REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
COLLEGE OF SAINT ROSE

AS OF December 31, 2021

EXAMINER: Hasan Ahmed

DATE OF REPORT: April 20, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

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June 7, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32368, dated October 25th, 2022, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the College of Saint Rose. The Fund's home office is located at 432 Western Avenue, Albany, NY 12203.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund use on all annuity benefit 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. (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'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 prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. (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 College of Saint Rose Gift Annuity Fund (the "Fund") through which the College of Saint Rose (the "College") provides annuity benefits.

The prior examination was conducted as of December 31, 2016. This examination covers the period from January 1, 2017 through December 31, 2021. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2021 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 College 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, 2021 to determine whether the Fund's filed 2021 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 College of Saint Rose is organized for the purpose of providing an education which recognizes the individual potential of each student, drawing upon the heritage of the past to meet the needs of the present and to prepare for the future. The College established the Fund to issue gift annuity agreements in return for gifts from donors in 1998. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on May 31, 2007.

B. Structure

The Fund is overseen by the Organization's board of trustees. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

C. Assets under the Board of Trustees

As of the June 30, 2021 audited financial statement, the Organization's Board of Trustees oversaw an endowment comprising $44,047,118 in total assets. The Fund, as of December 31, 2021, held total admitted assets of $444,652.

D. Third-Party Payment Service Provider

Key Private Bank is the Fund's custodian and investment manager. The Fund has a service agreement with the Key Private Bank for investment related services. Those services include the execution of investment transactions, preparation of investment reports, and benefit payments.

E. Oversight Structure

The examiner's review of a sample of benefit payments made to annuitants during the examination period revealed that only the name of the organization not the Fund's name, appeared on the annuity benefit checks.

The examiner recommends that the Fund use on all annuity benefit 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.

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."

Key Private Bank is the Fund's investment adviser and custodian. Key Private Bank 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.

5. ASSETS AND LIABILITIES SUMMARY

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:

	December 31, 2016	December 31, 2021	Increase
Admitted assets	$851,636	$444,652	$(406,984)
Liabilities	$523,810	$ 97,010	$(426,800)
Minimum required fund balance	$ 52,381	$ 9,701	$ (42,680)
Excess fund balance (surplus)	275,445	337,940	62,495
Total annuity fund balance	$327,826	$347,641	$ 19,815
Total liabilities and annuity fund balance	$851,636	$444,652	$(406,984)

The decrease in assets and liabilities is due to a decline in annuities from 17 with annual payment amounts of $88,501 as of December 31, 2016 to a total of 9 with annual payment amounts of $12,031 as of December 31, 2021. The increase in the annuity fund balance stems from decreases in the minimum required fund balance, which derived from liabilities decreasing much faster than assets.

The Fund's admitted assets, as of December 31, 2021, were invested in equity securities (98.43%).

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

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2017, namely the Jurat page, states the following, in part:

> "Report the full names of the directors or trustees and officers. Initials are not acceptable.
> Additional lines can be inserted, if necessary."

The Fund failed to include a listing of the board of trustees in the annual statement for the year ended December 31, 2017. The Fund should have included a listing of the board of trustees in 2017.

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2018, namely Assets, Line 3 states the following, in part:

> "Current Year" Column: Should agree with the total of Schedule A- Part 3, Column 7."

The Fund failed to include Schedule A – Part 3 in the annual statement for the year ended December 31, 2018. The Fund should have included Schedule A – Part 3 for 2018.

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:

Item	Description
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 The Department no longer requires the approval of purchases and sales of the Fund's investments. Satisfactory to current requirements, the Investment Committee performs a review of the Fund's investments on a quarterly basis.
B	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. The Department no longer provides specific guidance on the diversification of investment holdings.
C	The examiner recommends that the Fund avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentrations in investments that are either issued or sponsored by the investment advisor and establishing a Board of Directors (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment advisors. The Department no longer provides specific guidance on the diversification of investment holdings as well as conflicts of interest.
D	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract The Fund obtained and maintained a death certificate and other reliable documentary evidence that supports such information terminating an annuity contract.

Item	Description
E	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. The Fund did not issue any gift annuity agreements during the examination period.
F	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. The Fund failed to exercise due care in the preparation of its filed annual statements. A similar recommendation appears in this report on examination.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The examiner recommends that the Fund use on all annuity benefit 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.	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 Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement	8

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. 32368

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 COLLEGE OF SAINT ROSE

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 25th day of October, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU