



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF  
THE DIOCESE OF BUFFALO, N.Y.

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

NOVEMBER 19, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF

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EXAMINER:

KINGS ANKRAH

## TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
4.	Significant financial information	5
5.	Treatment of annuitants	7
6.	Annual statement reporting	8
7.	Prior report summary and conclusions	12
8.	Summary and conclusions	13



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

April 13, 2017

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

Madam:

In accordance with instructions contained in Appointment No. 31308 dated November 9, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of The Diocese of Buffalo, N.Y., hereinafter referred to as the "Fund." The Fund's home office is located at 795 Main Street, Buffalo, NY 14203-1250.

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 diversify its investment holdings. (See item 4 of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement (“ISS”). 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. (See item 4 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 5 of this report)

The examiner recommends that the Fund prepare its Annual Statements in accordance with the Department’s instructions. This is a repeat recommendation. (See item 6 of this report)

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (See item 6 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2009. This examination covers the period from January 1, 2010 through December 31, 2014. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2014 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, 2014 to determine whether the Fund's filed 2014 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 recommendation contained in the prior report on examination. The results of such review are contained in item 7 of this report.

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 Diocese of Buffalo, N.Y. (the “Diocese”) is organized for the purpose of assisting any charitable, religious, benevolent, recreational, welfare or educational corporation, association, institution, committee or agency existing within the state of New York and elsewhere, and more particularly within the bounds of the Roman Catholic Diocese of Buffalo, New York. Under the provisions of its by-laws, the Diocese is permitted to issue gift annuity agreements and it has done so since 2000. A special permit was granted to the Diocese by the Department on February 25, 2005, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

All operations related to the issuance, maintenance and settlement of gift annuity agreements are handled by the Fund. All functions related to investments are handled by the Fund’s investment manager, Christian Brother Investment Services, Inc. Benefit payments to annuitants are handled by the Fund’s custodian, HSBC Bank USA.

The management of the Diocese and the Fund and all of its affairs and property are entrusted to a board of trustees. The Bishop, Vicar-General and the Chancellor of the Roman Catholic Diocese of Buffalo, New York, by virtue of their offices are the sole members and trustees of the Board. The officers of the Diocese consist of a President, a Vice-President, a Secretary and a Treasurer. The positions of President and Treasurer, Vice-President and Secretary of the Diocese are held by the Bishop, the Vicar-General and the Chancellor of the Roman Catholic Diocese of Buffalo, New York, respectively. The nomination procedures of the trustees and their terms of office are set by the by-laws.

#### 4. SIGNIFICANT FINANCIAL INFORMATION

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

	<u>December 31,</u> <u>2009</u>	<u>December 31,</u> <u>2014</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	\$ <u>1,730,048</u>	\$ <u>896,264</u>	\$( <u>833,784</u> )
Liabilities	\$ <u>1,168,044</u>	\$ <u>308,614</u> *	\$( <u>859,430</u> )
Minimum required fund balance	\$ 116,804	\$ 30,861*	\$ (85,943)
Excess fund balance (surplus)	<u>445,200</u>	<u>556,789</u> *	<u>111,589</u>
Total annuity fund balance	\$ <u>562,004</u>	\$ <u>587,650</u> *	\$ <u>25,646</u>
Total liabilities and annuity fund balance	\$ <u>1,730,048</u>	\$ <u>896,264</u>	\$( <u>833,784</u> )

Note: The amounts reported for liabilities, minimum required fund balance, excess fund balance (surplus), and total annuity fund balance as of December 31, 2009 were determined during the prior examination. The amounts denoted with an asterisk were determined by the examiner during the examination as of December 31, 2014.

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 47 with annual payment amounts of \$226,335 as of December 31, 2009 to a total of 32 with annual payment amounts of \$38,868 as of December 31, 2014.

The Fund did not provide a specific reason for the increase in annuity fund balance in response to the examiner's inquiry.

The Fund's admitted assets, as of December 31, 2014, were invested mainly in common stocks (75.59%) and preferred stocks (22.47%).

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 2014 annual statement on file, the Fund reported: 22.47% invested in the securities of St. Joseph Invest Fund, Inc. preferred stock; 14.08% invested in the securities of CUIT International Equity Fund Class A mutual fund; 11.37% invested in the securities of CUIT Intermediate Diversified Bond Fund Class B mutual fund; 11.23% invested in the securities of CUIT Opportunistic Bond Fund Class B mutual fund; and 10.16% invested in the securities of CUIT Growth Fund Class A mutual fund. The Fund's current concentration in the preferred stock and four mutual funds makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the five investments.

The examiner recommends that the Fund diversify its investment holdings. 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 ("ISS") 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. 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 examiner recommends that the Fund adopt an Investment Strategy Statement. 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.

## 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.

The examiner's review of a sample of 10 annuity contracts terminated revealed that in 9 out of 10 cases reviewed, the Fund failed to 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.

## 6. ANNUAL STATEMENT REPORTING

The Instructions for Completing Line 10a (additional reserve required by Regulation 126) in the Liabilities and Annuity Fund Balance section of the New York State Segregated Gift Annuity Fund Annual Statement for all years during the examination period (January 1, 2010 through December 31, 2014) state, in part:

For the 2011, 2012, 2013, and 2014 Annual Statements:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2011, 2012, 2013, and 2014, report on this line 15% of the amount reported on Line 10, for both current and prior years.)”

For the 2010 Annual Statement:

“Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year. (i.e.: In accordance with Department Regulation No. 126, for 2010, report on this line 15% of the amount reported on Line 10.) ‘Prior year’ column: report 10% of the amount on Line 10.”

The Instructions for Completing Line 20.1 (Minimum required fund balance) in the Liabilities and Annuity Fund Balance section of the New York State Segregated Gift Annuity Fund Annual Statement for all years during the examination period state, in part:

“‘Current Year’ Column: A minimum required fund balance equal to 10% of the net reserve reported at Line 12 must be reported at this Line. Refer to Section 1110(b) of the New York Insurance Law. ‘Prior Year’ Column: Report prior year’s minimum required fund balance.”

The Fund reported \$0 for line 10a in the Assets and Liabilities page, “Additional reserve required by Regulation 126,” in its 2010, 2011, 2012, 2013, and 2014 annual statements.

The Fund reported “Net present value of annuities” of \$1,027,648 as of December 31, 2010. In accordance with the annual statement instructions cited above, the Fund should have reported \$154,147 on line 10a, an amount consisting of 15% of the net present value of annuities. The Fund therefore understated net reserve and total liabilities by \$154,147. The Fund also understated minimum required fund balance by \$15,415. The Fund overstated excess fund balance

(surplus) by \$169,562 and annuity fund balance by \$154,147. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$501,190 as of December 31, 2010, instead of the \$655,337 actually reported.

The Fund reported "Net present value of annuities" of \$1,015,305 as of December 31, 2011. In accordance with the annual statement instructions cited above, the Fund should have reported \$152,296 on line 10a, an amount consisting of 15% of the net present value of annuities. The Fund therefore understated net reserve and total liabilities by \$152,296. The Fund also understated minimum required fund balance by \$15,230. The Fund overstated excess fund balance (surplus) by \$167,525 and annuity fund balance by \$152,296. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$375,558 as of December 31, 2011, instead of the \$527,854 actually reported.

The Fund reported "Net present value of annuities" of \$827,269 as of December 31, 2012. In accordance with the annual statement instructions cited above, the Fund should have reported \$124,090 on line 10a, an amount consisting of 15% of the net present value of annuities. The Fund therefore understated net reserve and total liabilities by \$124,090. The Fund also understated minimum required fund balance by \$12,409. The Fund overstated excess fund balance (surplus) by \$136,499 and annuity fund balance by \$124,090. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$656,483 as of December 31, 2012, instead of the \$780,573 actually reported.

The Fund reported "Net present value of annuities" of \$731,852 as of December 31, 2013. In accordance with the annual statement instructions cited above, the Fund should have reported \$109,778 on line 10a, an amount consisting of 15% of the net present value of annuities. The Fund therefore understated net reserve and total liabilities by \$109,778. The Fund also understated minimum required fund balance by \$10,978. The Fund overstated excess fund balance (surplus) by \$120,756 and annuity fund balance by \$109,778. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$722,783 as of December 31, 2013, instead of the \$832,561 actually reported.

The Fund reported "Net present value of annuities" of \$268,360 as of December 31, 2014. In accordance with the annual statement instructions cited above, the Fund should have reported \$40,254 on line 10a, an amount consisting of 15% of the net present value of annuities. The Fund therefore understated net reserve and total liabilities by \$40,254. The Fund also understated

minimum required fund balance by \$4,025. The Fund overstated excess fund balance (surplus) by \$44,279 and annuity fund balance by \$40,254. Taking into account the above errors, the Fund should have reported "Total Annuity Fund Balance" of \$587,650 as of December 31, 2014, instead of the \$627,904 actually reported.

The examiner recommends that the Fund prepare its Annual Statements in accordance with the Department's instructions. This is a repeat recommendation.

The Department's instructions for the 2010, 2011, 2012, 2013, and 2014 annual statements, namely line item 15 (Annuity Fund Balance at end of year), in its Income and Disbursements page state, in part:

Line 15 "Current Year" Column: Must equal the sum of Lines 13 and 14, as well as Page 2, Line 20.3. 'Prior Year' Column: Report prior year's Annuity Fund Balance at end of year.

The Fund erroneously reported Annuity Fund Balance of \$520,654 in the Income and Disbursements page of its 2010 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$501,190 in its 2010 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$167,773 in the Income and Disbursements page of its 2011 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$375,558 in its 2011 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$356,678 in the Income and Disbursements page of its 2012 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$656,483 in its 2012 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$221,330 in the Income and Disbursements page of its 2013 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$722,783 in its 2013 Annual Statement.

The Fund erroneously reported Annuity Fund Balance of \$824,713 in the Income and Disbursements page of its 2014 Annual Statement. As calculated in the prior section, the examiner determined that the Fund should have reported Annuity Fund Balance of \$587,650 in its 2014 Annual Statement.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation contained in the prior report on examination and the subsequent actions taken by the Fund in response to the recommendation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund prepare its Annual Statements in accordance with the Department's instructions.</p> <p>The examiner's review of the Fund's annual statements during the examination period revealed that the Fund did not prepare its annual statements in accordance with the Department's instructions. Thus, this is a repeat recommendation. (See item 6 of this report)</p>

## 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 diversify its investment holdings.	6
B	The examiner recommends that the Fund adopt an Investment Strategy Statement. 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.	6
C	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	7
D	The examiner recommends that the Fund prepare its Annual Statements in accordance with the Department's instructions. This is a repeat recommendation.	10
E	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	11



Respectfully submitted,

\_\_\_\_\_/s/  
Kings Ankrah  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Kings Ankrah

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

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, ANTHONY J. ALBANESE, 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:

**KINGS ANKRAH**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
DIOCESE OF BUFFALO, NEW YORK**

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

**FUND**

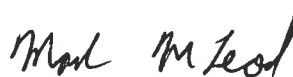
with such other information as he shall deem requisite.

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

this 9th day of November, 2015

ANTHONY J. ALBANESE  
Acting Superintendent of Financial Services

By:



MARK MCLEOD  
ASSISTANT CHIEF - LIFE BUREAU

