



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

CONDITION:

DECEMBER 31, 2012

DATE OF REPORT:

NOVEMBER 22, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

AHMED L. SALEH

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Shirin Emami
Acting Superintendent

December 4, 2015

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

Madam:

In accordance with instructions contained in Appointment No. 30917, dated April 4, 2013 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Brooklyn College Foundation, Inc., hereinafter referred to as “the Fund,” at its home office located at 2900 Bedford Avenue, Brooklyn, New York 11210.

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

1. EXECUTIVE SUMMARY

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, 2012 filed annual statement. (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)

The examiner recommends that the Fund prepare its annual statements in accordance with the Department's instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. (See item 6 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 March 20, 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.

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 Brooklyn College Foundation, Inc. (the “Corporation”) is organized for the purpose of generating, encouraging, and promoting the educational purpose of Brooklyn College of the City University of New York (the “College”) and the educational welfare of its students in their relations with each other, the members of the faculty, the alumni and the community. The Corporation shall provide: scholarships, fellowships, prizes and other assistance to worthy students and graduates of said College; awards and prizes to Brooklyn College students, alumni, faculty members, staff members or other persons for outstanding achievements or services to the College, the community, or to the furtherance of higher education generally; and contribute funds for the library, the academic departments and for the administration of said College. Under the provisions of its by-laws, the Corporation is permitted to issue gift annuity agreements and it has done so since 1991.

A special permit was granted to the Corporation by the Department on December 10, 1992. The Corporation surrendered their originally issued permit on May 5, 2005 and reapplied for a permit in 2008 when the Fund’s reserves exceeded \$500,000. A special permit was granted to the Corporation by the Department on March 20, 2008, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. The Corporation changed its name to Brooklyn College Fund, Inc. on May 15, 1967 and adopted Brooklyn College Foundation, Inc., its present name, on December 16, 1974. All operations related to the issuance and maintenance of annuity agreements are handled by the Fund.

All operations related to the settlement of annuity agreements and preparation of IRS Form 1099-R are handled by Bank of America. JPMorgan Private Bank (“JPMorgan”), the custodian of the Fund, performs master custody and investment services related to the invested assets held by Fund. The Fund’s independent accountant, Daniel O’Connell, CPA, has prepared the Fund’s annual statements from 2008 to 2012.

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to a minimum of 9 and a maximum of 49 regular voting trustees. The number of trustees as of December 31, 2012 was 37. The trustees elect a Chairman of the Board, Vice Chairman, President, Secretary, Treasurer and any other such officers as the board may appoint. The nomination and election procedures of the trustees and their term 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>\$1,104,761</u>	<u>\$1,013,298</u>	<u>\$(91,463)</u>
Liabilities	<u>\$ 765,057</u>	<u>\$ 665,145</u>	<u>\$(99,912)</u>
Minimum required surplus	\$ 76,506*	\$ 66,515	\$ (9,991)
Unassigned funds (surplus)	<u>263,198*</u>	<u>281,638</u>	<u>18,440</u>
Total surplus	<u>\$ 339,704</u>	<u>\$ 348,153</u>	<u>\$ 8,449</u>
Total liabilities and surplus	<u>\$1,104,761</u>	<u>\$1,013,298</u>	<u>\$(91,463)</u>

Note: Amounts noted with an asterisk were determined during the examination. (See item 6 of this report)

The decrease in assets and liabilities is due in part to the decrease in annuity payment amounts. The decrease in assets also reflects the gross amount transferred to the general funds of the corporation of \$216,471 in 2010. Annual payment amounts decreased from \$96,043 as of December 31, 2008 to \$80,043 as of December 31, 2012; however, the number of annuities in-force remained at 45 as of December 31, 2008 and as of December 31, 2012.

The Fund's admitted assets, as of December 31, 2012, were invested mainly in mutual funds (98.86%).

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. ANNUAL STATEMENT REPORTING

According to the Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the years ended December 31, 2008 and December 31, 2009, the Fund is required to report 10% of Line 12 ("NET RESERVE") in Line 20.1 ("Minimum required fund balance") in page 2 of the annual statement. The instructions also express that the Fund is required to report Excess fund balance (line 20.2) by subtracting Minimum required fund balance (line 20.1) from Total Annuity Fund Balance (line 20.3) at year-end in page 2 of the annual statement.

The Fund reported Minimum required fund balance of \$100,000 in page 2 of the Fund's 2008 Annual Statement when in fact the Fund should have reported \$76,506 (10% of Net reserve of \$765,057 in the 2008 Annual Statement). As a result, the Fund reported Excess fund balance of \$239,704 in the 2008 Annual Statement when in fact the fund should have reported \$263,198.

The Fund reported minimum required fund balance of \$100,000 in page 2 of the Fund's 2009 Annual Statement when in fact the Fund should have reported \$75,408 (10% of Net reserve of \$754,084 in the 2009 Annual Statement). As a result, the Fund reported Excess fund balance of \$295,695 in the 2009 Annual Statement when in fact the fund should have reported \$320,286.

The examiner recommends that the Fund prepare its annual statements in accordance with the Department's instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.

7. 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 prepare its annual statements in accordance with the Department's instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	7

Respectfully submitted,

_____/s/
Ahmed L. Saleh
Insurance Examiner

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

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

_____/s/
Ahmed L. Saleh

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 30917

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:

AHMED SALEH

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
BROOKLYN COLLEGE 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 4th day of April, 2013

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

