



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
THE PROVINCE OF ST. MARY OF THE CAPUCHIN ORDER

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

AUGUST 23, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

MANISH GERA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

December 5, 2019

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

Madam:

In accordance with instructions contained in Appointment No. 31920, dated June 28, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Province of St. Mary of the Capuchin Order, hereinafter referred to as the "Fund." The Fund's home office is located at 30 Gedney Park Drive, White Plains, New York 10605-3599.

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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination. (See item 3C of this report)

The examiner recommends that the board of directors, or a committee thereof, approve the Fund's Investment Strategy Statement. (See item 3C of this report)

The examiner recommends that the board of directors, 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 upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (See item 5 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2013. This examination covers the period from January 1, 2014 through December 31, 2018. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2018 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, 2018 to determine whether the Fund's filed 2018 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

A. History

The Province of St. Mary of the Capuchin Order, Inc. (the “Order”) is part of the Capuchin Franciscan Order, a global Roman Catholic religious order. The primary objective of the Order is to live a life of prayer, self-discipline and humility, convert people to God through preaching, purity and obedience, and to provide support for the poor. The Order established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1995. A special permit was granted to the Order by the Department on February 11, 1999, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

All functions necessary to administer the segregated gift annuity program are outsourced to The Nolan Group of Merrill Lynch (“The Nolan Group”). The Nolan Group manages the Order’s investment portfolio. U.S. Trust Wealth Management (“U.S. Trust”) serves as the custodian for the investment portfolio. PG Calc functions as the program administrator. PG Calc maintains charitable gift annuity data, issues checks and electronic fund transfers payments to annuitants through U.S. Trust, and calculates liability and state reserve reports.

C. Corporate Governance

The management of the Fund and all its affairs and property are entrusted to a board of directors. The number of directors is limited to individuals who hold the offices of Provincial Minister, Provincial Vicar and Provincial Definitor in the New York/New England Province of the Order of Friars Minor Capuchin. As of December 31, 2018, the board consisted of five directors. The officers of the Fund include the President (Provincial Minister), Vice President (Provincial Vicar), Secretary, Treasurer and such other officers as the board may appoint. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

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 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 members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.

The examiner reviewed the board of director's minutes to determine whether the board of directors approved the Fund's Investment Strategy Statement during the examination period. The minutes did not contain any indication that the committee approved the Fund's Investment Strategy Statement.

The examiner recommends that the board of directors, or a committee thereof, approve the Fund's Investment Strategy Statement.

The examiner reviewed the corporation minutes to determine whether the board of directors or a committee thereof approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the board of directors approved the purchases and sales of investments during the examination period.

The examiner recommends that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.

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:

	<u>December 31,</u> <u>2013</u>	<u>December 31,</u> <u>2018</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$1,635,077</u>	<u>\$1,513,354</u>	<u>\$(121,723)</u>
Liabilities	<u>\$ 818,501</u>	<u>\$ 559,254</u>	<u>\$(259,247)</u>
Minimum required fund balance	\$ 81,850	\$ 55,723	\$ (26,127)
Excess fund balance (surplus)	<u>734,726</u>	<u>898,377</u>	<u>163,651</u>
Total annuity fund balance	<u>\$ 816,576</u>	<u>\$ 954,100</u>	<u>\$ 137,524</u>
Total liabilities and annuity fund balance	<u>\$1,635,077</u>	<u>\$1,513,354</u>	<u>\$(121,723)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 68 with annual payment amounts of \$91,587 as of December 31, 2013 to a total of 48 with annual payment amounts of \$83,140 as of December 31, 2018. The decline in liabilities can partially be attributed to a decrease in annuity reserves. Also contributing, as noted by the Fund, is that no new annuities were issued during the exam period.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in stocks (57.76%) and bonds (40.37%).

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 13 annuity contracts terminated revealed that in 8 of the 13 cases (61.54%) reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

6. 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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination.	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the board of directors, or a committee thereof, approve the Fund's Investment Strategy Statement.	5
D	The examiner recommends that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
E	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	7

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. 31920

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, 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 PROVINCE OF ST. MARY OF THE CAPUCHIN ORDER

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 28th day of June, 2019

*LINDA A. LACEWELL
Acting Superintendent of Financial Services*

By:

Mal M Cleod

***MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU***

