



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
GENESEO FOUNDATION, INC.**

AS OF DECEMBER 31, 2022

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: April 11, 2024

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KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

May 8, 2024

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

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32505, dated June 28, 2023 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Geneseo Foundation. The Fund's home office is located at 1 College Circle, Geneseo, New York 14454.

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

1. EXECUTIVE SUMMARY

The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination. (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)

2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' ("Department" or "DFS") examination and assessment of the Geneseo Foundation, Inc. Segregated Annuity Fund (the "Fund") through which the Geneseo Foundation, Inc. (the "Foundation") provides annuity benefits.

The prior examination was conducted as of December 31, 2017. This examination covers the period from January 1, 2018 through December 31, 2022. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2022 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 Foundation or Fund, in relation to their annuity activities, could have better adhered to statutory standards and guidance or 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, 2022 to determine whether the Fund's filed 2022 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 recommendations contained in the prior report on examination. The results of such review are contained in item 7 of this report.

3. DESCRIPTION OF FUND

A. History

The Geneseo Foundation, Inc. is organized for the purpose of receiving, holding, administering and distributing funds and property for the encouragement and promotion of education at the State University of New York College at Geneseo. The Foundation established the Fund to issue gift annuity agreements in return for gifts from donors in 1993. The Superintendent of Insurance granted to the Foundation a Charitable Annuity Society special permit on December 27, 1993.

B. Structure

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

C. Assets under the Board of Directors

As of the June 30, 2022 audited financial statement, the Foundation's Board of Directors oversaw an endowment funds comprising \$33,700,961 in total assets. The Fund, as of December 31, 2022, held total admitted assets of \$644,166.

D. Third-party Service Providers

FNZ Trust Company, formerly State Street Bank and Trust Company, is the custodian of the Fund's assets. The Fund's annual statements are prepared by Mengel, Metzger and Barr Company LLP, an independent CPA firm.

E. Oversight Structure

Section 312(b) of the New York Insurance Law states, in part:

“(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer's files confirming that such member has received and read such report . . .”

The Fund failed to maintain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination.

The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.

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.”

The Organization 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 delegates to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

B. Monitoring

New York Estate Powers and Trust Law § 11-2.3(c)(1) requires trustees to exercise care, skill and caution in periodically reviewing the delegee’s exercise of the delegated function and compliance with the scope and terms of the delegation.

New York Not-for-Profit Corporation Law § 554(a)(3) provides that, when delegating investment functions, an institution must monitor its agents’ performance and compliance with the scope and terms of each’s respective delegation. In so doing, the institution must use the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

The examiner reviewed the Board of Directors minutes to determine if 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 growth (decline) in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2017</u>	<u>December 31,</u> <u>2022</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$625,880</u>	<u>\$644,166</u>	<u>\$ 18,286</u>
Liabilities	<u>\$197,257</u>	<u>\$ 31,838</u>	<u>\$(165,419)</u>
Minimum required fund balance	\$ 19,726	\$ 3,184	\$ (16,542)
Excess fund balance (surplus)	<u>408,897</u>	<u>609,144</u>	<u>200,247</u>
Total annuity fund balance	<u>\$428,623</u>	<u>\$612,328</u>	<u>\$ 183,705</u>
Total liabilities and annuity fund balance	<u>\$625,880</u>	<u>\$644,166</u>	<u>\$ 18,286</u>

The increase in assets and annuity fund balance was due to market performance. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 14 with annual payment amounts of \$33,157 as of December 31, 2017 to a total of 5 with annual payment amounts of \$5,041 as of December 31, 2022. Additionally, the increase in annuity fund balance was due to the Fund not reducing assets by the end of the examination period to keep in line with annuity terminations.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in bonds (25.38%), equity securities (55.55%), and money market mutual funds (18.87%). All bonds held were investment grade.

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. 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 Fund adopt an Investment Strategy Statement that refers 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 resolved the prior report recommendation by adopting an Investment Strategy Statement that refers 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.</p>
B	<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 resolved the prior report recommendation by obtaining and maintaining a death certificate or other reliable documentary evidence that supports the termination of an annuity contract for each deceased annuitant.</p>
C	<p>The examiner recommends that the Fund disburse the residual value of the terminated annuity in accordance with the terms of the annuity contract.</p> <p>During the examination period, the Fund did not disburse the residual value of any terminated annuity contracts, but kept it in the program. However, the Fund began implementing a process to transfer the residual value of terminated annuities to the general account of the Foundation during the examination period.</p>

8. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations contained in this report:

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B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.	5
C	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.	6
D	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.	7

APPOINTMENT NO. 32505

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:*

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
GENESEO FOUNDATION, INC.***

and to make a report to me in writing of the condition of said

FUND

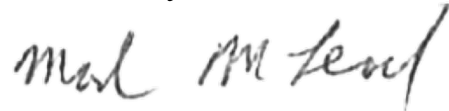
with such other information as she shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 28th day of June, 2023

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

