



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

GUIDING EYES FOR THE BLIND, INC.

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

AUGUST 30, 2019

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EXAMINER:

MANISH GERA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

July 31, 2020

Honorable Linda A. Lacewell
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31912, dated June 28, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Guiding Eyes for the Blind, Inc., hereinafter referred to as the “Fund.” The Fund’s home office is located at 611 Granite Springs Road, Yorktown Heights, New York 10598.

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 3C of this report)

The examiner recommends that the Investment Strategy Statement be approved by the board of directors. (See item 3C of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers 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 3C of this report)

The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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 Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters. (See item 4 of this report)

The examiner recommends that the Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account. (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)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2013. This examination covers the period from January 1, 2014 through December 31, 2018. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2018 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, 2018 to determine whether the Fund's filed 2018 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner also reviewed the corrective actions taken by the Fund with respect to the recommendation contained in the prior report on examination. The results of such review are contained in item 6 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

A. History

The Guiding Eyes for the Blind, Inc. (the “Corporation”) is organized for the purpose of providing guide dogs to people with vision loss. The Corporation is passionate about connecting exceptional dogs with individuals for greater independence. The Corporation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1992. A special permit was granted to the Corporation by the Department on January 5, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

The Corporation maintains contact with current and prospective donors and annuitants. In its capacity as a fiduciary, the Corporation regularly reviews the performance of the fund’s investments as well as the various service providers of the fund. The Corporation has retained Cornerstone Advisors Asset Management, LLC (“Cornerstone”) to manage the investments of the Fund and act as the “back office” for the various functions that the Fund performs. Cornerstone has hired PG Calc to provide the database of gifts, make payments and provide the reserve and liability reporting required for the Fund and the annual filings. The Corporation utilizes the services of OSGroup for the preparation of annual reports that are submitted to the New York State Department of Financial Services.

C. Corporate Governance

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to no less than three (3) and no more than 35 directors. As of December 31, 2018, there were 17 directors. The directors elect a chairman, president, secretary, treasurer and any other officers as deemed necessary. The nomination and election procedures of the directors and their term of office are set by the by-laws.

The examiner reviewed the Board of Directors minutes to determine whether the Board of Directors 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.

Interrogatory 18 in the Fund's filed 2018 annual statement states the following:

“Has the board or other governing body of the segregated gift annuity fund adopted an Investment Strategy Statement specifying guidelines for the investment of the fund's assets?”

The examiner's review of the Fund's filed 2018 annual statement showed that the Fund answered “yes” to interrogatory 18. The examiner's review of the Fund's Investment Strategy Statement (“ISS”) revealed that the board did not approve the ISS. Therefore, the Fund failed to answer interrogatory 18 in the 2018 annual statement correctly.

The examiner recommends that the Investment Strategy Statement be approved by the board of directors.

The examiner's review of the Fund's Investment Strategy Statement showed that it did not reference to the prudent investor standard as specified in Section 1110(b) of the New York Insurance Law.

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

4. 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>2013</u>	<u>December 31,</u> <u>2018</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$2,356,647</u>	<u>\$2,608,649</u>	<u>\$252,002</u>
Liabilities	<u>\$1,148,580</u>	<u>\$1,202,121</u>	<u>\$ 53,541</u>
Minimum required fund balance	\$ 114,858	\$ 120,212	\$ 5,354
Excess fund balance (surplus)	<u>1,093,209</u>	<u>1,286,315</u>	<u>193,106</u>
Total annuity fund balance	<u>\$1,208,067</u>	<u>\$1,406,528</u>	<u>\$198,461</u>
Total liabilities and annuity fund balance	<u>\$2,356,647</u>	<u>\$2,608,649</u>	<u>\$252,002</u>

The increase in assets and annuity fund balance reflects an increase in the market value of the Fund's invested assets. Annuities decreased from 71 with annual payment amounts of \$162,458 as of December 31, 2013 to a total of 58 with annual payment amounts of \$174,494 as of December 31, 2018. The increase in liabilities can partially be attributed to increases in annuity reserve factors stemming from new annuities in 2013. Another contributor to the increase in liabilities was that the fair market value of some terminated annuities was never returned to the Corporation. Instead, the residuum remained in the Fund.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in stocks (94.41%).

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 2018 annual statement, the Fund reported: 45.99% of its admitted assets invested in iShares Core U.S. Aggregate, and 21.48% of its admitted assets invested in Schwab

US Large-CAP ETF. The Fund's current concentration in these funds could make it highly unlikely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentrations in the above funds, the examiner recommends that the Fund strengthen the diversification of its investment holdings. 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. 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 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.

The examiner's review of the Fund's custodian account noted that the account is in the name of Guiding Eyes, not in the name of the Fund as agreed to by resolution of the board of directors filed with the Department.

The examiner recommends that the Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account.

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. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation contained in the prior report on examination and the subsequent actions taken by the Fund in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund's name be included on all annuity benefit payment checks. This is a repeat recommendation.</p> <p>Subsequent to September 19, 2014, the date of the prior report, the Fund submitted evidence that it implemented procedures to include the Fund's name on all annuity benefit payment checks. In addition, the examiner's review of a sample of annuity benefit checks for the current exam revealed that the annuity benefit checks were in the Fund's name.</p>

7. 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 Investment Strategy Statement be approved by the board of directors.	5
C	The examiner recommends that the Fund adopt an Investment Strategy Statement that refers 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.	5
D	The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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 Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters.	7
E	The examiner recommends that the Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account.	7

Respectfully submitted,

/s/

Manish Gera
Insurance Examiner

STATE OF NEW YORK)

)SS:

COUNTY OF NEW YORK)

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

/s/

Manish Gera

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 31912

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, 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:

MANISH GERA

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
GUIDING EYES FOR THE BLIND, 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 28th day of June, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

