



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
TRUSTEES OF HAMILTON COLLEGE

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

SEPTEMBER 27, 2019

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EXAMINER:

PABLO RAMOS

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
	A. History	4
	B. Services	4
	C. Corporate governance	4
4.	Significant financial information	6
5.	Treatment of annuitants	8
6.	Prior report summary and conclusions	9
7.	Summary and conclusions	10



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

January 30, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31927, dated May 17, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Trustees of Hamilton College, hereinafter referred to as “the Fund,” at its home office located at 198 College Hill Road, Clinton, NY 13323.

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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination. (See item 3C of this report)

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 strengthen the diversification of its investment holdings by investing the Fund's assets in investments from other issuers. If the trustee has determined that it is in the interests of the beneficiaries to concentrate its invested assets in Dimensional Fund Advisors, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's risk, return, and time horizon parameters. (See item 4 of this report)

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued. (See item 5 of this report)

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (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 violation and recommendations 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 Hamilton College (the “College”) is organized for the purpose of operating and maintaining an institution of higher education for the instruction and education of liberal arts leading to the awarding of Bachelor of Arts degrees. The College established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1987. A special permit was granted to the organization by the Department on June 25, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

The Fund solicits new gift annuities and maintains the annuity files at its home office. All other operations related to the issuance, maintenance and settlement of annuity agreements are handled by TIAA Kaspick. TIAA Kaspick is also the Fund’s investment manager. TIAA-CREF Trust Company is the custodian of the Fund’s assets.

C. Corporate Governance

The management of the College and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to forty-two members, up to thirty of whom, including the President of the College, shall be elected by the Board and shall be known as Charter Trustees, and twelve of whom shall be elected by The Alumni Association of Hamilton College and shall be known as Alumni Trustees. As of December 31, 2018, the board consisted of 36 trustees as follows: 24 Charter Trustees and 12 Alumni Trustees. The trustees elect a President, Vice President for Finance, Secretary to the Board of Trustees, and other officers at the will and pleasure of the board. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

Section 312(b) of the New York Insurance Law states, in part:

“(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer’s files confirming that such member has received and read such report . . .”

The Fund failed to obtain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination.

The examiner reviewed the Investment Committee minutes to determine whether the Investment Committee approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the committee 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.

4. SIGNIFICANT FINANCIAL INFORMATION

The following summary table indicates the decline 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>(Decrease)</u>
Admitted assets	<u>\$7,886,365</u>	<u>\$6,390,328</u>	<u>\$(1,496,037)</u>
Liabilities	<u>\$4,741,671</u>	<u>\$4,229,531</u>	<u>\$ (512,140)</u>
Minimum required fund balance	\$ 474,167	\$ 422,953	\$ (51,214)
Excess fund balance (surplus)	<u>2,670,526</u>	<u>1,737,844</u>	<u>(932,682)</u>
Total annuity fund balance	<u>\$3,144,693</u>	<u>\$2,160,797</u>	<u>\$ (983,896)</u>
Total liabilities and annuity fund balance	<u>\$7,886,365</u>	<u>\$6,390,328</u>	<u>\$(1,496,037)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 201 with annual payment amounts of \$560,002 as of December 31, 2013 to a total of 173 with annual payment amounts of \$484,285 as of December 31, 2018.

The total value of the pool fluctuates over time as new gifts are contributed, beneficiary payments are made, and existing contracts are terminated with the respective residuum amounts severed from the pool and distributed to the College. Because the pool is invested to achieve the growth allocation, its market value also fluctuates based on market performance. For similar reasons, the payment liabilities associated with the contracts in the pool and the minimum required reserves for New York will fluctuate from year to year.

Additional detail on the new gifts received, beneficiary payments made, and contracts terminated and severed from the pool in the five-year period from December 31, 2013 to December 31, 2018 follows:

- 34 additional contracts were added, totaling \$1,318,008.84 (by gift value);
- More than 6,500 beneficiary payments were made, totaling more than \$18 million in distributions from the pool; and 52 contracts matured and were severed, totaling \$1,391,526.69.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in common stocks (98.78%). The bond held was investment grade.

According to the 2018 annual statement, the Fund reported: 31.63% of its admitted assets invested in securities issued by Dimensional Fund Advisors. The Fund's current concentration in the securities of one issuer, Dimensional Fund Advisors, could make it highly unlikely that the Fund's other assets can provide a variability to offset the risks inherent in concentration in one issuer.

Based upon the above-noted concentration in the securities of one issuer, the examiner recommends that the Fund strengthen the diversification of its investment holdings by investing the Fund's assets in investments from other issuers. If the trustee has determined that it is in the interests of the beneficiaries to concentrate its invested assets in Dimensional Fund Advisors, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's risk, return, and time horizon parameters. A trustee using reasonable care, skill and caution should diversify the issuers of the Fund's assets to reduce the risk of loss of principal. 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. Limiting exposure to the assets of any one issuer to 25% or less of admitted assets would reasonably assure that the risks in investment in that issuer are offset by the rest of the portfolio.

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.

The examiner reviewed a sample of new gift annuities issued by the Fund during the examination period. In the sample selected, the examiner noted that 2 out of the 2 newly issued gift annuities reviewed had contracts which did not have the appropriate form number as approved by the Superintendent printed on the forms.

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.

The examiner's review of a sample of 10 annuity contracts terminated revealed that in 10 of the 10 cases (100%) reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation and recommendations 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 Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.</p> <p>The examiner's review of a sample of annuity contracts issued in New York during the exam period revealed that the forms used were missing the policy numbers.</p>
B	<p>The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.</p> <p>The examiner's review of a sample of annuity contracts issued in New York during the exam period revealed that the forms used were missing the policy numbers.</p>
C	<p>The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund's securities.</p> <p>The examiner's review of the Fund's custodian statements revealed that the Fund contracts with a licensed financial custodian.</p>

7. 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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination.	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination.	5
C	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
D	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	5
E	The examiner recommends that the Fund strengthen the diversification of its investment holdings by investing the Fund's assets in investments from other issuers. If the trustee has determined that it is in the interests of the beneficiaries to concentrate its invested assets in Dimensional Fund Advisors, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's risk, return, and time horizon parameters.	7
F	The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.	8
G	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	8

Respectfully submitted,

/s/

Pablo Ramos
Senior Insurance Examiner

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

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

/s/

Pablo Ramos

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31927

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, 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:

PABLO RAMOS

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
TRUSTEES OF HAMILTON COLLEGE**

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 17th day of May, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

