



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
CENTRAL PARK CONSERVANCY, INC.**

**AS OF December 31, 2020**

**EXAMINER: Hasan Ahmed**

**DATE OF REPORT: September 3, 2021**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

CENTRAL PARK CONSERVANCY, INC.

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EXAMINER:

HASAN AHMED

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

October 20, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 32216, dated August 6th, 2021 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Central Park Conservancy, Inc. The Fund's home office is located at 14 East 60th Street, New York, New York, 10022.

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

## 1. EXECUTIVE SUMMARY

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period. (See item 3E of this report)

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials. (See item 4A of this report)

The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes. (See item 4B of this report)

The examiner's review of the Fund's treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (See item 6 of this report)

The examiner recommends that the Fund exercise due care in its preparation of its filed annual statements. (See item 7 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 Central Park Conservancy (the "Fund") through which Central Park Conservancy (the "Conservancy") provides annuity benefits.

The prior examination was conducted as of December 31, 2015. This examination covers the period from January 1, 2016 through December 31, 2020. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2020 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 Conservancy 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, 2020 to determine whether the Fund's filed 2020 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 8 of this report.

### 3. DESCRIPTION OF FUND

#### A. History

The Central Park Conservancy, Inc. was chartered in 1980 and is organized for the purpose of restoring, managing, and enhancing Central Park in partnership with the public. The Conservancy established the Fund to issue gift annuity agreements in return for gifts from donors in 2010. The Superintendent of Insurance granted to the Conservancy a Charitable Annuity Society special permit on September 15, 2011.

#### B. Structure

The management of the Conservancy and the Fund and all of its affairs and property are entrusted to a board of trustees. The Conservancy is responsible for annuity program marketing, drafting and execution of annuity contracts, and donor stewardship.

#### C. Assets under the Board of Trustees

As of the June 30, 2020 audited financial statement, the Conservancy's Board of Trustees oversaw an endowment consisting of 89 individual funds comprising \$224,229,000 in total assets. The Fund, as of December 31, 2020, held total admitted assets of \$1,679,951.

#### D. Third-Party Payment Service Provider

The Fund has an agreement with Morgan Stanley Wealth Management to provide segregated annuity account management and investment services. The Fund has an agreement with Charitable Trust Administration Company to provide annuity program accounting, reporting, donor tax documentation, and check or ACH payment services.

#### E. Oversight Structure

The examiner reviewed the investment transactions for the period under examination and noted that the Fund failed to obtain broker's advices or other supporting documentation for its investment transactions to reconcile such advices to the monthly statements furnished by the custodian.

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period.

#### 4. INVESTMENT REVIEW

##### A. Investment Policy Statement

New York Estate Powers and Trust Law § 11-2.3(b)(3)(A) requires trustees to “pursue an overall investment strategy to enable the trustee[s] to make appropriate present and future distributions to or for the benefit of the beneficiaries under the governing instrument, in accordance with risk and return objectives reasonably suited to the entire portfolio.”

New York Not-for-Profit Corporation Law § 552(e)(2) requires institutions to adopt “an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.” New York Not-for-Profit Corporation Law § 552(f) provides that each “institution shall adopt a written investment policy setting forth guidelines on investments ... and delegation of management and investment functions in accord with the standards of this article.”

Morgan Stanley is the Fund’s investment adviser and custodian.

The Conservancy prepared and provided a form investment policy statement (“IPS”) to the Fund. The Fund adopted that form as its IPS.

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

##### B. Monitoring

It is recognized that governing boards should, commensurate with the size and complexity of the risks to be assessed and their potential harm: implement reporting or information system or controls; and, having implemented such a system or controls, monitor or oversee their operations so that they are not disabled from being informed of risks or problems requiring their attention.

The examiner reviewed the board of directors’ minutes to determine whether the board had been provided with a report concerning the Fund’s investment of required admitted assets. The minutes did not contain any indication that the board was provided with a report concerning the Fund’s investment of required admitted assets.



The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.

## 5. ASSETS AND LIABILITIES SUMMARY

The following summary table indicates the decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2015</u>	<u>December 31,</u> <u>2020</u>	<u>(Decrease)</u>
Admitted assets	<u>\$1,148,911</u>	<u>\$1,679,951</u>	<u>\$531,040</u>
Liabilities	<u>\$ 859,883</u>	<u>\$1,094,435</u>	<u>\$234,552</u>
Minimum required fund balance	\$ 85,988	\$ 109,444	\$ 23,456
Excess fund balance (surplus)	<u>203,040</u>	<u>476,073</u>	<u>273,033</u>
Total annuity fund balance	<u>\$ 289,028</u>	<u>\$ 585,517</u>	<u>\$296,489</u>
Total liabilities and annuity fund balance	<u>\$1,148,911</u>	<u>\$1,679,951</u>	<u>\$531,040</u>

The increase in assets, liabilities and annuity fund balance is due to new gifts added to the Fund in the amount of \$728,130 in 2017. Annuities decreased from 74 with annual payment amounts of \$115,165 as of December 31, 2016 to a total of 62 with annual payment amounts of \$131,459 as of December 31, 2020.

The Fund's admitted assets, as of December 31, 2020, were invested mainly in equity securities (97.82%).

## 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.

Based upon the sample reviewed, no significant findings were noted.

## 7. ANNUAL STATEMENT REPORTING

During the examiner's review of the Fund's filed annual statements, the following issues were noted:

1. A comparison of the totals reported for annuity payments in the Fund's filed 2020 annual statement with the amount provided for total annuity payments as shown in the gift payment breakdown revealed that the amount of payments reported on page 3, line 9 of the Fund's filed annual statement was understated by \$31,926. The amount of annuity payments reported in the annual statement was \$101,935, and the amount reported in the payment breakdown was \$133,861.
2. The Fund reported \$36,621 as cash in office on page 2, line 6.1 in the 2020 filed annual statement. The Fund should have reported it as cash on deposit, as the cash was found in various accounts held by its custodian as well as JP Morgan Chase Bank.

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

## 8. 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 board of trustees, or a committee thereof, approve the purchases and sales of all investments of the Fund and note such approvals in the minutes</p> <p>The board of trustees, or a committee thereof, did not review the Fund's admitted assets at least annually and note the same in the minutes. A similar recommendation appears in this report on examination.</p>
B	<p>The examiner recommends that the Fund diversify its investments holdings.</p> <p>The department no longer provides guidance on diversification.</p>
C	<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.</p>
D	<p>The examiner recommends that the Fund obtain and maintain a copy of each deceased annuitant's death certificate.</p> <p>The Fund obtained and maintained a copy of each deceased annuitant's death certificate.</p>

<u>Item</u>	<u>Description</u>
E	<p>The examiner recommends that the Fund contract with a licensed bank or trust company to serve as custodian for the Fund's securities.</p> <p>The Fund contracted with a SIPC member licensed brokerage to serve as custodian for the Fund's securities.</p>

## 9. 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 obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period.	4
B	The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.	5
C	The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.	6
D	The examiner recommends that the Fund exercise due care in its preparation of its filed annual statements.	9

Respectfully submitted,

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/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. 32216***

***NEW YORK STATE***

***DEPARTMENT OF FINANCIAL SERVICES***

*I, **LINDA A. LACEWELL**, 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  
CENTRAL PARK CONSERVANCY, 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 6th day of August, 2021*

***LINDA A. LACEWELL***  
*Superintendent of Financial Services*

*By:*



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***MARK MCLEOD***  
***DEPUTY CHIEF - LIFE BUREAU***

