



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
UNITED STATES MERCHANT MARINE ACADEMY ALUMNI
FOUNDATION**

AS OF DECEMBER 31, 2018

EXAMINER: Philip Youssef

DATE OF REPORT: October 29, 2021

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
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OF THE
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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

September 7, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31929, 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 United States Merchant Marine Academy Alumni Foundation Inc. The Fund's home office is located at 300 Steamboat Road, Kings Point NY 11024.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund maintain workpapers that show how the Fund derives the amounts reported in its filed annual statements. (See item 4 of this report)

The Fund violated Section 1110(b) of the New York Insurance Law when it failed to maintain admitted assets at least equal to the greater of 110% of the total amount of reserves on its outstanding agreements, or \$100,000. (See item 4 of this report)

The examiner recommends that the Fund maintain proper records of newly issued, in force, and terminated annuitants. (See item 5 of this report)

On July 3, 2020, the Department notified the Fund of its insolvent condition and the need to fund the deficiency immediately. In response, the Foundation resubmitted the annual statement on July 6, 2020, with the amount in reserve for the reinsured annuities. Further, the Fund submitted evidence of cash on deposit of \$102,298 and reported cash on deposit in the refiled annual statement of \$100,000. The cash infusion cured the apparent insolvent condition. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' (the "Department", or "DFS") examination and assessment of the United States Merchant Marine Academy Alumni Foundation Inc. (the "Fund") through which the United States Merchant Marine Academy Alumni Foundation Inc. (the "Foundation") provides annuity benefits.

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2009. 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).

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the Foundation or Fund, in relation to their annuity activities, could have better satisfied statutory standards or adhered to practices or methods of dealing that are regularly observed among similar circumstances.

The Fund is subject to the solvency and examination requirements of New York Insurance Law § 1110 and of New York Insurance Law articles 1, 2, 3, 25, and 74.

The investment of the Fund's required admitted assets is subject to N.Y. Estates, Powers and Trust Law § 11-2.3. The investment of the remainder of the Fund's admitted assets is subject to N.Y. Not-for-Profit Corporation Law Article 5-a. Both establish that the trustees are to invest the assets consistent with prudent person standards.

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.

3. DESCRIPTION OF FUND

A. History

The United States Merchant Marine Academy Alumni Foundation is organized for the purpose of supporting the United States Merchant Marine Academy's mission of educating and graduating Merchant Marine Officers who will become leaders in the commercial and defense transportation services of the United States. The Foundation established the Fund to issue gift annuity agreements in return for gifts from donors in 1991. The Superintendent of Insurance granted to the Foundation a Charitable Annuity Society special permit on March 16, 2009.

B. Structure

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of directors.

C. Assets under the Board of Directors

As of the December 31, 2018 IRS Form 990, the Foundation's Board of Directors oversaw an endowment comprising \$13,596,127 in total assets. The Fund, as of December 31, 2018, held total admitted assets of \$0. (See items 4 and 6 of this report.)

D. Third-party Payment Service Provider

All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Metropolitan Life Insurance Company (MetLife), under a reinsurance agreement. MetLife also handles accounting and investments. Under the 2009 agreement, the Foundation ceded its annuities to MetLife under a reinsurance arrangement. The Foundation did not issue any gift annuities during the exam period.

4. ASSETS AND LIABILITIES SUMMARY

The following summary table indicates the growth (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>Increase</u> <u>(Decrease)</u>
Admitted assets	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Liabilities	\$ <u>100,000</u>	\$ <u>35,234</u>	\$ <u>(64,766)</u>
Minimum required fund balance	\$ 0	\$ 64,766	\$ 64,766
Excess fund balance (surplus)	<u>0</u>	<u>35,234</u>	<u>35,234</u>
Total annuity fund balance	\$ <u>0</u>	\$ <u>100,000</u>	\$ <u>100,000</u>
Total liabilities and annuity fund balance	\$ <u>0</u>	\$ <u>100,000</u>	\$ <u>100,000</u>

* The amounts as of December 31, 2013 and 2018 are as reported by the Fund in its filed annual statements.

The examiner requested copies of workpapers that shows how the annual statement amounts were derived for the examination period. The examiner did not receive any copies of workpapers that were used to obtain the amounts reported in the Fund's filed annual statements.

The examiner recommends that the Fund maintain workpapers that show how the Fund derives the amounts reported in its filed annual statements.

Section 1110(b) of the New York Insurance states, in part:

“Every such domestic corporation or association shall maintain admitted assets at least equal to the greater of (i) the sum of its reserves on its outstanding agreements, calculated in accordance with section four thousand two hundred seventeen of this chapter, and a surplus of ten per centum of such reserves, or (ii) the amount of one hundred thousand dollars...”

The Fund is required to maintain admitted assets in excess of the sum of the Fund's reserves and ten percent of such reserves per Section 1110(b) of the New York Insurance Law, or the amount of \$100,000, whichever is greater. The Fund reported total assets of \$0, net reserves of \$35,234, and minimum required fund balance (ten percent of net reserves) of \$64,766 in the 2018 annual statement. The Fund is required to maintain minimum assets of \$100,000 based on the requirements of Section 1110(b) of the New York Insurance Law.

The Fund violated Section 1110(b) of the New York Insurance Law when it failed to maintain admitted assets at least equal to the greater of 110% of the total amount of reserves on its outstanding agreements, or \$100,000.

After the completion date of field work, based on an audit of the 2019 annual statement, it was further determined that the Fund continued to be insolvent, with a deficiency in the amount of \$36,366. Subsequently, the Foundation cured the insolvent condition by providing evidence of cash on deposit of \$102,298 as evidence that the Fund was properly funded. (See item 6 of this report)

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.

Upon request, the examiner determined that the Fund failed to maintain proper reserve listings and listings of terminated annuitants. Accordingly, the examiner was unable to review aspects of the Fund's treatment of annuitants.

The examiner recommends that the Fund maintain proper records of newly issued, in force, and terminated annuitants.

6. SUBSEQUENT EVENT

After an audit of the Foundation's 2019 annual statement ("statement"), it was determined that the Fund was insolvent. On page 2, line 12 of the statement, the Fund reported reserves in the amount of \$253,463, before reinsurance. The Fund was required to maintain minimum assets of \$100,000, per Section 1110(b) of the New York Insurance Law.

On July 3, 2020, the Department notified the Fund of its insolvent condition and the need to fund the deficiency immediately. In response, the Foundation resubmitted the annual statement on July 6, 2020, with the amount in reserve for the reinsured annuities. Further, the Fund submitted evidence of cash on deposit of \$102,298 and reported cash on deposit in the refiled annual statement of \$100,000. The cash infusion cured the apparent insolvent condition.

7. SUMMARY AND CONCLUSIONS

Following are the violation, recommendations and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund maintain workpapers that show how the Fund derives the amounts reported in its filed annual statements.	5
B	The Fund violated Section 1110(b) of the New York Insurance Law when it failed to maintain admitted assets at least equal to the greater of 110% of the total amount of reserves on its outstanding agreements, or \$100,000.	6
C	The examiner recommends that the Fund maintain proper records of newly issued, in force, and terminated annuitants.	7
D	On July 3, 2020, the Department notified the Fund of its insolvent condition and the need to fund the deficiency immediately. In response, the Foundation resubmitted the annual statement on July 6, 2020, with the amount in reserve for the reinsured annuities. Further, the Fund submitted evidence of cash on deposit of \$102,298 and reported cash on deposit in the refiled annual statement of \$100,000. The cash infusion cured the apparent insolvent condition.	8

Respectfully submitted,

_____/s/
Philip Youssef
Insurance Examiner

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

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

_____/s/
Philip Youssef

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31929

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:

PHILIP YOUSSEF

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
UNITED STATES MERCHANT MARINE ACADEMY ALUMNI FOUNDATION, 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

