



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
AMERICAN FRIENDS OF THE HEBREW UNIVERSITY, INC.

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

AUGUST 14, 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

July 21, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31300, 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 American Friends of the Hebrew University, Inc., hereinafter referred to as the "Fund," at its home office located at One Battery Park Plaza, 25th Floor, New York, New York 10004.

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 recommends that the Fund adopt an Investment Strategy Statement. 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 4 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that were not filed with the Superintendent. The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent. (See item 5 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 5 of this report)

The examiner recommends that the Fund adhere to the maximum rates recommended by the American Council on Gift Annuities. (See item 6 of this report)

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

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (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 2010. This examination covers the period from February 2, 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 American Friends of the Hebrew University, Inc. (the “Organization”) is organized for the purpose of: promoting, aiding, advancing and encouraging higher and secondary education, research and training in all branches of knowledge in Israel and elsewhere; promoting the maintenance and development of the Hebrew University of Jerusalem in the State of Israel and for such purpose to create a university movement in America; and receiving and maintaining funds and allocating such funds for the maintenance and development of higher and secondary education, research and training in Israel and elsewhere including the maintenance, development and advancement of the University. Under the provisions of its by-laws, the organization is permitted to issue gift annuity agreements and it has done so since 1999. A special permit was granted to the organization by the Department on February 2, 2010 authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. The Fund issues the annuities and performs accounting functions.

Comerica Charitable Services Group Wealth Management is the Fund’s custodian and investment manager which administers monthly and quarterly benefit payments to annuitants, prepares annual tax forms for beneficiaries and generates performance reports for the Fund’s assets.

The management of the organization and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to 50 plus honorary presidents, honorary chairpersons and regional presidents. As of December 31, 2014, the board consisted of 49 directors, 8 regional presidents, 5 honorary presidents and chairpersons and 1 honorary president. The board of directors elects a chairperson, a vice chairperson, a president, a vice president, a treasurer, an assistant treasurer, a secretary and an assistant secretary. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

4. 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>\$5,128,750</u>	<u>\$9,097,777</u>	<u>\$3,969,027</u>
Liabilities	<u>\$3,444,071*</u>	<u>\$6,654,156</u>	<u>\$3,210,085</u>
Minimum required fund balance	\$ 344,407*	\$ 665,416	\$ 321,009
Excess fund balance (surplus)	<u>1,340,272*</u>	<u>1,778,205</u>	<u>437,933</u>
Total annuity fund balance	<u>\$1,684,679*</u>	<u>\$2,443,621</u>	<u>\$ 758,942</u>
Total liabilities and annuity fund balance	<u>\$5,128,750</u>	<u>\$9,097,778</u>	<u>\$3,969,028</u>

Note: Items denoted with an asterisk were determined during the examination. See item 7 of this report.

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 88 with annual payment amounts of \$486,425 as of December 31, 2010 to a total of 188 with annual payment amounts of \$851,446 as of December 31, 2014.

The Fund's admitted assets, as of December 31, 2014, were invested mainly in common stocks (95.83%).

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: 31.77% invested in the securities of Vanguard Total Stock Market Index Fund mutual fund; 24.97% invested in the securities of Vanguard FTSE All-World Ex-US Index Fund mutual fund; and 24.00% invested in the securities of PIMCO Total Return Institutional mutual fund. The Fund's current concentration

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

The examiner recommends that the Fund adopt an Investment Strategy Statement. 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.

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.

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 10 gift annuity agreements issued in New York during the examination period revealed that in all instances the Fund used gift annuity agreement forms that deviated from those filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that were not filed with the Superintendent. The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent.

The examiner's review of a sample of eight terminated annuities related to deceased annuitants revealed that in five cases (62.50%), the Fund did not obtain a copy of the death certificate for each terminated annuity. Instead, 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.

6. GIFT ANNUITY RATES

The examiner's review of 10 gift annuity agreements issued in New York during the examination period revealed that in all instances the Fund used annuity rates that exceeded the rates recommended by the American Council on Gift Annuities.

The examiner recommends that the Fund adhere to the maximum rates recommended by the American Council on Gift Annuities.

7. ANNUAL STATEMENT REPORTING

The Instructions for Completing Line 10a (additional reserve required by Regulation 126) in the Liabilities and Annuity Fund Balance section of the New York State Segregated Gift Annuity Fund Annual Statement for the 2010, 2011, and 2012 annual statements state, in part:

For the 2012 and 2011 Annual Statements:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2012 and 2011, report on this line 15% of the amount reported on Line 10, for both current and prior years.)”

For the 2010 Annual Statement:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2010, report on this line 15% of the amount reported on Line 10.) ‘Prior year’ column: report 10% of the amount on Line 10.”

The Instructions for Completing Line 20.1 (Minimum required fund balance) in the Liabilities and Annuity Fund Balance section of the New York State Segregated Gift Annuity Fund Annual Statement for the 2010, 2011, and 2012 annual statements state, in part:

“‘Current Year’ Column: A minimum required fund balance equal to 10% of the net reserve reported at Line 12 must be reported at this Line. Refer to Section 1110(b) of the New York Insurance Law. ‘Prior Year’ Column: Report prior year’s minimum required fund balance.”

The Fund failed to report the correct amount for line 10a in the Assets and Liabilities page, “Additional reserve required by Regulation 126,” in its 2010, 2011, and 2012 annual statements.

The Fund reported “Net present value of annuities” of \$2,581,773 as of December 31, 2012. The Fund reported an amount on line 10a for “Additional reserve required by Regulation 126” of \$684,170. In accordance with the annual statement instructions cited above, the Fund should have reported \$387,266 on that line, an amount consisting of 15% of the net present value of annuities. The Fund therefore overstated net reserve and total liabilities by \$296,904. The Fund also overstated minimum required fund balance by \$29,690. The Fund understated excess fund

balance (surplus) by \$326,594 and annuity fund balance by \$296,904. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$1,289,505 as of December 31, 2012, instead of the \$992,601 actually reported.

The Fund reported "Net present value of annuities" of \$3,011,923 as of December 31, 2011. The Fund reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$798,159. In accordance with the annual statement instructions cited above, the Fund should have reported \$451,788 on that line, an amount consisting of 15% of the net present value of annuities. The Fund therefore overstated net reserve and total liabilities by \$346,371. The Fund also overstated minimum required fund balance by \$34,637. The Fund understated excess fund balance (surplus) by \$381,008 and annuity fund balance by \$346,371. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$1,537,704 as of December 31, 2011, instead of the \$1,191,333 actually reported.

The Fund reported "Net present value of annuities" of \$2,994,844 as of December 31, 2010. The Fund reported an amount on line 10a for "Additional reserve required by Regulation 126" of \$793,634. In accordance with the annual statement instructions cited above, the Fund should have reported \$449,227 on that line, an amount consisting of 15% of the net present value of annuities. The Fund therefore overstated net reserve and total liabilities by \$344,407. The Fund also overstated minimum required fund balance by \$34,441. The Fund understated excess fund balance (surplus) by \$378,848 and annuity fund balance by \$344,407. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$1,684,679 as of December 31, 2010, instead of the \$1,340,272 actually reported.

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

The Department's instructions for the 2010, 2011, and 2012 annual statements, namely line item 15 (Annuity Fund Balance at end of year), in its Income and Disbursements page state, in part:

Line 15 "Current Year" Column: Must equal the sum of Lines 13 and 14, as well as Page 2, Line 20.3. 'Prior Year' Column: Report prior year's Annuity Fund Balance at end of year.

The Fund erroneously reported Annuity Fund Balance of \$4,258,545 in the Income and Disbursements page of its 2012 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$1,289,505 in its 2012 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$5,001,415 in the Income and Disbursements page of its 2011 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$1,537,704 in its 2011 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$5,128,749 in the Income and Disbursements page of its 2010 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$1,684,679 in its 2010 Annual Statement.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

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 Fund diversify its investment holdings.	6
B	The examiner recommends that the Fund adopt an Investment Strategy Statement. 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
C	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that were not filed with the Superintendent.	7
D	The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent.	7
E	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	7
F	The examiner recommends that the Fund adhere to the maximum rates recommended by the American Council on Gift Annuities.	8
G	The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.	10
H	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	11

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. 31300

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
AMERICAN FRIENDS OF THE HEBREW UNIVERSITY, INC.**

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 McLeod

MARK MCLEOD
ASSISTANT CHIEF - LIFE BUREAU