



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
WILDLIFE CONSERVATION SOCIETY

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

JULY 16, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

PHILIP YOUSSEF

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

August 30, 2019

Honorable Linda A. Lacewell
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31750, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Wildlife Conservation Society, hereinafter referred to as the "Fund." The Fund's home office is located at 2300 Southern Blvd, Bronx, NY 10460.

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 board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes. (See item 3C of this report)

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. (See item 3C 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 4 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 5 of this report)

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued. (See item 5 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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, 2017 to determine whether the Fund's filed 2017 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 6 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

A. History

The New York Zoological Society, doing business as the Wildlife Conservation Society (the “Society”) is organized for the purpose of establishing a zoo, advancing education in wild animal life, promoting conservation of wildlife and engaging in scientific research. The Society established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since July 1996. A special permit was granted to the Society by the Department on December 17, 1998, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law

B. Services

Wells Fargo Private Bank (the “Bank”) is the custodian for the assets of the Fund. Prior to March 2009, the Fund engaged State Street as its administrator for its annuity program. The Bank, pursuant to an agreement with the Fund, performs day-to-day operations and oversight of the individual annuities. On the donor side, the Bank’s duties include issuing distribution payments via check or direct deposit to annuitants as per the annuitant’s instructions as well as providing annuitants with Form 1099-R’s for income tax purposes at year-end. On the administrative side, the Bank assists the Fund with the review and setup of new annuities, manages the investment portfolio supporting the annuity program under the guidelines of the investment policy approved by the Fund, ensures the portfolio has adequate liquidity for the monthly and quarterly distribution payments, and provides the Fund statements and other data for monthly, quarterly, and annual reporting.

C. Corporate Governance

The management of the Society and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is 46 regular trustees with voting rights, which number shall include 38 elected trustees. In addition to the elected trustees, the board of trustees will include the President and Chief Executive Officer of the Society and the officials of the City of New York, all of whom shall be Trustees ex officio with voting rights. The trustees elect the

Chair of the Board, one or more Vice Chairs, the President and Chief Executive Officer, the Secretary, the Treasurer, and such other officers as the Board may from time to time appoint or elect. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

The examiner reviewed the Investment Subcommittee minutes to determine whether the Investment Committee approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the committee approved the purchases and sales of investments during the examination period

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 examiner's review of the Fund's Investment Strategy Statement revealed that it failed to refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law.

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.

4. SIGNIFICANT FINANCIAL INFORMATION

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, <u>2012</u>	December 31, <u>2017</u>	Increase (Decrease)
Admitted assets	<u>\$3,688,719</u>	<u>\$3,057,149</u>	<u>\$(631,570)</u>
Liabilities	<u>\$3,049,102</u>	<u>\$2,381,218</u>	<u>\$(667,884)</u>
Minimum required fund balance	\$ 304,910	\$ 238,122	\$ (66,788)
Excess fund balance (surplus)	<u>334,707</u>	<u>437,810</u>	<u>103,103</u>
Total annuity fund balance	<u>\$ 639,617</u>	<u>\$ 675,931</u>	<u>\$ 36,314</u>
Total liabilities and annuity fund balance	<u>\$3,688,719</u>	<u>\$3,057,149</u>	<u>\$(631,570)</u>

The decrease in assets and liabilities and reflects a decrease in the total number of annuities in force. Annuities decreased from 158 with annual payment amounts of \$283,735 as of December 31, 2012 to a total of 143 with annual payment amounts of \$271,185 as of December 31, 2017. The \$36,314 gain in annuity fund balance can be attributed primarily to \$959,642 in investment income resulting from 5.3% annualized returns, less \$916,342 in residuum transfers resulting from terminations during the exam period. The transfers were driven by a \$497,335 payment to the Society in 2014.

The Fund's admitted assets, as of December 31, 2017 were invested mainly in stocks (92.47%) and mutual funds (7.53%).

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 2017 annual statement, the Fund reported: 11.02% of its admitted assets invested in Western Asset Intermed Bond Portf. The Fund's current concentration in these funds

could make it less likely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentration in the above fund, 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.

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.

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

“. . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . .”

The examiner’s review of a sample of 16 gift annuity agreements issued in New York during the examination period noted that, in 14 contracts, the Fund used a gift annuity agreement form that differed from the form filed with the Superintendent. All 14 contracts sampled utilized the same offending policy form: 1da-I-NY.

The Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

The examiner reviewed the Fund’s gift annuity agreement forms used during the examination period. The examiner noted that, in a review of a sample of 16 gift annuity agreements issued in New York during the examination period, 2 contracts did not have the appropriate form number as approved by the Superintendent printed on the forms.

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.

6. 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 each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund prepare and maintain a general ledger, trial balances and transaction registers that reconcile to its annual statement.</p> <p>Wells Fargo, the administrator of the WCS charitable giving program, acts as custodian, and maintains all the accounting for the entire annuity program. On a quarterly basis, WCS passes journal entries in its accounting system, SAP, to match the general activity found within the Wells Fargo statements so that its general ledger balances match the statements.</p>

7. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
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.	5
B	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.	5
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.	7
D	The Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent.	8
E	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	8
F	The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.	8

Respectfully submitted,

_____/s/
Philip Youssef
Insurance Examiner

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

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

_____/s/
Philip Youssef

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31750

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

PHILIP YOUSSEF

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
WILDLIFE CONSERVATION SOCIETY***

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 13th day of April, 2018

*MARIA T. VULLO
Superintendent of Financial Services*

By:

Mal M Leod

**MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU**

