























## 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.

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 3 newly issued gift annuities by the Fund during the examination period noted that in 1 newly issued annuity, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. In this instance, the form that was used was a form deviated from the accepted New York form and had no form number listed on the bottom left-hand corner of the page.

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.

## 7. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2021, namely the General Interrogatories section, states the following, in part:

“8. If there has been a change in the Segregated Gift Annuity Fund's name, notification must be sent to the Department's Office of General Counsel at: Office of General Counsel, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257...

13. All Segregated Gift Annuity Funds must submit an electronic listing providing complete details relative to annuity table, rates of interest, etc., used in the calculation of the reserves reported on Page 2, Line 10 of the Annual Statement (Refer to the Instructions herein). Actuarial statements or certifications are not acceptable in lieu of the detailed listing.

14. Each Segregated Gift Annuity Fund must file its forms with the Superintendent of Financial Services. This includes any revised or updated versions of the forms...”

The examiner's review of the Fund's filed 2021 annual statement revealed that it failed to complete Items 6, 7, 8, 9, 10, 13, 14, and 15 of the General Interrogatories section.

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

## 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 Fund violated Section 312(b) of the New York Insurance Law by failing to maintain statements signed by each board member indicating that they received and read the prior report on examination.</p> <p>The Fund failed to furnish the statements duly signed by each board member indicating that they received and read the prior report on the examination. A similar violation appears in this report on examination.</p>
B	<p>The examiner recommends that the Fund maintain the statements, signed by the board members indicating that they received and read the prior report on examination, for the examiner's review during the ensuing examination.</p> <p>The Fund failed to furnish the statements duly signed by each board member indicating that they received and read the prior report on the examination. A similar recommendation appears in this report on examination.</p>
C	<p>The Fund violated Section 325 of New York Insurance Law by failing to maintain all annual statements and all support worksheets at its principal office in this state.</p> <p>The Fund maintains its annual statements and all support worksheets at its principal office in this State.</p>
D	<p>The examiner recommends that the Fund prepare its Annual Statements in accordance with the Department's instructions for completing the New York State segregated gift annuity fund annual statement.</p> <p>The examiner noted new discrepancies in the preparation of the New York State segregated gift annuity fund annual statement. A similar recommendation appears in this report on examination.</p>

<u>Item</u>	<u>Description</u>
E	The examiner recommends that the Fund use on all annuity benefit payment checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.  The Fund used on all annuity benefit payment checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.

## 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 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 have received and read any current or future filed report on examination.	5
C	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
D	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 delegates to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.	6
E	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
F	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.	8
G	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.	8

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement	9



Respectfully submitted,

\_\_\_\_\_/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. 32384*

*NEW YORK STATE*

***DEPARTMENT OF FINANCIAL SERVICES***

*I, ADRIENNE A. HARRIS, 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  
PORT AMERICA, 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 14th day of July, 2022*

*ADRIENNE A. HARRIS  
Superintendent of Financial Services*

*By:*



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

