

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
BROOKLYN ACADEMY OF MUSIC, INC

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

NOVEMBER 1, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

BROOKLYN ACADEMY OF MUSIC, INC

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EXAMINER:

HASAN AHMED

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## Department of Financial Services

**KATHY HOCHUL**  
Governor

**ADRIENNE A. HARRIS**  
Acting Superintendent

October 20, 2021

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

Madam:

In accordance with instructions contained in Appointment No. 31896 dated May 20, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Brooklyn Academy of Music, Inc, hereinafter referred to as the “Fund.” The Fund’s home office is located at 30 Lafayette Avenue, Brooklyn, NY 11217.

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 and maintaining the signature of each board member indicating that they received and read the prior report on examination. (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 the gift annuity agreement form that was used and not previously filed with the Superintendent. (See item 5 of this report)

The examiner recommends that the Fund use on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. (See item 5 of this report)

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (See item 6 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

The Brooklyn Academy of Music, Inc. (the “Academy”) is organized for the purpose of presenting, promoting, aiding and advancing artists, writers, musicians, and composers. The Academy established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 2009. A special permit was granted to the Corporation by the Department on May 8, 2009, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

Bank of America is the custodian of the Fund’s assets. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

#### C. Corporate Governance

The management of the Academy, and the Fund and all its affairs and property, are entrusted to a board of trustees. The number of trustees shall not be less than three (3) and shall be fixed from time to time by the trustees then in office to serve a one-year term. The trustees elect a Chair, up to two Vice Chairs, a President, a Treasurer, a Secretary, and such other officers, if any, including one or more vice presidents, as the Board of Trustees may from time to time appoint or elect. The nomination and election procedures of the trustees and their terms of office are set by the by-laws. As of December 31, 2018, the board of trustees consisted of 72 members, which included 49 voting trustees, 12 honorary trustees, 7 ex-officio trustees, 3 chairmen emeriti, and 1 president emerita.

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 examiner's review revealed 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 and maintaining the signature of each board member indicating that they received and read the prior report on examination.



#### 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:

	December 31, <u>2013</u>	December 31, <u>2018</u>	Increase (Decrease)
Admitted assets	<u>\$110,112</u>	<u>\$161,565</u>	<u>\$51,453</u>
Liabilities	<u>\$ 0</u>	<u>\$ 25,202</u>	<u>\$25,202</u>
Minimum required fund balance	\$ 0	\$ 2,520	\$ 2,520
Excess fund balance (surplus)	<u>110,112</u>	<u>133,843</u>	<u>23,731</u>
Total annuity fund balance	<u>\$110,112</u>	<u>\$136,363</u>	<u>\$26,251</u>
Total liabilities and annuity fund balance	<u>\$110,112</u>	<u>\$161,565</u>	<u>\$51,453</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 0 as of December 31, 2014 to a total of 1 with annual payment amounts of \$3,439 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, was held as cash on deposit (100%).

## 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 the 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 in the one newly issued annuity, the Fund used a form that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample is 2J-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 the gift annuity agreement form that was used and not previously filed with the Superintendent.

The examiner’s review of a sample of benefit payments made to annuitant during the examination period revealed that only the name of the Society (Brooklyn Academy of Music), not the Fund’s name, appeared on the annuity benefit checks.

The examiner recommends that the Fund use on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.

## 6. ANNUAL STATEMENT REPORTING

The examiner recalculated Total Annuity Fund Balance and compared it to the amount reported in the Fund's filed annual statements during the examination period. The examiner's review of the Fund's filed 2018 annual statement revealed that the Fund understated Total Annuity Fund Balance by \$30,276 in 2017 and overstated Total Annuity Fund Balance by \$5,075 in 2018.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

## 7. SUMMARY AND CONCLUSIONS

Following are the violations 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 and maintaining the signature of each board member indicating that they received and read the prior report on examination.	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 the gift annuity agreement form that was used and not previously filed with the Superintendent.	7
E	The examiner recommends that the Fund use on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.	7
F	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	8

Respectfully submitted,

\_\_\_\_\_/s/  
Hasan Ahmed  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Hasan Ahmed

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

APPOINTMENT NO. 31896

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:

**HASAN AHMED**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
THE BROOKLYN ACADEMY OF MUSIC, 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 20th day of May, 2019

LINDA A. LACEWELL  
Acting Superintendent of Financial Services

By:

*Mark McLeod*

MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

