



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
CENTRAL PARK CONSERVANCY, INC.

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

NOVEMBER 4, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

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EXAMINER:

MATTHEW POLVINO

## 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	8
7.	Custodian	9
8.	Summary and conclusions	10



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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. 31453, 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 Central Park Conservancy, Inc., hereinafter referred to as the “Fund,” at its home office located at 14 East 60<sup>th</sup> Street, New York, New York, 10022.

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 of the Fund and note such approvals in the minutes. (See item 4 of this report)

The examiner recommends that the Fund diversify its investments holdings. (See item 5 of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement (“ISS”). 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 recommends that the Fund obtain and maintain a copy of each deceased annuitant’s death certificate. (See item 6 of this report)

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund’s securities. (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 September 15, 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 Central Park Conservancy, Inc. (the “Conservancy”), founded in 1980, is organized for the purpose of restoring, managing, and enhancing Central Park in partnership with the public. Under the provisions of its by-laws, the Conservancy is permitted to issue gift annuity agreements and it has done so since 2010. A special permit was granted to the Fund by the Department on September 15, 2011, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund is responsible for annuity program marketing, drafting and execution of annuity contracts, and donor stewardship. The Fund has an agreement with Morgan Stanley Wealth Management to provide segregated annuity account management and investment services. The Fund has an agreement with Charitable Trust Administration Company (“CTAC”) to provide annuity program accounting, reporting, donor tax documentation, and check or ACH payment services.

Morgan Stanley Smith Barney is the custodian for the Fund.

The management of the Conservancy and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to fifty-two (52) regular voting trustees. As of December 31, 2015, the board consisted of 52 trustees. The trustees elect Chairman of the Board of Trustees, one or more Vice Chairman of the Board of Trustees, a Treasurer, a Secretary, and such additional officers as the Board may from time to time elect. 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 Investment Committee minutes to determine if the Investment Committee approved the purchases and sales of investments of the Fund during the examination period. The minutes did not contain any indication that the committee approved the purchases and sales of investments of the Fund during the period.

The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments of the Fund and note such approvals in the minutes.

## 5. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the Fund's financial growth 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>\$997,051</u>	<u>\$1,148,911</u>	<u>\$151,860</u>
Liabilities	<u>\$761,616</u>	<u>\$ 859,883</u>	<u>\$ 98,267</u>
Minimum required fund balance	\$ 76,162	\$ 85,988	\$ 9,826
Excess fund balance (surplus)	<u>159,273</u>	<u>203,040</u>	<u>43,767</u>
Total annuity fund balance	<u>\$235,435</u>	<u>\$ 289,028</u>	<u>\$ 53,593</u>
Total liabilities and annuity fund balance	<u>\$997,051</u>	<u>\$1,148,911</u>	<u>\$151,860</u>

Note: Any differences are due to rounding.

The increase in assets, liabilities and surplus reflects an increase in the total number of annuities in force. Annuities increased from 63 with annual payment amounts of \$91,211 as of December 31, 2011 to a total of 75 with annual payment amounts of \$115,990 as of December 31, 2015.

The Fund's admitted assets, as of December 31, 2015, were invested mainly in common stocks (97.46%).

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 2015 annual statement on file, the Fund reported: 13.95% of its admitted assets invested in the securities of Pimco Enhanced Short MTRT mutual fund; 19.91% of admitted assets invested in the securities of Vanguard Short Term Bond mutual fund; and 17.85% of admitted assets invested in the securities of Vanguard Total Bond mutual fund. The Fund's current

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

The examiner recommends that the Fund diversify its investments holdings. A trustee using reasonable care, skill, and caution should diversify the Fund's assets. A diversification is proper when it disperses the investments' risk 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. 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.

The examiner reviewed a sample of nine annuity contracts terminated during the examination period (September 15, 2011 through December 31, 2015). The examiner determined that for two of the annuitants selected for review, the Fund did not obtain a copy of the death certificate or a copy of the Social Security death index information to confirm termination of the annuity contract associated with each deceased annuitant.

The examiner recommends that the Fund obtain and maintain a copy of each deceased annuitant's death certificate.

## 7. CUSTODIAN

Morgan Stanley Smith Barney (“Morgan Stanley”) is the Fund’s custodian and investment manager. 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 custodian for the Fund’s securities.

## 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 of the Fund and note such approvals in the minutes.	5
B	The examiner recommends that the Fund diversify its investments holdings.	7
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
D	The examiner recommends that the Fund obtain and maintain a copy of each deceased annuitant's death certificate.	8
E	The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund's securities.	9

Respectfully submitted,

\_\_\_\_\_/s/  
Matthew Polvino  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Matthew Polvino

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

APPOINTMENT NO. 31453

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:

**MATTHEW POLVINO**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
CENTRAL PARK CONSERVANCY, 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:

*Mark McLeod*

MARK MCLEOD

DEPUTY CHIEF - LIFE BUREAU

