REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ROMAN CATHOLIC DIOCESE OF OGDENSBURG, NY

AS OF December 31, 2022

EXAMINER: Hasan Ahmed

DATE OF REPORT: January 10, 2025

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March 5, 2025

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

Madam:

In accordance with instructions contained in Appointment No. 32519, dated October 6th, 2023, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Roman Catholic Diocese of Ogdensburg. The Fund's home office is located at 622 Washington Street, Ogdensburg, NY 13669.

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 obtain signed statements from the board of trustees indicating that they received and read the prior report on examination. The examiner directs 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. (See item 3E of this report)

The Fund should 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 Fund's board of trustees, or a committee thereof, should review the activities of the Fund at least annually and note the same in the minutes. (See item 4B of this report)

The Fund's board of trustees, or a committee thereof, should 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 Fund should ensure that all gift annuity agreement forms are issued in the format of acceptance to ensure compliance with Section 1110(a) of the New York Insurance Law. (See item 6 of this report)

In July 2023, the Roman Catholic Diocese of Ogdensburg, New York filed for Chapter 11 bankruptcy protection due to lawsuits alleging child sex abuse by priests, nuns and others. (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") examination and assessment of the Roman Catholic Diocese of Ogdensburg, New York Gift Annuity Fund (the "Fund") through which the Roman Catholic Diocese of Ogdensburg, New York (the "Diocese") 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 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, 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 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 Roman Catholic Diocese of Ogdensburg, New York is organized for the purpose of providing support and to aid charitable, benevolent, and educational organizations existing within New York or elsewhere. The Diocese established the Fund to issue gift annuity agreements in return for gifts from donors in 1992. The Superintendent of Insurance granted to the Diocese a Charitable Annuity Society special permit on May 26, 1996.

B. Structure

The Fund is overseen by the Diocese'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, 2022, audited financial statement, the Diocese's Board of Trustees oversaw an endowment comprising $2,474,215 in total assets. The Diocese also maintained $57,408,692 in investments as of June 30, 2022. The Fund, as of December 31, 2022, held total admitted assets of $1,618,404.

D. Third Party Service Providers

NBT Bank is the Fund's custodian. Manning & Napier provides investment advisory services. The Fund engaged Pinto, Mucenski, Hooper and VanHouse, CPAs to prepare the Fund's Annual Statements prior to 2022.

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 obtain statements signed by each member of its board of trustees 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 obtain signed statements from the board of trustees indicating that they received and read the prior report on examination.

The examiner directs 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.

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 Diocese prepared and provided an investment policy statement ("IPS") for the Fund. The IPS used by the Fund was also used by the Diocese itself. The Fund adopted that as its IPS.

The Fund should 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.

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 requested the minutes of the board of trustees and all committees thereof for the examination period. The Fund provided the examiner with a copy of the board minutes for meetings conducted in 2018 and 2019 only.

The Fund's board of trustees, or a committee thereof, should review the activities of the Fund at least annually and note the same in the minutes.

The examiner reviewed the board of trustees 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 Fund's board of trustees, or a committee thereof, should 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:

	December 31, 2017	December 31, 2022	Increase
Admitted assets	$1,253,361	$1,618,404	$365,043
Liabilities	$ 620,048	$ 954,869	$334,821
Minimum required fund balance	$ 61,530	$ 95,487	$ 33,957
Excess fund balance (surplus)	571,783	568,048	(3,735)
Total annuity fund balance	$ 633,313	$ 663,535	$ 30,222
Total liabilities and annuity fund balance	$1,253,361	$1,618,404	$365,043

The increase in admitted assets and annuity fund balance is attributable to positive cash flows received from large gift contributions and favorable investment income during the examination period. The increase in liabilities is due to an increase in the net present value of annuities, despite a decline in the absolute number of annuities in force. Annuities decreased from 53 with annual payment amounts of $59,172 as of December 31, 2017 to a total of 37 with annual payment amounts of $81,033 as of December 31, 2022.

The Fund's admitted assets, as of December 31, 2022, were invested in equity securities (63.56%) and bonds (31.47%).

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.

The examiner reviewed a sample of new gift annuities issued by the Fund during the examination period. In the sample selected, the examiner noted that 5 out of the 5 newly issued gift annuities reviewed had contracts with minor wording deviations. These deviations included the addition of the wording "pro-rated for the quarter" in the first paragraph of the form and the specific purpose of the residuum listed in the second paragraph.

The Fund should ensure that all gift annuity agreement forms are issued in the format of acceptance to ensure compliance with Section 1110(a) of the New York Insurance Law.

7. SUBSEQUENT EVENT

On July 17, 2023, the Diocese filed for Chapter 11 bankruptcy protection due to lawsuits alleging child sex abuse by priests, nuns and others. The Diocese anticipates that it will be successful in restructuring its liabilities to its creditors without negatively impacting upon its charitable gift annuity program.

The assets of the charitable gift program are held in a separate investment account away from the general funds of the Diocese. As part of its requests for relief from the Bankruptcy Court, the Diocese sought permission to maintain the segregated CGA account. The Bankruptcy Court has granted the Diocese's request to keep the CGA funds separate.

8. PRIOR REPORT RECOMMENDATIONS

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 provides guidance on approval of the investments purchases and sales by the board of trustees. However, the Fund failed to review its invested assets on an annual basis. A similar recommendation appears in this report.
B	The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian. The Fund does not obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian. However, the Fund's investment advisor, Manning and Napier, had its trading processes reviewed in a SOC 1 report by its external auditor. The SOC 1 report contained an unqualified opinion.
C	The examiner recommends that the Fund adopt an Investment Strategy Statement that references 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. The Fund adopted an Investment Strategy Statement that references the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law.

Item	Description
D	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 for investment diversification.
E	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 for investment diversification in relation to conflicts of interest.

9. VIOLATION, RECOMMENDATIONS & COMMENTS

Following are the violations, recommendations, and comment contained in this report:

Item	Description	Page No(s).
A	The Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board of trustees indicating that they received and read the prior report on examination.	5
B	The examiner directs 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 Fund should 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 Fund's board of trustees, or a committee thereof, should review the activities of the Fund at least annually and note the same in the minutes.	6
E	The Fund's board of trustees, or a committee thereof, should be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.	7
F	The Fund should ensure that all gift annuity agreement forms are issued in the format of acceptance to ensure compliance with Section 1110(a) of the New York Insurance Law.	9
G	In July 2023, the Roman Catholic Diocese of Ogdensburg, New York filed for Chapter 11 bankruptcy protection due to lawsuits alleging child sex abuse by priests, nuns and others.	10

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. 32519

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 ROMAN CATHOLIC DIOCESE OF OGDENSBURG, NY

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 6th day of October, 2023

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU