



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
LAMBDA LEGAL DEFENSE & EDUCATION FUND, INC.

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

JUNE 17, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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AS OF

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EXAMINER:

ELKIN WOODS

## 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.	Corporate governance	5
5.	Significant financial information	6
6.	Treatment of annuitants	7
7.	Annual statement workpapers	8
8.	Summary and conclusions	9



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

December 1, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31459, dated April 25, 2016 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Lambda Legal Defense & Education Fund, Inc., hereinafter referred to as the "Fund," at its home office located at 120 Wall Street, 19<sup>th</sup> Floor, New York, NY 10005.

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

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, 2015 filed annual statement. (See item 5 of this report)

The examiner recommends that the Fund use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. (See item 6 of this report)

The examiner recommends that the Fund prepare and maintain a general ledger, trial balances and transaction registers that reconcile to its 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 2011. This examination covers the period from July 22, 2011 through December 31, 2015. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2015 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, 2015 to determine whether the Fund's filed 2015 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 Lambda Legal Defense & Education Fund, Inc. (the “Corporation”) is organized for the purpose of seeking, through the legal process, to insure legal protection of the laws and the protection of civil rights of homosexuals. Under the provisions of its by-laws, the Corporation is permitted to issue gift annuity agreements and it has done so since 2004. A special permit was granted to the Corporation by the Department on July 22, 2011, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

Employees and Directors of the Corporation perform the following functions for the gift annuity program: market the program to donors, prepare annuity projections and contracts, prepare and file the annual statements, maintain a schedule of the market value of individual contracts, and select and review the work of third parties including the trustee (or custodian) and investment manager.

Merrill Lynch Trust Company (now known as U.S. Trust), the Fund’s custodian, receives proceeds of contracts purchased and makes the deposits into the segregated fund’s account(s), makes scheduled payments to annuitants, prepares and issues tax forms 1099 to annuitants, provides reporting to the Corporation including inventories of annuities in force and calculations of net required reserves under various methods including the Department’s and Financial Accounting Standards Board requirements, and provides fiduciary oversight of the activities of the investment manager to ensure compliance with New York State law and with the Financial Accounting Standards Board as well as the Corporation’s investment policy statement.

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 maximum of 36 regular voting trustees. As of December 31, 2015, the board consisted of 34 trustees. The trustees elect two Co-Chairpersons, a Secretary, a Treasurer, one or more Assistant Secretaries and one or more Assistant Treasurers. 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 board of trustees' minutes 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 investments during the examination period.

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 summary table indicates the growth 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>2015</u>	<u>Increase</u>
Admitted assets	<u>\$843,959</u>	<u>\$1,367,526</u>	<u>\$523,567</u>
Liabilities	<u>\$602,061</u>	<u>\$ 954,353</u>	<u>\$352,292</u>
Minimum required fund balance	\$ 60,206	\$ 95,435	\$ 35,229
Excess fund balance (surplus)	<u>181,692</u>	<u>317,738</u>	<u>136,046</u>
Total annuity fund balance	<u>\$241,898</u>	<u>\$ 413,173</u>	<u>\$171,275</u>
Total liabilities and annuity fund balance	<u>\$843,959</u>	<u>\$1,367,526</u>	<u>\$523,567</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 33 with annual payment amounts of \$62,403 as of December 31, 2011 to a total of 43 with annual payment amounts of \$91,401 as of December 31, 2015.

The Fund's admitted assets, as of December 31, 2015, were invested mainly in bonds (49.98%) and stocks (49.47%). All bonds held were investment grade.

## 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.

The examiner's review of a sample of disbursements issued on behalf of the Fund during the examination period revealed that the name of the Corporation, not the Fund's name, appeared on the bank statements.

The examiner recommends that the Fund use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.

## 7. ANNUAL STATEMENT WORKPAPERS

In response to examiner's request for copies of the Fund's general ledger, trial balance and transactions registers, the Fund stated that it does not maintain its own general ledger, trial balances and transaction registers.

The examiner recommends that the Fund prepare and maintain a general ledger, trial balances and transaction registers that reconcile to its annual statements.

## 8. 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 trustees, 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 use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.	7
C	The examiner recommends that the Fund prepare and maintain a general ledger, trial balances and transaction registers that reconcile to its annual statements.	8

Respectfully submitted,

\_\_\_\_\_/s/  
Elkin Woods  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Elkin Woods

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

APPOINTMENT NO. 31459

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, MARIA T. VULLO, Acting 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:

**ELKIN WOODS**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
LAMBDA LEGAL DEFENSE & EDUCATION FUND, 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 25th day of April, 2016

MARIA T. VULLO  
Acting Superintendent of Financial Services

By:



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MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

