



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
COMMUNITY FOUNDATION FOR GREATER BUFFALO, INC.
AS OF December 31, 2021**

EXAMINER: Hasan Ahmed

DATE OF REPORT: June 26, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

COMMUNITY FOUNDATION FOR GREATER BUFFALO, INC.

AS OF

DECEMBER 31, 2021

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EXAMINER:

HASAN AHMED

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

August 31, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32369, 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 Community Foundation For the Greater Buffalo, Inc. The Fund's home office is located at 726 Exchange Street, Suite 525, Buffalo, NY 14210.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund contract with a licensed bank or trust company or an SIPC-registered brokerage to serve as the custodian for the Fund's securities. (See item 3E 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 3E 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 Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' (the "Department") examination and assessment of the Community Foundation For Greater Buffalo (the "Fund") through which Community Foundation For Greater Buffalo, Inc (the "Organization") 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 6 of this report.

3. DESCRIPTION OF FUND

A. History

The Community Foundation for Greater Buffalo, Inc. is organized for the purpose of connecting people, ideas, and resources to improve lives in Western New York. The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 2003. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on March 19, 2012.

B. Structure

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

C. Assets under the Board of Directors

As of the December 31, 2021 audited financial statement, the Organization's Board of Directors oversaw an endowment comprising \$473,529,083 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$498,874.

D. Third Party Payment Service Provider

The Fund has a service agreement with PG Calc for certain recordkeeping/administrative related services. Those services include the maintenance of annuitants' biographical information, providing periodic payment summaries, filing 1099R Tax forms, and production of state reserve reports.

E. Oversight Structure

The examiner's review of the Fund's filed annual statements during the examination period determined that the Fund does not use the services of a custodian to ensure that its securities are properly safeguarded.

The examiner recommends that the Fund contract with a licensed bank or trust company or an SIPC-registered brokerage to serve as the custodian for the Fund's securities.

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. 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:

	<u>December 31,</u> <u>2016</u>	<u>December 31,</u> <u>2021</u>	<u>Increase</u>
Admitted assets	<u>\$483,712</u>	<u>\$498,874</u>	<u>\$ 15,162</u>
Liabilities	<u>\$248,202</u>	<u>\$153,214</u>	<u>\$(94,988)</u>
Minimum required fund balance	\$ 24,819	\$ 14,808	\$ (10,011)
Excess fund balance (surplus)	<u>210,691</u>	<u>330,852</u>	<u>120,161</u>
Total annuity fund balance	<u>\$235,511</u>	<u>\$345,660</u>	<u>\$110,149</u>
Total liabilities and annuity fund balance	<u>\$483,712</u>	<u>\$498,874</u>	<u>\$ 15,162</u>

The decrease in assets and liabilities is due to a decline in annuities from 12 with annual payment amounts of \$31,737 as of December 31, 2016, to a total of 8 with annual payment amounts of \$20,525 as of December 31, 2021. The increase in annuity fund balance is a result of market gains and decreased liabilities.

The Fund's admitted assets, as of December 31, 2021, were invested in equity securities (100%).

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. 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 and note such approvals in the minutes.</p> <p>The Investment Committee of the board reviews the Fund's investment portfolio at least annually and notes the same in the minutes.</p>
B	<p>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.</p> <p>The Department no longer provides specific guidance on diversification of the Fund's investment holdings.</p>
C	<p>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.</p> <p>The Fund obtains and maintains a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.</p>
D	<p>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.</p> <p>The Fund prepares its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.</p>
E	<p>The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.</p> <p>The Fund failed to contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities. A similar recommendation appears in this report on examination.</p>

7. 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 examiner recommends that the Fund contract with a licensed bank or trust company or an SIPC-registered brokerage to serve as the custodian for the Fund's securities.	4
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

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. 32369

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
COMMUNITY FOUNDATION FOR GREATER BUFFALO, 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 25th day of October, 2022

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By:



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

