination covers the period from January 1, 2012 through December 31, 2016. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2016 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, 2016 to determine whether the Fund's filed 2016 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

Albany Medical Center Foundation, Inc. (the “Foundation”) is organized for the purpose of assisting Albany Medical Center, ( the “Center”) Albany Medical College, Albany Medical Center Hospital and Albany Medical Center-South Clinical Campus in: carrying out their educational, patient care, research and charitable purposes; enhancing community relations; and coordinating, assisting and raising funds. The Foundation has been issuing gift annuity agreements since 1995. A special permit was granted to the Foundation by the Department on November 20, 2003, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund personnel.

All operations related to the benefit payments and preparation and distribution of tax documents are outsourced to KeyBank National Association (“Key Bank”). KeyBank is also the Fund’s custodian and investment manager. The Fund has an agreement in place with The Bookkeeping Agency, a bookkeeping firm that prepares the Fund’s annual statements and reserve listings.

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of directors. The Board shall consist of the same persons as serve on the Board of Directors of the Albany Medical Center, who shall be elected by the Members on such terms as are required by the Not-for-Profit Corporation Law. The number of directors shall be as determined by the Board: no fewer than 15 and no more than 30, exclusive of *ex officio* directors, and exclusive of no more than 10 affiliate directors.

As of December 31, 2016, the board consisted of 29 directors. The directors elect a chairman, one or more vice chairmen and a secretary. The president of the Center shall be the president of the Foundation. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

The examiner reviewed the board of directors' minutes to determine whether 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 investments during the examination period.

The examiner recommends that the board of directors, 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 summary table indicates the growth (decline) in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2011</u>	<u>December 31,</u> <u>2016</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	\$ <u>2,723,200</u>	\$ <u>2,679,194</u>	\$ <u>(44,006)</u>
Liabilities	\$ <u>2,252,722</u>	\$ <u>1,808,912</u>	\$ <u>(443,810)</u>
Minimum required fund balance	\$ 225,272	\$ 180,891	\$ (44,381)
Excess fund balance (surplus)	<u>245,205</u>	<u>689,391</u>	<u>444,186</u>
Total annuity fund balance	\$ <u>470,477</u>	\$ <u>870,282</u>	\$ <u>399,805</u>
Total liabilities and annuity fund balance	\$ <u>2,723,199</u>	\$ <u>2,679,194</u>	\$ <u>(44,005)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 59 with annual payment amounts of \$271,951 as of December 31, 2011 to a total of 57 with annual payment amounts of \$248,512 as of December 31, 2016.

The increase in annuity fund balance is attributable to unrealized capital gains. Specifically, the Fund reported unrealized capital gains of \$381,121 in 2013.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in common stocks (97.46%).

According to the 2016 filed annual statement, the Fund reported 16.04% of its admitted assets invested in the securities of iShares Core S&P 500 ETF, 14.65% in the securities of Victory Diversified Stock Fund, 15.98% in the securities of Harbor International FD, and 22.40% in the securities of Metropolitan West T/R Bond FD, respectively. The Fund's current concentration in these holdings makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in these investments.

The examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries to deviate from

such a recommendation, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters. 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 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.

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. Based upon the sample reviewed, no significant findings were noted.

## 7. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
B	The examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries to deviate from such recommendation, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.	6
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

Respectfully submitted,

\_\_\_\_\_/s/  
Hasan Ahmed  
Senior 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. 31587

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, MARIA T. VULLO, 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  
ALBANY MEDICAL 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 20th day of April, 2017

MARIA T. VULLO  
Superintendent of Financial Services

By:



MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

