



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF

THE FOUNDATION OF CVPH MEDICAL CENTER, INC.

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

AUGUST 9, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

MANISH GAJIWALA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Linda A. Lacewell  
Superintendent

May 21, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31906, 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 Foundation of CVPH Medical Center, Inc., hereinafter referred to as “the Fund,” at its home office located at 75 Beekman Street, Plattsburgh, NY 12901.

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's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2018 filed annual statement. (See item 4 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)

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 also reviewed the corrective actions taken by the Fund with respect to the recommendations contained in the prior report on examination. The results of such review are contained in item 7 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

The Foundation of CVPH Medical Center, Inc (“the Foundation”) is organized for the purpose of publicly soliciting and receiving funds for the primary benefit of the Champlain Valley Physicians Hospital Medical Center (the “Hospital”) and its affiliates, so long as such entities are operated as not-for-profit organizations, and for the purpose of improving the health and well-being of the inhabitants of the North Country. The Foundation 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 hospital, by the Department on October 20, 2009, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

The Fund’s custodian is Community Bank. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. Community Bank is also the Fund’s investment manager. Community Bank deposits the check, issues payments to the annuitants, routing them through the Foundation so that the Fund can send along a personal note, and annually sends 1099-R forms for tax purposes.

#### C. Corporate Governance

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of trustees. The board has a minimum requirement of three regular voting trustees. As of December 31, 2018, the board consisted of 17 trustees. The trustees elect a President, one or more Vice Presidents, a Secretary and a Treasurer. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

The examiner reviewed the board of trustees’ and the planned giving committee minutes to determine whether the board or the planned giving committee approved the purchases and sales of investments during the examination period. The minutes failed to contain any indication that

the board or the planned giving 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.



#### 4. SIGNIFICANT FINANCIAL INFORMATION

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>\$447,964</u>	<u>\$457,379</u>	<u>\$ 9,415</u>
Liabilities	<u>\$145,537</u>	<u>\$110,707</u>	<u>\$(34,830)</u>
Minimum required fund balance	\$ 14,554	\$ 11,071	\$ (3,483)
Excess fund balance (surplus)	<u>287,873</u>	<u>335,601</u>	<u>47,728</u>
Total annuity fund balance	<u>\$302,427</u>	<u>\$346,672</u>	<u>\$ 44,245</u>
Total liabilities and annuity fund balance	<u>\$447,964</u>	<u>\$457,379</u>	<u>\$ 9,415</u>

The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from four with annual payment amounts of \$14,430 as of December 31, 2013 to a total of three with annual payment amounts of \$13,530 as of December 31, 2018. The increase in assets and annuity fund balance is attributable to investment gains during the examination period.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in common stocks (97.18%).

## 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.

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 the one newly issued gift annuity reviewed had a contract which failed to 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. ANNUAL STATEMENT REPORTING

1. The instructions for realized capital gains/(losses) state the following:

“Line 3 “Current Year” Column: Should agree with the sum of Schedule A, Part 5, Column 8, Totals - Bonds and Stocks plus Schedule D – Part 3, Column 8, Totals – Other Invested Assets.

“Prior Year” Column: Report prior year’s realized capital gains/(losses).”

In the Fund’s filed 2014 annual statement, it reported \$30,924 in realized capital gains on page 3, line 3, of the Income Section. In Schedule A, Part 5, Column 8, it reported \$0 in realized capital gains or losses. The examiner determined that the Fund should have reported \$30,924 in realized capital gains on page 3, line 3, of the Income Section and Schedule A, Part 5, Column 8 for 2014.

A review of the Fund’s filed 2015 annual statement revealed that it reported \$29,258 in realized capital gains on page 3, line 3, of the Income Section. The examiner determined that the Fund should have reported \$29,958 in realized capital gains on page 3, line 3, of the Income Section and Schedule A, Part 5, Column 8 for 2015.

2. The instructions for the Exhibit of Annuities in Force states the following, in part:

“Column 3 “At Beginning of Year – Amount”: Report the annualized amount of annuity payments payable under those contracts. Do not report the annuity considerations or reserve amounts in this column....

...Column 9 “At End of Year – Amount”: Report the annualized amount of annuity payments payable under contracts outstanding at year-end. Do not report the annuity considerations or reserve amounts in this column.

- Equals the sum of Columns 3 plus 5 minus 7.
- The total amount of annuity payments made during the year reported on Page 3, Line 8 should be approximately, an average of the amounts reported on Line 1, Column 3 and Column 9. If the amount reported on Page 3, Line 8 is not close to that amount, provide an explanation at Note 2 of the Notes to Financial Statement.”

The following amounts were reported for 2014 through 2017 for the annualized payments at the beginning of the year:

<b>Year</b>	<b>Amount Reported</b>
2014	143,361
2015	143,361
2016	145,077
2017	145,077

The following amounts were reported for 2014 through 2017 for the annualized payments at the end of the year:

<b>Year</b>	<b>Amount Reported</b>
2014	143,361
2015	145,077
2016	145,077
2017	125,682

Furthermore, in the 2018 filed annual statement, it reported annualized payments of \$13,530 in the Exhibit of Annuities in Force for both the beginning and end of the year. It reported \$9,324 in annuity payments to donors or others on page 3, line 8. For 2014 through 2017, the following was reported as annuity payments to donors or others on page 3, line 8 in the filed 2018 annual statement:

<b>Year</b>	<b>Amount Reported</b>
2014	14,430
2015	15,068
2016	15,330
2017	32,925

The actual amounts that should have been reported in the Exhibit of Annuities in Force for 2014 through 2017 are as follows:

<b>Year</b>	<b>Payments, Beginning of Year</b>	<b>Payments, End of Year</b>
2014	\$14,430	\$14,430
2015	\$14,430	\$15,330
2016	\$15,330	\$15,330
2017	\$15,330	\$13,530

3. The instructions for Exhibit 1 – Verification of Investment Income states the following, in part:

“Line 1...

... Column 6 should equal the sum of:

(1) the amount reported for Totals in Schedule A, Part 2, Column 9, and

(2) the amount reported for Totals in Schedule A, Part 3, Column 9.

Column 7 should equal the amount reported for Totals in Schedule B, Column 9.”

<b>Year</b>	<b>Amount per Exhibit 1, Column 6 (Stocks)</b>	<b>Amount per Exhibit 1, Column 7 (Money Mkt)</b>	<b>Amount per Schedule A, Part 3, Column 9 (Stocks)</b>	<b>Amount per Schedule B, Column 6 (Money Mkt)</b>
2014	-	6,386	-	6,478
2015	-	6,035	-	6,139
2016	-	7,700	8,164	98
2017	9,507	-	9,602	125
2018	10,543	-	10,377	279

The examiner determined that the Fund acknowledged that the figures reported from 2014 through 2016 in Exhibit 1, Column 7, and Schedule B, Column 6, should have been reported in Exhibit 1, Column 6 and Schedule 3, Column 9. For 2017 and 2018, the income totals were correctly reported in Exhibit 1, Column 6 and Schedule 3, Column 9. However, in all years under examination, the common stock totals did not tie between Exhibit 1 and Schedule A. The examiner determined that the income earned during the year on common stocks should be the actual amount received.

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

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the 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 diversified its holdings by investing in additional mutual funds and exchange traded Funds (ETF's) in order to ensure no individual position exceeded 10% of the portfolio market value (PMV).</p>
B	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer 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.</p> <p>The Fund adopted an investment strategy statement and its investment management objective refers to the prudent investment management.</p>
C	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>The examiner discovered additional discrepancies during the review. A similar recommendation appears in this report on examination.</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 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 ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.	7
C	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	10

Respectfully submitted,

\_\_\_\_\_/s/  
Manish Gajiwala  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Manish Gajiwala

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



**APPOINTMENT NO. 31906**

**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:

**MANISH GAJIWALA**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
FOUNDATION OF CVPH MEDICAL CENTER, 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**  
DEPUTY CHIEF - LIFE BUREAU

