



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
CANCER CARE, INC.**

AS OF December 31, 2017

EXAMINER: Meskerem Belay

DATE OF REPORT: June 15, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

CANCER CARE, INC.

AS OF

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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. Structure	4
	C. Assets under the board of trustees	4
	D. Third party payment service provider	4
4.	Investment review	5
	A. Diversification	5
	B. Monitoring	5
5.	Assets and liabilities summary	7
6.	Treatment of annuitants	8
7.	Prior report summary and conclusions	9
8.	Summary and conclusions	10

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

February 1, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 31723, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Cancer Care, Inc. at its home office located at 275 Seventh Ave, New York, NY.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund or Board of Trustees diversify the investments or memorialize why, because of special circumstances, the purposes of the fund are better served without diversification. Decisions not to diversify should be reviewed at least annually. (See item 4A of this report)

The examiner recommends that the Fund or its Board of Trustees should adopt procedures to monitor the concentration or diversification of the Fund's investments, or, at least annually, receive a report monitoring the concentration or diversification of the Fund's investments. The report should be memorialized either in meeting minutes or materials. (See item 4B 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 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 Cancer Care, Inc. Segregated Annuity Fund (the "Fund") through which Cancer Care, Inc. (the "Corporation") provides annuity benefits.

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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 Organization or Fund, in relation to their annuity activities, could have better satisfied statutory standards or to 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, 2017 to determine whether the Fund's filed 2017 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 violations, recommendations and/or comments contained in the prior report on examination. The results of such review are contained in item 7 of this report.

3. DESCRIPTION OF FUND

A. History

Cancer Care, Inc. was chartered in 1955 and is organized for the purpose of providing emotional support, information, and patient services to people with cancer and their loved ones. The Corporation established the Fund to issue gift annuity agreements in return for gifts from donors in 1989. The Superintendent of Insurance granted to the Corporation a Charitable Annuity Society special permit on December 29, 1993.

B. Structure

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of trustees. All operations related to the issuance, maintenance and settlement of payments connected to annuity agreements are handled by the Fund.

C. Assets under the Board of Trustees

As of the June 30, 2017 Form 990, the Corporation's Board of Trustees oversaw an endowment comprising \$8,598,910 in total assets. The Fund, as of December 31, 2017, held total admitted assets of \$646,331.

D. Third Party Payment Service Provider

Bank of New York Mellon is the custodian of the Fund. The Fund has a service agreement with Hemmenway & Reinhardt, Inc. to prepare the annual statements, calculate reserves, and process new gifts and terminations on behalf of the Fund. The Fund also maintains a service agreement with Hirtle, Callaghan, and Co. to invest and reinvest the Fund's assets, oversee and monitor all aspects of the investment program, and to appoint investment advisors to manage portions of the account assets.

4. INVESTMENT REVIEW

A. Diversification

New York Estate Powers and Trust Law § 11-2.3(b)(3)(C) requires trustees to diversify assets unless the trustee reasonably determines that it is in the interests of the beneficiaries not to diversify.

New York Not-for-Profit Law § 552(e)(4) states,

“Except as otherwise provided by a gift instrument, ... (4) An institution shall diversify the investments of an institutional fund unless the institution prudently determines that, because of special circumstances, the purposes of the fund are better served without diversification. An institution shall review a decision not to diversify as frequently as circumstances require, but at least annually.”

The Corporation furnished its own investment strategy statement.

That ISS limits issuer exposure to 1% of total equity assets being invested in the securities of any one issuing corporation at the time of purchase.

The Fund reported 28.54% of its admitted assets invested in HC Capital Trust - International Equity Portfolio, 18.30% of its admitted assets invested in the HC Capital Trust - Institutional Growth Equity Portfolio, and 11.48% of its admitted assets invested in the HC Capital Trust - Institutional Value Equity Portfolio.

Thus, Hirtle Callaghan, as custodian and investment adviser, oversaw the concentration of 84.28% of the Fund’s admitted assets in securities issued by or through Hirtle Callaghan.

At the fund level, the concentration levels of the Fund’s investments appear to exceed the limits set by the Corporation’s own ISS format.

The examiner recommends that the Fund or Board of Trustees diversify the investments or memorialize why, because of special circumstances, the purposes of the fund are better served without diversification. Decisions not to diversify should be reviewed at least annually.

B. Monitoring

The implementation of the ISS was left to the Investment Adviser’s discretion.

New York Estate Powers and Trust Law § 11-2.3(c)(1) requires trustees to exercise care, skill and caution in periodically reviewing the delegee's exercise of the delegated function and compliance with the scope and terms of the delegation.

New York Not-for-Profit Corporation Law § 554(a)(3) provides that, when delegating investment functions, an institution must monitor its agent's performance and compliance with the scope and terms of the delegation. In so doing, the institution must use the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

The concentration levels that actually existed in the portfolio and in products of, or provided through, Hirtle Callaghan or its affiliates appear to exceed the limits set by the Corporation's own IPS form.

The examiner recommends that the Fund or its Board of Trustees should adopt procedures to monitor the concentration or diversification of the Fund's investments, or, at least annually, receive a report monitoring the concentration or diversification of the Fund's investments. The report should be memorialized either in meeting minutes or materials.

5. 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>2012</u>	<u>December 31,</u> <u>2017</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$646,331</u>	<u>\$872,514</u>	<u>\$226,183</u>
Liabilities	<u>\$169,975</u>	<u>\$ 91,347</u>	<u>\$ (78,628)</u>
Minimum required fund balance	\$ 16,998	\$ 9,135	\$ (7,863)
Excess fund balance (surplus)	<u>459,358</u>	<u>772,033</u>	<u>312,675</u>
Total annuity fund balance	<u>\$476,356</u>	<u>\$781,167</u>	<u>\$304,811</u>
Total liabilities and annuity fund balance	<u>\$646,331</u>	<u>\$872,514</u>	<u>\$226,183</u>

The increase in assets and annuity fund balance is as a result of the Fund's assets being reinvested and not withdrawn. The decrease in liabilities is a result of a drop in annuities in force. Annuities decreased from 25 with annual payment amounts of \$21,795 as of December 31, 2012 to a total of 10 with annual payment amounts of \$11,538 as of December 31, 2017.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in equity securities (97.08%).

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's review of a sample of 2 terminated annuitants revealed that in 1 of the 2 cases (50%) 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.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

The following is a recommendation contained in the prior report on examination and the subsequent action taken by the Fund in response to the citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund's board of directors or investment committee review the purchases and sales activities of the Fund at least annually and note the same in the minutes.</p> <p>The examiner reviewed the Fund's Finance and Executive Committee minutes and noted that the Fund's Finance and Executive Committee reviews the investments of the Fund at least annually and notes the same in the minutes.</p>

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 Fund or Board of Trustees diversify the investments or memorialize why, because of special circumstances, the purposes of the fund are better served without diversification. Decisions not to diversify should be reviewed at least annually.	5
B	The examiner recommends that the Fund or its Board of Trustees should adopt procedures to monitor the concentration or diversification of the Fund's investments, or, at least annually, receive a report monitoring the concentration or diversification of the Fund's investments. The report should be memorialized either in meeting minutes or materials.	6
C	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/
Meskerem Belay
Senior Insurance Examiner

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

MESKEREM BELAY, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____/s/
Meskerem Belay

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31723

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

MESKEREM BELAY

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
CANCER CARE, INC.**

and to make a report to me in writing of the condition of said

FUND

with such other information as she 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 13th day of April, 2018

MARIA T. VULLO
Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

