REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
GLIMMERGLASS OPERA THEATRE, INC.

AS OF December 31, 2022

EXAMINER: Hasan Ahmed

DATE OF REPORT: May 05, 2025

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July 8, 2025

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. 32506, 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 Glimmerglass Opera Theatre, Inc. The Fund's home office is located at 7300 State Highway 80, P. O. Box 191, Cooperstown, NY 13326.

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 directors 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 Board of Directors, 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 violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars. The examiner directs that the Fund review its filed Annual Statement to make revisions that will enable the Fund to maintain admitted assets that are compliant with Section 1110(b) of the New York Insurance Law. (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 Glimmerglass Opera Theatre, Inc. (the "Fund") through which Glimmerglass Opera Theatre, Inc. (the "Organization") 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 Organization 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 7 of this report.

3. DESCRIPTION OF FUND

A. History

The Glimmerglass Opera Theatre, Inc. was chartered in 1975 and is organized for the purpose of production of existing, new, and little-known operas, and promoting works of musical theatre. The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 1987. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on October 23, 2013.

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 September 30, 2022 audited financial statement, the Organization's Board of Trustees oversaw an endowment consisting of eight individual funds comprising $7,878,035 in total assets. The Fund, as of December 31, 2022, held total admitted assets of $1,309.

D. Third Party Payment Service Provider

The Fund's custodian is Key Bank. Key Bank provides custodial and investment services and processes payments to annuitants.

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 examiner's review revealed that the Fund failed to obtain 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 obtain signed statements from the board of directors 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 Organization prepared and provided a form investment policy statement ("IPS") to the Fund. The Fund adopted that form 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 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 Board of Directors, 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 decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	December 31, 2017	December 31, 2022	(Decrease)
Admitted assets	$915,167	$1,309	$(913,858)
Liabilities	$465,153	$1,158	$(463,995)
Minimum required fund balance	$ 46,515	$ 116	$ (46,399)
Excess fund balance (surplus)	403,499	35	(403,464)
Total annuity fund balance	$450,014	$ 151	$(449,863)
Total liabilities and annuity fund balance	$915,167	$1,309	$(913,858)

The decrease in admitted assets and liabilities is due to decrease in annuities from 6 with annual payment amounts of $86,975 as of December 31, 2017, to a total of 1 with annual payment amounts of $355 as of December 31, 2022. The decline in surplus is attributable to transfers to the general fund of the Organization in the amount of $926,538 in 2018. These transfers were a result of annuity terminations.

The Fund's admitted assets, as of December 31, 2022, were invested in equity securities (94.73%) and money market mutual funds (5.27%).

Section 1110(b) of the New York Insurance Law states, in part:

> "Every such domestic corporation or association shall maintain admitted assets at least equal to the greater of (i) the sum of its reserves on its outstanding agreements, calculated in accordance with section four thousand two hundred seventeen of this chapter, and a surplus of ten per centum of such reserves, or (ii) the amount of one hundred thousand dollars."

The examiner reviewed the Fund's filed annual statements to verify that it operated in compliance with Section 1110 of the New York Insurance Law. During a review of the Assets section of the balance sheet in the Fund's filed 2022 annual statement, the examiner noted that the

Fund reported $1,309 in total assets. The examiner recalculated the amount of admitted assets that should have been reported and determined that the Fund has a deficit in the amount of $98,691.

The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars.

The examiner directs that the Fund review its filed Annual Statement to make revisions that will enable the Fund to maintain admitted assets that are compliant with Section 1110(b) of the New York Insurance Law.

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 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 Fund's board of trustees, or a committee thereof, failed to review the Fund's admitted assets at least annually and note the same in the minutes. A similar recommendation appears in this report on examination.
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. The Fund obtains broker's advices or other supporting documentation for its investment transactions.
C	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 guidance on diversification of investment holdings.

8. VIOLATIONS AND RECOMMENDATIONS

Following are the violations and recommendations 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 directors 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 Board of Directors, 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
E	The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars.	9
F	The examiner directs that the Fund review its filed Annual Statement to make revisions that will enable the Fund to maintain admitted assets that are compliant with Section 1110(b) of the New York Insurance Law.	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. 32506

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 GLIMMERGLASS OPERA THEATRE, 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 6th day of October, 2023

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU