



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
METROPOLITAN OPERA ASSOCIATION, INC.

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

OCTOBER 7, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

METROPOLITAN OPERA ASSOCIATION, INC.

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EXAMINER:

MANISH GERA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

November 23, 2016

Honorable Maria T. Vullo  
Superintendent of Financial Services  
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31462, dated April 25, 2016 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Metropolitan Opera Association, Inc., hereinafter referred to as the "Fund," at its home office located at 30 Lincoln Center Plaza, New York, NY 10023.

Wherever "Department" appears in this report, it refers to the New York State Department of Financial Services.

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

## 1. EXECUTIVE SUMMARY

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile its record of such transactions to the monthly statements provided by the custodian. (See item 4 of this report)

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. (See item 5 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 6 of this report)

The examiner recommends that the Fund prepare its annual statements according to the Department's instructions. (See item 7 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2010. This examination covers the period from January 1, 2011 through December 31, 2015. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2015 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2015 to determine whether the Fund's filed 2015 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner reviewed the prior report on examination which did not contain any violations, recommendations or comments.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations, or rules or which require explanation or description.

### 3. DESCRIPTION OF FUND

The Metropolitan Opera Association, Inc., also legally known as The Metropolitan Opera (the “MOA”), is a not-for-profit membership corporation organized for the primary purpose of sustaining, encouraging and promoting musical art, and educating the general public about music, particularly opera. The MOA has been issuing gift annuity agreements since 1998. A special permit was granted to the MOA by the Department on January 23, 2002, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The MOA maintains and reviews the Fund’s records, serves as the point of contact for annuitants that have established charitable gift annuities to benefit the MOA, or prospective annuitants that request information about how to establish a gift annuity. The MOA engages with State Street Global Advisors in Boston (the “Bank”) to administer its charitable gift annuity program. The Bank invests the Fund’s assets in accordance with the MOA’s investment guidelines for the Fund; votes proxies; remits checks to the annuitants; sends Forms 1099-R or such other tax notices to the annuitants; creates and sends accountings, statements, and appraisals of account assets; maintains the books and records of the Fund; collects the income from the Fund’s investments; and pays all bills delivered to the Bank.

The management of the MOA and the Fund and all of its affairs and property are entrusted to a board of managing directors. There shall be not less than twenty (20) and not more than forty (40) managing directors or such other maximum number as may be established from time to time by a majority vote of all managing directors. As of December 31, 2015, the board consisted of 45 managing directors. The managing directors elect a chairman, president, chairman of the executive committee, one or more vice presidents, treasurer, secretary, honorary chairman, and other officers as the managing directors may from time to time appoint. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

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 reconcile its record of such transactions to the monthly statements provided by the custodian.



## 5. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the Fund's financial decline during the period under review:

	December 31, <u>2010</u>	December 31, <u>2015</u>	<u>(Decrease)</u>
Admitted assets	<u>\$4,967,352</u>	<u>\$3,217,470</u>	<u>\$(1,749,882)</u>
Liabilities	<u>\$4,128,766</u>	<u>\$2,914,704</u>	<u>\$(1,214,062)</u>
Minimum required fund balance	\$ 412,877	\$ 291,470	\$ (121,407)
Excess fund balance (surplus)	<u>425,709</u>	<u>11,296</u>	<u>(414,413)</u>
Total annuity fund balance	<u>\$ 838,586</u>	<u>\$ 302,766</u>	<u>\$(535,820)</u>
Total liabilities and annuity fund balance	<u>\$4,967,352</u>	<u>\$3,217,470</u>	<u>\$(1,749,882)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 126 with annual payment amounts of \$542,461 as of December 31, 2010 to a total of 96 with annual payment amounts of \$418,900 as of December 31, 2015.

The Fund has ceased accepting new gifts, and consequently, did not issue any new annuity contracts during the examination period.

The Fund's admitted assets, as of December 31, 2015, were invested mainly in common stocks (91.58%), consisting primarily of exchange-traded and common trust funds.

Section 1409(a) of the New York Insurance Law states,

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

According to the 2015 annual statement on file, the Fund reported: 16.57% of its admitted assets invested in the securities of International Alpha Select Common Trust Fund (“CTF”); 18.42% invested in the securities of Charitable Bond CTF and 27.90% invested in the securities

of S&P 500 Common Trust Fund. The Fund's current concentration in the three investment funds makes it highly unlikely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentrations in the above investment funds, 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. A trustee using reasonable care, skill and caution should diversify the Fund's assets. A diversification is proper when it disperses the investments' risks consistent with the Investment Strategy Statement's risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Section 1409 of the New York Insurance Law is instructive. Limiting exposure to any assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in the investment in that institution are offset by the rest of the portfolio.

## 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.

The examiner's review of a sample of ten annuity contracts terminated revealed that in five cases reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.

## 7. ANNUAL STATEMENT REPORTING

The Instructions for the Exhibit of Annuities In Force section of the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2015 state, in part:

“IMPORTANT NOTE: For all calendar years (Columns 1 through 9), the number, annualized amount of payments on annuities in force, and reserve thereon should exclude California business and business from any state(s) that mandate a legally required segregated and distinct trust account for that particular state’s annuitants.”

The Instructions for Completing New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2015, namely General Interrogatories item #10 state, in part:

“All amounts are to be reported based upon annuities issued in all states, except for states that mandate a legally required segregated and distinct trust account for that particular state’s annuitants (e.g., California).”

The examiner’s review of the Fund’s reserve listing provided in conjunction with its 2015 Annual Statement revealed that the Fund included five annuities issued in California with total reserves of \$137,695.44 as of December 31, 2015. The examiner determined that the Fund failed to adhere to the Department’s annual statement instructions which state that the Fund is required to report any amounts for its annuity program, exclusive of annuities issued in states such as California that mandate a legally required segregated and distinct trust account.

The examiner recommends that the Fund prepare its annual statements according to the Department’s instructions.

## 8. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile its record of such transactions to the monthly statements provided by the custodian.	5
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.	7
C	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	8
D	The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.	9

Respectfully submitted,

\_\_\_\_\_/s/  
Manish Gera  
Insurance Examiner

STATE OF NEW YORK     )  
  )SS:  
COUNTY OF NEW YORK    )

Manish Gera, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

\_\_\_\_\_/s/  
Manish Gera

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

APPOINTMENT NO. 31462

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, MARIA T. VULLO, Acting 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:

**MANISH GERA**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
METROPOLITAN OPERA ASSOCIATION, 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 April, 2016

MARIA T. VULLO  
Acting Superintendent of Financial Services

By:



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MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

