



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
SARATOGA CARE, INC.

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

SEPTEMBER 13, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

ADELIA GBADAMOSI

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

February 4, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31924, dated May 16, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Saratoga Care, hereinafter referred to as “the Fund,” at its home office located at 211 Church Street, Saratoga Springs, New York 12866.

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 examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments at least once annually and note such approvals in the minutes. (See item 3C of this report)

The examiner recommends that the board of trustees adopt an Investment Strategy Statement (“ISS”). This is a repeat recommendation. (See item 3C 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)

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

Saratoga Care, Inc. (the “Corporation”) is organized for the purpose of promoting health to the community. The Corporation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 2002. A special permit was granted to the Corporation by the Department on August 25, 2009 for the purpose of issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

The Fund receives donations from the donors, calculates the tax consequences of the annuity and values the property. The Fund also maintains the donor’s file. PNC Bank is the Fund’s custodian. PNC Bank maintains donor records, prepares and mails the annuity checks for each donor, prepares and mails the annual tax forms, and tracks the value of each gift annuity.

C. Corporate Governance

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is set at 16 regular voting trustees. As of December 31, 2018, the board consisted of 16 trustees. The trustees elect a Chairperson, a Vice Chairperson, a Secretary and a Treasurer. The board of trustees select and appoint a President and Chief Executive Officer who is its representative in the management of the Corporation. 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 and maintaining the signature of each board member indicating that they received and read the prior report on examination.

The examiner requested the board of trustees' minutes and all committees thereof for the examination period. The Fund provided the examiner with a copy of the Finance Committee minutes for June 20, 2017.

The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments at least once annually and note such approvals in the minutes.

During the finance committee meeting of June 20, 2017, it was stated that the Fund wants to draft an Investment Strategy Statement that is in alignment with the ISS that Albany Medical Center (AMC) uses to govern its gift annuity funds. However, there has been no communication with AMC, so no vote has been taken to adopt the ISS.

The examiner recommends that the board of trustees adopt an Investment Strategy Statement.

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:

	December 31, <u>2013</u>	December 31, <u>2018</u>	<u>(Decrease)</u>
Admitted assets	\$ <u>1,191,590</u>	\$ <u>411,004</u>	\$(<u>780,586</u>)
Liabilities	\$ <u>876,259</u>	\$ <u>318,073</u>	\$(<u>558,186</u>)
Minimum required fund balance	\$ 87,626	\$ 31,807	\$ (55,819)
Excess fund balance (surplus)	<u>227,706</u>	<u>61,124</u>	<u>(166,582)</u>
Total annuity fund balance	\$ <u>315,332</u>	\$ <u>92,931</u>	\$(<u>222,401</u>)
Total liabilities and annuity fund balance	\$ <u>1,191,590</u>	\$ <u>411,004</u>	\$(<u>780,586</u>)

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 28 with annual payment amounts of \$75,990 as of December 31, 2013 to a total of 24 with annual payment amounts of \$28,246 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in stocks (96.24%) and mutual funds (3.76%).

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 reviewed a sample of new gift annuities issued by the Fund during the examination period. In the sample selected, the examiner noted that 4 out of the 5 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.

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 examiner recommends that the Fund diversify its investment holdings.</p> <p>The Fund has sufficiently diversified its investment holdings.</p>
B	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement.</p> <p>The Fund has not approved an Investment Strategy Statement and is awaiting approval to use the ISS of Albany Medical Center.</p>
C	<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 Fund filed gift annuity forms on October 5, 2017.</p>
D	<p>The examiner recommends that the Fund file with the Superintendent all gift annuity forms that were used and not previously filed with the Superintendent.</p> <p>The Fund filed gift annuity forms on October 5, 2017.</p>
E	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>No further discrepancies were found in the Fund's annual statement reporting.</p>

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 examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments at least once annually and note such approvals in the minutes.	5
D	The examiner recommends that the board of trustees adopt an Investment Strategy Statement.	5
E	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.	7

Respectfully submitted,

/s/
Adelia Gbadamosi
Senior Insurance Examiner

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

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

/s/
Adelia Gbadamosi

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31924

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:

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
SARATOGA 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 16th day of May, 2019

LINDA A. LACEWELL

Acting Superintendent of Financial Services

By:



MARK MCLEOD

DEPUTY CHIEF - LIFE BUREAU

