



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
FRIENDS OF YAD SARAH, INC

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

SEPTEMBER 13, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

JAMES WANG

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

January 15, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31916, 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 Friends of Yad Sarah, Inc, hereinafter referred to as the “Fund.” The Fund’s home office is located at 445 Park Avenue #1702, New York, NY 10022.

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 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 Investment Strategy Statement (“ISS”) be approved by the board of directors. (See item 3C of this report)

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. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 5 of this report)

The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. This is a repeat recommendation. (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

Friends of Yad Sarah, Inc. (the “Corporation”) was organized for charitable, religious, and educational purposes for the furnishing of medical equipment, supplies, appliances, instruments and facilities to hospitals, clinics, and research institutions in the United States and elsewhere. The Corporation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since June 1981. A special permit was granted to the Fund by the Department on October 23, 2009, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

PNC Institutional Investments (“PNC”), an asset management company, provides gift annuity strategy, support, investment management and administration to the Fund. PNC Bank, as trustee, is the custodian of the Fund’s investments. PNC also prepares the annual statements, calculates the reserves, and processes the annuity benefits on behalf of the Fund. All operations related to the issuance, maintenance and settlement of annuity agreements are performed by the Fund.

C. Corporate Governance

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors shall not be less than three, as set by the by-laws. As of December 31, 2018, the board consisted of six directors. The directors elect a Chairman and Secretary. The nomination and election procedures of the directors 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 examiner's review revealed that 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 the signature of each board member indicating that they received and read the prior report on examination.

Interrogatory 18 in the Fund's filed 2018 annual statement states the following:

"Has the board or other governing body of the segregated gift annuity fund adopted an Investment Strategy Statement specifying guidelines for the investment of the fund's assets?"

The examiner's review of the Fund's filed 2018 annual statement showed that the Fund answered "yes" to interrogatory 18. The examiner's review of the Fund's Investment Strategy Statement revealed instead that the board failed to approve the ISS.

The examiner recommends that the Investment Strategy Statement be approved by the board of directors.

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:

	<u>December 31,</u> <u>2013</u>	<u>December 31,</u> <u>2018</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$857,680</u>	<u>\$2,075,152</u>	<u>\$1,217,472</u>
Liabilities	<u>\$375,662</u>	<u>\$1,356,249</u>	<u>\$ 980,587</u>
Minimum required fund balance	\$100,000	\$ 135,624	\$ 35,624
Excess fund balance (surplus)	<u>382,017</u>	<u>583,279</u>	<u>201,262</u>
Total annuity fund balance	<u>\$482,017</u>	<u>\$ 718,903</u>	<u>\$ 236,886</u>
Total liabilities and annuity fund balance	<u>\$857,680</u>	<u>\$2,075,152</u>	<u>\$1,217,472</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 30 with annual payment amounts of \$43,480 as of December 31, 2013 to a total of 97 with annual payment amounts of \$167,439 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in common stocks (94.99%).

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 6 newly issued New York gift annuities by the Fund during the examination period noted that in all 6 newly issued annuities, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample is GA1L-D(9/08).

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. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

6. ANNUAL STATEMENT REPORTING

The Fund reported wrong amounts in their 2018 filed annual statement Page 2, liabilities and annuity fund balance. The table below shows the amounts reported by the Fund and the amounts calculated by the Examiner.

	Amount reported by Fund	Amount calculated by Examiner
10. Net present value of annuities.	\$1,179,347	\$1,179,347
10a. Additional reserve required by Regulation 126.	312,527	176,902
10b. Total	\$1,491,874	\$1,356,249
12. NET RESERVE (line 10b minus line 11)	\$1,491,874	\$1,356,249
19. Total Liabilities (sum of lines 12 to 18)	<u>\$1,491,874</u>	<u>\$1,356,249</u>
20. Annuity Fund Balance:		
20.1 Minimum required fund balance	\$ 100,000	\$ 135,625
20.2 Excess fund balance	<u>483,278</u>	<u>583,278</u>
20.3 Total Annuity Fund Balance (sum of lines 20.1 and 20.2)	<u>583,278</u>	<u>718,903</u>
21. Total Liabilities and Annuity Fund Balance	<u><u>\$2,075,152</u></u>	<u><u>\$2,075,152</u></u>

The Fund should have reported total liabilities of \$1,356,249 instead of total liabilities of \$1,491,894 as reported in its annual statement.

The Fund failed to report the correct amount for line 20.1 minimum required fund balance in the Assets and Liabilities page in its annual statements for all years during the examination period.

As of December 31, 2018, the Fund overstated liabilities and understated total annuity fund balance by \$135,645.

The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. This is a repeat recommendation.

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 record and maintain minutes of meetings of the board of directors.</p> <p>The Fund provided the examiner with a copy of the board minutes for board meetings conducted in 2017 and 2018 only.</p>
B	<p>The examiner recommends that the board of directors or a committee thereof review the purchases and sales of investments of the Fund at least annually and record the same in the minutes</p> <p>The review of the minutes provided failed to indicate the board approved the investment transactions.</p>
C	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>Review of the annual statements filed during the examination period revealed that the Fund failed to follow instructions for the preparation of the annual statements, in certain reported amounts.</p>

8. 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 the signature of each board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	5
D	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.	7
E	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	7
F	The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. This is a repeat recommendation.	8

Respectfully submitted,

_____/s/
James Wang
Senior Insurance Examiner

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

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

_____/s/
James Wang

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31908

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:

JAMES WANG

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
FRIENDS OF YAD SARAH, 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 16th day of May, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

