



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

CONDITION:

DECEMBER 31, 2012

DATE OF REPORT:

APRIL 7, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

NEW YORK MEDICAL COLLEGE

AS OF

DECEMBER 31, 2012

DATE OF REPORT:

APRIL 7, 2015

EXAMINER:

JULIUS ASUBONTENG

## TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
4.	Significant financial information	5
5.	Treatment of annuitants	7
6.	Custodian	8
7.	Custody agreement	8
8.	Summary and Conclusions	9



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Shirin Emami  
Acting Superintendent

December 8, 2015

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

Madam:

In accordance with instructions contained in Appointment No. 30931, dated October 29, 2013 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the New York Medical College, hereinafter referred to as “the Fund.” The Fund’s home office is located at 40 Sunshine Cottage Road, Valhalla, NY 10595.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

## 1. EXECUTIVE SUMMARY

The Fund is underfunded by \$13,432 as of December 31, 2012. The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets at least equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars. (See item 4 of this report)

The examiner's review of the Fund's treatment of annuitants did not reveal any 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)

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities. (See item 6 of this report)

The examiner recommends that the Fund maintain its assets in a custody agreement under its name, not in the name of the College. (See item 7 of this report)

## 2. SCOPE OF EXAMINATION

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2008. This examination covers the period from November 3, 2008 through December 31, 2012. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2012 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, 2012 to determine whether the Fund's filed 2012 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The results of such review are contained in item 4 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 New York Medical College (the “College”) is an educational corporation organized for the purpose of generating, encouraging and promoting the educational welfare of the students of the New York Medical College, a member of the Touro University and College System as granted by the Board of Regents of the State of New York. Under the provisions of its by-laws, the Fund is permitted to issue gift annuity agreements and it has done so since December 2004. A special permit was granted to the Fund by the Department on November 8, 2008, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund’s potential annuitants are primarily from the alumni of New York Medical College. Morgan Stanley Wealth Management (“Morgan Stanley”), an asset management company, provides fundraising strategy, including planned giving support and endowment management to the Fund.

Morgan Stanley is also the custodian of the Fund’s investments and the Fund’s investment manager. Charitable Trust Administration Company (“CTAC”) prepares the annual statements, calculates the reserves, and processes the annuity benefits on behalf of the Fund. The Fund maintains a licensing agreement with PG Calc, Inc. (gift annuity software) to manage the Fund’s gift annuity program. All other operations related to the issuance, maintenance and settlement of annuity agreements are performed by the Fund.

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 shall not be less than 13 and not more than 35 regular voting trustees. As of December 31, 2012, the board consisted of 19 trustees. The trustees elect a Chairman, Vice Chairman, Secretary, and Assistant Secretary. 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>2012</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$89,955</u>	<u>\$86,567</u>	<u>\$(3,388)</u>
Liabilities	<u>\$71,977</u>	<u>\$63,360</u>	<u>\$(8,617)</u>
Minimum required fund balance	\$ 7,198	\$ 6,336	\$ (862)
Excess fund balance (surplus)	<u>10,781</u>	<u>16,871</u>	<u>6,090</u>
Total annuity fund balance	<u>\$17,979</u>	<u>\$23,207</u>	<u>\$5,228</u>
Total liabilities and annuity fund balance	<u>\$89,956</u>	<u>\$86,567</u>	<u>\$(3,389)</u>

The decrease in assets and liabilities is due to a decrease in the total number of annuities in force. Annuities decreased from 7 with annual payment amounts of \$8,925 as of December 31, 2008 to a total of 6 with annual payment amounts of \$8,235 as of December 31, 2012.

The increase in annuity fund balance was due to the residuum from the deceased annuitant's contract that was left in the Fund for general endowment support per the annuitant's designation in the annuity contract.

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

“(b) Every such domestic corporation or association shall maintain admitted assets at least equal to the greater of (i) the sum of its reserves on its outstanding agreements, calculated in accordance with section four thousand two hundred seventeen of this chapter, and a surplus of ten per centum of such reserves, or (ii) the amount of one hundred thousand dollars...”

The Fund is required to maintain admitted assets at least equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars. The Fund reported total assets of \$86,568, net reserves

of \$63,360, and minimum required surplus (ten percent of net reserves) of \$6,336 in its 2012 annual statement. The sum of the Fund's net reserves and minimum required surplus is \$69,696. Thus, the Fund is required to maintain minimum required assets of \$100,000.

The Fund is underfunded by \$13,432 as of December 31, 2012.

The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets at least equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars.

Subsequent to April 7, 2015, the date of this report, the Fund submitted evidence that the College deposited \$35,000 into the gift annuity program on January 25, 2016, in order to rectify the underfunded condition.

The Fund's admitted assets, as of December 31, 2012, were invested mainly in common stocks (98.14%). The Fund did not own any bonds.

## 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. CUSTODIAN

The Fund's custodian is Morgan Stanley Wealth Management ("Morgan Stanley"). The examiner determined that Morgan Stanley 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 the Fund's custodian for the Fund's securities.

## 7. CUSTODY AGREEMENT

The examiner noted that the Morgan Stanley custody account is not in the Fund's name. The account is in the name of New York Medical College.

The examiner recommends that the Fund maintain its assets in a custody agreement under its name, not in the name of the College.

## 8. SUMMARY AND CONCLUSIONS

Following are the violation, recommendations, and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund is underfunded by \$13,432 as of December 31, 2012.	6
B	The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets at least equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars.	6
C	The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.	8
D	The examiner recommends that the Fund maintain its assets in a custody agreement under its name, not in the name of the College.	8

Respectfully submitted,

\_\_\_\_\_/s/  
Julius Asubonteng  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Julius Asubonteng

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

*APPOINTMENT NO. 30931*

*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:*

***JULIUS ASUBONTENG***

*as a proper person to examine the affairs of the*

***SEGREGATED GIFT ANNUITY FUND OF THE  
NEW YORK MEDICAL 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 29th day of October, 2013*

*BENJAMIN M. LAWSKY  
Superintendent of Financial Services*

*By:*

  
\_\_\_\_\_  
***MICHAEL MAFFEI***

***ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU***

