



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
GLIMMERGLASS OPERA THEATRE, INC.

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

MAY 23, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

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EXAMINER:

PETER AGUH

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Linda A. Lacewell  
Acting Superintendent

June 10, 2019

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

Madam:

In accordance with instructions contained in Appointment No. 31730, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Glimmerglass Opera Theatre, Inc, hereinafter referred to as the "Fund." The Fund's home office is located at 7300 State Highway 80, P. O. Box 191, Cooperstown, NY 13326.

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 3 of this report)

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 3 of this report)

The examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters. (See item 4 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 5 of this report)

## 2. SCOPE OF EXAMINATION

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2013. This examination covers the period from October 23, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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, 2017 to determine whether the Fund's filed 2017 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification.

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

Glimmerglass Opera Theatre, Inc (the “Organization”) is organized: “to produce familiar, new and little-known operas and works of music theater in innovative productions that capitalize on the Glimmerglass Festival’s intimate theater and natural setting; to provide artistically challenging, professional training and performance opportunities for emerging artists and theater practitioners; to produce thought-provoking programs that illuminate the mainstage repertory’s intersection with social values; and to engage important artists who can inspire the highest standards of achievement.” The Organization established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1987. A permit was granted to the Fund by the Department on October 23, 2013, for issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

The issuance and maintenance of the annuity agreements are handled by the Fund. Key Bank provides custodial and investment services, prepare the annual statement, and provides actuarial services. The Fund is required to follow the Glimmerglass Opera Theatre Investment Policy as established by its Investment Committee.

#### C. Corporate Governance

The management of the organization and the Fund and all its affairs and property are entrusted to a board of trustees. The trustees include Founding Trustees, Honorary Chairs, and no fewer than 12 and no more than 42 regular trustees. As of December 31, 2017, the board consisted of 20 regular trustees, one Honorary Chair and one living Founding Trustee. The trustees elect the chairman, the vice chairman, president, at least one vice president, 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’ minutes to determine whether the board approved the purchases and sales of investments during the examination period. The minutes did

not contain any indication that the board 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.

The examiner reviewed the investment transactions for the period under examination and noted that the Fund did not 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. 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>2017</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$146,909</u>	<u>\$915,167</u>	<u>\$768,258</u>
Liabilities	<u>\$ 35,327</u>	<u>\$465,153</u>	<u>\$429,826</u>
Minimum required fund balance	\$ 3,533	\$ 46,515	\$ 42,982
Excess fund balance (surplus)	<u>108,049</u>	<u>403,499</u>	<u>295,449</u>
Total annuity fund balance	<u>\$111,582</u>	<u>\$450,014</u>	<u>\$338,432</u>
Total liabilities and annuity fund balance	<u>\$146,909</u>	<u>\$915,167</u>	<u>\$768,258</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the average face value of annuities in force arising mainly from the receipt of a gift of \$1 million in February 2014. Annuities decreased in number from 8 with annual payment amounts of \$7,179 as of December 31, 2013 to a total of 6 as of December 31, 2017. The receipt of the gift of \$1 million in February 2014 also resulted in annual payment amounts increasing to \$86,975 as of December 31, 2017.

The Fund's admitted assets, as of December 31, 2017, were invested in common stocks (100%).

Section 1409(a) of the New York Insurance Law states,

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

According to the 2017 annual statement, the Fund reported: 21.54% of its admitted assets invested in the OAKMARK FUND, 13.28% invested in the TIAA-CREF LARGE-CAP VALUE INDEX OPEN-END FUND INSTL CL and 10.29% invested in the JPMORGAN US EQUITY

FUND. The Fund's current concentration in these funds could make it less likely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentrations in the above funds, the examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters. A trustee using reasonable care, skill and caution should diversify the Fund's assets. A diversification is proper when it disperses the investments' risks consistent with the Investment Strategy Statement's risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Section 1409 of the New York Insurance Law is instructive. Limiting exposure to any assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in the investment in that institution are offset by the rest of the portfolio.

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

## 6. 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 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.	5
C	The examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Peter Aguh  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Peter Aguh

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

APPOINTMENT NO. 31730

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, MARIA T. VULLO, 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:

**PETER AGUH**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
GLIMMERGLASS OPERA THEATER, 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 13th day of April, 2018

MARIA T. VULLO  
Superintendent of Financial Services

By:

*Mark McLeod*

MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

