



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
ALFRED UNIVERSITY

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

SEPTEMBER 27, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

PABLO RAMOS

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Linda A. Lacewell  
Superintendent

January 31, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31889, 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 Alfred University, hereinafter referred to as the “Fund.” The Fund’s home office is located at 1 Saxon Drive, Alfred, NY 14802.

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 Fund adopt an Investment Strategy Statement (“ISS”) 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 Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. 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. (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 reviewed the prior report on examination which did not contain any violations, recommendations or comments.

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

Alfred University (“the University”) was organized for the purpose of promoting education by cultivating art, literature and science. The University 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 University by the Department on August 4, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. Wells Fargo, National Association (“Wells Fargo”) performs a number of services on behalf of the Fund, including: managing the Fund’s investments, issuing gift annuity payments, preparing monthly statements, generating semiannual annuity valuation reports, and filing State and Federal tax filings. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

#### C. Corporate Governance

The management of the University and the Fund and all of its affairs and property are entrusted to a board of trustees. As of December 31, 2018, the Board of Trustees consisted of 38 members. The trustees elect the President, Provost and Vice President for Academic Affairs, Vice President for Business and Finance, and Corporate Secretary and any other officers deemed necessary. The nomination and election procedures of the trustees and their term of office are set by the by-laws.

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.

The examiner's review of the Fund's Investment Strategy Statement showed that it does not contain 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 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>\$1,331,317</u>	<u>\$862,409</u>	<u>\$(468,908)</u>
Liabilities	<u>\$ 779,203</u>	<u>\$603,195</u>	<u>\$(176,008)</u>
Minimum required fund balance	\$ 77,920	\$ 60,319	\$ (17,601)
Excess fund balance (surplus)	<u>474,194</u>	<u>198,895</u>	<u>(275,299)</u>
Total annuity fund balance	<u>\$ 552,114</u>	<u>\$259,214</u>	<u>\$(292,900)</u>
Total liabilities and annuity fund balance	<u>\$1,331,317</u>	<u>\$862,409</u>	<u>\$(468,908)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 32 with annual payment amounts of \$102,091 as of December 31, 2013 to a total of 26 with annual payment amounts of \$92,015 as of December 31, 2018. The decrease in assets, liabilities, and surplus is a function of the decrease in annuities in-force.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in common stocks (92.92%).

## 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 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 a sample of the one newly issued gift annuity by the Fund during the examination period noted that it used a form that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample is 1da-I-NY.

The Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. 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.

## 6. 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 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 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
C	The Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent.	7
D	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.	7

Respectfully submitted,

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/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. 31889

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  
ALFRED UNIVERSITY**

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

