



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
THE DIOCESE OF BUFFALO, N.Y.**

AS OF DECEMBER 31, 2019

EXAMINER: Chacko Thomas

DATE OF REPORT: November 6, 2020

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

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TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
	A. History	4
	B. Structure	4
	C. Assets under the board of trustees	4
	D. Third party payment service provider	4
4.	Assets and Liabilities Summary	5
5.	Treatment of annuitants	6
6.	Subsequent event	7
7.	Annual statement reporting	8
8.	Prior report summary and conclusions	9
9.	Summary and conclusions	10

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

May 27, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 32110, dated June 24, 2020 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. The Fund's home office is located at 795 Main Street, Buffalo, NY 14203-1250.

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

1. EXECUTIVE SUMMARY

The examiner's review of the Fund's treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (See item 5 of this report)

The Fund should have reported the \$(34,416) under the title Cash Transfer in 2019. (See item 7 of this report)

Subsequent Event

In February 2020, the Diocese of Buffalo filed for Chapter 11 bankruptcy protection due to lawsuits alleging child sex abuse by priests, nuns and others. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' ("Department" or "DFS") examination and assessment of the Diocese of Buffalo N.Y. Segregated Annuity Fund (the "Fund") through which Diocese of Buffalo N.Y. (the "Diocese") provides annuity benefits.

The prior examination was conducted as of December 31, 2014. This examination covers the period from January 1, 2015 through December 31, 2019. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2019 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 Diocese 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, 2019 to determine whether the Fund's filed 2019 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 violations, recommendations and/or comments contained in the prior report on examination. The results of such review are contained in item 8 of this report.

3. DESCRIPTION OF FUND

A. History

The Diocese of Buffalo, N.Y. 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. The Diocese has been issuing gift annuity agreements since 2000. A special permit was granted to the Diocese, by the Department on February 25, 2005, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Structure

The management of the Diocese and the Fund and all of its affairs and property are entrusted to a board of trustees. All operations related to the issuance, maintenance and settlement of gift annuity agreements are handled by the Fund.

C. Assets under the Board of Trustees

As of the August 31, 2019, financial statement, the Diocese's Board of Trustees oversaw a Diocese consisting of \$44,867,089 in total assets. The Fund, as of December 31, 2019, held total admitted assets of \$896,264

D. Third-party Payment Service Provider

All functions related to investments are handled by the Fund's investment manager, Christian Brothers Investment Services, Inc ("CBIS") and BNY Mellon is the custodian. Banking services are provided by Key Bank. PG Calc is used for actuarial services, including reserve calculations and annuity illustrations.

4. ASSETS AND LIABILITIES SUMMARY

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>2014</u>	<u>December 31,</u> <u>2019</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$896,264</u>	<u>\$960,279</u>	<u>\$ 64,015</u>
Liabilities	<u>\$308,614</u>	<u>\$155,938</u>	<u>\$(152,676)</u>
Minimum required fund balance	\$ 30,861	\$ 15,594	\$ (15,267)
Excess fund balance (surplus)	<u>556,789</u>	<u>788,748</u>	<u>231,959</u>
Total annuity fund balance	<u>\$587,650</u>	<u>\$804,341</u>	<u>\$ 216,691</u>
Total liabilities and annuity fund balance	<u>\$896,264</u>	<u>\$960,279</u>	<u>\$ 64,015</u>

The decrease in liabilities reflects a decrease in the total number of annuities in force. The increase in assets and annuity fund balance reflects unrealized capital gains during the examination period. Annuities decreased from 32 with annual payment amounts of \$38,868 as of December 31, 2014 to a total of 24 with annual payment amounts of \$21,273 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in equity securities (98%).

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.

Based upon the sample reviewed, no significant findings were noted.

6. SUBSEQUENT EVENT

In February 2020, the Diocese filed for Chapter 11 bankruptcy protection due to lawsuits alleging child sex abuse by priests, nuns and others. The Diocese anticipates that it will be successful in restructuring its liabilities to its creditors without negatively impacting upon its charitable gift annuity program.

The assets of the charitable gift program are held in a separate investment account away from the general funds of the Diocese. As part of its requests for relief from the Bankruptcy Court, the Diocese sought permission to maintain the segregated CGA account. The Bankruptcy Court has granted the Diocese's request to keep the CGA funds separate.

7. ANNUAL STATEMENT REPORTING

In the Fund's filed 2019 annual statement, it reported \$(34,416) as a miscellaneous asset on line 8.1. The asset did not have a title. The examiner asked the Diocese for a description of that asset. The Diocese noted that the account was for cash transfers set up when the Fund switched banks. The cash transfer account is for funds that were transferred over and never paid back and will be moved to the Diocese's general fund when the annuity program is terminated. Similar negative totals were reported in the prior exam years.

The Fund should have reported the \$(34,416) under the title Cash Transfer in 2019.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations 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 diversify its investment holdings.</p> <p>The Fund disagreed with the examiner's recommendation and has not made any change to its investment holdings.</p>
B	<p>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.</p> <p>The Fund adopted an Investment Plan Statement.</p>
C	<p>The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.</p> <p>A review of the terminated annuities during the examination period shows the Fund obtained death certificates for terminated annuitants.</p>
D	<p>The examiner recommends that the Fund prepare its Annual Statements in accordance with the Department's instructions.</p> <p>A review of the Fund's filed annual statements during the examination period did not show any significant deviations.</p>
E	<p>The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.</p> <p>A review of the Fund's filed annual statements during the examination period did not show any significant deviations.</p>

9. SUMMARY AND CONCLUSIONS

Following are the recommendation and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	In February 2020, the Diocese of Buffalo filed for Chapter 11 bankruptcy protection due to lawsuits alleging child sex abuse by priests, nuns and others.	7
B	The Fund should have reported the \$(34,416) under the title Cash Transfer in 2019.	8

Respectfully submitted,

 /s/
Chacko Thomas
Senior Insurance Examiner

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

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

 /s/
Chacko Thomas

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 32110

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:*

CHACKO THOMAS

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
DIOCESE OF BUFFALO, N.Y.***

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 24th day of June, 2020

LINDA A. LACEWELL
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

